INSTITUTIONAL GOVERNANCE REVIEW

“STRENGTHENING PERFORMANCE ACCOUNTABILITY IN HONDURAS”

(In two Volumes)

VOLUME II: Background Chapters

March 9, 2009

Latin America and the Caribbean Regional Office
ABBREVIATIONS AND ACRONYMS

ADEL  Local Development Association
AIN-C  Atención Integral a la Niñez en la Comunidad (Comprehensive Community
       Child Health Services)
AMHON  Association of Municipalities of Honduras
Sida   Agencia Sueca para el Desarrollo Internacional (Swedish Agency for
       Internacional Development)
CBOs   Community-based organizations
CCERP  Consejo Consultivo de la Estrategia para la Reducción de la Pobreza
CEB    Centro de Educación Básica (Centre of Basic Education)
CEPREB Centro de Educación Prebásica (Centre for Prebasic Education)
CESAR  Centro de Salud Rural (Rural School Centre)
CEIMSA Commission for the Modernization of the Customs System
CGR    Accountant General’s Office
CMH    Honduras Medical Association
CNA    Consejo Nacional Anticorrupción (National Anticorruption Council)
COHEP  Consejo Hondureño de la Empresa Privada (Honduran Council for Private
       Business)
CONADEH Comisionado Nacional de Derechos Humanos (Human Rights
       Commissioner)
CONATEL Comisión Nacional de Telecomunicaciones (National Commission for
       Telecommunications)
CONEANFO National Commission for the Development of Non-Formal Education
CPME   Comision Presidencial de Modernizacion del Estado (Presidential
       Commission for State Modernization)
DEI    Dirección Ejecutiva de Ingreso (Executive Directorate of Revenues)
DGSC   Dirección General de Servicio Civil (General Directorate of the Civil
       Service)
EFA    Programa Educación para Todos (Education for All)
ENEE   Empresa de Energía Eléctrica (Electricity Company)
ERP    Estrategia para la Reducción de la Pobreza (Poverty Reduction Strategy)
FONAC  Foro Nacional de Convergencia (National Convergence Forum)
GDP    Gross Domestic Product
GoH    Government of Honduras
HONDUTEL Empresa Hondureña de Telecomunicaciones (Honduran
       Telecommunication Enterprise)
HR     Human Resources
IDB    Inter-American Development Bank
INE    Instituto Nacional de Estadística (National Institute for Statistics)
INFOP  Instituto Nacional de Formación Profesional (National Institute of
       Vocational Training)
Lps    Lempiras
MLps   Million Lempiras
MOE    Ministry of Education
MOF    Ministry of Finance
MOH    Ministry of Health
NAS    Nueva Agenda de Salud (New Health Agenda)
NGOs   Non-governmental organization
PIU    Project Implementation Unit
PNS    Plan Nacional de Salud (National Health Plan)
PN     Plan Nacional (National Plan)
PROHECO Programa Hondureño de Educación Comunitaria (Honduras Community
       Education Program)
SE     Secretaría de Educación (Ministry of Education)
SEFIN  Secretaría de Finanzas (Ministry of Finance)
<table>
<thead>
<tr>
<th>Acronym</th>
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<tr>
<td>SIAFI</td>
<td>Sistema Integrado de Administración Financiera (Integrated Financial Management System)</td>
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<td>SIARH</td>
<td>Sistema Integrado de Administración de los Recursos Humanos (Integrated System for the Administration of Human Resources)</td>
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<tr>
<td>SIARHD</td>
<td>Sistema Integrado de Administración de los Recursos Humanos Docentes (Integrated System for the Administration of Human Resources in Education)</td>
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<tr>
<td>SIERP</td>
<td>Sistema de Información para la Estrategia para la Reducción a la Pobreza (Poverty Reduction Strategy Information System)</td>
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<tr>
<td>SMEs</td>
<td>Small &amp; Medium Enterprises</td>
</tr>
<tr>
<td>SGPR</td>
<td>Sistema de Gerencia basado en Gestión por Resultados (Results-based Management System)</td>
</tr>
<tr>
<td>SS</td>
<td>Secretaría de Salud (Ministry of Health)</td>
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<tr>
<td>TSC</td>
<td>Tribunal Superior de Cuentas (Supreme Audit Institution)</td>
</tr>
<tr>
<td>UECF</td>
<td>External Unit for Measuring Education Quality</td>
</tr>
<tr>
<td>UMCE</td>
<td>External Unit for Measuring Education Quality</td>
</tr>
<tr>
<td>UNAH</td>
<td>Universidad Nacional Autónoma de Honduras (National Autonomous University of Honduras)</td>
</tr>
<tr>
<td>UNAT</td>
<td>Unidad de Apoyo Técnico</td>
</tr>
<tr>
<td>UPEG</td>
<td>Unidad de Planificación y Evaluación de la Gestión (Planning and Evaluation Unit)</td>
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<td>WB</td>
<td>World Bank</td>
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ACKNOWLEDGEMENTS

From the beginning of this project, the World Bank and the Honduran Government agreed that the method used in creating this study was going to be a key element to its success. In order for it to be of benefit to those who fight against poverty in the country, and contribute to the national debate, it would have to be carried out in a participatory manner, by involving national and international specialists working together with government representatives in each of the relevant institutions, in addition to considering input from Honduran citizens.

Following these guidelines a Steering Committee was created to lead the process of elaboration and discussion of the study. This Steering Committee was led by Rodolfo Pastor Fasquelle, Secretary of Culture, Art and Sports and Coordinator of the Social Cabinet; Ricardo Arias, Subsecretary of the Presidency; and Hugo Castillo, Subsecretary of Finance; with representatives from the following government agencies – the Poverty Reduction Strategy Commission, the Ministries of Health, Education and Interior and Justice.

The study has been carried out in collaboration with the following actors from the international community, who contributed with financial support and/or technical specialists: DFID, Sida, AECI, IDB, and GTZ. Other actors from the international community that participated in the process as a part of the Steering Committee were the UNDP and USAID.

On the part of the World Bank, this report has been prepared by a team led by Ana Bellver (LCSPS) and comprising, in alphabetical order: Cristian Aedo (LCSHE), Antonio Blasco (LCSFM), Henri Fortin (LCSFM), Lidia Fromm (LCSHE), Linn Hammargren (LCSPS), Martin Hessel (LCCHN), Christine Lao Pena (LCSHH), Alberto Leyton (LCSPS), Fabienne Mroczka (LCSFM), and José Rezk (LCSFM). The group of national and international consultants that worked in the different chapters included: Pedro Antman, Eva Caballero, Ana Cristina Barrios, Miguel Cálix, Marco López, Israel Mandler, Roberto Martínez, Víctor Meléndez, José Luís Méndez, Napoleón Morazán, Joaquín Oviedo, Mark Payne, Sandra Pineda, Hernán Pfucker, Hector Silva, and Miguel Braun and Gabriel Filc from CIPPEC, and Helmis Cárdenas, Rafael del Cid, Marco Moncada and Ramon Romero from ESA Consultants.

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We also want to express our gratitude to the representatives of civil society organizations, universities and the private sector for their time and dedication. Their willingness to participate in the numerous meetings, and the contributions they made, greatly enriched the study.

The guiding principles that were established with the Government at the beginning of this project were that the document should:

- **Have a practical focus**: the selection of priority areas and the identification of the questions that should be considered in each area were performed pragmatically with the aim of implementing gradual advances and solutions which would achieve intermediate results.

- **Be policy oriented**: each chapter should conclude with concrete and viable proposals.

- **Be informed by a participatory process**: decision-makers, heads of institutions and technical teams should be involved in the design and elaboration of each one of the chapters.

- **Build on existing practices and accumulated knowledge in the sector**: the analysis begins with existing studies and advances already made, and reflects the current beneficial practices and ongoing initiatives in the country.

We hope that we have fulfilled these objectives and that this study becomes a useful instrument both for the departing administration to consolidate its achievements, as well as for the new administration that will assume power in 2010 and for all of the different actors involved in the fight against poverty in the country.
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CHAPTER I
OVERVIEW OF THE POLICY-MAKING PROCESS

INTRODUCTION

1.1 Honduras is one of the poorest countries of the region with an income per capita of 1,270 dollars in 2006 compared with an average of $3,320 in Central America and $4,785 in Latin America and the Caribbean. It has one of the most open economies in the region, with exports and imports amounting to 41 percent and 66 percent of Gross Domestic Product (GDP) respectively, and annual family remittances of 21 percent of GDP. In addition to its openness to external markets, Honduras stands out for having one of the lowest historic rates of economic growth and for having experienced fairly sharp swings in economic performance. As can be observed in Graph 1.1, in the last 25 years the economy’s average annual GDP per capita growth rate over any given five year period has never exceeded one percent.

Graph 1.1. Annual growth in income per capita, 1981-2006 (percent)

1.2 Although economic performance has improved recently, as exemplified by the preliminary figure for the rate of growth in 2007 of 6.3 percent, there continue to be reasons for concern. First, even if Honduras maintains the average annual per capita growth rate of the last four years (1.7 percent), income per capita will barely double over the next 40 years. At this pace, income per capita would only reach $2,500 in 2050 – approximately the current per capita income of El Salvador ($2,530) – and it is not very likely that the country would obtain the Millennium Development Goals established for 2015 (PER, 2007).

1.3 In addition, there is concern about the sustainability of this growth rate given the influence that external factors have had on the dynamism of the economy – through

---

2 Over the period 1950-2006 the real annual average growth rate of gross domestic product was 3.8 percent, a rate just slightly above the rate of growth of the population (3.0 percent).
the increase of exports and remittances—and its vulnerability to changes in the international markets. The fact that other Central American countries have experienced similar growth rates, and that since 2002 Honduras has grown at a rate below the regional average (PER, 2007) indicate that this growth reflects more a favorable international context than a reduction in the obstacles for growth that exist in the country. This influence of external factors is a reason for concern in light of the crisis that is affecting the U.S. economy and in general, the slowdown in the expansion of international markets. The macroeconomic stability and improved fiscal balance, which was achieved as a result of an increase in revenues and not a reduction in spending, is also vulnerable in the face of the changes in the international environment.

Table 1.1. Rate of annual growth, Central America 2005 and 2006

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</tr>
<tr>
<td>Costa Rica</td>
<td>5.9</td>
<td>8.2</td>
</tr>
<tr>
<td>El Salvador</td>
<td>3.1</td>
<td>4.2</td>
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<tr>
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</tr>
<tr>
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<tr>
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*Source: World Development Indicators*

1.4 These difficulties in sustaining moderate rates of growth explain, to a great extent, the poor historic results that the country has exhibited in the fight against poverty. From 1998/1999 to 2004 the levels of poverty barely changed from 52.5 percent to 50.7 percent, and the levels of extreme poverty reduced only from 25.1 percent to 23.7 percent of the population (Poverty Assessment, 2006:10). Recently an improvement has been observed, especially in respect to extreme poverty (see Table 1.2), mainly due to the favorable economic context mentioned above, and an improvement in the targeting of poverty reduction spending.

Table 1.2. Population in poverty and extreme poverty, 2002-2007

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<th>May 03</th>
<th>May 04</th>
<th>May 05</th>
<th>May 06</th>
<th>May 07</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>% of the population</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Poor (total)</td>
<td>71.6</td>
<td>71.1</td>
<td>69.5</td>
<td>71.2</td>
<td>67.9</td>
<td>68.0</td>
</tr>
<tr>
<td>Extreme</td>
<td>53.0</td>
<td>53.3</td>
<td>50.3</td>
<td>53.4</td>
<td>48.5</td>
<td>42.0</td>
</tr>
</tbody>
</table>

*Source: Sobrado and Clavijo, 2008.*

1.5 Nevertheless, if this growth had been more equitable, it would have had a greater impact on poverty levels. Honduras has a distribution of income which is one of the most unequal, in a region that is already characterized by high levels of inequality, and after Panama, it is the Central American country with the highest inequality. Sobrado and

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3 Changes in the methodology to assess poverty levels were introduced in 2002. For this reason, statistics before that year are not directly comparable with more recent figures. In the Poverty Assessment (2004), an extrapolation of data for 2002-2004 was carried out in order to draw comparisons for the period 1998 to 2004.
Clavijo (2008) decompose the reduction in poverty that took place between 2005 and 2007 into the effect caused by changes in the level of income and the effect provoked by changes in the distribution of income. The analysis concludes that income distribution actually worsened during this period, diminishing the positive impact of economic growth. Had the distribution of income not changed, extreme poverty would have been reduced by an additional 0.9 percent and poverty by 2.4 percent.

Table 1.3. Inequality indices, Central America

<table>
<thead>
<tr>
<th>Country</th>
<th>Year</th>
<th>GINI index</th>
<th>% Income 10% poorest</th>
<th>% Income 20% poorest</th>
<th>% Income 20% wealthiest</th>
<th>% Income 10% wealthiest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costa Rica</td>
<td>2004</td>
<td>48.2</td>
<td>1.4</td>
<td>4.1</td>
<td>53.3</td>
<td>36.7</td>
</tr>
<tr>
<td>El Salvador</td>
<td>2002</td>
<td>52.4</td>
<td>0.7</td>
<td>2.7</td>
<td>55.9</td>
<td>38.8</td>
</tr>
<tr>
<td>Guatemala</td>
<td>2004</td>
<td>49.4</td>
<td>1.3</td>
<td>3.9</td>
<td>54.1</td>
<td>38</td>
</tr>
<tr>
<td>Honduras</td>
<td>2003</td>
<td>53.8</td>
<td>1.2</td>
<td>3.4</td>
<td>58.3</td>
<td>42.2</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>2001</td>
<td>43.1</td>
<td>2.2</td>
<td>5.6</td>
<td>49.3</td>
<td>33.8</td>
</tr>
<tr>
<td>Panama</td>
<td>2003</td>
<td>56.1</td>
<td>0.7</td>
<td>2.5</td>
<td>59.9</td>
<td>43</td>
</tr>
</tbody>
</table>

Source: World Development Indicators, 2008

1.6 Numerous analytical works – from the Honduras Government, the World Bank and other development agencies – conclude that continuous and efficient public policies oriented toward objectives that benefit the majority of the population, are essential for accelerating economic growth and reducing poverty in the country. The Development Policy Report (2004) emphasizes that maintaining a stable macroeconomic framework is important but not sufficient to achieve an acceleration of growth. It argues that this will not occur if the main variables keep evolving according to their historic tendencies. The report emphasizes four policy areas that are especially important for Honduras: human capital, public infrastructure, financial market development, and governance.

1.7 This chapter does not aim to offer recommendations regarding the technical content of public policies. There are many other reports that have looked into the developmental challenges that Honduras faces and provided technical recommendations to address them. Many of the reforms that are needed for accelerating growth and reducing poverty in the country have been identified in these reports and yet, it has been difficult for any administration to adopt them. Lack of progress in most of these areas does not rest

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4 Based on this conclusion and findings from other reports, the Poverty Assessment (2006) highlights the following public policies for reducing poverty: i) to implement a sustainable system of public salaries and a professionalization program to limit fiscal pressures and to increase public sector performance; ii) to eliminate barriers to the entrance of new participants in the market and to the expansion of MIPYMÉs, and to remove regulatory obstacles in order to generate employment and income opportunities; iii) to strengthen the regulatory environment of economic infrastructure; iv) to strengthen the governance and the solvency of financial sector institutions, as well as their regulation and supervision, legal infrastructure and technology to develop a robust, competitive, and accessible financial sector; v) to improve the levels of education of the labor force to improve the possibilities of creating formal better-paid jobs and to allow persons to escape the vicious circle associated with the intergenerational transmission of poverty; and vi) to improve the targeting of public spending on poverty programs and, at the same time, strengthen their management and increase their transparency.
in their technical content, but around the constraints to decision-making. Building on the conclusions of previous World Bank reports (Development Policy Report 2004; Poverty Assessment 2006; Public Expenditure Report 2007), this chapter tries to contribute to this discussion by analyzing the structural limitations that each government confronts when assuming office. It does not evaluate any particular administration but it analyzes the institutional framework in order to identify the incentives for policy-making.

1.8 To frame the discussion, the chapter starts with some cross-national comparisons to assess Honduras performance relative to other democracies. The regression analysis does not intend to explain the country’s performance but to show that there is a “Honduras effect” that cannot be explained by the control variables used. Similarly, the following section provides an overview of the characteristics of public policies in Honduras. The rest of the chapter is devoted to explain this “Honduras effect”, that is, why public policies in Honduras are yielding such poor policy outcomes. It analyzes first the incentives provided by the institutional framework for the formulation, adoption and implementation of policies. Given that the results are not homogeneous and some sectors have achieved significant advances within the same institutional framework, the subsequent section describes case studies on education, health, telecommunications and electricity. The chapter ends with some recommendations about how to alter the incentives emanating from the institutional framework, so as to improve the quality of public policies in Honduras.

HONDURAS VIS-A-VIS OTHER COUNTRIES

1.9 The main conclusion of the Public Expenditure Review (World Bank, 2008) is that there is significant room for improving the efficiency of public spending in Honduras. That is, public resources could have a larger impact in terms of growth and poverty reduction if they were better utilized. This section explores how Honduras compares vis-à-vis other countries around the world in this regard. To facilitate comparisons only countries with democratic systems have been considered. A regression analysis is used to make such comparisons and few control variables have been included to reflect some of the possible constraints on decision-making5, including the level of development (income per capita), the percentage of the population that lives in rural areas, the percentage of the population which is young, and the geographic size of the country. Given the limitations of available cross-national data6, a large number of variables and different model specifications have been examined to test their consistency, and only the main results are presented. In any case, the objective of this section is just to establish some correlations in order to frame the discussion that will be held in the rest of the chapter. Consequently, this section does not pretend to identify the factors that explain the country’s performance or to draw specific policy recommendations.

5 The regression analysis conducted in this section is a purely correlation analysis that includes few control variables to provide an indication of some of the factors that may affect decision-making. It does not try to explain differences in country performance. Control variables are not reported in the tables.

6 For a good discussion on the limitations of available data about democratic systems and data-induced measurement errors, see Bowman, Lehoucq and Mahoney (2005).
Table 1.4 shows the comparison between Honduras and other democracies in the world in respect to some basic indicators like tax collection, social spending and the composition of public expenditures. The analysis shows that Honduras’ capacity to collect taxes is not significantly different from other democracies with similar constraints. On the other hand, social spending is significantly higher in Honduras – it spends 1.3 percent more of GDP on health and 2.9 percent more on education than average – and the composition of public spending is skewed towards salaries. Even when taking the level of income per capita into account (which is important because poor countries generally spend a larger share of their public resources on salaries), Honduras devotes 13.8 percentage points more of its public expenditures to pay its public employees.

<table>
<thead>
<tr>
<th></th>
<th>Tax revenues as a % of GDP 2003</th>
<th>Public health expenditure as a % of GDP 2003</th>
<th>Public education expenditure as a % of GDP 2004</th>
<th>Salaries as a % of total public expenditures 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Honduras (0-1)</td>
<td>Not significant</td>
<td>1.3 (4.66)</td>
<td>2.92 (7.64)</td>
<td>13.8 (7.00)</td>
</tr>
<tr>
<td>N</td>
<td>69</td>
<td>101</td>
<td>67</td>
<td>70</td>
</tr>
<tr>
<td>R²</td>
<td>0.31</td>
<td>0.53</td>
<td>0.29</td>
<td>0.53</td>
</tr>
</tbody>
</table>

NB: A positive Honduras coefficient indicates the amount by which the actual Honduras outcome exceeds comparator countries. A negative coefficient shows how much it falls short of comparator countries. A non-significant Honduras dummy variable means that Honduras is in line with the average. t-statistics are in parentheses reflecting a confidence level of 95%. Coefficients for control variables (land area, income per capita, PPP-adjusted, constant 2000 dollars; percent population under 14 and percent population in rural areas) and constants are not reported. White-corrected robust standard errors are used. See Annex I.B. for the definition and source of each variable.

The way a government decides to allocate resources could reflect differences in policy criteria that ultimately need to be assessed in terms of the outputs and/or outcomes that the country achieves as a result. As we saw, Honduras spends a greater proportion of its budget in the social sectors, than other democracies with a similar level of development; so we would expect that the country is also getting better than average results. Table 1.5 shows that indeed the above average expenditures on health services seem to be having an impact on health outcomes. In Honduras there are 40.7 fewer deaths per 1000 births compared to other democracies with similar levels of development, which must be considered an impressive achievement.

However, the picture in education is not so clear. Gross secondary school enrolment is 15.2 percentage points higher in Honduras than in other democracies, reflecting the progress Honduras has made to expand coverage. As pointed out in Chapter 4, the high spending on education is being absorbed by teachers’ salaries and is not having a positive impact on education quality. Unfortunately, standardized cross-country data on educational quality, such as results for the Program for International Student Assessment (PISA), which allows for comparison of student performance, are not available since Honduras does not participate in that program. The only available cross-national indicators for measuring the quality of education show that Honduras is below average with 11.0 and 13.6 percent fewer students managing to reach grade 5, or to complete the last grade of primary school, respectively. Looking at the percentage of students that complete primary school within their age group, Honduras seems to perform better than
average, but as we will see later on when controlling for years of democracy, the Honduras dummy is no longer significant (see Table 1.5). That is, Honduras is not doing better than other counties with the same years of consecutive elections. Thus, from the available data we can conclude that despite greater than average education spending, Honduras is not doing better in terms of the proportion of students that advance from primary to secondary education.

Table 1.5. Country performance in health and education

<table>
<thead>
<tr>
<th></th>
<th>Infant mortality (deaths per 1000)</th>
<th>Persistence to grade 5 (% of cohort) 2004</th>
<th>Persistence to last grade of primary (% of cohort) 2004</th>
<th>Primary completion rate (% of relevant age group) 2004</th>
<th>Progress to secondary 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Honduras (0-1)</td>
<td>-40.7 (-7.73)</td>
<td>-11.01 (-3.06)</td>
<td>-13.66 (-4.05)</td>
<td>6.48 (1.99)</td>
<td>Not significant</td>
</tr>
<tr>
<td>N</td>
<td>101</td>
<td>43</td>
<td>52</td>
<td>76</td>
<td>57</td>
</tr>
<tr>
<td>R²</td>
<td>0.68</td>
<td>0.66</td>
<td>0.71</td>
<td>0.55</td>
<td>0.64</td>
</tr>
</tbody>
</table>

NB: A positive Honduras coefficient indicates the amount by which the actual Honduras outcome exceeds comparator countries; a negative coefficient, by how much it falls short of comparator countries. A non-significant Honduras Dummy means that Honduras is in line with the average. *t*-statistics are in parentheses. Significance refers to a confidence level of 95% level. Coefficients for control variables (land area, income per capita, PPP-adjusted, constant 2000 dollars; percent population under 14 and percent population in rural areas) and constants are not reported. White-corrected robust standard errors. See Annex I.B. for the definition and source of each variable.

1.13 As for infrastructure (highways, telecommunications, and electricity), Honduras’ performance is similar to that of other democracies, as measured by available indicators of coverage, price and quality of service in these sectors. However, in some sectors, such as telecommunications and energy, these outcomes come at a high cost for Honduran taxpayers and consumers, as public enterprises in these sectors are not as efficient as they should be and services are highly subsidized. In fact, the only two infrastructure variables7 for which Honduras turned out to be significantly different from the average were electric power transmission and distribution losses (2004) – which were 4.8 percentage points higher than the average – and telecommunications revenue (2004) – which was 1.63 percent of GDP above average. These data are consistent with the efficiency problems observed in ENEE and the large quantity of revenues that Hondutel was still able to collect before the end of its monopoly on international phone traffic in 2005 and the grey traffic started to erode revenues (see Chapter 7). Despite this level of revenues, investment in the telecommunications sector during those years was, at best, not better than average as the table below shows.

1.14 Another key question is whether the country is getting “value for money” from its wage bill. As we have seen, Honduras spends 13.8 percent more of its public expenditures on salaries compared to other democracies with similar levels of income per capita. One would expect that having more and/or better paid public officials would result

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7 The Honduras dummy variable was insignificant for the following variables not included in the table: Average Cost of Phone Calls to the U.S., Mobile Phone Subscribers per 100 people, Electricity Production (Kwh and kt of oil equivalent), Registered Internet Users per 100 people, Telecommunications Investments (% of revenue), Price Basket Internet, Price Basket Mobile and Road Density.
in a high quality public administration. However, as Chapter 2 points out, the public administration in Honduras is one of the most deficient in the region and, as shown below, it also performs poorly by global standards. Table 1.7 includes a variable to measure the quality of the public administration (bureaucratic quality – see Annex I.B. for definitions) and Honduras performs worse than other democracies with similar characteristics. The table also includes the “days to start a business” indicator from the Doing Business database, for which the Honduras dummy is not significant.

<table>
<thead>
<tr>
<th>Table 1.6. Country performance in infrastructure sectors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fixed line and mobile phone subscribers (per 100 people)</td>
</tr>
<tr>
<td>Honduras (0-1)</td>
</tr>
<tr>
<td>N</td>
</tr>
<tr>
<td>R^2</td>
</tr>
</tbody>
</table>

Note: A positive Honduras coefficient indicates the amount by which the actual Honduras outcome exceeds comparator countries; a negative, by how much it falls short of comparator countries. A non-significant Honduras dummy means that Honduras is in line with the average. t-statistics are in parentheses. Significance refers to a confidence level of 95%. Coefficients for control variables (land area, income per capita, PPP-adjusted, constant 2000 dollars; percent population under 14 and percent population in rural areas) and constants are not reported. White-corrected robust standard errors. See Annex I.B. for the definition and source of each variable.

1.15 Corruption is another indicator of the inefficiency in public spending. It implies not only that those resources are being used to benefit a few individuals instead of to deliver public goods, but it also has negative consequences for economic growth and inequality. Corruption decreases the quality and productivity of public investment and deters private investment, and its burden falls disproportionately on small firms and poor households. None of the available indicators of corruption capture this phenomenon in a satisfactory way, and the jury is still out on how best to measure it. In this section we want to compare Honduras’ standing on corruption relative to other democracies with similar levels of development, so we need to use an indicator that allows for this. Considering the corruption perception index from Transparency International, the results reported in Table 1.7 show that Honduras scores worse than expected. These regression results are consistent with regressions using other cross-country indicators (see Annex I.B).

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8 For some micro evidence of corruption in Honduras see, for instance, the findings of the survey conducted for the Investment Climate Assessment (2004) where businesses report spending around 2.5 percent of their annual sales on illegal payments and 4.6 percent of the value of public contracts that they obtain. A comprehensive analysis on corruption in Honduras can be found at USAID (2008).
Table 1.7. Country performance in other areas

<table>
<thead>
<tr>
<th>Country</th>
<th>E-gov 2004</th>
<th>Days to start a business 2006</th>
<th>Days to start a business</th>
<th>Bureaucratic quality (0 to 1) 2004</th>
<th>Corruption perception index (0 to10) 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Honduras (0-1)</td>
<td>-1.07</td>
<td>Not significant</td>
<td>-0.34</td>
<td>-0.19</td>
<td>-0.34</td>
</tr>
<tr>
<td></td>
<td>(-2.02)</td>
<td></td>
<td>(-2.72)</td>
<td>(-6.08)</td>
<td>(-2.72)</td>
</tr>
<tr>
<td>N</td>
<td>96</td>
<td>97</td>
<td>93</td>
<td>87</td>
<td>93</td>
</tr>
<tr>
<td>R²</td>
<td>0.50</td>
<td>0.08</td>
<td>0.80</td>
<td>0.63</td>
<td>0.80</td>
</tr>
</tbody>
</table>

NB: A positive Honduras coefficient indicates the amount by which the actual Honduras outcome exceeds comparator countries. A negative coefficient indicates, by how much it falls short of comparator countries. A non-significant Honduras dummy means that Honduras is in line with the average, t-statistics are in parentheses. Significance refers to a confidence level of 95%. Coefficients for control variables (land area, PPP-adjusted income per capita, constant 2000 dollars; percent population under 14 and percent population in rural areas) and constants are not reported. White-corrected robust standard errors. See Annex I.B. for the definition and source of each variable.

1.16 Honduras is still a young democracy with only 25 years of uninterrupted constitutional democracy. It is reasonable to think that over time democratic institutions will become more firmly established and better equipped for undertaking their role. For example, repeated rounds of competitive elections may allow parties to develop policy reputations and voters to learn how to use elections to hold politicians accountable for not providing the expected services, or for meddling in independent institutions to favor their own interests. As a partial test of this hypothesis, we have run the above regressions again now adding the number of years of continuous competitive elections to the variables controlling for basic country characteristics (see Annex I.B).

1.17 Fewer years of democratic experience do not explain, for instance, why better than average education spending is not yielding better than average education outcomes; why better than average telcom revenues do not translate into better than average investment in the sector; or why a larger public sector wage bill does not yield a more efficient public administration. In some cases, the variable “years of consecutive elections” is not significant, which means that it does not explain the differences in performance; in others it is significant but does not reduce the “Honduras effect”. In these cases, Honduras performs worse than “expected” for a country with almost three decades of continuous democratic elections. Thus, it can be concluded from this section that neither the level of income, the relatively young age of the democratic system nor the other control variables used, explain satisfactorily the country performance. The rest of the chapter is devoted to explaining this “Honduras effect”, that is, why public policies and public spending in Honduras are yielding such poor policy outcomes. Leaving aside the discussion about the technical content of those policies, and whether they were appropriate or not from a technical point of view, this chapter will look into other aspects of public policies that are critical for their impact, and that are determined by the incentives provided by the policy-making process.

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9 If fewer years of democratic experience explain the spending preferences and/or relatively poorer performance of Honduras on these variables, the “Honduras effect” should disappear, or at least become weaker. In the regression, this would mean that the coefficient of the Honduras dummy variable should become smaller or the variable becomes insignificant.
CHARACTERISTICS OF PUBLIC POLICIES

1.18 This section describes the main characteristics of public policies in Honduras. It uses the index developed by Stein et al. (2005) to illustrate broader features of public policies in Honduras compared to other countries in the region, and then it moves into assessing available evidence on how public resources are collected and spent in the country, as a result of the interaction of different actors that takes place during the policy-making process and their bargaining power.

1.19 As can be seen from the table below, Honduras performs comparatively well in the features related to the stability of the system (i.e. stability and adaptability), an area in which other countries in the region have experienced significant setbacks due to political turmoil. However, Honduras scores lower than the Latin American and Central American averages on three characteristics that are critical for the impact of public policies: orientation to the public good, efficiency, and the quality of implementation and enforcement. Given their methodological limitations, aggregate indexes are only useful to draw regional comparisons and to provide a general overview of how the country performs in relative terms but they cannot grasp country specificities. Therefore, the remainder of this section will analyze available country evidence on public policies related to revenue collection and resource allocation in Honduras.

1.20 How public resources are collected and spent is at the core of the policy-making process; it is the result of the interaction between policy-makers and different groups in society and reflects the overall priorities of public policies, translated in tax measures and spending programs by the bureaucratic machinery. Based on existing analytical work, this section describes the most salient features of revenue collection and resource allocation in Honduras. The aim is to provide some evidence of the most important characteristic of public policies in Honduras by studying easily observable outcomes of the policy-making process.

Table 1.8. Characteristics of public policies in Latin America

<table>
<thead>
<tr>
<th></th>
<th>Adaptability</th>
<th>Stability</th>
<th>Enforcement</th>
<th>Coordination</th>
<th>Public regardeness</th>
<th>Efficiency</th>
</tr>
</thead>
<tbody>
<tr>
<td>LAC</td>
<td>2.36</td>
<td>2.50</td>
<td>2.08</td>
<td>2.05</td>
<td>2.10</td>
<td>1.85</td>
</tr>
<tr>
<td>Centroam</td>
<td>2.30</td>
<td>2.46</td>
<td>2.04</td>
<td>1.91</td>
<td>2.05</td>
<td>1.81</td>
</tr>
<tr>
<td>HON</td>
<td>2.43</td>
<td>2.60</td>
<td>2.01</td>
<td>2.14</td>
<td>1.99</td>
<td>1.67</td>
</tr>
<tr>
<td>% LAC</td>
<td>103</td>
<td>104</td>
<td>97</td>
<td>104</td>
<td>95</td>
<td>91</td>
</tr>
<tr>
<td>% Centro</td>
<td>106</td>
<td>106</td>
<td>98</td>
<td>112</td>
<td>97</td>
<td>93</td>
</tr>
</tbody>
</table>

Source: Stein et al. (2005)
Salient features of the tax system

1.21 Who pays for taxes reflects to some extent the bargaining power of different groups in society and the degree to which decision makers and the public administration have the capacity to implement tax measures that strikes a reasonable balance between equity and efficiency.10 As many other countries in Latin America, Honduras rely to a large extent on tax revenues from indirect taxes, although important efforts have been done to increase the share of direct taxes during recent years, as reflected in Table 1.9.

1.22 There are few studies available on the distributional impact of the Honduran tax system. IMF (2007) concludes that the progressive rate schedule for the income tax places a larger share of the tax liabilities on the higher income quintiles than on the lower. Table 1.10 shows that the households in the top quintile of consumption per capita pay almost three quarters of the income tax, while households in the bottom two quintiles pay roughly three percent. As a notable regressive element of this scheme, teachers are exempted from the income tax. Almost 83 percent of this benefit goes to households in the top quintile and only 2.2 percent goes to households in the bottom three quintiles. For the VAT, the top quintile contributes with 50 percent of the revenues, while the two bottom quintiles contribute with 15.6 percent.

### Table 1.9. Tax Revenue by Type, 2004-2006 (percent)

<table>
<thead>
<tr>
<th></th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct taxes</td>
<td>26.7</td>
<td>28.7</td>
<td>30.6</td>
</tr>
<tr>
<td>Indirect taxes</td>
<td>48.4</td>
<td>48.1</td>
<td>48.3</td>
</tr>
<tr>
<td>Social Insurance</td>
<td>19.4</td>
<td>18.4</td>
<td>16.2</td>
</tr>
<tr>
<td>Other</td>
<td>5.5</td>
<td>4.8</td>
<td>4.9</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*Source: IMF (2007)*

### Table 1.10. Distribution of Personal Taxes and VAT (percent)

<table>
<thead>
<tr>
<th></th>
<th>Bottom Quintile</th>
<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
<th>Top Quintile</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Taxes</td>
<td>1.2</td>
<td>2.6</td>
<td>6.8</td>
<td>15.2</td>
<td>74.3</td>
</tr>
<tr>
<td>Teachers Exemption</td>
<td>-</td>
<td>0.2</td>
<td>2</td>
<td>15.1</td>
<td>82.8</td>
</tr>
<tr>
<td>VAT</td>
<td>5.8</td>
<td>9.7</td>
<td>14.8</td>
<td>22.1</td>
<td>50</td>
</tr>
</tbody>
</table>

*Source: IMF (2007)*

1.23 The IMF study does not analyze the tax burden in terms of the share of a household’s income that is paid in taxes depending on its position in the income distribution. Such analysis can be found in Gómez Sabaini (2003), who shows that inequality, as measured by the GINI Index, is higher after taxes than before (0.543 before taxes and 0.571 after taxes), which means that the tax system, seen in isolation from the distributional impact of the spending it finances, actually adds to the already high level of income inequality, rather than decreasing it. The author attributes this effect to the preponderance of indirect taxes over direct taxes. It is important to notice, however, that high reliance on indirect taxes and its negative consequences for the progressiveness of the tax system may reflect the difficulties of expanding direct taxation in an economy.

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10 The question of which tax system offers the best balance between equity and efficiency for a particular country is very complicated to answer and this account does not pretend to reach conclusions of this type, but only to show which groups are benefiting and what policy decisions are *de facto* being taken.
characterized by a high degree of informality and a relatively weak tax administration. In addition, the taxes collected are used to finance expenditures that may have a progressive impact that offset the distributional effect of the tax system.

1.24 Although tax exemptions do not always have a large weight in determining the overall incidence of the tax system, they may indicate to what extent specific groups have been able to negotiate preferential deals with the state, as in the case with the teachers’ exemption from personal income tax mentioned above. Tax exemptions are frequently used in Honduras. A recent study by the Executive Directorate of Revenues (Dirección Ejecutiva de Ingresos, DEI),11 enumerates 68 different laws and presidential decrees establishing exemptions, each with its own policy goal, the majority of them related to stimulating economic growth or reaching certain social objectives. However, the study attributes part of the increase in tax exemptions during recent years to “the strong lobbies of some of the entrepreneurial groups.” The three largest types of exemptions are those from the “Impuesto sobre Ventas Aduanera” (30% of the total from 2001 to 2007), “Derechos Arancelarios de Importación” (27%) and “Impuesto Activo Neto” (14%). In some cases, these exemptions are concentrated on a small number of individuals and/or corporations. For example, the exemption from “Impuesto Aporte al Patrimonio Vial,” worth approximately Lps. 3.1 billion from 2001 to 2007, was concentrated on just 12 firms (four shrimp farms, one constructing company, one maquila, one manufacturing firm, two electricity generators, one public sector project and two firms who’s activities were not identified), who received 77 percent of the total sum of these exemptions.

1.25 Tax exemptions are not necessarily a problem in themselves, but their opaque nature - their costs are not reflected in the budget and they are not consistently subject to any public discussion that allows for weighing their costs against their benefits – makes them a suitable policy instrument to extend tangible favors to specific groups. The large number of tax exemptions and the large amounts they represent may be an indication of policy-makers responding to such pressures, in practice allocating to tax exemptions resources that could have been used to finance more broad-based policy measures.

### Table 1.11: Tax exemptions

<table>
<thead>
<tr>
<th>Year</th>
<th>Exemptions (MLps.)</th>
<th>Exemptions/collected revenues</th>
<th>Exemptions/GDP</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>2047.4</td>
<td>11.7%</td>
<td>1.9%</td>
</tr>
<tr>
<td>2003</td>
<td>6387.2</td>
<td>32.3%</td>
<td>5.3%</td>
</tr>
<tr>
<td>2004</td>
<td>7844.5</td>
<td>33.4%</td>
<td>5.7%</td>
</tr>
<tr>
<td>2005</td>
<td>9419.6</td>
<td>35.4%</td>
<td>6.0%</td>
</tr>
<tr>
<td>2006</td>
<td>11909.5</td>
<td>37.7%</td>
<td>6.9%</td>
</tr>
</tbody>
</table>

Source: DEI, 2007

11 DEI, 2007, Sacrificio Fiscal en que ha Incurrido el Estado de Honduras a Consecuencia de Exoneraciones Tributarias y Aduaneras a Diferentes Personas Naturales y Jurídicas en el Transcurso de los Años 2001-2007

Salient features of public spending

1.26 The most notable characteristic of the composition of public expenditure in Honduras is the large quantity of resources devoted to salaries (10.2 MLp. in 2007, 44 percent of public expenditures) compared, for example, with capital expenditures (4.3
MLp. and 19 percent of public expenditures). To put the increase in public sector salaries into perspective, it can be said to have overshadowed the decline in interest payment that was obtained as a result of the debt relief successively granted by the Paris Club and multilateral creditors under the Heavily Indebted Poor Countries (HIPC) initiative. Graph 1.2 shows this tendency between 1997 and 2002, the year when public sector salaries peaked at 10.7 percent of GDP. Since then, both interest payments and salaries have hovered around those same levels.

Graph 1.2. Public spending on interest payments and salaries, 1997-2002

1.27 The health and particularly the education sector have absorbed the bulk of the increases in the public wage bill. This increase does not necessarily indicate an inefficient resource allocation or low public regardedness of public spending, since the education and health sector are human resource intensive and the services they provide are crucial to the broader public and particularly to poor people. However, the salary increases that have taken place in these sectors tend to reflect the strong bargaining power of doctors, nurses and teachers, rather than public-policy decisions oriented toward improving the coverage and quality of education and health services for the poor.

1.28 Firstly, only a very small share of this increase can be attributed to an increase in the number of teachers, doctors and nurses. In the education sector, of the growth in the real wage bill that took place between 2000 and 2006, only three percent can be attributed to an increase in the number of teachers, while 18 percent was due to an increase in the real wage rates of teachers (PER 2007:16). Secondly, and most important, these salary increases have not been linked to performance criteria and have not brought about improvements in the quality of education. As a result, Honduras spends more on education than other countries in the region (6.9 percent of GDP compared with an average of 4.2 percent), while the educational quality is lower than in neighboring countries. This is showed in Graph 1.3
Nevertheless, there are differences in respect to spending efficiency between the health and the education sectors. Analysis of relative spending efficiency shows that Honduras is among the four countries with the most inefficient spending on education in the region, while efficiency of spending on health is above average\textsuperscript{12}. This shows that there is considerable scope for improving efficiency in social spending and that other countries in the region, as well as successful measures in some sectors in Honduras, can serve as example of how to go about it.

Honduras also stands out for devoting an important share of public expenditures to subsidies. If all of the subsidies – direct, indirect and hidden – are considered they are estimated at $320 million in 2006 (3.5 percent of GDP)\textsuperscript{13}. In many cases, the argument used to justify subsidies is that they make public services affordable to poor consumers (such as the cross-subsidies in the water sector), or that they are a second-best solution to compensate low-income groups for other disadvantages (as in the case with Bono 80, given to the urban population to compensate for high transportation costs, but paid through the electricity bill). However, subsidies tend to be rather blunt instruments for reaching this policy objective, benefiting well-off groups disproportionately.

\textbf{Table 1.12. Subsidies to hypothetical electricity consumers, 2005/2006 (Lps.)}

<table>
<thead>
<tr>
<th>Monthly consumption/payment</th>
<th>100 kwh</th>
<th>200 kwh</th>
<th>300 kwh</th>
</tr>
</thead>
<tbody>
<tr>
<td>\textit{Bill with adjustment (Lps.)}</td>
<td>163.80</td>
<td>429.40</td>
<td>695.00</td>
</tr>
<tr>
<td>\textit{Total subsidies (Lps.)}</td>
<td>168.00</td>
<td>284.90</td>
<td>403.90</td>
</tr>
<tr>
<td>300 kwh subsidy (Lps.)</td>
<td>36.20</td>
<td>49.10</td>
<td>49.10</td>
</tr>
<tr>
<td>Partial cost adjustment subsidy (53.5%) (Lps.) \textsuperscript{a}</td>
<td>51.80</td>
<td>135.80</td>
<td>219.80</td>
</tr>
<tr>
<td>Bono 80 (Lps.)</td>
<td>80.00</td>
<td>100.00</td>
<td>135.00</td>
</tr>
<tr>
<td>\textit{Net payment (Lps.)}</td>
<td>-4.10</td>
<td>144.50</td>
<td>291.10</td>
</tr>
</tbody>
</table>

\textit{Note:} \textsuperscript{a} Note that the adjustment estimated by the formula and the actual adjustment implemented varies every month. The adjustment estimated by the formula of 124.5 percent (international price changes and

\textsuperscript{12} See Annex A of the PER (2007) for a summary.

\textsuperscript{13} See Table A1.7 in Annex I.D.
exchange rate movement) is similar to the actual in December 2005. The partial cost adjustment of 53.5 percent is similar to the average of the actual adjustment implemented from January to October 2006. 

*Source:* PER (2007: Table 8:25).

1.31 The subsidies in the electricity sector are by far the most important ones. According to the estimations made for 2006, the partial cost adjustment of electricity tariffs and the exoneration of taxes on fuel and oil used to generate electricity represented around 65% of all subsidies. However, the majority of the money spent on these subsidies benefit larger volume wealthier consumers, rather than smaller volume, poorer ones.

1.32 The IMF (2007) concludes that although the share of subsidies and grants accruing to the poorer households is, in aggregate, greater than the share of these households in total income, the subsidies and grants as a whole are poorly targeted because the average benefit accruing to richer household is greater than that accruing to poorer household. This poor targeting performance is driven almost entirely by the electricity subsidies, while social programs such as the Merienda Escolar and Programa de Asignación Familiar (PRAF) were found to be quite well targeted but are allocated much less resources. The absorption of the majority of the resources by the higher income quintiles occurs also for other government expenditures. Table 1.13 describes the distribution of the benefits from some of the government expenditures analyzed in the same study. Primary education stands out for benefiting lower income groups disproportionately.

### Table 1.13. Distribution of the Benefits from Selected Government Expenditure

<table>
<thead>
<tr>
<th></th>
<th>Bottom Quintile</th>
<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
<th>Top Quintile</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health (MoH) net benefits</td>
<td>8.4</td>
<td>14.9</td>
<td>17.1</td>
<td>19.4</td>
<td>40.2</td>
</tr>
<tr>
<td>Primary Education</td>
<td>31.3</td>
<td>27.5</td>
<td>20.9</td>
<td>14.1</td>
<td>6.1</td>
</tr>
<tr>
<td>Secondary Education</td>
<td>5.0</td>
<td>26.7</td>
<td>33.7</td>
<td>19.8</td>
<td></td>
</tr>
<tr>
<td>Pension Subsidy IHSS (1)</td>
<td>2.2</td>
<td>5.3</td>
<td>16.8</td>
<td>30.2</td>
<td>45.6</td>
</tr>
</tbody>
</table>

(1). The subsidy is calculated as the difference between the break-even and the actual contribution rates. Source: IMF (2007)

1.33 The Poverty Reduction Strategy (Estrategia de la Reducción de la Pobreza, ERP) was designed as a framework for public policies targeted at the poor. The public resources allocated to ERP spending represent a significant share of the budget, around 30 to 40% during the period 2001-2007 (See Graph 1.4). However, ERP spending is not well-targeted. Although the allocated share of ERP spending drops as the level of per capita consumption rises, the 4th and 5th quintiles still receive 32.8% of PRS spending (see Graph 1.5), which is equivalent to more than Lps. 1000 annually per person. Hence, an important share of the spending aimed at poverty reduction is received by individuals who are not poor, mainly through transfers in education, health and social assistance (including subsidies). Efforts have been made during the current administration to improve targeting of the ERP whose impact will be assessed in the next few years.
Graph 1.4. PRS spending and Graph 1.5. Participation in PRS spending, per quintile

Source: SEFIN, Poverty Assessment (2006: Figure 4.4) based on ENCOVI (2004).

1.34 As we saw in this section, a few broad characteristics of public policies in Honduras are important factors in accounting for the poor development outcomes and poor use of resources pointed out in the introduction. Honduras performs comparatively well in the features of public policies that are related to the stability of the system. However, the country scores lower than the regional average on three characteristics of public policies that are critical for resource allocation and spending efficiency, and ultimately for their impact on policy outcomes. Public resources in Honduras are not allocated to activities that could give the greatest return; policies tend to benefit the groups with strongest bargaining power rather than the general interest, and in general, policy implementation is poor. To understand why public policies exhibit these characteristics, the next section will try to understand better the incentives provided by the country’s policy-making framework.

THE POLICY-MAKING PROCESS

1.35 The policy-making process (PMP) is the process that determines the orientation of public policies, carries them from their conceptualization to their implementation, and sustains them over time. This section analyzes the policy-making process in Honduras in order to identify the incentives it provides to political actors for the formulation, adoption and implementation of public policies. It follows the analytical framework developed by Spiller, Stein and Tommasi (2003) that is described more in detail in Annex I. A. According to this framework, the behavior of political actors in the formulation of policies depends on the functioning of political institutions (like the congress, the party system, and the judiciary) and more basic institutional rules (such as electoral rules and constitutional norms) which shape the roles of the different players, as well as the norms that regulate the commitments established between them. What follows is a description of Honduran political institutions and their role in public policy-making, including the characteristics of the party system, the relations between the executive and legislative branches, the transparency of the rules of the game, and the role played by the judiciary and the public administration.
Party system characteristics

1.36 There are a number of characteristics of party systems that affect the quality of the policymaking process:

- The level of institutionalization: in well-institutionalized systems it is likely that parties have longer time horizons and have an interest in maintaining and strengthening their reputations over time. When there number of well-established parties that alternate in power is relatively small, it is more likely that basic rules will be respected, and relatively consensual policy orientations established.

- Programmatic orientation: Even in reasonably well-institutionalized systems political parties can be more concerned about creating and maintaining clientelistic networks than with attracting support on the basis of public policy programs. Evidence suggests that institutionalization only translates into better public policies when party systems are also programmatic\(^\text{14}\).

- The degree of nationalization: in a nationalized party system the parties tend to speak and act with a common national orientation, instead of being divided internally by distinct regional and sub-regional interests.

1.37 Honduras has one of the most institutionalized party systems of the region with two principal parties, the Liberal Party (PL) and the National Party (PN) that have alternated in power for much of the period since 1930. A measure of the effective number of parties, calculated on the basis of the distribution of legislative seats, averaged 2.15 for the period from 1982 to 2006. Over this period there have been four Liberal Party governments and two National Party governments, while in the period prior to the transition to democracy, National Party governments were predominant.

| Table 1.14. Characteristics of the party system\(^\text{15}\) |
|-----------------|-----------------|-----------------|-----------------|
| **Party system** | **Degree of institutionalization** | **Effective number of parties** | **Programmatic competition** |
| Uruguay         | 2.72            | 3.02            | 7               |
| Honduras        | 2.67            | 2.15            | 2               |
| Mexico          | 2.32            | 2.37            | 2               |
| Chile           | 2.30            | 5.27            | 8               |
| El Salvador     | 2.27            | 3.17            | 7               |

\(^\text{14}\) Stein *et al.* (2005), chapter 6.

\(^\text{15}\) The index of party system institutionalization is an aggregation of four components: (i) stability of inter-party competition (indices of vote volatility and seat volatility); (ii) extensiveness of parties’ roots in society (average levels of citizen identification with political parties and legislators’ opinions about parties’ distance from society); (iii) legitimacy of parties and elections (degree of trust in political parties and in the integrity of elections); and (iv) strength of party organizations (age and continuity of the political parties). The effective number of parties’ index is computed by taking the inverse of the sum of the square of all parties’ seat shares (Laakso and Taagepera method). The index of programmatic competition measures: (i) relationship between citizens’ self-placement on an ideological scale and their party preferences; and (ii) legislators’ assessments of their own party’s left and right placement, as well as that of other parties.
1.38 Table 1.14 compares Honduras with the other four countries with relatively institutionalized party systems. Despite having the second most institutionalized party system in the region after Uruguay, and the most entrenched two-party system, this has not translated into a competition between parties that centres around distinct orientations to public policy. The degree of programmatic orientation of parties in Honduras is one of the lowest of the region (Payne et al., 2007). Table 1.15 shows the low level of ideological polarization of Honduras, both in terms of the perspectives within the electorate as well as among members of Congress. This is another factor that reinforces and reflects the tendency for political parties to not differentiate themselves in terms of their approaches to public policy.

### Table 1.15. Index of nationalization and polarization, Latin America

<table>
<thead>
<tr>
<th>Country</th>
<th>Index of nationalization</th>
<th>Index of polarization&lt;sup&gt;16&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina</td>
<td>8.0</td>
<td>1.00</td>
</tr>
<tr>
<td>Bolivia</td>
<td>13.5</td>
<td>1.08</td>
</tr>
<tr>
<td>Brazil</td>
<td>7.0</td>
<td>2.84</td>
</tr>
<tr>
<td>Chile</td>
<td>9.0</td>
<td>4.61</td>
</tr>
<tr>
<td>Colombia</td>
<td>7.25</td>
<td>0.60</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>14.0</td>
<td>0.70</td>
</tr>
<tr>
<td>Rep. Dom.</td>
<td>11.5</td>
<td>0.72</td>
</tr>
<tr>
<td>Ecuador</td>
<td>12.0</td>
<td>1.56</td>
</tr>
<tr>
<td>El Salvador</td>
<td>12.5</td>
<td>10.00</td>
</tr>
<tr>
<td>Guatemala</td>
<td>12.5</td>
<td>1.52</td>
</tr>
<tr>
<td><strong>Honduras</strong></td>
<td><strong>13.0/10.0</strong></td>
<td><strong>0.75</strong></td>
</tr>
<tr>
<td>Mexico</td>
<td>10.5</td>
<td>1.74</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>12.5</td>
<td>5.66</td>
</tr>
<tr>
<td>Panama</td>
<td>13.0</td>
<td>0.86</td>
</tr>
<tr>
<td>Paraguay</td>
<td>13.5</td>
<td>0.52</td>
</tr>
<tr>
<td>Peru</td>
<td>11.0</td>
<td>2.06</td>
</tr>
<tr>
<td>Uruguay</td>
<td>14.0</td>
<td>4.92</td>
</tr>
<tr>
<td>Venezuela</td>
<td>9.5</td>
<td>1.32</td>
</tr>
</tbody>
</table>

*Source: Jones (2005).*

1.39 Another factor that might contribute to the low differentiation between political parties is their national orientation and the lack of parties with a regional approach. As seen in Table 1.15, until the recent electoral reform, which wrested control of the nomination of legislative candidates from party leaders and gave electors the

<sup>16</sup> The ideological polarization index is based on two components – one focused on polarization in the electorate and one on polarization of the party in the Congress. Polarization in the electorate is calculated by considering the mean left-right self-placements of those clearly identifying with a given party and comparing them with the average left-right placement of the electorate as a whole, following the formula developed by Taylor and Herman (1971). Responses from two survey questions of Latinobarometer are used. Polarization of the party in congress is calculated on the basis of legislators’ placement of their own party and that of all other parties on a Left-Right scale, based on the legislator survey of the Latin American Elites Project (2005).
capacity to influence which individual candidates get elected from the party list, Honduras’ party system was among the more nationally-oriented party system in the region. However, with these reforms the index score fell from 13.0 to 10.0, reflecting the fact that under the current system legislators would now have stronger incentives to pay attention to local and regional interests.

1.40 In addition to having two fairly well-institutionalized parties and low polarization, Honduras’ party system is also characterized by high internal party fragmentation and strong competition between the different party factions for the control of the party (USAID, 2008). Articles 108 and 113 of the Electoral Law, stipulates that presidential and legislative candidates for the primaries need to be registered by one of the party “internal movements”, with the support of the two percent of the votes obtained by the party during the previous general election. Thus, the number of lists registered for the primary elections can give an idea of the degree of internal fragmentation of each party. In the 2005 primary elections 16 individuals attempted to register as candidates for the PL, with eight becoming candidates in the end, while four candidates were registered for the PN. For the November 16, 2008 primaries, the Supreme Electoral Tribunal has confirmed the registration of five candidates for the PL and four for the PN. Thus, these internal movements control who goes into the list of candidates to the primaries but also, given that no internal movement has possibilities of winning by itself, they also have a lot of influence on the list of candidates for the general elections. Obtaining the support of the different factions is the challenge confronted by the candidate that is elected in the primaries. This entails extensive negotiations before the elections and then delivering on promised favors if the candidate wins. Negotiations continue during the period the party is in office, to position the candidate of the internal movement for the next electoral period.

1.41 This factionalization is a key factor of the Honduras party system and by itself can explain the low programmatic orientation of the parties, as it creates incentives for the factions to attract support on the basis of tangible benefits for specific groups instead of basing their appeal in improvements in public policies over the long term. In addition, the existence of strong internal factions within each party weakens the electoral connection and the party discipline in the congress, complicating the executive-legislative relations. The extent to which politicians position themselves before the electorate as representatives of the internal faction led by a particular caudillo within the party instead of as representatives of the party itself, makes it difficult for the party to develop a credible reputation in the eyes of voters. Given the inability to construct political capital adhering to a program of party policies and to translate policy successes of the party into political capital, politicians tend to base electoral competition on clientelistic practices.

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17 www.observatorioelectoral.org
18 Five internal factions have registered candidates for the primary elections of the Liberal Party (name of the candidate in brackets): “Ahora Sí” (Eduardo Maldonado), el Movimiento Elvícista (Mauricio Villeda Bermudez), el “Micheletista” (led by the current President of Congress, Roberto Micheleti Bahín), “Accion Social Más” (Marco Antonio Ramirez) and “Justicia Nuestra” (Miguel Nolasco). In the National Party primaries, four internal factions have registered candidates: “Cambio Ya” (led by the former presidential candidate, Porfirio Lobo Sosa), “Honduras Tu Puedes” (Jesus Flores), “Unidos por Honduras” (Mario Facussé) and “Todos somos Honduras” (Mario Canahuati).
Box 1.1. Credibility and public policies

Keefer and Khemani (2005 and 2002) suggest that governments in many countries of the world direct a disproportionate share of spending to particular groups and to easy-to-observe public works. They report: “For example, a large and disproportionate share of health and education spending tends to be directed to the salaries of teachers and health sector workers in spite of high rates of absenteeism, such that in many cases effective services are not provided.” Among the principal causes of this phenomenon is the lack of commitment in respect to developing public policies that are focused on the quality of services, oriented to the public good, and that have a long-term perspective.

In many countries the credibility of a politician is not based on the record of their positions on public policies or on the reputation of their party, but on more personalized relationships with specific groups to whom tangible benefits are provided. The politicians are credible only to these “client” groups. The greater the number of clients, the greater the proportion of public spending that goes to benefits for specific groups (for example, in the form of public employment, subsidies or local infrastructure projects) and the less the proportion of spending that is allocated through public programs oriented to the public good (for example, policies guaranteeing universal access to education and good quality health care).

There are various factors that contribute to creating these incentives. Citizens lack sufficient information to hold politicians accountable for the quality of public services, and for this reason tend to judge politicians based on the provision of easily-observed goods and services, like employment and infrastructure. In many cases, only the promises that can be fulfilled while the politician is in power are credible. Improvements in the quality of education can take many years to materialize, while an increase in the number of teachers or the construction of new schools can be observed immediately.

When parties are institutionalized and exercise significant control over their members it is easier for the voters to attribute responsibility for public policy outcomes and to base their decisions on the programs and reputations of the parties. This means that politicians have an incentive to not develop institutionalized and programmatic parties. In a context in which political parties are not credible, political leaders who are individually credible tend to emerge, to the extent that these leaders develop a party organization and reputation and facilitate the entrance of other politicians, who can capitalize on the reputation of the party and do not have to construct personal relations with specific groups of voters.

*Source: Keefer and Khemani (2005 and 2002).*

1.42 One of the few studies available that examines the effects of electoral competition on legislator behavior in Honduras is that of Taylor-Robinson (2006). This author analyzed the frequency with which legislators presented bills to benefit their districts during the periods 1990-93 and 1994-97. The results provide evidence of clientelistic competition entrenched at the local level, especially in the poorest districts and on the part of deputies with the most legislative experience. Thus, the probability that a Congressman presents a bill to benefit his district was found to increase: i) as the percentage of the population with no education increased; ii) as the years of experience of the Congressman increased (which may reflect a generational change [the younger deputies responding less to clientelistic incentives; or that this strategy is more likely to provide the chance for reelection]); iii) when the Congressman belongs to the President’s party; and iv) in relation to the degree to which one party dominates competition in the
district. In contrast with what would be expected (that closer electoral competition reinforces clientelistic practices), the existence of a single dominant party and affiliation with the President’s party was found to promote clientelistic behavior which is, therefore, more oriented toward the maintenance of party support and the return of favors than to attracting support from new voters. The position that the candidate occupied in the party list and the possibility of reelection did not seem to influence the results. Box 1.1 describes some results of the research of Keefer and Khemani (2005 and 2002) which analyzed the relationship between the nature of electoral competition and the characteristics of public policies in different countries.

1.43 The characteristics of the Honduran party system – high levels of institutionalization, low polarization and programmatic orientation combined with high degree of internal fragmentation – are rooted in the historical context in which the system emerged. Without intending to carry out a rigorous analysis of Honduran history, Box 1.2 highlights some of the historical factors that help explain the dynamics of the current system.

**Box 1.2. The historical context of electoral competition**

As a number of authors point out\(^{19}\), to a certain extent, Honduran institutional stability is related to the weakness and even non-existence of a true “national oligarchy”. In contrast with other countries of the region, Honduras did not constitute a capitalist economy based on agricultural exports. This circumstance impeded the emergence of a coffee oligarchy like those in El Salvador and Guatemala. The fact that the Honduran political elite did not emerge from an agricultural exporting oligarchy, but from civilian and military strife in relation to presidential elections, differentiates Honduras from its neighbors in the region and influenced the nature of electoral competition.

The two principal political parties emerged from the dispute between liberal and conservative factions of the Honduran elite for the control of the governmental apparatus in the period 1882-1891. With Honduras converted into an enclave of the U.S. banana companies, Cuyamel Fruit Company and United Fruit Company (UFCo), after independence was won from Spain, a strategic association was soon formed between these businesses and the local elite. The fruit companies needed transportation and negotiated infrastructure contracts with the State in exchange for land concessions. In 1891 the Liberal Party was created with the financial support of Cuyamel, while the National Party was founded in 1902 with the backing of UFCo. The period 1890 to 1930 was characterized by a high level of instability during which there were more than 100 changes of government, with regional leaders and *caudillos* supported by local militias which continually fought for power. These groups were associated with the Liberal or National Party but none of them was capable of ensuring sustained dominance until General Tiburcio Carias, local ally of UFCo, took power from 1932 to 1949. By this time the fragmentation of the parties around personalities and internal movements had already laid the foundation for bipartisan stability and competition centered around *caudillos*.

Another feature that would characterize the dynamic between the actors was the coexistence of political and economic elites. The dominant political elite at the end of the 19th century and the beginning of the 20th century was based in the capital city of Tegucigalpa, where the old colonial

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\(^{19}\) A good summary of the history of Honduras and the formation of the Honduran state from a comprehensive perspective can be found in Carias (2008). For an analysis of the formation of the party system and the nature of electoral competition see Taylor-Robinson (2006) and Oviedo and del Cid (2000). The chapters of A. Artiga “A two-party system of more than a century” and D. Euraque “Social structure, political history and the new democracy in Honduras” in UNDP (2006) describe some of the political economy elements that are important for understanding the socio-political evolution of the country.
families had become a land-owning and mineral oligarchy that exercised its power through the two principal parties. With the ascent of the banana economy on the north coast near the turn of the century, a commercial and industrial bourgeoisie emerged which was tied to foreign capital and based in San Pedro Sula. In addition to the appearance of the San Pedro Sula bourgeoisie, another particularity of the economic structure of Honduras during the 20th century was the dominance of Arab-Palestinian immigrants in the commercial-industrial structure.

In the postwar period the Liberal party had an urban base, linked to merchants, artisans, industrial and working class support in Tegucigalpa and the North Coast. In contrast the National strongholds were located in the south west rural poor regions of the country, although in the last decades have extended to important urban areas, including Tegucigalpa. In general terms, the National Party showed a tendency for a more conservative approach than the Liberal Party, supporting various militar governments (Carias Andino, Lopez Arellano, Melgar, Paz Bonilla, and others). However, this ideological distinction becomes difficult to sustain after the Liberal approach to human rights violations during the 1980s. Today, there is no clear ideological cut between the two parties apart from a slight resistance from Liberal administrations to modify the laws and policies originated during the reformist administrations of the 1960s and 1970s while the National Party is more prone to support modernizing/structural adjustment programs. Although the Reina and Flores administrations did not continue the reforms initiated by Callejas.

The combination of a relatively weak elite and the influence of external actors in decision-making meant that Honduran society never became highly polarized. This allowed for liberal reforms to be adopted in the second half of the 20th century that, even though limited, made it possible for the country to escape civil war. Among these reforms are the agrarian reform, initiated in 1962, the legalization of labor unions, and the promulgation of the first labor code in 1959. These episodes of reform were supported by the United States, which had already identified Honduras as a key ally in a zone of vital geopolitical importance and of growing instability, and which to some degree acted as a mediator for facilitating agreements between local elites and social movements.

From this perspective, the institutional arrangements that were generated during the formation of the Honduran state were successful in preventing conflicts and guaranteeing the stability of the system. Despite experiencing three coups d’etat from the end of the Second World War (1956, 1963, 1972) and military conflicts with neighboring countries, these were relatively minor and the country was never the scene of an armed conflict between internal groups, as happened in other countries in the region. Of all of the Central American countries that experienced transitions from authoritarian regimes after the 1970s (El Salvador, Guatemala, Honduras and Nicaragua), Honduras is the only one that did so in a peaceful manner. The transition resulted from the withdrawal of the military from power, the convoking of elections for a Constituent Assembly in 1980 and the holding of general elections the following year. Since then, the country has experienced seven uninterrupted electoral processes, with alternation of power between the two principal political parties.

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20The first Ley de Reforma Agraria (Agrarian Reform Law) was passed in 1962 by Villeda Morales government; another one more comprehensive was approved in 1974 during the militar government of General Lopez Arellano.
Executive-legislative relations

1.44 Honduras has a presidential system in which, relative to most other countries of the region, the President has little power in relation to the legislative branch. Table 1.16 summarizes the legislative powers of presidents in Latin America. Of these, veto power is one of the more common and important, since it gives the President authority to overturn a law after it has been approved by the Congress. In Honduras overall veto powers are somewhat limited since, even though the general veto power is fairly large (with a two thirds majority being required to override this action by the President), the President cannot partially veto legislation and nor can he veto the budget bill. In addition, his powers to enact laws by decree are fairly restricted since this can only be done in exceptional circumstances.

Table 1.16. Legislative powers of presidents and legislature capacity in Latin America, 2005

<table>
<thead>
<tr>
<th>Country</th>
<th>Legislative powers of the president</th>
<th>Index of congress capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina</td>
<td>0.44</td>
<td>Low</td>
</tr>
<tr>
<td>Bolivia</td>
<td>0.23</td>
<td>Medium</td>
</tr>
<tr>
<td>Brazil</td>
<td>0.62</td>
<td>High</td>
</tr>
<tr>
<td>Chile</td>
<td>0.66</td>
<td>High</td>
</tr>
<tr>
<td>Colombia</td>
<td>0.59</td>
<td>High</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>0.23</td>
<td>Medium</td>
</tr>
<tr>
<td>Dominican Rep.</td>
<td>0.27</td>
<td>Low</td>
</tr>
<tr>
<td>Ecuador</td>
<td>0.59</td>
<td>Medium</td>
</tr>
<tr>
<td>El Salvador</td>
<td>0.33</td>
<td>Medium</td>
</tr>
<tr>
<td>Guatemala</td>
<td>0.29</td>
<td>Low</td>
</tr>
<tr>
<td><strong>Honduras</strong></td>
<td><strong>0.26</strong></td>
<td>Low</td>
</tr>
<tr>
<td>Mexico</td>
<td>0.24</td>
<td>Medium</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>0.19</td>
<td>Medium</td>
</tr>
<tr>
<td>Panama</td>
<td>0.43</td>
<td>Medium</td>
</tr>
<tr>
<td>Paraguay</td>
<td>0.19</td>
<td>Medium</td>
</tr>
<tr>
<td>Peru</td>
<td>0.50</td>
<td>Low</td>
</tr>
<tr>
<td>Uruguay</td>
<td>0.38</td>
<td>High</td>
</tr>
<tr>
<td>Venezuela</td>
<td>0.30</td>
<td>Medium</td>
</tr>
</tbody>
</table>

Source: Stein et al. (2005) and BID (2006).

1.45 By contrast, Congress has extensive formal and informal powers. Given its constitutional responsibility, Congress is the natural arena for the debate, negotiation and enforcement of political agreements. It also plays a critical role in the policy-making process.

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21 Article 366 of the Constitution stipulates that the budget is to be voted on by the legislative branch considering the budget proposal presented by the executive branch, and Article 218 establishes that the executive cannot veto the budget bill once approved by the Congress.

22 Includes proactive powers (power to emit decrees, budgetary powers), reactive powers (total veto, partial veto, exclusive initiative), and powers to call plebiscites.

23 This is composed of eight sub-indices that measure various characteristics of the institutional capacity of the legislature and political incentives, such as public confidence in the legislature, experience and specialization of the legislators, the capacity of legislative committees, the degree of technical specialization and the availability of professional staff.
process by representing the needs and wishes of citizens in policy-making, formulating and approving laws to address social and economic problems, and overseeing the implementation of policies. The Honduran congress approves the budget proposed by the executive and can introduce changes as long as financing is available and this is previously verified by the Secretary of Finance. Qualitative data indicate that the Congress is increasingly exercising more power in relation to the budget. However, there remains a considerable gap between the formal powers of the Honduran legislature and its effective capacity to carry out its important policy-making and oversight functions, which contribute to the weaknesses observed in respect to the public regardedness, efficiency, and implementation of public policies.

1.46 Given the two-party nature of the party system in Honduras, presidents have traditionally enjoyed relatively large partisan powers measured in terms of the seats that their party has controlled in the Congress, but not as much in terms of their party’s cohesion and discipline. During the governments of Callejas, Reina, and Flores, the governing party controlled the majority of seats in the Congress. Minority governments are a recent phenomenon with the Maduro (2002-2006) and Zelaya (2006 to date) administrations. In this context alliances are key and the minority parties have gained influence, particularly the Christian Democratic Party which, in contrast with the left-oriented PINU and UD, has a fairly strong capacity to negotiate with the traditional parties. Regardless of the distribution of seats, the President’s power over the legislative agenda is limited by the internal fragmentation and low party discipline of his own party, which prevents him from reliably counting on the support of legislators from his own party.

<table>
<thead>
<tr>
<th>Year</th>
<th>President</th>
<th>Winning party</th>
<th>Seats in the congress (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1989</td>
<td>Rafael Callejas</td>
<td>National</td>
<td>55.5</td>
</tr>
<tr>
<td>1993</td>
<td>Carlos Reina</td>
<td>Liberal</td>
<td>55.5</td>
</tr>
<tr>
<td>1997</td>
<td>Carlos Flores</td>
<td>Liberal</td>
<td>52.3</td>
</tr>
<tr>
<td>2001</td>
<td>Ricard Maduro</td>
<td>National</td>
<td>47.4</td>
</tr>
<tr>
<td>2005</td>
<td>Manuel Zelaya</td>
<td>Liberal</td>
<td>48.4</td>
</tr>
</tbody>
</table>

Source: Observatorio Electoral (www.observatorioelectoral.org) and Tribunal Supremo Electoral (www.tse.hn)

1.47 Honduras is one of the four countries of the region in which the reelection of the President is prohibited. In nine countries reelection is allowed but not in consecutive periods while in five countries immediate reelection is permitted. The prohibition on reelection, especially in a context of internal party fragmentation, is potentially a factor that contributes to difficulties in the relationship between the two branches and shortens political time horizons. However, as indicated below, the cross-national evidence does not show this as a clear disadvantage for effective policy-making.

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24 Reelection of the President is prohibited in: Honduras, Guatemala, Mexico and Paraguay. Non-consecutive reelection is allowed in: Bolivia, Chile, Costa Rica, Ecuador, El Salvador, Peru, and Uruguay. Immediate reelection is permitted in: Argentina, Brazil, Colombia, Dominican Republic, Nicaragua, Panama, and Venezuela. Source: BID (2006).
The President of Congress is a key figure in the Honduran political system. His power is derived from the management of the legislative agenda and of the budget of the Congress, which according to various social actors, he manages with extensive discretionality. The internal regulation of the Congress does not establish clear procedures for shaping its agenda or deadlines for its presentation. A large share of the Congress budget is allocated to the Social Fund of Departmental Development which finances local projects in the communities. It is difficult to reach conclusions in respect to the criteria used for assigning resources, such as the extent to which it is used for the establishment of alliances for building political support, but the figures on the execution of the Congress’ budget shown in Graph 1.6 reflects their connection to the political cycle, with peaks during the electoral years 2001 and 2005.

Graph 1.6. Budget execution by National Congress

Source: SEFIN.

In this context of extreme internal fragmentation of the parties, electoral reforms seem to have altered the balance of power in favor of the Congress and to the disadvantage of the President, since only he can control his faction in the Congress and not all of the representatives from his party. Once in the position, the President of Congress has often used this position for launching his presidential candidacy for the next elections, even at the cost of being in conflict with the President. This has led to confrontations between the executive and legislative branches. Although it is premature to attribute these tendencies to the electoral reform, the behavior of this congress seems to differ from the previous ones. Different social actors agree that the Congress has begun to act with greater autonomy in respect to the executive.

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25 According to the Democracy Foundation without Frontiers (2008) the agenda is known only a few minutes before initiating the session. With respect to the resources of the Social Fund of Departmental Development (Fondo Social de Desarrollo Departamental), no formally-established formula exists regarding how to distribute them among the different departments.
**Decision-making transparency**

1.50 Transparency in the functioning of political institutions facilitates broad participation in the process of discussion and the formulation of public policies, and makes them more responsive to the demands and needs of citizens and less vulnerable to the excessive influence of interest groups. Transparency generates confidence in actors to the extent that the formulation of policies is carried out according to the agreed rules, and it also creates incentives for reaching intertemporal agreements. Transparency is also a condition for effective accountability, which at the same time increases the credibility of agreements and provides actors with incentives to comply with what they have promised.

1.51 Even though the Transparency Law entails an enormous advance, it is still in its early phase of application and there remains a lot to do to ensure that its full implementation contributes to greater transparency in the policy-making process in Honduras. A basic principle of representative democracy is that voters are able to use elections to hold politicians accountable. The use of the voting mechanism for this purpose supposes that voters have information about the actions of politicians. In respect to the National Congress reliable records allowing voters to evaluate the performance of the persons who represent them do not exist. In spite of having the technological facilities for registering the votes continue to be carried out by a raising of hands without recording who was against or who was in favor. The lack of transparent processes also harms the legislators. According to the Democracy Foundation without Frontiers, the discussion of laws is so opaque and confusing that on many occasions the final form of the law is not known until it is published in the official Gazette. Box 1.3 describes the concrete case of the legislative process surrounding the Transparency Law.

1.52 Article 13.13 of the Law obligates Congress to publish the resolutions that result from the motions and decrees that are approved, as well as to publish the draft legislation that is submitted to the floor for discussion and their respective write-ups and opinions. These documents need to be published within the maximum period of ten days, and the sessions of the chamber of the Congress and of the committees disseminated via internet. Nonetheless, at the present time none of these documents are accessible to the public which contrasts with progress made by other governmental branches in meeting the legal requirements prescribed by the Transparency Law (CNA-RETHO, 2008).

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26 For several years the congress has had an electronic system for recording legislators’ presence in the chamber and votes, but the membership decided not to use it. The installation of the system was paid for as part of an IDB loan (HO-0123) for strengthening the congress of which US$1.2 million was executed.

27 Voting is regulated by Section 10 of the Internal Regulation of the Congress. Article 62 says: “The votes will be taken by raising hands. The votes will be nominal, or nominal with the assignment of names at the request of any Congressman….” According to FDSF (2008) “the discreional system of voting in which many times the deputies and their substitutes who attend together raise their hand to mark their votes, does not permit one to know exactly how many deputies are in favor or against a law, or how many abstained from voting.
Box 1.3. Legislative process surrounding the adoption of the Transparency Law

The topic of transparency was placed on the political agenda during the 2005 campaign, after an extensive mobilization by civil society that was initiated in 2001 with the foundation of C-Libre (Committee for Free Expression). This mobilization was later extended to all parts of the country with the formation of the network of organizations called Alianza 72. Along with other candidates, Manuel Zelaya promised that he would approve an Access to Information Law if he were elected president. Faithful to his promise, the proposed law was presented to the chamber after Zelaya’s victory in November 2005. The President and his legal advisor, Enrique Flores Lanza, became the principal promoters of the Law on the part of the executive. Nevertheless, once under the control of the legislature this was not a guarantee of its success and in the last minute representatives of various parties, including the President’s, refused to discuss the Law and withdrew it from the chamber.

Alianza 72 was able to get one of the minority parties, Unificación Democrática, to reintroduce the bill. In the 11 months until the measure was approved in December 2006 the process experienced advances and setbacks, as interest groups that opposed the Law (mainly media groups and the business sector) managed to exercise their influence in Congress. Four versions of the Law were circulated and the original legislative committee was replaced by a new one composed of 17 deputies, the largest committee ever in the history of the Honduran congress. Key to the whole process of negotiation was the role of the Vice President of Congress, Mary Elizabeth Flores Flake. Daughter of former President Flores and a journalist by training, she was capable of mediating between the different parties in Congress, interest groups and citizen expectations. Nevertheless, when a consensus on the Law was finally reached and it was approved by the chamber, still a surprise remained. The text that was published in the Gazette of December 30, 2006 (Decree number 170-2006) contained modifications in respect to some key articles compared to the version that was approved in the chamber. After intense lobbying by civil society organizations, and with the support of the international community, the Congress eventually approved amendments to the Law to restore the original text, published in the Gazette on July 17, 2007.

On May, 12th 2006, Congress finalized the list of nominees for IAIP Commissioners and appointed the three Commissioners on August 9th, after a process of deliberation that did not meet the legal requirements contained in the internal regulation of the Congress and the Transparency Law. Among others, the following irregularities were observed: the Commissioners were selected in two sessions for which the legal quorum of deputies was not reached; in neither of the two sessions were votes recorded; the three Commissioners were selected by one single election without separately discussing the nominations for each position; and the two motions formally presented to postpone the election until a quorum was reached were disregarded.

Source: Bellver, Mendiburu and Poli (2008) and meeting minutes from Congress sessions.

Electoral reforms

1.53 Since 1993 a series of electoral reforms have been adopted with the goal of strengthening representative democracy. The elections for choosing the President,
legislators and representatives of the municipal councils are now done through separate ballots and the possibility of voting across ballots. Another important change resulting from the 2005 electoral reform was the introduction of primary elections for the selection of legislative candidates. Before the reform, each of the party’s presidential candidates, who belonged to a particular faction within the party, proposed a closed list of nominees per department. These lists were up for discussion and not decisive, and the leaders of each party ended up negotiating and choosing the composition of their respective list of legislative candidates (Taylor-Robinson, 2003).

1.54 In the 2005 primary elections each of the presidential candidates in the primaries proposed a list of nominees for the Congress for each department, but this time the lists were open and the voters could select legislative nominees within and across faction lists. This has the potential of changing the incentives for faction leaders as well as for individual candidates and one expects that it will strengthen the connection of the representatives with their electorate. Even though it is too soon to evaluate the effects of the reforms, some changes in the electoral dynamics can begin to be observed. For example, in the 2005 legislative elections only 30 percent of the deputies were reelected and women obtained 25 percent of the seats. While the two presidential candidates, Pepe Lobo and Mel Zelaya, carried out their national campaigns, the legislative candidates, who now had to obtain votes for their individual candidacies instead of obtaining votes for the party, launched individual campaigns centered on granting personal benefits to their followers, such as foodstuffs or the opportunity to go to a medical centre (Taylor-Robinson, 2007). However, the internal factions are still powerful in determining the names that enter into the list for the primaries. A group of political actors have initiated legal action to declare unconstitutional articles 108 and 116 of the Electoral Law on the basis that they restrict political participation.

1.55 The adoption of open primaries and the possibility of voting across ballots provide an opportunity to improve the quality of representative democracy in Honduras, reducing the power of caudillos and increasing the electoral connection between deputies and their constituents. However, by themselves, and in the Honduran context, they may also reinforce clientelistic practices already entrenched at the local level, and lead to a higher level of internal fragmentation which would further complicate the building of alliances. Only time will tell. However, if the internal factions continue to have control over the lists, it is difficult to see how new political actors with a different approach to politics may emerge; more so when the current incentive structure makes it unlikely that any actor will be willing to invest his political capital in generating party credibility, based on long-term public policies oriented to the public good.

Judicial branch and other check and balance institutions

1.56 Apart from guaranteeing citizens’ individual rights, the judiciary performs a fundamental role in the political system – that of impartial arbiter responsible for ensuring the effective application of policy decisions reflected in the laws and for ensuring that the rules of the game reflected in the constitution are respected. The Supreme Court, through the Constitutional Chamber, is responsible for resolving disputes between the branches of government. However, the judicial branch suffers from a high degree of political interference. Graph 1.7 shows that Honduras scores low relative to the rest of the countries in the region in respect to perceptions of judicial independence.
Traditionally the Supreme Court judges have had ties to the political parties. The reform carried out in 2000-2001 aimed to restrict political interference through a new process of selecting the judges and the separation of judges’ terms from the electoral cycle, by lengthening their terms from four to seven years. The establishment of this new selection process in which actors can veto any candidate who is considered incompetent or corrupt is an important achievement that needs continuous support so there are not major setbacks. Even though, on paper, the reform drew on the best international experiences, there is still a long way to go to reduce political influence. The selection of the members of the nominating board, like the members of the Court, was politicized and the new judges are all identified with one party or the other. However, there are now certain professional standards that candidates need to fulfill and there is an open process where other actors can participate. The next step on the Supreme Court is to move a rolling renewal process so a couple of judges are replaced every year, instead of having a big bang replacement which is exposed to backsliding on the politicization of the process.

In spite of a substantial increase in the resources allocated to the judicial branch, indicators of the quantity and quality of services provided to the public remain at low levels. The low productivity of judges is illustrated in Table 1.18, which compares Honduras with selected countries from the region. This low efficiency is manifest throughout the chain of justice. In 2006 only 10 percent of the complaints registered by the public ministry were finally resolved through a trial or some alternative method (see Table 3.5, Chapter 3). As a result, trust in the justice system is low with 35 percent of citizens in agreement with the sentence that “The justice system punishes those who are guilty” (Latinobarometro, 2005). Data from the survey carried out in 2006 by the Latin American Public Opinion Project (LAPOP) indicate that citizens that have been victims of
crime are reluctant to use its institutions. Of the respondents that reported that they had been a victim of crime during the previous 12 months (19 percent), only a third filed a complaint. In response to the question “Why didn’t you file a complaint?”, roughly half of this group responded simply that “there’s no point”.

Table 1.18. Judicial workload in selected countries of the region

<table>
<thead>
<tr>
<th>Country</th>
<th>Year</th>
<th>Judges per 100,000 inhabitants</th>
<th>Entering cases per judge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Honduras</td>
<td>2006</td>
<td>10.1</td>
<td>108</td>
</tr>
<tr>
<td>Ecuador</td>
<td>2006</td>
<td>6.7</td>
<td>269</td>
</tr>
<tr>
<td>El Salvador</td>
<td>2006</td>
<td>9.2</td>
<td>258</td>
</tr>
<tr>
<td>Colombia</td>
<td>2006</td>
<td>10.2</td>
<td>283</td>
</tr>
<tr>
<td>Peru</td>
<td>2006</td>
<td>7.7</td>
<td>509</td>
</tr>
<tr>
<td>Argentina</td>
<td>2004</td>
<td>11</td>
<td>930</td>
</tr>
<tr>
<td>Brazil</td>
<td>2004</td>
<td>5.7</td>
<td>1503</td>
</tr>
<tr>
<td>Chile</td>
<td>2004</td>
<td>5.0</td>
<td>2461</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>2004</td>
<td>17.4</td>
<td>1316</td>
</tr>
</tbody>
</table>

Note: See full table in Chapter 3: Table 3.4

Source: Unidos por la Justicia, 2006 and various country sources.

1.59 Leaving the discussion about the role of the justice system and its productivity aside, there are numerous examples of laws that are not enforced, or enforced only partially without apparent consequences, such as the lack of implementation of the General Law of the Civil Service, the low compliance with certain clauses of the special employment statute for teachers (Estatuto Docente), or the weak implementation of the Framework Law of the Electricity Sector that is analyzed in the next section. The case of the Declarations of Emergency that were publically denounced by the Human Rights Commission and the Tribunal Superior de Cuentas are another example. The State Procurement Law allows for agencies to resort to “direct contracting” procedures to award state contracts (instead of open public bidding processes) during situations of National Emergency or under exceptional circumstances. This law is very explicit about the circumstances that are considered an emergency and about the legal process to follow to emit the declarations. However, as the Human Rights Commissioner complained, the executive has used this recourse under questionable circumstances and at times did not follow the process that the Law stipulates for emitting such declarations.30

1.60 Even though the judicial branch is the most important, other institutions also have the responsibility to ensure the effective application of the rules of the game and to provide check and balances to the other branches of government. In particular the role of the Tribunal Superior de Cuentas (Supreme Audit Institution) is key to improve efficiency of public spending and guarantee enforcement of the public financial management

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30 As for example when a National Emergency was declared for the increase in the prices of petroleum and among other measures a Junta Interventora of ENEE was established, under which energy contracts were awarded. Another case is the Executive Decree No. PCM-014-1006 which declared an emergency for the closure of the airport, authorizing SOPTRAVI, SANAA, HONDUTEL and ENEE to acquire goods and services through direct contracting procedures instead of open public bids. Source: Communication of the Human Rights Commissioner, published July 7, 2008.
framework. Since its creation in 2003, the TSC has embarked upon a restructuring process that includes the professionalization of key staff. Its capacity has improved steadily over the years, and the TSC now reviews Government financial statements, submits an annual report to Congress and the coverage of audits is improving. However, concerns have been raised regarding the level of core funding for the TSC which has remained constant in nominal terms in recent years, despite the growing workload. Although additional funding for audits at municipal level has been made available through an allocation from municipal transfers, the allocation continues to be insufficient. Other checks and balance institutions such as the Supreme Electoral Tribunal, and the Human Rights Commission face similar challenges. In general, these institutions are still fairly recent and are in the process of consolidation and establishing their independence. Although the governing laws protect their financial independence, in practice none of them are assigned functionally sufficient budgets. The budget allocation that these institutions received in 2007 – 0.15 percent (Tribunal Superior de Cuentas), 0.04 percent (Comisionado Nacional de los Derechos Humanos) and 0.1 percent (Tribunal Supremo Electoral) – are by no means sufficient to build capable and credible institutions. As we will see in Chapter 7, the situation is similar for regulatory bodies.

Moreover, as part of this institutional strengthening process, it is critical that the roles and responsibilities of these independent institutions are respected by the other branches of government. The political process in Honduras is characterized by the constant testing of the roles of the different government branches and the rules of the game that govern them. In a relatively young democracy, it is expected to find different opinions in respect to the interpretation of mandates, norms and rules. The basis of concern comes from the fact that, on many occasions, the differences in respect to the application of the rules are also accompanied by a questioning of the legitimacy of the institutions applying them, often with the allegation that they act on the basis of political motives. Among the most recent examples are the decisions made by the Supreme Court and the Supreme Electoral Tribunal in respect to the registration of the current president of the congress and Vice President of the country as candidates in the presidential primaries. These decisions have been strongly questioned by the political actors that have been harmed by them, with the allegation that the decisions taken are motivated by political pressures more than a strict interpretation of the Constitution. Another example is the controversy over the decision made by the Supreme Court to suspend the measure “Hoy no Circula” which was criticized by the executive as decision based on political

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31 As per adjusted 2006 budget (PER, 2007: Annex 1).
considerations. In addition, actions taken by the Tribunal Superior de Cuentas have been disputed recently.\footnote{In a July 17, 2008 press release the Government responded to supposed irregularities identified by the Tribunal Superior de Cuentas in respect to the purchase of stickers for the implementation of Hoy no Circula by saying: “It should not be unknown that the National Party has been manipulating the comptroller; thus, the possibility of proceeding judicially against the TSC officials has not been discarded. The TSC is wasting funds from the national treasury, its time, effort and resources in a political persecution”. In addition, Congress approved the award of contracts to two coal-based generating enterprises, despite an audit report from the Tribunal Superior de Cuentas which reported that due process had not been followed and found evidence of $620 million excess payment. Similarly, the TSC conducted at the Ministry of Finance request a post audit of teachers. The report was presented to government in August 2007 and yet, no measures have been taken against the irregularities found.}

The public administration

1.62 The public administration is analyzed in greater detail in Chapter 2, so that the discussion here is limited to highlighting its role in the policy-making process. A professional, technically-capable and independent public administration is a condition for the implementation of effective public policies, but also plays an important role in other stages of the political process. The public administration provides the technical information on which policy decisions are based. Also the delegation to the public administration of the formulation, and even the choice in respect to some public policies, can facilitate intertemporal agreements, especially in sensitive areas that are vulnerable to politicization and political opportunism.

1.63 In spite of the fact that salary spending in the public sector represents 44 percent of public spending, which is much higher than the regional average, as can be seen in Graph 1.8, Honduras has a public administration which has the lowest level of capacity in Latin America. Chapter 2 is devoted to the detailed analysis of the weaknesses and challenges of the public administration, so only general references will be made in this section. With a mixed model in respect to human resources, in which three different regimes coexist – the workers under the Civil Service regime, the workers covered by special employment statutes (“Estatutos”), and contractual workers (paid from national and international funds) – the most important characteristic is that none of these groups face performance incentives that relate public spending to results. The lack of information on the number of workers in each group, their profile, their labor conditions, and their performance is also notorious, which is evidence of the lack of attention of the different administrations to improve the management of human resources in the public administration, as well as of the strong political constraints that have limited the possibilities of adopting comprehensive reforms.
1.64 It is difficult to measure the impact that these weaknesses in the bureaucratic apparatus have on the implementation of public policies. Qualitative interviews with the technical teams in the different ministries and with representatives of the international donor community suggest that deficiencies in human resource management, in particular high rotation of staff linked to the political cycle, are one of the major causes behind poor policy implementation in the country. As it is shown in PER (2007:240), budget execution data points to a clear electoral cycle in external financing, with marked drops in external financing in both 2002 and 2006 following elections, as new staff become familiar with project management arrangements, then ramping up in the following years (see Graph 1.9a). Underlying this electoral cycle, trend analysis of externally financed expenditures indicates that external financing flows have been relatively flat, suggesting that external assistance flows have stabilized in the post-Hurricane Mitch period (see Graph 1.9b).

1.65 Unfortunately, there is no registry of personnel that would allow the trajectory of personnel to be followed and thereby determine the magnitude of the rotation. An approximate way of quantifying this phenomenon is by observing the trend in government expenditures in the budget item for severance payments that the government pays as compensation for dismissals of staff under the civil service regime. Graph 1.10 shows the increase in expenditures on public sector pay made by incoming governments in the years following elections (2002 and 2006) due to the obligation to pay for the dismissed personnel.

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33 The index measures the technical capacity and incentives for good performance of the public administration. It is based on an institutional diagnostic study carried out by the IDB in 18 Latin American countries (Echebarria, 2006).
Graph 1.9 PRS and non-PRSP external financed expenditures (as %GDP) and External Assistance trends (US$ m).

Source: PER (2007: Figure 9.10 and 9.11).

Graph 1.10. Central Government Severance Payment, 2000-2007

Source: SEFIN

A global perspective on institutional quality

1.66 As we have seen Honduras’ key institutions exhibit weaknesses that are affecting their performance and the quality of public policies. To provide a global perspective to these findings, this section will assess to what extent Honduras is different from other countries with similar structural constraints and democratic experience. As in the previous section, a regression analysis is used to assess the performance of key democratic institutions controlling for differences in the level of development (income per capita), the share of the population living in rural areas, the share of the population that is young, and the size (land area) of the country. An additional variable has been included to control for democratic longevity (ie. years of consecutive elections).

1.67 Table 1.19 describes the performance of Honduran political institutions compared to other democracies, controlling for years of consecutive elections. The data show that the quality of the public administration is lower in Honduras than in other democracies, which hampers implementation of public policies. Also, the judiciary is
perceived as less independent in Honduras than in other democracies, which reflects a high degree of political interference with the justice system and compromises its ability as provider of last resort to enforce agreements. The rule of law reflects to what degree the basic rules of society are respected. If the rule of law is weak, contracts and agreements are difficult to enforce and therefore not credible. Agents, including political decision-makers, then have weak incentives to forge and stick to intertemporal agreements on public policies. The “efficiency of the legal framework” variable assesses the extent to which laws and regulations are implemented and enforced relative to well-functioning bureaucracies, regulatory bodies and judicial systems. In respect to this variable as well, Honduras stands out for its weak performance vis-à-vis other democracies facing similar constraints.

Table 1.19. Performance of policy-making institutions

<table>
<thead>
<tr>
<th></th>
<th>Rule of Law (1 to 6) 2004</th>
<th>Bureaucratic quality (0 to 1) 2004</th>
<th>Independence of the judiciary (1 to 7) 2004</th>
<th>Efficiency of the legal framework 2004</th>
<th>Effectiveness of law-making bodies, 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Honduras (0-1)</td>
<td>-1.22 (-6.98)</td>
<td>-0.23 (-6.72)</td>
<td>-1.24 (0.23)</td>
<td>-.88 (-4.55)</td>
<td>Not significant</td>
</tr>
<tr>
<td>Years of continuous competitive elections</td>
<td>0.01 (2.14)</td>
<td>0.003 (2.34)</td>
<td>0.02 (3.44)</td>
<td>0.02 (3.58)</td>
<td>Not significant</td>
</tr>
<tr>
<td>N</td>
<td>88</td>
<td>87</td>
<td>80</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>R²</td>
<td>0.81</td>
<td>0.65</td>
<td>0.58</td>
<td>0.65</td>
<td>0.84</td>
</tr>
</tbody>
</table>

NB: A positive Honduras coefficient indicates the amount by which the actual Honduras outcome exceeds comparator countries; a negative, by how much it falls short of comparator countries. A non-significant Honduras dummy means that Honduras is in line with the average. *t*-statistics are in parentheses. Significance refers to a confidence level of 95% level. Coefficients for control variables (land area, income per capita, PPP-adjusted, constant 2000 dollars; percent population under 14 and percent population in rural areas) and constants not reported. White-corrected robust standard errors. See Annex I.B. for the definition and source of each variable.

1.68 This analysis shows that after controlling for its level of development and years of continuous competitive elections, Honduras differentiates itself from other democracies by having a less capable judicial branch and public administration, with a subsequent poorer performance in respect to the rule of law and the enforcement of the legal framework. An interesting observation from the cross-national analysis is that these institutions tend to improve as the years of continuous competitive elections increases, though the small size of the coefficients suggests that the effect is limited. However, this does not mean that Honduras can wait to benefit automatically from this effect. The Honduras dummy variable continues to be significant indicating that its performance is worse than what could be expected of a country with the same years with democracy.

Conclusions

1.69 Honduras has one of the most institutionalized party systems of the region with two principal parties, the Liberal Party (PL) and the National Party (PN) that have alternated in power for much of the period since 1930. However, political parties exhibit a high degree of internal fragmentation which weakens the electoral connection and party discipline, complicating the executive-legislative relations. This fragmentation, together with the lack of transparency in policy-making, creates incentives for the parties to attract
support on the basis of tangible benefits for specific groups. As we saw, the incentives in
the system for actors to invest in generating credibility in the medium term, and to
establish intertemporal agreements, are very weak. Greater transparency in the policy-
making process, and expanded access of the electorate to information about the
performance of the three branches of government – congress, executive and the judiciary –
would increase accountability and generate positive incentives so that good performance
can be converted into political capital.

1.70 As we saw, political actors have weak incentives to prioritize the enactment of
policy reforms which impose immediate and clear costs on well-organized groups and
provide benefits which are uncertain (since under clientelistic incentives the reform is
unlikely to be implemented or it may not produce the expected benefits) and diffuse.
Given the comparative weakness of large groups (consumers, parents, the private sector as
a whole etc.), reforms with such payoff structures are very challenging to implement in
any political system. However, in the context of clientelist representation, the incentives
of politicians to avoid taking on such risks are even greater, since it is less probable that
the sponsors of such reforms will obtain the political rewards (since parties and politicians
lack credibility in relation to their policy positions and are not held accountable on this
basis) and since such reforms are less likely to be successfully implemented. This problem
is further aggravated in a context in which there are no limits on electoral campaign
spending or private contributions, and there is no transparency in respect to the origin of
campaign contributions. Given politicians’ and political parties’ unquenchable need for
campaign resources, this gives organized and economically powerful groups great
influence34.

1.71 One of the topics discussed in political science, and that is applicable to the
Honduran case, is whether the possibility of being reelected is one incentive that shapes
the behavior of the President and legislators. In her study Taylor-Robinson (2006)
concludes that the possibility of reelection does not seem to be a factor that influences the
behavior of Honduran deputies and the international experience is mixed about the
influence of the presidential reelection on policy outcomes (World Bank, 2007:84). The
same can be said for the allowing the President of Congress to run for the Presidency.
Institutional arrangements of the political system are important for providing incentives to
actors, but the nature of electoral competition is key for determining if the final result
brings public policies that are aimed at the common good or result in a distribution of
pork-barrel benefits under a client-patron dynamic.

1.72 Even though one observes a tendency toward programmatic competition in
Honduras35, clientelistic practices continue to be strongly rooted especially at the local
level. This type of system, based in patron-client networks where rules of conduct are
personalized and where formal institutions are less important than informal networks, is a
very efficient form of allocating resources in a context of high insecurity, lack of clear
rules of the game, and scarce resources. It is a system that suited the context present at the
beginning of the formation of the state when Honduras was plunged in the middle of

34 The influence of economic groups in Honduras has been extensively analyzed in CEDOH (2008).
35 According, to El Proceso Digital, July 15, 2008; practically all of the candidates in the November 2008
presidential primaries declare to be putting forward electoral platforms. However, documents containing the
basic features of those electoral platforms are yet to be published.
internal wars, with the two banana companies were competing for access to political power, and the isolated villages not having another way to access resources and protection than through a patron (Taylor-Robinson, 2005). Nevertheless, this is a very inefficient system that enormously raises the transaction costs. It is necessary to know the right people and invest a lot in the network in order to bring any project or deal forward. To the extent that the socioeconomic system becomes more complex with a larger number of actors and more sophisticated transactions it becomes even more inefficient with higher opportunity costs. A system with established rules that do not depend on connections and individuals and in which the rules of the game are clear and equal for all actors is the most effective one for assigning resources, diversifying risk, and offering the necessary guarantees so that investments are productive (Khan, 2005).

1.73  
Honduras is advancing towards the construction of such an institutional framework that offers those incentives to actors, but in a much slower manner than would be expected in a country that has had its trajectory of institutional and democratic consolidation. Nevertheless, the dynamic is not homogeneous and the next section will examine concrete examples in particular sectors -education, health, electricity and telecommunications- that illustrate how this dynamic is changing and what are the factors that account for the differences in sector performance.

**POLICY-MAKING PROCESS (PMP) IN KEY SECTORS**

1.74  
As we saw in the first section, facing similar constraints to policy-making, some sectors have performed better than others. This section will explore these differences and the political-institutional characteristics and other structural factors that account for them and attempt to explain why in some cases reforms were adopted and implemented, while in others failed despite no actor deny the need for them. The comparison between the education and health sectors illustrates the potential for bottom up approaches to reform that gather support from different constituencies at the local level and strengthen the role of municipalities as champions of reform. On the other hand, the analysis of the electricity and telecommunication sectors points to the critical role that technological change has played in advancing reforms by overcoming the resistance of veto players. In the Telcoms sector, new technologies have contributed to undermining the protections granted to the public monopoly, introducing competition and propelling significant improvements in respect to the quality, range and price of services. Efforts to resist such changes have generated artificial rents for the benefit of the few (see case of tráfico gris in Chapter 7). In the electricity sector, a similar role could be played by the Regional Electricity Market, and it is only a matter of time before the opportunity to participate in such a market and benefit from lower electricity tariffs adds to the pressure to make advances in restructuring ENEE.

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36 Detailed case studies of the PMP in the education, health, telecommunications and electricity sectors can be found in Payne, 2008 (mimeo).
PMP in the Education Sector

1.75 The main policy challenges faced in the education sector and some of the developments that have shaped the evolution of sector performance over time are described in Chapter 3. Aside from the continuing need to expand coverage, especially in the preschool and upper secondary levels, a key problem remains of enhancing the quality of the services delivered across the school system. This is a complex issue that involves, among other steps, improving efficiency in the use of resources, enhancing teacher training, and strengthening school and teacher accountability for performance. In respect to the first issue the section highlights how the adoption of the special employment regime for teachers – the Estatuto Docente - and the interim agreements adopted by governments to forestall its full implementation, have caused teachers’ salaries to increase significantly in real terms, thus sharply limiting the pool of available resources for inputs and investments in education and for programs targeted at reducing poverty.

1.76 The particular characteristics of the policy-making process of the education sector are described in detail in Chapter 3 in relation to the discussion of two reform experiences: the approval and implementation of the 1997 Ley del Estatuto Docente and the effort to adopt a General Education Law (1998-2008). The case study examines the political-institutional and other factors affecting the adoption and implementation of the reforms, as well as the particular configuration of actors involved in the sector and their interests and influence in relation to the reform efforts. This account highlights the particularly strong influence of the teachers’ organizations in shaping the allocation of resources in the sector and the possibilities for implementing significant reforms related to the quality of education services. Though education reform proposals have in several cases been formulated on the basis of highly inclusive consensus-building processes, and there has been considerable continuity across governments in respect to their contents, only a very small part of this agenda has been implemented, largely because of resistance from the teachers’ organizations.

1.77 The policy-making process around the General Education Law was based on a participatory process that has permitted the development of reform proposals based on a broad consensus and some degree of continuity across governments in respect to their contents. FONAC played a key role in both of these outcomes by drawing on prior ideas in the formulation of the General Education Law and by leading the most extensive and inclusive dialogue process the country has experienced in relation to any policy sector. The influence of international organizations through lending programs, technical assistance and advocacy was also likely critical for keeping the focus on quality-oriented reforms, shaping particular aspects of the reform’s contents, and ensuring some degree of continuity of the proposals across governments. But, what is most striking from this experience is the limited success thus far in enacting and implementing reforms, despite the broad consensus obtained and the persistent support and pressure from international donors for the adoption of the reforms.

1.78 The experience of the General Education Law and the adoption and implementation of the Estatuto Docente with the resulting steady growth of teachers’ salaries shows the exceptional power of the teachers’ organizations. It also shows a structure of political incentives that makes it feasible and attractive for politicians to obtain short term political gains by making policy concessions to organized groups that
are only partially fulfilled, while the main burden is absorbed by the broader society and future governments.

1.79 The teachers’ influence is derived from the organizations’ large membership, financial strength and their high level of militancy, which is influenced by the concentration of teachers’ employment opportunities in the public sector, inter- and intra-organizational divisions, and the teachers’ organizations relative autonomy from the main political parties. The six teachers’ organizations have about 81,000 members with about 61,500 of these paying dues. A fixed share of the teachers’ salaries (3 percent in the case of COLPROSUMAH) is retained by the Secretary de Education on behalf of the teachers’ organizations (Posas, 2003; p. 30). As shown in Table 4.4, the six teachers’ organizations collected about US$12.7 million in 2007.

1.80 At the same time, the success of the teachers’ organizations in obtaining an important share of their salary demands and in impeding education reforms they perceive as harmful has also been influenced by the structure of incentives facing political actors. Given the weak programmatic differences between the two main parties, the lack of cohesion within the main parties, and the tendency for electoral competition to center around the delivery of targeted benefits (public sector jobs, contracts, public works etc) instead of achievements in respect to national public goods and policy goals, politicians have weak incentives to prioritize the enactment of policy reforms with concentrated costs and uncertain and diffuse benefits. At the same time, they have relatively stronger incentives to dispense benefits to organized groups with costs that are absorbed by society as a whole. The focus of the political game on exchanging favors between political party actors and narrow groups also contributes to the relatively high rotation of education ministry staff and the appointment of senior and mid-level technical staff on the basis of their connections with the political parties and with the teacher organizations rather than on the basis of their professional capabilities and knowledge of the sector. This reduces the capacity of the education ministry to plan and lead an education reform process and makes it more susceptible to the demands of the teachers’ organizations.

PMP in the Health Sector

1.81 By contrast, the health sector has achieved significant advances in the past two decades in respect to many of the important health indicators. Nonetheless, substantial inequities in health care coverage between urban and rural areas and between rich and poor segments of the population remain (see Chapter 5 for a detailed description of the sector trajectory). Since 1990, the majority of health indicators, including neonatal mortality, infant mortality, child mortality, and, to a certain extent, chronic malnutrition have improved. In addition, there is some partial evidence that maternal mortality has declined, perhaps because of the increase in coverage for prenatal care and the increase in institutionalized childbirths (World Bank, 2000; ENDESA, 2006).

1.82 Critical reforms adopted during that period as part of a national response to poor coverage and inequality in the sector account for that success. The first health sector reforms beginning in the 1990s were aimed at extending services to areas which were historically excluded from the system. For this reason many of the programs of the Secretary of Health (SH) were focused on the municipal level. But, the development of health plans at the municipal level did not initially bring about significant changes in
health conditions or in the modality of providing services. A few years later, experimentation with new models of service provision relying on decentralized management were instrumental in extending services to underprovided areas. As a part of the maturation of this process health officials and other actors gradually concluded that the regional administration of the SH should be redesigned in order to bring the regional health administration offices geographically and culturally closer to the local level entities responsible for service provision. An alternative for doing this was to substitute the nine existing regional health administrations, which in some cases comprised as many as three departments (the official political administrative units), with regional health administrations based in each of the 18 departments.

1.83 The reorganization of the regional health administrations and the adoption of decentralized management models are thus parallel developments which both contributed to the decentralization of the provision of health services. Success in implementation is most clear in the case of the new structure of regional health administration since the process is well institutionalized and not likely to be reversed. The decentralized management models have been implemented in diverse parts of the country and the process has become more institutionalized, but some resistance has been encountered from the health sector unions which may impose some limits on how far this process can go. In any case, both reform processes can be considered successful and offer lessons learned for further reforms to be undertaken in this sector or in others, like education.

1.84 Key for the success of the reforms was the bottom-up approach adopted. Centered on establishing health provision modalities in formerly excluded and remote local communities and strengthening the management role at the sub-national level, the process was initiated as a pilot experience supported by the Access Program funded by Sida, and was only brought to the national policy arena when the reform was consolidated and supported by local actors. Thus, this process was different in political terms from reforms in the education sector, which have implications for the labor conditions of teachers and decision-making processes across the whole sector and were only discussed at the national level. Through the bottom-up approach adopted, the reform processes steadily gained local allies, including mayors, municipal governments, community groups, municipal associations, and local service providers that were critical for the adoption of the reforms. Dialogue between the Secretary of Health and affected groups and some concessions, including in respect to the job security of health workers, has limited the eruption of wide-scale opposition.

1.85 A few other features of the reforms in the health sector likely facilitated the relative success in their implementation. Neither of the reforms required the adoption of new legislation or the sanction of the legislature. The level of success with the decentralized management models has also been facilitated by the fact that most models have been deployed in remote areas, where they have been relatively unnoticed. Since they are serving populations with limited or no health services, it has been difficult for the unions to oppose them on equity grounds. Still, this is also the case in the equivalent reform in education, the PROECO schools. However, in the education case, the policy discussion took place from the beginning at the national level, whereas in the health case only when the reform was yielding results such discussion was initiated. By implementing the reform on a pilot basis and providing valuable services to the communities, the models have generated a strong and growing support base at the local level, which include
AMHON, municipal governments, municipal associations and service providers. The strong policy impulse, technical support, institutional stability, and steady financing provided by the Access Program was also key, as well as the collaboration of other international organizations, including the World Bank, IDB and other bilateral donors, that contributed to the steady expansion of health care coverage through these models and advances in institutionalizing a more decentralized approach within the Secretaría de Salud (SSH).

1.86 Finally, another set of factors affecting the advances achieved in these reforms has to do with the greater complexity of the labor market and the lower level of inter-organizational competition in the case of the health sector which results in less labor militancy and weaker union bargaining power (Maceira and Murillo, 2001). The greater complexity of the health sector provides a larger variety of employment opportunities and partially explains the less defensive attitude that especially the doctors’ association has exhibited during the reform processes. In addition, the division in status between doctors and other health sector workers contributes to differences in interests between them and makes it more difficult for them to unite in opposition to reforms than in the case of the teachers.

1.87 On the contrary, teachers are dependent on the public sector for employment and therefore tend to be more resistant to reforms of the state apparatus and more united and militant in fighting for job security and salary claims than other sectors characterized by greater private sector participation and more complex labor structures. Teachers’ organizations are characterized by a high level of centralization even though they have regional organizations but also by inter-organizational competition, internal fronts and factions, and disputes over leadership positions, all of which encouraged a high level of militancy. While governments have at times succeeded in imposing competing leadership in a given organization or in creating a rival union, these divisions have since been overcome and the organizations are quite independent from the two main parties. Thus, since the early 1990s neither party has been able to facilitate bargaining or moderate the teachers’ organizations’ demands by co-opting their leaders or taking advantage of existing shared loyalties and trust. If anything, because of the influence of the teachers’ organizations in the selection of the education minister, senior advisors and technical staff (including the placement of organization members in these positions), they have had unusual influence in the work of the ministry.

PMP in the Telecommunications Sector

1.88 In the case of the telecommunications sector, technological advances, such as mobile telephony, cable and satellite TV, and the internet, combined with globalization have been revolutionary forces, undermining natural monopolies and introducing new

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37 These authors identify three structural and institutional factors in their examination of labor organizations in the education and health sectors in Latin America: market structure, union organization characteristics and political alignment. These factors are considered to facilitate non-cooperative relationship between the government and teachers’ organizations.

38 This is evident from the fact that the Ministry collects the organization dues from the teachers and from the distrust of the government in allowing the Ministry to carry out the audits of schools for fear that persons in the ministry will forewarn the schools.
markets. Cross-national differences in policies, legal frameworks, investment capacity, and income levels give rise to the danger for countries that others will benefit more rapidly and extensively from these new technologies. Thus, technological change generates pressure on governments to reform their policies and regulations so that their countries do not fall behind. Over the past decade, technological change, together with pressures to meet international commitments, have affected the agenda for policy reform in Honduras contributing to improve performance in Honduras’ telecoms sector in respect to the quality, costs and range of services, as well as to policy changes.

1.89 The enactment of the Framework Telecommunications Law in 1995 and the auction for the first cellular phone band reflected the general consensus on the need to modernize the regulatory framework to allow Honduras to benefit from technological innovations in the sector and the resulting opportunities for opening up the market to competition. The 1995 Framework Law created a regulatory agency, the National Telecommunications Commission (CONATEL), and established the rules under which licenses and concessions in the sector would be granted. This regulatory body was formally autonomous, but its members were appointed by the president, which tended to compromise its independence from political as well as particular economic interests. Though the law did allow private entry into Internet, data transmission and other services, it gave Hondutel a concession to operate local, long distance and international telephone services for 25 years with a period of exclusivity of ten years.

1.90 The inauguration of CELTEL’s operations in 1996 immediately introduced some competition for Hondutel in domestic long distance and local phone service, providing an alternative, more reliable service that rapidly attracted subscribers. Competition was also introduced in cable television, Internet and data transmission services and service coverage greatly expanded and improved. Participation by private companies as sub operators of Hondutel in national fixed line service was allowed under the “Telephone for All” program adopted at the end of 2003. The introduction of a second cellular phone service in 2004 sharply reduced cellular phone prices and led to a rapid expansion of users. The considerably higher prices paid for international calls by Hondurans relative to other countries in the region put pressure on politicians to follow through on the commitment in the 1995 law to open up international phone services to the competition of the two cell phone providers at the end of 2005. This resulted in a sharp reduction in prices. By 2007 four cell phone licenses were already granted.

1.91 Given the end of Hondutel’s monopoly, a reform of the telecommunications law was necessary to regulate the rights of access and terms of competition in the new liberalized areas and reform CONATEL from being a regulator of equipment and services to being a regulator of competition, which require it to be a technocratic body independent from the economic interests in the sector. Approval of the new framework law was also important for meeting several of Honduras’ international commitments. However, though the reform was proposed in 2004 it still had not been approved as of May 2008. This has impeded the opening of segments of the market, such as international phone

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39 The liberalization of the telecommunications sector was required by the Central American Free Trade Association (CAFTA) and the free trade agreement with Mexico (Triángulo del Norte). In addition, the disbursement of budgetary support funds from the World Bank in 2007 and the signing of a new agreement with the IMF in late 2007 were conditioned on the passage of the new telecommunications law.
service, to participation by additional fixed line private operators, and limited the fairness of competition and freedom of operation across the telecommunications sector.

1.92 Thus, globalization and technological change have been powerful forces behind some of the reforms in the sector and performance improvements. But Honduras liberalized its markets more slowly than other Central American countries and prices for international and long distance telephone services declined at a slower rate. This was due in part to the failure to fully implement the 1995 law in respect to the capitalization of Hondutel and to establish capable and independent regulatory and policy-making agencies. The long delay before the second cell phone license was auctioned, the long period of monopoly granted to Hondutel in international and fixed line phone service, and the failure to incorporate in Hondutel a strategic multinational partner, slowed the transmission of technological change into increased market competition and reduced costs. Further, delays in approving the reform to the telecommunications law in the last several years are also diminishing the potential gains for consumers of technological advances and changes in the market structure.

1.93 Several factors account for those delays. In some cases the enactment of market-oriented reforms has been impeded because politicians’ incentives, derived from electoral and party system characteristics and the balance of influence of societal interests for and against the reform, have favored maintaining the privileged position of the state-owned company, Hondutel. Another factor that has slowed the pace of reform in a couple of instances has been the fundamental distrust between the executive and legislative branches and among politicians in respect to their ability to regulate market competition in a manner which is fair to all potential participants. This distrust can be viewed as ultimately rooted in the traditional practice of governments and political parties in the congress to use appointments in public institutions as a means to reward political and economic power groups. Thus, the congress did not believe that executive-led appointments would guarantee the neutral and technical regulator required in a liberalized market. But, at the same time, the executive could legitimately contend that congressional appointment would be unconstitutional and be concerned that this branch’s involvement would lead similarly to the intrusion of partisan interests, and indirectly as well to the influence of economic power groups.

1.94 The recent “gray traffic” scandal was also instrumental in gathering support for the reform. The scandal exploded in the middle of the debate about the new framework law and made clear that maintaining artificially high prices in a context of dramatic technological changes led only to the creation of opportunities for rent-seeking. It was estimated that almost half of entering international long distance calls were routed through the internet to illicit domestic operators, who profit by avoiding paying Hondutel’s termination charge to foreign telephone services for incoming calls.40 The “gray traffic” scandal led to sudden congressional action aimed at lowering international calling rates so as to eliminate this opportunity of using the internet to circumvent Hondutel’s termination charges. In the end, neither the “gray traffic” scandal nor the corruption scandal surrounding the former Hondutel manager were ultimately sufficient to compel the

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40 An investigation by the Arcadia Foundation discussed in a Mexican newspaper, El Universal, estimated that the loss of revenues from international calls between 2005 and 2006 amounted to about $48 million, part of which was attributable to “gray traffic”.

54
approval of the reform law or the law to combat “gray trafficking.” Nevertheless, it seems almost inevitable that within a fairly short period of time the competition of the cell phone companies, new international phone service providers, and internet calling will eliminate this basis for monopolistic rents.

**PMP in the Electricity Sector**

1.95 Chapter 7 describes the principal policy challenges that have been faced in the electricity sector after the reform effort of the mid-1990s. It highlights difficulties encountered in ensuring adequate electricity supply and the repeated use of emergency approaches for purchasing power, which resulted from continued deficiencies in sector planning and policy-making and slow and cumbersome contracting procedures. The high electricity costs associated with some of the purchasing agreements, the failure to set tariffs in accordance with economic costs of generation and to adequately target subsidies, and continued inefficiencies in ENEE’s management contributed to the state company’s recurrent financial difficulties, which have become particularly acute at the present time.

1.96 For the past half century the electricity sector in Honduras has been led by a vertically integrated state utility company – The National Electric Energy Company (ENEE). Partly because of the company’s financial problems and management deficiencies, as well as the failure of the 1994 reform to establish an effective policy-making agency for the sector, the planning and implementation of timely and efficient investments in the generation, distribution and transmission of electricity has been inadequate.

1.97 In contrast with the telecommunications sector, the effect of exogenous forces, such as technological change, in undermining the natural monopoly associated with ENEE’s control of the electricity market has been much weaker. After the adoption of the framework law in 1994, private companies did take on a preponderant share of new power generation, but ENEE remained the single buyer and monopolized the distribution and transmission of electricity. Thus, unlike the case of the telecommunications sector, in which cell phones and other new technologies provided direct competition with Hondutel’s phone services, competition was weaker in the electricity sector, and the pressures for improved efficiency were lower. On the other hand, the future expansion and integration of the Central American energy market could provide opportunities to expand competition, especially among suppliers of electricity (World Bank, 2007; Walker and Benavides, 2004; p. 204) but ENEE would need to be able to meet the technological and financial requirements to participate in the pool. Otherwise, it would deepen regional price differences and introduce further inequalities between local wholesale consumers with direct access to the pool and retail consumers.

1.98 The urgency of the 1994 energy crisis, the need to attract private financing for new sources of electricity generation, and the policy advice and loan conditions of the international financial institutions were key factors contributing to the adoption of the 1994 Framework Law of the electricity sector. A central achievement of the reform was the establishment of a legal framework supporting private participation in the generation of electricity. In the first few years the reform also contributed to improvements in ENEE’s finances. With the regulatory body, National Commission on Electricity (CNEE), able for a brief period to make tariff decisions somewhat independent of the central
government, electricity charges increased so that they covered a larger share of service costs (WB, 2003; pp. 50-51). In addition, staff cuts enabled partly by the outsourcing of billing and collection functions to a private company (Servicio de Medición Eléctrica de Honduras – SEMEH) in 1999,41 as well as reductions in energy losses, also contributed to ENEE’s improved efficiency.

1.99 The Power Purchasing Agreements (PPAs) with private generation companies enabled ENEE to expand installed electric generation capacity from about 550 MW in 1990 to about 1250 MW in 2007. In addition, the implementation of higher, though still insufficient, tariffs under the 1994 law, cost reduction measures, and a significant reduction in energy losses allowed an improvement in ENEE’s finances and efficiency42 in the middle to late 1990s. At the same time, partly through the Social Fund for Electricity Development, which was created by the 1994 law, ENEE was able to expand coverage from 43 percent of households in 1994 to 69 percent in 2006 (WB, 2007; p. xvi). But, the improvements to ENEE’s finances turned out to be only temporary and partly artificial, since annual investments in infrastructure, including in distribution and transmission, were deficient (WB, 2003; p. 97). The early PPAs, and other emergency purchases and rentals of electricity thereafter, resulted in relatively high purchasing costs for electricity generation, which continue to be a source of financial strain and political controversy (Walker and Benavides, 2004; p. 176). By 2007, ENEE appeared less efficient than electric utilities in most other Central American countries in terms of residential connections per employee and losses had climbed back up to 25 percent (WB, 2007; p. 28). It was estimated that 15 percent of this total of 25 percent of losses could be attributed to commercial losses due to theft, fraud, and collection problems.

1.100 This was partly due to the fact that important aspects of the 1994 reform were not implemented or not implemented in a sustained manner, including the privatization of distribution, the introduction of market competition, the establishment of cost-recovering tariffs and well-targeted subsidies, the improvement of ENEE’s efficiency, and the effective separation of policy-making and the regulatory functions from service provision. The failure to sustain the more rational approach to governance of the sector entailed by these reforms was due to political interference made attractive and feasible by the dominance in the sector of a vertically integrated state company. In the Honduran political context, politicians had weak incentives to maintain cost-recovering tariffs, to target subsidies, to reduce and professionalize employment in ENEE and ensure its efficient management, and to create an insulated and professional regulatory agency.

1.101 Poor planning and slow decisions in respect to the contracting of additional capacity at times compelled ENEE to instead arrange emergency rental contracts of power from small and more expensive power sources. In some cases ENEE chose to bypass state procurement rules by directly purchasing power through an expedited bidding process on the sometimes dubious basis of a declared energy emergency. The latter procedures entailed less transparency and generated their own set of problems, as exemplified by the recent bidding process for 250 MW of new power and the bidding for the repair, operation

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41 ENEE contracted out to (SEMEH) in 1999 the job of managing the operations of maintaining the database of customers and reading, billing and collection.

42 The number of employees per connection decreased and electricity losses were also reduced from a very high 29.4 percent in 1995 to 18.5 percent in 2001.
and maintenance of two existing diesel plants producing 60 MW. Both processes have been questioned, with the former being sharply criticized in a report by the Tribunal Superior de Cuentas because of the inflated costs that ENEE would pay and the use of outdated technology that would harm the environment (TSE, 2008). Ignoring the recommendations of the TSC, congress approved both contracts on October, 9 2008.

1.102 A common denominator of these problems was the inability to insulate the management of the sector and ENEE from the pursuit of political goals. This was evident in the appointment of politically connected but deficiently qualified persons as ENEE’s general manager and as chiefs of Distribution Regions and districts and their frequent rotation (WB, 2007; pp. 27-28), and more recently with the decision to intervene ENEE took by the President in July 2007 and the appointment of a Board of Interventors with powers that replaced those of the Board of Directos and the General Manager. Since then, the Ministers of Finance and Defense have taken control over the company’s operations. Board Governments officials’ and politicians’ unwillingness to support a more technocratic approach to policy-making and regulation of the sector and a more commercial approach to managing ENEE could be traced to various political motivations. A first obvious one, which clearly affected politicians’ desire to control the setting of tariffs and subsidies, was the important direct goal of building and maintaining broad popular support. But, politicians also had an incentive to maintain control over the management of ENEE and other decisions in the sector in order to use these powers and resources as political instruments for rewarding powerful interests supporting them as well as party leaders and lower level campaign activists.

1.103 Questions about the adequacy of the design of the 1994 framework law gave rise to the follow-up effort in 1998-2001 to deepen the reform by establishing a wholesale electricity market and more thoroughly unbundling and privatizing ENEE’s functions. Again the proposal for the reform came from an international organization – this time the International Finance Corporation. But without a strong advocate in the government, lacking the unambiguous support of any powerful economic or societal group, and facing the intense opposition of trade unions and popular sector groups while the public at large was broadly skeptical, the reform effort did not have a great chance of succeeding.

1.104 The energy sector in Honduras has entered into a new crisis given the imminence of supply shortages and ENEE’s dire financial situation, which worsens the overall public sector fiscal balance and poses a threat to macroeconomic stability. The unprecedented increase in the cost of petroleum, the high costs of the electricity contracted in the 1990s, the high level of distribution losses, the deficient level of effective tariffs and poor targeting of subsidies, and the accumulated arrears in bill payment by government institutions and some private companies have resulted in a large deficit, a backlog of investments in distribution and transmission, and growing arrears with private generation companies. The need to address the short term challenges presented by the immediate risk of energy shortfalls and ENEE’s financial crisis provides an opportunity to generate supports needed to undertake some of the reforms needed to strengthen policy-making in the sector and reduce political interference in management of ENEE. The regional power market would be another factor that would promote the liberalization of purchase of electricity and put pressure for reform. In order to benefit from the pool, it would be necessary to improve ENEE’s financial capacity and change the
rules to reduce the barriers of access of large consumers and independent generators to the transmission grid.

CONCLUSIONS

1.105 The main concerns of Hondurans according to public opinion surveys are poverty, employment and citizen security. Hondurans do not question democracy as the preferred system, but their dissatisfaction with its capacity to respond to these concerns is growing. The great paradox in the Honduran case is that the country has made significant advances in the last two decades in respect to representative democracy and institutional modernization, and yet it continues to have difficulty achieving a level of service provision that is consistent with its resources. This chapter has tried to shed light to this puzzle by looking into the incentives provided by the policy-making process.

1.106 Many of the reforms that are required for improving the provision of basic services and/or for placing the economy on a path of sustained growth that can have a lasting impact in reducing poverty are well known, and most of them are accepted by the actors are need. However, no government has been able to adopt them or implement them successfully up until now. Many examples are provided in the case studies and the rest of the chapters of this study of decisions that are passed from government to government without any of them being able to absorb the political cost associated with them. Some recent examples include: the salary negotiations in respect to the employment statute for teachers – for which everyone is conscious of the impact that they have on public finances and their lack of connection to performance considerations; or the rationalization of the finances of the electric company ENEE or of SANAA whose debts continue to accumulate; the professionalization of the public servant – which is recognized as indispensable for increasing the effectiveness of public policies and nevertheless the parties are pressured very strongly by followers to offer positions in exchange for political support; or a fiscal reform that reduces exemptions that benefit strong vested interest.

1.107 More than a technical debate on whether the proposed reforms are needed or not, the lack of progress in these areas seem to lie in the difficulties around decision-making. In this chapter, we have applied Spiller et al. (2003) methodology to analyze the incentives that the system provides for the formulation, approval and implementation of public policies. As we saw, Honduras performs comparatively well in the features of public policies that are related to the stability of the system. However, the country scores lower than the regional average on three characteristics of public policies that are critical for resource allocation and spending efficiency, and ultimately for their impact on policy outcomes.

1.108 This pattern seem to be influenced by the weak programmatic differences between the two main political parties, their internal fragmentation and the collective action problems associated with the adoption and implementation of public policies oriented to the public good. Because of these factors, political actors have few incentives to adopt reforms that impose immediate costs on organized groups and provide benefits that are uncertain and diffuse. Compared with the capacity to organize shown by certain interest groups in the country, other groups representing more general interests – such as consumers, parents of school children, small and medium-sized businesses have great difficulty in organizing themselves in an effective way. The influence of organized groups
is further augmented by the absence of limits on private contributions to political campaigns and the complete lack of transparency in respect to the source of financial contributions. Thus, this imbalance of power in favor of narrow interests reduces the political rewards to those who support the implementation of reforms that pursue the common good. The lack of transparency in decision making, the difficulties in obtaining information to evaluate performance and hold politicians accountable, and the lack of an arbiter that guarantees compliance with the rules of the game and intertemporal agreements reinforce this dynamic.

1.109 One important feature of the Honduran context is the absence of mechanisms to allow good performance to be translated into political capital, whether for candidates or for the party, which means that no actors have sufficient incentives to take decisions that confront powerful groups and that generate uncertain outcomes in the medium term. For this reason, any initiative that increases the visibility and benefits associated with these types of decisions could assist in altering this political calculation. There are some ongoing initiatives in the country, such as the Results-based Management system developed by UNAT to monitor performance of public institutions, the implementation of the Transparency Law, and the variety of social monitoring mechanisms that have emerged throughout the country that are helping to change these incentives, by improving transparency of decision-making, its impact on performance and enhancing social recognition. In this way political representatives can be rewarded with political support for their efforts to improve institutional performance and service delivery. The example of the municipality of Comayagua (see Box 1.4) illustrates how the electoral dynamic can be a good instrument for rewarding good management. Thus, initiatives that contribute to the formation of electoral preferences on the basis of programmatic proposals and performance evaluations based on concrete and tangible outcomes with which the average citizen can relate will increase the incentives for decision making for the common good. The same outcome would result from increasing the organizational capacity of groups representing broader interests that for the moment have trouble participating in public policy debates.

**Box 1.4. The case of Comayagua**

Carlos Miranda has been mayor of the municipality of Comayagua for three consecutive terms. During his administration he has managed to increase municipal revenues by 20 percent and improve the services offered to citizens and businesses. Among other reforms, the municipality has implemented the Integrated System of Municipal Information (SIIM); a Multimedia Kiosk and One-stop Shop for Administrative Procedures with which the maximum length of administrative procedures has been reduced to three days; increase by 45.7 percent the number of permits for business operation issued by the municipality and by 74.7 percent the revenues collected for construction permits. Comayagua is among the first three municipalities in the municipal scorecard ranking of the IFC in respect to operating licenses for businesses and construction permits (IFC, 2007). The web page of the ([www.municomayagua.com](http://www.municomayagua.com)) is one of the most complete and, among other services, offers the payment of taxes and the resolution of procedures to be done on line, bidding opportunities, information about projects and public works in progress in the municipality, and a service window for citizens. In addition, according to the Human Rights Commission, Comayagua is one of the municipalities that obtain the best social audit reports of its Transparency Commissions.
1.110 Transparency in the processes of discussion and elaboration of public policies is another factor that can alter the incentive structure, increase the pressure on actors to respect the rules of the game and reduce the undue influence of interest groups, thereby providing the opportunity for different social actors to participate under more equal conditions, whether directly or through their political representatives in congress. The process of discussion and elaboration of public policies is one in which different interest groups interact and negotiate the content of policies. An effective process is not one which eliminates the influence of these groups, nor one that reduces political influence in decision making, but one which facilitates the participation of actors in equal conditions and balances the different influences so that the final result reflects the prevailing social consensus. The implementation of the Transparency Law in public institutions, and especially in congress, entails an advance in this direction that should continue to be supported. The recent initiative to approve a Public Hearings Law for the congress’ appointment of high level officials – like the Supreme Court judges – is another effort of this type, that unfortunately has not been approved yet.

1.111 A third factor that has been emphasized in this chapter is the fundamental role played by independent institutions. The democratic system is based on the division of powers principle whereby checks and balances are established so that one set of institutions control the others and prevent one branch of government from dominating the others. Thus, the legislature has the power to formulate public policies and to supervise the work of the executive in implementing them. Aside from guaranteeing the individual rights of citizens, the judicial branch performs a fundamental role in the political system; that of impartial arbiter responsible for ensuring the effective and fair application of policy decisions and the rules of the game. An independent and effective judicial system, as well as other independent check and balance institutions, are fundamental for intertemporal cooperation since they provide guarantees that agreements reached will be respected and their associated policy changes implemented fully and fairly. Thus reforms aimed at strengthening and depoliticizing the justice system and enhancing the policy making and oversight capacity of the legislature are key for developing a policy making process which generates more developmentally effective public policies.

1.112 In a context of scarce resources and urgent demands, prioritization is essential. It is not possible to change the whole system at the same time but it is possible to build up some key institutions/functions and achieve some results with a significant impact in the short term. It is necessary therefore to identify some priorities in relation to dynamic sectors and key institutions/functions that can have a large impact in the short term. The advances that the country has made in some areas, like administrative simplification, tax revenue collection and the reduction of infant mortality shows that it is possible to obtain results in a relatively short period when there is sufficient political will and the necessary resources are allocated. In Box 1.5 the basic functions that the state should develop in order to be able to foster a takeoff of the economy are described, including the capacity to generate a strategic vision, to coordinate the actions of public and private actors in respect to the vision, provide basic health and education services, and protect property rights. The strengthening of these functions should be among the country’s short term priorities.
Box 1.5. Institutions and development

Since the pioneering research of the Nobel Prize winning economist Douglas North, the debate over the role of institutions in development does not revolve around their importance, which now is not questioned, but over what is the sequence of reforms that allows institutions to gradually be strengthened and how to set priorities for the development of key institutional capacities that promote short and medium term economic growth. In a recent investigation that is still ongoing, Meisel y Aoudia (2008) try to respond to this question by identifying the institutional characteristics of countries that have experienced high rates of growth in the modern history. From a database of 85 countries, the authors establish three groups according to their rates of economic growth: developed countries, convergent countries (those developing countries with a rate of growth that is greater than that of developed countries), and divergent countries (those developing countries with a rate of growth that is equal with or less than that of developed countries).

The conclusion that these authors reach is that the functions that institutions need to develop to initiate the economic takeoff first, and then to sustain it afterwards, are different. Thus, the principle functions that a country needs to develop to launch the “economic takeoff” are: i) the capacity to generate a strategic vision that guides the development of the country ii) the capacity to coordinate the actions of public and private actors and offer positive and negative incentives (carrots and sticks) such that they contribute to realizing this strategic vision; and iii) provision of basic public goods like basic education and health services and the guarantee of agricultural property rights in order to ensure that the actors can harvest the benefits of their investments.

To sustain this growth so that a process of technological and capital accumulation is generated, two groups of functions need to be developed: i) the formalization of the rules of the game, including an efficient and non-corrupt public administration; formal rules that protect economic transactions and property rights; and a basic redistribution system; and ii) the gradual opening of their social, economic and political systems such that they allow social mobility and open participation to all social actors and regulations that guarantee the participation of economic actors under equal conditions.


Following the example in the health sector, the local dynamic offers an interesting possibility to advance some of the reforms from below by obtaining the support of local actors to the extent that the reform generates positive results. Then, only when the reform is consolidated at the local level would the discussion of a national public policy change be discussed. One of the factors that contributed to the success of the health reforms analyzed was the role adopted by the municipal governments as champions of the reforms. This was also a factor affecting the reforms carried out in the water sector. One could think of adopting a similar approach in other sectors, like education, in which the reform process is at a standstill and where a bottom-up approach it might assist in changing the dynamic between the actors. Nevertheless, there is still some resistance to the transfer of greater responsibilities to the municipal governments. As will be shown in chapter 6, greater transparency and accountability on the part of municipal governments would increase the confidence of citizens and generate more support for the decentralization process.
Honduras is at a crossroads: it can decide whether to continue resisting change or to manage it and push forward the reforms which are necessary to bring about improvements in the life of most Hondurans, before their dissatisfaction with democracy grows. This chapter has provided some insights into what are the incentive structure that constraints political actors and has pointed out to some areas that need further strengthening in order to improve policy-making. However, the challenges that the young Honduran democracy faces require urgent public policy decisions that cannot be postponed for very long and yet, the associated political costs are too great and interest group pressures too strong for political leaders to take them on by themselves.

It is a vicious circle of low growth – low trust from which it would be difficult to escape without a national agreement through which all actors give up something to carry out reforms that generate growth with gains for all – a national agreement for growth with equity. The current political context provides a unique opportunity for building such a National Agreement before the elections in order to pursue the key reforms that the country needs to generate the sustained levels of growth that creates jobs and reduces poverty in a significant manner. So that an agreement of this type has a possibility to succeed, the political parties, private sector and unions have to turn themselves into leaders of change, adopting a vision for the future of the country that prioritizes the search for solutions that cut across class and party differences.

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ANNEX I.A. POLICYMAKING PROCESS (PMP) ANALYTICAL FRAMEWORK

The analytical framework developed by Spiller, Stein and Tommassi (2003) starts from the hypothesis that beyond their specific content, there are certain characteristics of public policies that influence their impact on development outcomes. The framework aims at improving our understanding of the determinants of the quality of public policies - measured not by its specific content (e.g. whether protection is high or low, which sectors benefit from fiscal transfers) but rather by certain common features of public policies (e.g. whether they are stable and predictable, whether they can adjust to changing economic conditions, whether they tend to generate broad or concentrated benefits). For example, the framework seeks to understand why some countries are able to implement policies that are stable over time, yet are flexible enough to adapt to changing economic conditions, while other countries policies tend to change policies whenever the political landscape changes, or must resort to highly inflexible and inefficient rules. To understand better what explains these policy outcomes, the framework focuses on the machinery that produces public policies: the policymaking process (PMP), that is, the processes of debate, negotiation, approval and implementation of policies and its institutional determinants.

At the core of this approach is the idea that the quality of public policies depends crucially on the ability of political actors to achieve cooperative outcomes, i.e. their ability to strike and enforce intertemporal political agreements. Accordingly, the policy making process is viewed as based on a series of negotiations and exchanges (or transactions) between political actors. Some of these exchanges are carried out at one moment in time (immediate transactions) while in many other cases actions and current resources (such as votes) are exchanged for promises of future actions or resources (intertemporal transactions). The quality of public policies depends on the capacity of political actors to cooperate. In environments that facilitate the striking of such intertemporal political deals, the policymaking game will result in cooperative outcomes, leading to public policies that are more effective, more sustainable, and more flexible to respond to changing economic or social conditions. In contrast, in settings where cooperative behavior is harder to develop and sustain, policies will be either too unstable (subject to political swings) or too inflexible, and policies will be poorly coordinated across policymaking actors.

The central question within this framework is whether the PMP tends to facilitate or hinder cooperative outcomes in the political transactions game. The literature on repeated oligopoly games provides useful insights for this purpose. According to the theory, cooperative equilibria are more likely to exist if i) the immediate benefits from deviating are relatively small; ii) the number of actors is small; iii) these actors interact repeatedly; iv) the deviations from cooperative behavior are easily observed; and v) there are enforcement mechanisms to credibly penalize those that deviate from cooperation. However, the existence of a PMP that leads to cooperative outcomes, does not depend on a single institutional factor (such as whether the system is presidential or parliamentary), but rather on the interaction among a number of factors. In studying the connection from institutional variables to the workings of the PMP, it is useful to adopt a systemic / general equilibrium approach.

In sum, the behavior of political actors in the formulation of policies depends on the functioning of political institutions (like the congress, the party system, or the judiciary) and more basic institutional rules (such as electoral rules and constitutional norms) which shape the roles of the different players, as well as the norms that regulate the commitments established between them. Factors that influence further the quality of public policies are the number of political players, the intra-period payoff structure, the intertemporal linkages among key political actors, the timing and observability of moves, level of policy delegation, the availability of enforcement technologies and the characteristics of the arenas where key political actors undertake their exchanges.
ANNEX I. B. DESCRIPTION OF VARIABLES AND RESULTS OF REGRESSIONS CONTROLLING FOR YEARS OF DEMOCRACY

Table A1.1. Description of variables used in the regression analysis.

<table>
<thead>
<tr>
<th>Variable</th>
<th>Description</th>
<th>Source</th>
<th>Responsible Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Bureaucratic Quality</strong></td>
<td>Measured on a scale from 0-worst to 1-best.</td>
<td>Expert assessments from a network of over 500 correspondents, reviewed for consistency by panels of regional Experts.</td>
<td>Economist Intelligence Unit <a href="http://www.eiu.org">www.eiu.org</a></td>
</tr>
<tr>
<td>2004</td>
<td>Unweighted average of two sub-indicators: (i) Quality of bureaucracy / institutional effectiveness, and (ii) Excessive bureaucracy / red tape. The indicator has been rescaled by the WBI team to feed the WBI Governance Indicators.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Corruption Perception Index (CPI)</strong></td>
<td>Measured on a scale from 0-worst to 10-best.</td>
<td>Calculated using data from 14 sources originated from 12 independent Institutions, surveys as well as expert assessments.</td>
<td>Transparency International <a href="http://www.transparency.org">www.transparency.org</a></td>
</tr>
<tr>
<td>2006</td>
<td>Composite index that measure the overall extent of corruption (frequency and/or size of bribes) in the public and political sectors.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Days to start a business</strong></td>
<td>Measures the number of calendar days necessary to perform all the generic procedures that are officially required for an entrepreneur to start up an industrial or commercial business.</td>
<td>Estimated by incorporation lawyers.</td>
<td>International Finance Corporation (IFC) <a href="http://www.doingbusiness.org">www.doingbusiness.org</a></td>
</tr>
<tr>
<td>2004</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Efficiency of the legal framework</strong></td>
<td>Measured on a scale from 1-worst to 7-best. Based on the following survey question: “The legal framework in your country for private businesses to settle disputes and challenge the legality of government actions and/or regulations: (1 = is inefficient and subject to manipulation; 7 = is efficient and follows a clear, neutral process).”</td>
<td>World Economic Forum Global Competitiveness Survey, a firm survey.</td>
<td>World Economic Forum <a href="http://www.weforum.org">www.weforum.org</a></td>
</tr>
<tr>
<td>2004</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Effectiveness of lawmaking bodies</strong></td>
<td>Measured on a scale from 1-worst to 7-best. Based on the following survey question: “How effective is your national parliament/Congress as a law-making institution? (1 = Very</td>
<td>World Economic Forum Global Competitiveness Survey, a firm survey.</td>
<td>World Economic Forum <a href="http://www.weforum.org">www.weforum.org</a></td>
</tr>
<tr>
<td></td>
<td>Tax Revenues as a % of GDP 2003</td>
<td>Public Health Expenditure as a % of GDP 2003</td>
<td>Public Education Expenditure as a % of GDP 2004</td>
</tr>
<tr>
<td>--------------------------</td>
<td>---------------------------------</td>
<td>---------------------------------------------</td>
<td>------------------------------------------------</td>
</tr>
<tr>
<td>Honduras (0-1)</td>
<td>Not significant</td>
<td>0.84 (2.66)</td>
<td>2.80 (7.06)</td>
</tr>
<tr>
<td>Years of Democracy</td>
<td>Not significant</td>
<td>0.04 (3.02)</td>
<td>Not significant</td>
</tr>
<tr>
<td>N</td>
<td>69</td>
<td>101</td>
<td>67</td>
</tr>
<tr>
<td>R²</td>
<td>0.32</td>
<td>0.57</td>
<td>0.30</td>
</tr>
</tbody>
</table>
Table A1.3. Country Performance in Health and Education, controlling for years of democracy

<table>
<thead>
<tr>
<th></th>
<th>Infant Mortality (deaths per 1000) 2006</th>
<th>Persistence to grade 5 (% of cohort) 2004</th>
<th>Persistence to last grade of primary (% of cohort) 2004</th>
<th>Primary completion rate (% of relevant age group) 2004</th>
<th>Progress to secondary 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Honduras (0-1)</td>
<td>-36.55 (-7.76)</td>
<td>-9.61 (-2.81)</td>
<td>-11.88 (-3.67)</td>
<td>Not significant</td>
<td>Not significant</td>
</tr>
<tr>
<td>Years of Democracy</td>
<td>-0.37 (-2.58)</td>
<td>Not significant</td>
<td>Not significant</td>
<td>Not significant</td>
<td>Not significant</td>
</tr>
<tr>
<td>N</td>
<td>101</td>
<td>43</td>
<td>52</td>
<td>76</td>
<td>57</td>
</tr>
<tr>
<td>R²</td>
<td>0.70</td>
<td>0.67</td>
<td>0.72</td>
<td>0.56</td>
<td>0.65</td>
</tr>
</tbody>
</table>

Table A1.4. Country Performance in Infrastructure Sectors, controlling for years of democracy

<table>
<thead>
<tr>
<th></th>
<th>Paved Roads % of roads 2000</th>
<th>Electricity losses % of output 2004</th>
<th>Telcoms revenue % of GDP 2004</th>
<th>Telcoms investment 2003 (% revenue) 2003</th>
<th>Per capita 2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>Honduras (0-1)</td>
<td>Not significant</td>
<td>5.13 (2.22)</td>
<td>1.83 (4.01)</td>
<td>Not significant</td>
<td>Not significant</td>
</tr>
<tr>
<td>Years of Democracy</td>
<td>Not significant</td>
<td>Not significant</td>
<td>Not significant</td>
<td>Not significant</td>
<td>Not significant</td>
</tr>
<tr>
<td>N</td>
<td>71</td>
<td>83</td>
<td>84</td>
<td>57</td>
<td>46</td>
</tr>
<tr>
<td>R²</td>
<td>0.67</td>
<td>0.30</td>
<td>0.16</td>
<td>0.04</td>
<td>0.19</td>
</tr>
</tbody>
</table>

Table A1.5 Country Performance in other areas, controlling for years of democracy

<table>
<thead>
<tr>
<th></th>
<th>Days to start a business 2006</th>
<th>Bureaucratic Quality (0 to 1) 2004</th>
<th>Corruption Perception Index (0 to 10) 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Honduras (0-1)</td>
<td>Not significant</td>
<td>-0.23 (-6.72)</td>
<td>-0.72 (-4.23)</td>
</tr>
<tr>
<td>Years of Democracy</td>
<td>Not significant</td>
<td>0.003 (2.34)</td>
<td>0.04 (3.46)</td>
</tr>
<tr>
<td>N</td>
<td>97</td>
<td>87</td>
<td>93</td>
</tr>
<tr>
<td>R²</td>
<td>0.09</td>
<td>0.63</td>
<td>0.84</td>
</tr>
</tbody>
</table>
ANNEX I. C. INDEX OF PUBLIC POLICIES

The indexes developed by Stein et al. (2005) captures six key characteristics of public policies:

1. **Stability** refers to a situation in which policy changes tend to respond to changing social and economic conditions or the failure of previous policies, rather than to purely political changes. In countries with stable policies, changes tend to be incremental, build upon previous achievements and be adopted through consensus.

2. **Adaptability** is the capacity of the system to respond adequately to sharp changes in the national or international environment. Fixed policy rules that are difficult to change reduce adaptability.

3. **Coordination and coherence** measures the extent to which different government agencies and other agents involved in policy making coordinate their actions. Coordination can occur between different central government agencies, institutions at different levels of the public administration (e.g. central, regional and municipal) or among agents that manage different phases of the policy process. The index also measures whether new policies are consistent with existing policies.

4. **Quality of implementation and enforcement** refers to the extent to which policies are implemented effectively and completely. This is associated with the existence of a capable and independent bureaucracy, as well as a strong judiciary.

5. **Efficiency** captures whether the state allocates its scarce resources to those activities that give the greatest return.

6. **Orientation to the public good (or public regardedness):** measures the degree to which a political system promotes the general welfare or tends to benefit special interests.

The specific data components and sources of these indexes are described in Table A 6. While each of these indices and their underlying data sources has its shortcomings, together they provide a good general idea of the quality of public policies. It is essential, however, to interpret the measures in the broader country context and in combination with complementary data. It is also important to note that the index scores are not intended to reflect the quality of public policies under the incumbent administration, but rather more enduring structural characteristics. In fact, the respondents to the State Capabilities Survey, on which all the indices are based, were asked to consider in their answers the features of public policies over the last couple of decades or since the return to democracy. Hence, the indices should not be used to single out policy successes or failures of particular administrations.
Table A1.6. Components and underlying sources of the Public Policy Indices

<table>
<thead>
<tr>
<th>Index</th>
<th>Componentes</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Stability</td>
<td>Average of six components: (1) the standard deviation of the detrended Fraser Index of Economic Freedom, (2) the extent to which legal or political changes have undermined firms’ planning capacity (GCR), (3) the extent to which new governments honor the contractual commitments and obligations of previous regimes (GCR), (4) the capacity of the State to set and maintain priorities among conflicting objectives (SC Survey), (5) the extent to which governments ensure policy stability (SC Survey), and (6) the extent to which the State makes and maintains international commitments (SC Survey). Index on a scale of 1–4, with higher levels indicating greater policy stability.</td>
<td>Stein and Tommasi (2005), based on Fraser Institute (various years), World Economic Forum’s Global Competitiveness Report (GCR) (various years) and State Capabilities (SC) Survey (a survey of more than 150 experts in 18 countries in Latin America)</td>
</tr>
<tr>
<td>2. Adaptability</td>
<td>Average of two components: (1) the extent to which there is innovation when policies fail (SC Survey) and (2) the extent to which governments ensure policy adaptability (SC Survey). Index on a scale of 1–4, with higher levels indicating higher policy adaptability.</td>
<td>Stein and Tommasi (2005), based on State Capabilities (SC) Survey</td>
</tr>
<tr>
<td>3. Coordination and coherence</td>
<td>Average of two components: (1) the extent to which new policies are consistent with existing policies (SC Survey) and (2) whether different policymakers operating in the same policy domain (or related policy domains) coordinate their actions effectively (SC Survey). Index on a scale of 1–4, with higher levels indicating more coordination and coherence of public policies.</td>
<td>Stein and Tommasi (2005), based on State Capabilities (SC) Survey</td>
</tr>
<tr>
<td>4. Implementation and enforcement</td>
<td>Average of four components: (1) the extent of enforcement of the minimum wage (GCR), (2) the extent of control of tax evasion (GCR), (3) the consistency of environmental regulation (GCR), and (4) the extent to which the State ensures effective implementation of public policies (SC Survey). Index on a scale of 1–4, with higher levels indicating better enforcement and implementation of public policies.</td>
<td>Stein and Tommasi (2005), based on World Economic Forum’s Global Competitiveness Report (GCR) (various years) and State Capabilities (SC) Survey</td>
</tr>
<tr>
<td>5. Public-regardedness</td>
<td>Average of four components of policy stability: (1) the extent to which public officials tend to favor the well connected in their policy decisions (GCR), (2) the extent to which social transfers effectively reach the poor as opposed to the rich (GCR), (3) the ability of the State to impose losses on powerful actors (SC Survey), and (4) the extent to which the government represents diffuse, unorganized interests, in addition to concentrated, organized interests (SC Survey). Index on a scale of 1–4, with higher levels indicating that public policies are more public-regarding.</td>
<td>Stein and Tommasi (2005), based on World Economic Forum’s Global Competitiveness Report (GCR) (various years) and State Capabilities (SC) Survey</td>
</tr>
<tr>
<td>6. Efficiency</td>
<td>Average of two components: (1) whether the composition of public spending is wasteful (GCR) and (2) whether resources are targeted where most effective (SC Survey). Index on a scale of 1–4, with higher levels indicating higher policy efficiency.</td>
<td>Stein and Tommasi (2005), based on World Economic Forum’s Global Competitiveness Report (GCR) (various years) and State Capabilities (SC) Survey</td>
</tr>
</tbody>
</table>
### ANNEX I.D. SUMMARY OF PRINCIPAL SUBSIDIES

**Table A1.7. Summary of Principal Subsidies, 2005-2006.**

<table>
<thead>
<tr>
<th>Subsidy</th>
<th>Explanation</th>
<th>Type</th>
<th>Rationale</th>
<th>Poverty Targeting</th>
<th>Cost 2005 (MLps)</th>
<th>Estimated Cost 2006 (MLps)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Electricity</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>300 kwh</td>
<td>Reduction in the electricity bill for those that consume less than 300 kWh</td>
<td>Direct</td>
<td>Affordability</td>
<td>Partial</td>
<td>275.0</td>
<td>275.0</td>
</tr>
<tr>
<td>Partial cost adjustment</td>
<td>ENEE tariffs lag cost changes</td>
<td>Hidden</td>
<td>Affordability</td>
<td>No</td>
<td>1,506.0</td>
<td>2,119.0</td>
</tr>
<tr>
<td>Article 46 Subsidy</td>
<td>Tariffs are higher for larger consumer</td>
<td>Cross subsidy</td>
<td>Compensate ENEE for costs incurred with smaller consumers</td>
<td>Partial</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Bono 80</td>
<td>Reduction in the electricity bill for those that consume less than 300 kWh</td>
<td>Direct</td>
<td>Compensate for increase in transportation costs</td>
<td>Partial</td>
<td>198.0</td>
<td>550.0 a/</td>
</tr>
<tr>
<td>Fuel oil and diesel</td>
<td>Exoneration of taxes on fuel oil used to generate electricity</td>
<td>Hidden</td>
<td>Lower cost of generation</td>
<td>No</td>
<td>1,757.0</td>
<td>1,795.0</td>
</tr>
<tr>
<td><strong>Fuel</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Price Differential</td>
<td>Prices of gasoline, kerosene and LPG frozen; Government pays difference</td>
<td>Indirect</td>
<td>To compensate increase international prices</td>
<td>No</td>
<td>159.4</td>
<td>507.0</td>
</tr>
<tr>
<td>Reduction in taxes</td>
<td>Taxes on gasoline y LPG reduced and eliminated on Kerosene</td>
<td>Indirect</td>
<td>To compensate for increase in international prices</td>
<td>Partial</td>
<td>N/A</td>
<td>134.3</td>
</tr>
<tr>
<td><strong>Transport</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mass Transportation</td>
<td>To owner of buses and micro buses in Tegucigalpa</td>
<td>Direct</td>
<td>Reduce urban transport costs</td>
<td>No</td>
<td>114.0</td>
<td>114.0</td>
</tr>
<tr>
<td>Student</td>
<td>Subsidizes public transportation to high school students in major cities</td>
<td>Direct</td>
<td>Affordability</td>
<td>No</td>
<td>30.0</td>
<td>52.4</td>
</tr>
<tr>
<td>Subsidy to Taxis</td>
<td>Given to taxi drivers in 7 cities</td>
<td>Direct</td>
<td>To compensate for increased fuel costs</td>
<td>No</td>
<td>N/a</td>
<td>8.4</td>
</tr>
<tr>
<td><strong>Water</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tariffs below cost</td>
<td>SANAA tariffs do no reflect cost</td>
<td>Indirect</td>
<td>Affordability</td>
<td>No</td>
<td>N/A</td>
<td>72.0</td>
</tr>
<tr>
<td>Tariff structure</td>
<td>Larger consumers pay higher tariffs than smaller consumers</td>
<td>Cross subsidy</td>
<td>Compensate SANAA for costs incurred w/ smaller consumers</td>
<td>Partial</td>
<td>N/A</td>
<td>N/a</td>
</tr>
<tr>
<td><strong>Agriculture</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Improved seeds, fertilizer</td>
<td>Promote food security of small farmer families</td>
<td>Direct</td>
<td></td>
<td>Yes</td>
<td>N/A</td>
<td>85.0</td>
</tr>
<tr>
<td>and TA to small farmers</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Telephony</td>
<td>Reduced transfers from HONDUTEL to the Gov.</td>
<td>Cross subsidy</td>
<td>Affordability of local calls</td>
<td>No</td>
<td>N/A</td>
<td>342.7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4,039.4</td>
<td>6,054.8</td>
</tr>
</tbody>
</table>
CHAPTER II

THE CHALLENGE OF PROFESSIONALIZING THE PUBLIC ADMINISTRATION

INTRODUCTION

2.1 The public administration plays a central role at all stages in the policy cycle – in the formulation, implementation and evaluation of public policies – and shapes the relationship between the State and citizens. Because of this, its efficient functioning is a primary condition for the success of any effort to improve the quality of public policies and the provision of public services (IDB, 2006). The public administration’s main asset is the people who work in it and whose performance is determined to a great extent by the rules, norms, practices and institutional arrangements that define how they are recruited, promoted, paid and evaluated.

2.2 Over the years, Honduras has implemented numerous reforms to modernize the public administration by introducing modern legislation and new management systems. The most recent reforms aim to increase transparency and introduce a greater focus on results. One important weakness of these reforms, however, is that they have not been conceived, programmed and implemented together with improvements in human resource management. This is not to say that there have not been important attempts to reform public employment in Honduras. On the contrary, under pressure from an increasing wage bill that poses a constant threat to the sustainability of the public finances, Honduran governments have sought to implement wide-ranging reforms of the public service through introducing comprehensive legislation. However, these reforms did not pass the approval stage, mainly because their wide-ranging nature and focus on containing salary spending confronted the Government with strong interest groups across multiple sectors.

2.3 The Professionalization Plan approved in July 2008 by the government of José Manuel Zelaya (2006-present) signals an important change in approach. It recognizes that the reform of public employment in Honduras is more likely to succeed if it is implemented through an incremental process of professionalization, linked with the public sector management reforms in process. This chapter aims to provide an analysis which can serve as a guide for the application of this plan.

2.4 This chapter begins with a snapshot of public employment in Honduras, describing its overall structure in the Central Government. The subsequent sections provide some details on the strengths and weaknesses of human resources in the Central Government, highlighting aspects related to performance and transparency, and compares the Honduran public administration with others in the region. The next part of the chapter analyses the failed reform attempts made by different governments and the recent successful reforms of the Executive Directorate of Revenues (DEI). The chapter concludes with recommendations in respect to the implementation of the Professionalization Plan and points out some challenges for the future.

2.5 It is important to point out that the lack of consolidated information on personnel in the public sector has been a significant limitation for this analysis, and also for the development and supervision of an effective human resource policy in Honduras.
Quantitative data are taken mainly from the General Directorate of the Civil Service (DGSC) and the Ministry of Finance (SEFIN). However, these data do not always agree. These official sources are complemented with three other data sources: (i) the results of a survey of 794 public officials carried out by INE in collaboration with the DGSC (See Annex II.B for a technical description), (ii) data collected directly from the Ministries’ Planning and Evaluation Units (UPEGs) and (iii) a study of good human resource practices carried out by the National Anticorruption Council (CNA). Currently, the DGSC and SEFIN are working together in implementing the human resource modules of the Integrated System of Financial Administration (SIAFI) - the Integrated System for the Administration of Human Resources (SIARH). When fully functional, SIARH is expected to eliminate the inconsistencies that now exist between the different data sources (see Box 2.1). In some cases data now registered in SIARH are also used.

**HUMAN RESOURCES IN THE HONDURAN PUBLIC ADMINISTRATION**

2.6 The public administration is divided between centralized and decentralized institutions. The Central Government is comprised of 16 ministries (Secretarías de Estado) which are administratively subordinate to the President and 29 deconcentrated entities that respond to the ministries. By contrast, the decentralized institutions enjoy functional and administrative autonomy and function under the direction and supervision of their presidents, directors and managers. According to the Public Administration Law, decentralized institutions are comprised of autonomous institutions and municipalities. Currently, there are 33 autonomous decentralized institutions (including a total of 21 public institutes, nine non-financial public enterprises, and three financial public enterprises) and 298 municipalities.

2.7 Table 2.1 summarizes the overall institutional structure of the Honduran public administration and quantifies the relative importance of each one of the institutional groupings according to the number of institutions and number of personnel.

---

43 Decree 146-86.
Table 2.1. Institutional structure of the Honduran public administration

<table>
<thead>
<tr>
<th>Institutional Level</th>
<th>Number</th>
<th>Estimated number of employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministries</td>
<td>16</td>
<td>115,539</td>
</tr>
<tr>
<td>Deconcentrated entities (1)</td>
<td>29</td>
<td>3,363</td>
</tr>
<tr>
<td>Decentralized institutions</td>
<td>33</td>
<td>25,928</td>
</tr>
<tr>
<td>Municipal corporations</td>
<td>298</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: SEFIN
(1) Dirección Nacional de Desarrollo Sostenible (DINADERS) is not included.

2.8 This chapter limits its attention to the Central Government because it houses the functions that are absolutely key to the reforms to improve public sector management currently underway in Honduras (such as planning, budgeting, monitoring and evaluation) and because Central Government is the focus of the Government’s ongoing efforts to reform human resource management under the Professionalization Plan. However it is important to notice that some decentralized public sector institutions are experimenting with new models of human resource management that may serve as reference to reforms in Central Government.

2.9 As shown in Table 2.2, 16 Central Government ministries employ a total of 114,748 persons. This implies annual salary expenditures of 19.5 billion Lempiras, which represent approximately 63 percent of total salary expenditures of the public sector. The largest share of this salary spending (66 percent), as well as the largest number of employees (57 percent) is concentrated in the education sector, followed by the health sector (14 and 16 percent, respectively). The Ministries of Defense and of Public Security, which include all of the security personnel, are other sectors with a large number of employees and important salary expenditures. The majority of the staff in these four ministries is operational staff working in frontline service provision (teachers, doctors, nurses, police officers and military personnel). In contrast, the rest of the ministries, with few staff directly involved in service provision, account for only five percent of salary spending and six percent of the total number of public servants in the Central Government. It is worth noting that the average salary in the education sector is far above the national average, which is due to the higher salaries of teachers in comparison to that of staff under the regular civil service regime.

---

44 The difference between this figure and the one provided in table 2.1 reflect discrepancies in the data provided by SEFIN on the one hand and DGSC on the other hand.
Table 2.2. Quantity and cost of personnel in the Government Ministries 2007(1) – Honduras Central Government

<table>
<thead>
<tr>
<th>Ministries</th>
<th>Personnel</th>
<th>(%)</th>
<th>Total Annual Salary spending (MLps.)</th>
<th>(%)</th>
<th>Average Monthly salary (2) (Lps)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Education</td>
<td>65,023</td>
<td>57%</td>
<td>12,897</td>
<td>66%</td>
<td>16,590</td>
</tr>
<tr>
<td>Health</td>
<td>17,840</td>
<td>16%</td>
<td>2,782</td>
<td>14%</td>
<td>13,010</td>
</tr>
<tr>
<td>Defense</td>
<td>12,848</td>
<td>11%</td>
<td>1,214</td>
<td>6%</td>
<td>7,878</td>
</tr>
<tr>
<td>Public Security Works, Transport and Housing</td>
<td>11,544</td>
<td>10%</td>
<td>1,693</td>
<td>9%</td>
<td>12,221</td>
</tr>
<tr>
<td>Finance</td>
<td>2,782</td>
<td>2%</td>
<td>424</td>
<td>2%</td>
<td>12,756</td>
</tr>
<tr>
<td>Other Ministries</td>
<td>3,595</td>
<td>3%</td>
<td>128</td>
<td>2%</td>
<td>10,400</td>
</tr>
<tr>
<td>Total</td>
<td>114,748</td>
<td>100%</td>
<td>19,561</td>
<td>100%</td>
<td>14,296</td>
</tr>
</tbody>
</table>

Source: General Directorate of the Civil Service.
(1) These figures include contractual personnel for some ministries when this information is available.
(2) This average does not include the estimates for contractual personnel since complete information is not available.

STRUCTURAL FEATURES OF HUMAN RESOURCES IN THE CENTRAL GOVERNMENT

2.10 The most striking feature of public employment in the central administration in Honduras is its fragmentation into three broad categories of staff: those that belong to the civil service regime, the staff under the special employment statutes (estatutos) and staff hired on fixed term outside any defined employment regime (contracts). Before entering into a deeper discussion about each of these categories, Table 2.3 provides a snapshot of the distribution of staff across these categories and the salary disparities between them. Security and defense personnel, who are subject to special rules and career ladders regulated by the defense and public security laws, are included in the table as a separate category.

Table 2.3. Quantity and cost of personnel by staff category – Central Government 2007

<table>
<thead>
<tr>
<th>Category</th>
<th>Number of employees</th>
<th>Total Annual Salary Expenses (MLps.)</th>
<th>Average Monthly Salary (Lps)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil Service</td>
<td>26,077</td>
<td>2,924</td>
<td>9,343</td>
</tr>
<tr>
<td>Special Statutes</td>
<td>63,036</td>
<td>13,635</td>
<td>18,025</td>
</tr>
<tr>
<td>By contract (1)</td>
<td>6,642</td>
<td>n/a.</td>
<td>n/a.</td>
</tr>
</tbody>
</table>

45 There are six statutes: doctors, dental surgeons, teachers, microbiologists and chemists, social workers, and professional nurses.
2.11 Clearly, the special sector employment statutes have the greatest number of staff, the largest share of salary expenditures, and the highest average salaries of the central government (almost double the average of those employed under the civil service regime).

2.12 The only consolidated data that allows for a distinction between employment categories across ministries is the data registered in the SIARH, which is summarized in Table 2.4. It is important to note that teachers, police officers and military personnel are not included in the data for the Ministry of Education, the Ministry of Public Security and the Ministry of Defense respectively. For these ministries, only technical and administrative staff is included. However, to the extent that teachers, police or military personnel occupy positions in central administration, this will not be reflected in the table. On the other hand, the table does include operational personnel in the Ministry of Health. In addition to employees under civil service, statutes and contracts, table also includes day laborers, the majority of whom work for the Ministry of Public Works, Transport and Housing with road maintenance and for the Ministry of Education as security guards, janitors and kindergarten nannies.

2.13 Apart from the obvious diversity of employment arrangements within the central government, one of the most salient facts is the large number of contractual staff occupying positions within the ministries. If we exclude the employees under statutes (in the majority medical staff providing front line services) and the day laborers, contractual staff makes up around 22% of the remaining 29,557 persons.

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Political Appointees</th>
<th>Civil Service</th>
<th>Statute (1)</th>
<th>Contract</th>
<th>Day Laborers</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Culture, Arts and Sports</td>
<td>4</td>
<td>278</td>
<td>0</td>
<td>104</td>
<td>0</td>
<td>386</td>
</tr>
<tr>
<td>Defense</td>
<td>9</td>
<td>37</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>46</td>
</tr>
<tr>
<td>Ministry of the Presidency</td>
<td>4</td>
<td>61</td>
<td>0</td>
<td>88</td>
<td>0</td>
<td>153</td>
</tr>
<tr>
<td>Education (2)</td>
<td>5001</td>
<td>62</td>
<td>341</td>
<td>845</td>
<td>6249</td>
<td>36249</td>
</tr>
<tr>
<td>Finance</td>
<td>1</td>
<td>553</td>
<td>0</td>
<td>49</td>
<td>1</td>
<td>604</td>
</tr>
<tr>
<td>Interior and Justice</td>
<td>8</td>
<td>460</td>
<td>0</td>
<td>217</td>
<td>0</td>
<td>685</td>
</tr>
<tr>
<td>Industry and Trade</td>
<td>18</td>
<td>164</td>
<td>0</td>
<td>118</td>
<td>0</td>
<td>300</td>
</tr>
<tr>
<td>Natural Resources and Environment</td>
<td>7</td>
<td>254</td>
<td>0</td>
<td>150</td>
<td>143</td>
<td>554</td>
</tr>
<tr>
<td>Agriculture and Livestock</td>
<td>19</td>
<td>499</td>
<td>6</td>
<td>81</td>
<td>174</td>
<td>779</td>
</tr>
<tr>
<td>Health</td>
<td>18</td>
<td>13 839</td>
<td>4098</td>
<td>5000</td>
<td>0</td>
<td>22955</td>
</tr>
<tr>
<td>Security</td>
<td>2</td>
<td>170</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>174</td>
</tr>
<tr>
<td>Technical Cooperation</td>
<td>5</td>
<td>25</td>
<td>0</td>
<td>6</td>
<td>0</td>
<td>36</td>
</tr>
<tr>
<td>Public Works, Transport, Housing</td>
<td>30</td>
<td>879</td>
<td>0</td>
<td>238</td>
<td>1920</td>
<td>3067</td>
</tr>
<tr>
<td>Labor and Social Security</td>
<td>23</td>
<td>492</td>
<td>18</td>
<td>83</td>
<td>0</td>
<td>616</td>
</tr>
<tr>
<td>Foreign Affairs</td>
<td>3</td>
<td>203</td>
<td>0</td>
<td>167</td>
<td>0</td>
<td>373</td>
</tr>
<tr>
<td>TOTAL</td>
<td>151</td>
<td>22 915</td>
<td>4186</td>
<td>6642</td>
<td>3083</td>
<td>36977</td>
</tr>
</tbody>
</table>

Source: SIARH. (1) Includes employees under the statutes for doctors, dental surgeons, microbiologists and chemists, social workers and professional nurses (2) Only administrative positions in the ministry and the 18
related Department Directories that are not occupied by persons covered by the Teacher’s Statute are included.

2.14 The remaining part of this section takes a deeper look into each of the three broad categories of staff – civil service, statutes and contracts – and draws some conclusion as to the implications of the fragmentation for the Honduran public administration.

The Civil Service Regime

2.15 Although the number of public employees regulated under the Civil Service Law has decreased significantly in relative terms with the expansion of alternative regimes, this group still includes technical, professional and managerial staff who constitute a critical mass of public servants responsible for core functions in the formulation and implementation of public policies, as well as for an important part of the administrative functions throughout the Central Government.

2.16 Table 2.5 shows the distribution of staff regulated by the Civil Service Law in the different ministries. The data shows that in spite of the fact that the majority of the personnel of the education and health sectors are regulated by special statutes, these sectors still account for the majority of the personnel covered under the Civil Service Law (82.2 percent of the total). Not all of the personnel of these sectors have been transferred to the statute regimes and, in particular, many of the administrative personnel in the schools and health centres have remained under the Civil Service Law. This means that at the level of the service providing units there are personnel working under different employment regimes.

### Table 2.5. Personnel regulated by the Civil Service: Central Government, 2008

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Directors and Managers</th>
<th>Technical Staff</th>
<th>Operation and support staff</th>
<th>Total</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Culture, Arts and Sports</td>
<td>19</td>
<td>113</td>
<td>146</td>
<td>278</td>
<td>1.2%</td>
</tr>
<tr>
<td>Defense</td>
<td>6</td>
<td>18</td>
<td>13</td>
<td>37</td>
<td>0.2%</td>
</tr>
<tr>
<td>Ministry of the Presidency</td>
<td>9</td>
<td>24</td>
<td>28</td>
<td>61</td>
<td>0.3%</td>
</tr>
<tr>
<td>Education (1)</td>
<td>4</td>
<td>291</td>
<td>4,706</td>
<td>5,001</td>
<td>21.8%</td>
</tr>
<tr>
<td>Finance</td>
<td>31</td>
<td>294</td>
<td>228</td>
<td>553</td>
<td>2.4%</td>
</tr>
<tr>
<td>Interior and Justice</td>
<td>38</td>
<td>218</td>
<td>204</td>
<td>460</td>
<td>2.0%</td>
</tr>
<tr>
<td>Industry and Trade</td>
<td>4</td>
<td></td>
<td>160</td>
<td>164</td>
<td>0.7%</td>
</tr>
<tr>
<td>Natural Resources and Environment</td>
<td>15</td>
<td>161</td>
<td>78</td>
<td>254</td>
<td>1.1%</td>
</tr>
<tr>
<td>Agriculture and Livestock</td>
<td>7</td>
<td>167</td>
<td>325</td>
<td>499</td>
<td>2.2%</td>
</tr>
<tr>
<td>Health</td>
<td>10</td>
<td>2,191</td>
<td>11,638</td>
<td>13,839</td>
<td>60.4%</td>
</tr>
<tr>
<td>Security</td>
<td>53</td>
<td>63</td>
<td>54</td>
<td>170</td>
<td>0.7%</td>
</tr>
<tr>
<td>Technical Cooperation</td>
<td>2</td>
<td>9</td>
<td>14</td>
<td>25</td>
<td>0.1%</td>
</tr>
<tr>
<td>Public Works, Transport, Housing</td>
<td>15</td>
<td>387</td>
<td>477</td>
<td>879</td>
<td>3.8%</td>
</tr>
<tr>
<td>Labor and Social Security</td>
<td>20</td>
<td>282</td>
<td>190</td>
<td>492</td>
<td>2.1%</td>
</tr>
<tr>
<td>Foreign Affairs</td>
<td>8</td>
<td>112</td>
<td>83</td>
<td>203</td>
<td>0.9%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>241</td>
<td>4,330</td>
<td>18,344</td>
<td><strong>22,915</strong></td>
<td><strong>100%</strong></td>
</tr>
<tr>
<td><strong>Percent</strong></td>
<td>1%</td>
<td>19%</td>
<td>80%</td>
<td>100%</td>
<td></td>
</tr>
</tbody>
</table>

*Source: SIARH*
2.17 It is interesting to observe that managers and technical staff comprise only 20 percent of the staff under the civil service regime, while administrative support personnel comprise 80 percent. If the education and health sectors are excluded from the analysis this relationship is altered significantly: 51 percent of personnel are classified as managers or technical staff and only 49 percent as administrative support staff. In sum, the aggregated data reveals that there is an important group of around 4,600 professionals under the civil service regime that are responsible for key functions of the direction and management of public policies in Honduras.

2.18 The legislation that currently regulates these professionals is the 1967 Civil Service Law and the regulation of this law approved in 1976. These norms are enforced by the General Directorate of the Civil Service (DGSC), which is responsible to the Ministry of the Presidency. Following a model that is characterized by a high degree of centralization, the DGSC establishes the procedures for the selection, appointment, remuneration, evaluation, promotion and separation of personnel. It also has a leading role in the implementation of these procedures and is responsible for recordkeeping and monitoring human resource policies.

2.19 The processes established in the Law fulfill the characteristics of a meritocratic system of human resource management, but they are not effectively applied. The high degree of centralization requires the DGSC to become an agency of multiple specialties capable of administering human resource processes in all sectors of the public administration. As an example, according to the officials of the DGSC, this agency elaborates and administers the qualifying exams for the selection of technical personnel in the majority of cases, without having the specialized knowledge required. In addition, the classification of positions and the determination of requirements for a position are the responsibility of a small number of specialists in the DGSC who are overloaded by work.

2.20 Thus, overwhelmed by administrative tasks and pressures from officials of the different government ministries and agencies, the DGSC limits its function to formal administration of personnel registration and sometimes discrentional compliance with the formalities of the Law and administration related to remuneration and compensation policies. The abuse of the legal figure of “redundancy” (cesantía) to separate staff is an illustrative example of the consequences produced by this high degree of centralization in combination with weak institutional capacity. The separation processes for civil servants are centrally regulated and must be authorized by the DGSC, since they entail the outlay of severance payments. The most frequent means used for the separation of personnel is “redundancy”, a legal figure reserved for cases in which a position disappears because of organizational restructuring (see Graph 2.2). However, DGSC does not ensure that the position really ceases to exist (for example, by making sure that the corresponding budget line is eliminated) and that new staff is not hired for the same position. The abuse of this legal form, particularly as a means to change staff following changes in the political leadership, has led to complaints before the Administrative Court (Tribunal de Contencioso Administrativo) from staff that has been separated from their position by being made redundant, just to see another person occupy their position. Later in the chapter, Box 2.2 describes how the SIARH can limit the undue use of redundancy.
Personnel under the statutes

2.21 The special regimes or statutes began to emerge when the health sector personnel separated from the civil service regime to create a new career system. Pressures exercised by the doctors on the Government resulted in the approval in 1985 of a special statute for doctors, including base salaries and different types of collateral payments and benefits. With this law the prevailing comprehensive civil service regime began to fragment. At present there are six special employment statutes for the following categories of staff: doctors, dental surgeons, teachers, microbiologists and chemists, social workers and professional nurses, together covering roughly 70 percent of Central Government employees. This section does not go into the details of these diverse sets of rules, norms and implementation mechanisms, but only highlights a few general points related to these regimes. Chapter 4 on education and Chapter 5 on health describe the statutes in more detail for these two sectors.

2.22 The statutes include a set of rules regarding employment, with emphasis on special benefits, often payment of different types of bonuses on the base salary. These benefits result in compensation patterns that are not derived from any coherent strategy and do not respond to any objective criteria linked to the type of position or performance, but rather reflect the bargaining power of each of these organized groups. Each one of the special regimes is subject to different negotiation mechanisms, creating a dynamic in which the different governments are permanently engaged in bilateral negotiations with each sector in the context of limited fiscal resources.

2.23 Beyond the obvious distortions that the statues generate in respect to salaries and the Government’s ability to allocate resources according to its priorities, the partial application of the statutes limits the positive effects they might have in increasing productivity by offering financial incentives in exchange for improved sector performance. The statutes stipulate mechanisms for evaluating the individual performance of the public servant, but in most cases the instruments necessary to apply them have not been developed. For example, the articles of Chapter III of the teachers’ employment statute, “estatuto docente”, call for the evaluation of teachers. The rules indicate that the evaluation of performance should be carried out periodically, but do not indicate the scope of this evaluation, nor the possible consequences or corrective measures in cases of inadequate performance. In addition, the “estatuto docente” also stipulates sanctions, such as the possibility of firing a teacher who is absent for three days without justification, but these are not applied.

46 Decrees Nº 167/85, Nº 136/97, Nº 178/97, Nº 218/97 and Nº 90/99.
Personnel under contracts

2.24 In parallel with the appearance of sector employment statutes, the use of contractual employment or individual consultants for the fulfillment of regular work has become increasingly frequent in public sector institutions in general and in the Central Government in particular. The dramatic increase in foreign aid for reconstruction after Hurricane Mitch sharply increased the demand for competent professionals to support the implementation of external assistance projects and programs. This led to the creation of project implementation units and agencies specialized in the implementation of projects, which were staffed by personnel under temporary contracts. Given the need to have equally qualified counterparts in core Central Government functions, consultants were also hired to carry out regular tasks that under normal circumstances would have been undertaken by the civil servants of the Central Government ministries.

2.25 As a flexible employment form that does not generate financial commitments in the long run, temporary contracts are also used to respond to urgent and specific personnel needs across the central government.

2.26 Little has hitherto been known about the magnitude of this practice in the Honduran public administration. The data provided in Table 2.6 is based on disclosures of still incomplete information that the DGSC and SEFIN are making to supply the SIARH (see Box 2.1).

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Director and managers</th>
<th>Technical staff</th>
<th>Operational and support staff</th>
<th>Total</th>
<th>Contracts as % of total number of employees (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Culture, Arts and Sports</td>
<td>9</td>
<td>53</td>
<td>42</td>
<td>104</td>
<td>27%</td>
</tr>
<tr>
<td>Defense</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Ministry of the Presidency</td>
<td>7</td>
<td>74</td>
<td>7</td>
<td>88</td>
<td>58%</td>
</tr>
<tr>
<td>Education (1)</td>
<td>6</td>
<td>56</td>
<td>279</td>
<td>341</td>
<td>5%</td>
</tr>
<tr>
<td>Finance</td>
<td>0</td>
<td>49</td>
<td>49</td>
<td>98</td>
<td>8%</td>
</tr>
<tr>
<td>Interior and Justice</td>
<td>35</td>
<td>112</td>
<td>70</td>
<td>217</td>
<td>32%</td>
</tr>
<tr>
<td>Industry and Trade</td>
<td>1</td>
<td>117</td>
<td>118</td>
<td>185</td>
<td>39%</td>
</tr>
<tr>
<td>Natural Resources and Environment</td>
<td>31</td>
<td>49</td>
<td>70</td>
<td>150</td>
<td>27%</td>
</tr>
<tr>
<td>Agriculture and Livestock</td>
<td>4</td>
<td>33</td>
<td>44</td>
<td>81</td>
<td>10%</td>
</tr>
<tr>
<td>Health</td>
<td>53</td>
<td>2,402</td>
<td>2,545</td>
<td>5,000</td>
<td>22%</td>
</tr>
<tr>
<td>Security</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Technical Cooperation</td>
<td>0</td>
<td>3</td>
<td>3</td>
<td>6</td>
<td>17%</td>
</tr>
<tr>
<td>Public Works, Transport, Housing</td>
<td>32</td>
<td>195</td>
<td>11</td>
<td>238</td>
<td>8%</td>
</tr>
<tr>
<td>Labor and Social Security</td>
<td>15</td>
<td>18</td>
<td>50</td>
<td>83</td>
<td>13%</td>
</tr>
<tr>
<td>Foreign Affairs</td>
<td>2</td>
<td>95</td>
<td>70</td>
<td>167</td>
<td>45%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>195</strong></td>
<td><strong>3,139</strong></td>
<td><strong>3,308</strong></td>
<td><strong>6,642</strong></td>
<td><strong>18%</strong></td>
</tr>
</tbody>
</table>

Source: SIARH
(1) The total number of employees used to calculate the percentages is taken from Table 2.4

2.27 An overwhelming share of the contracts is concentrated to the Ministry of Health, where the major part of this group is roughly equally divided between technical staff (mainly x-ray and laboratory technicians in hospitals and public health promoters) and support and operational staff (foremost auxiliary nurses and hospital assistants). It is
unclear why this staff is contracted under contractual arrangements rather than under the corresponding statutes. As can be observed in the last column of Table 2.6 the number of contractual staff in comparison to the total number of employees differs widely between ministries, from the Ministry of the Presidency where 58% of the staff are contractual to the Ministry of Security which has no contractual staff at all.

2.28 As observed in the case of the Ministry of Health, despite their genesis not all contracts are paid with external funds and they are not restricted to technical staff. Although the available information does not differentiate between national and external sources of funding, Table 2.6 does show the distribution of contractual staff across different type of functions in the ministries. If we exclude the Ministry of Health, roughly a tenth of the contractual staff occupy leadership position as directors or managers, while the rest is split in equal parts between technical and support/opertational staff. These proportions differ quite a bit between Ministries. In the Ministry of Finance, all contractual staff is technical, while in the Ministry of Trade and Industry 99% of the contractual staff is classified as support staff.

2.29 The wide variation across ministries revealed by this data indicates that the use of contracts does not respond to a common policy or centrally regulated norms, but the practices are determined by each institution. Contrary to their original purpose, the contracts are not only used to attract highly qualified technical persons during a limited period of time, but are equally frequently used to employ support staff and to cover positions that would normally be part of the regular permanent staff.

2.30 The absence of clear rules and procedures makes the processes related to recruitment, management and separation of staff under contract opaque and opens up for discrentional practices. According to the DGSC, the rules and procedures depend on the origin of the funds with which the persons are hired. Only in the case of nationally funded contracts is the hiring unit obligated to register the contracts with the DGSC, and once this registration is done there are no other specific legal norms that regulate the processes of management and separation of this type of staff. Given this vacuum, contractual employees are covered by the regulations established in the Labor Code, creating a labor relationship similar to that of private sector entities.

**Salaries**

2.31 Graph 2.1 shows the evolution of spending of the Central Government 2001-2007, the level of which has increased significantly both in nominal as well as real terms. Looking at the composition of spending, these trends reveal not only a high proportion of spending on salaries but also a clear tendency for the share of non-civil service salaries in total spending to increase over time. Between 2000 and 2007, for example, the proportion of the total budget devoted to current spending increased from 69 percent to 81 percent, while the share of capital spending decreased from 31 percent to 19 percent. Total salary spending increased from 34 percent in 2000 to 40 percent in 2007, while the civil service salaries decreased from 6 to 4 percent during the same period.\(^{47}\)

\(^{47}\) These shares may not accurately reflect the situation of the contractual personnel previously described. These expenditures, whose definitive amounts are not fully known, are financed through budget items, which in many cases correspond to capital expenditures, since the resources come from investment projects.
Graph 2.1. Central Government Spending, 2000-2007

Source: Own calculations base on data from SEFIN

2.32 The main driver of the increase in the Central Government wage bill has been salary increases for the staff under statutes in the education and health sectors. The resulting large salary disparities between personnel under these statutes and the rest of the public employees, which could be observed in Table 2.3, are the most visible consequence of the fragmentation of the civil service regime. Graph 2.2 shows the evolution of average monthly real salaries of health sector workers compared with personnel under the civil service regime.

Graph 2.2. Evolution of real salaries, health sector employees and Civil Service employees, 1990-2006


2.33 The contracts have introduced additional inequities and are creating serious problems of sustainability. Many of the persons employed under these arrangements have become the pillars that sustain the functioning of certain services and programs, occupying positions no longer temporary in nature. Often, the salary levels are significantly higher than those for the rest of public employees, which makes it unlikely that the government will have the capacity to absorb them in the short term. Data from
World Bank projects in Honduras illustrates this problem well. Table 2.7 shows data on the remuneration of procurement and financial management officials of the 17 Project Implementation Units (PIUs) of the World Bank in the country. The highest salaries for these functions are roughly six times greater than the average salary of the civil service. In addition, there is great disparity in salaries between these positions despite the fact that are relatively homogeneous with respect to the competencies they require and the type of job performed. The difference between the highest and lowest salary among the financial management officials is 35,739 Lempiras, which is more than three average civil servant salaries. It is worth mentioning, however, that the current government has made efforts to reduce the existing levels of salary dispersion by setting a ceiling of 60,000 Lempiras per month for these contracts.

| Table 2.7. Monthly salaries of officials of the UIP of the World Bank (Lempiras) |
|-----------------------------------|-----------------|-----------------|
|                                  | Procurement     | Financial management |
| Average                          | 41,445          | 42,947           |
| Minimum                          | 28,853          | 20,009           |
| Maximum                          | 55,158          | 55,748           |

*Source: PIUs, Projects financed by the World Bank*

2.34 It is important to note that spending on human resources is not necessarily a bad thing and may very well reflect a government priority to improve service delivery or and the quality of public policies in areas important to economic growth and poverty reduction. Likewise, salary differences within the public administration are not necessarily a problem in themselves. A pay policy which bases remuneration on the duties and performance of the public employee can provide incentives for increasing productivity. However, the overall increase in the wage bill and the high degree of salary disparity between different groups of public employees in Honduras are not a result of a coherent policy to improve the performance of certain sectors or categories of staff, but a result of pressures exercised by union groups.

2.35 In the same vein, the existence of different contractual regimes – civil service, special employment statutes and contractual – is not necessarily a problem in and of itself. Each one of them responds to different needs and gives the public administration a menu of rules and incentive regimes to choose from. The problems and distortions described in this section are in most cases related to the manner in which the different modes of employment are applied and not an automatic consequence of their mere existence.

*Performance-related characteristics*

2.36 With the establishment of the Results-Based Management System, the Zelaya government has clearly signaled that a stronger focus on results is a priority for improving the products and services of the public sector. This section does not aim to provide any deeper or comprehensive analysis of the performance of public sector employees in Honduras, but rather to briefly review three elements which are thought to affect performance and for which data is readily available: the level of education of public
servants, the extent to which the public employee is consistently evaluated against clearly established targets, and the rotation of staff.

**Level of education of public servants**

2.37 The survey carried out by INE in cooperation with the General Directorate of the Civil Service (DGSC) in March 2008, shows that the majority of civil servants are women (63.6 percent), with an average age of 45 years and an average level of education equivalent to having completed secondary school. According to the survey, only 24 percent of public servants in the whole Central Government have university degrees. As expected, there are vast differences between categories of staff: the majority of the technical staff political appointees (“personal de confianza”) do have university education, while only around 15.4 percent of the support staff does. If one compares the average education of technical personnel under the civil service regime and under contract, one observes that those under contract comprise a high proportion of highly qualified professionals. In this last group 77.2 percent of personnel have a university or postgraduate degree, while 63.4 percent do in the civil service regime. This indicates that contracts, which do not offer job security but generally higher salaries, are used to attract more qualified personnel. But still, it is salient that an important share of the staff occupying technical positions in Central Government only has secondary education.

<table>
<thead>
<tr>
<th>Education level</th>
<th>Total</th>
<th>Support personnel</th>
<th>Technical staff</th>
<th>Political appointees</th>
<th>Contractual personnel</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>0.6</td>
<td>0.6</td>
<td>0.0</td>
<td>0.0</td>
<td>4.5</td>
</tr>
<tr>
<td>Primary</td>
<td>20.4</td>
<td>24.6</td>
<td>0.9</td>
<td>9.1</td>
<td>4.5</td>
</tr>
<tr>
<td>Secondary</td>
<td>53.5</td>
<td>59.0</td>
<td>35.7</td>
<td>0.0</td>
<td>13.6</td>
</tr>
<tr>
<td>University</td>
<td>23.9</td>
<td>15.4</td>
<td>58.0</td>
<td>81.8</td>
<td>63.6</td>
</tr>
<tr>
<td>Graduate</td>
<td>1.6</td>
<td>0.3</td>
<td>5.4</td>
<td>9.1</td>
<td>13.6</td>
</tr>
</tbody>
</table>

*Source: Survey INE.*

**Performance reviews**

2.38 According to the INE survey, 93 percent of public servants report that personnel evaluations are carried out periodically and they are satisfied with them. The existence of systematic evaluation of performance at the individual level could be regarded as a basic building block of a performance management system that aligns individual performance with institutional priorities within a broader framework of results based management. However, the reviews that are carried out consist in large part of informal conversations with the boss (45 percent) and activity reports (38 percent); and only take the form of reviews based on defined goals. This indicates that the introduction of more systematic reviews against performance targets at the individual level is an element that merits attention as part of the efforts ongoing efforts increase the results orientation of the public administration. The INE survey also reveals that only 9 percent of the public servants participate in the reviews of the institutional targets set out in the Results-Based Management System managed by the presidency. According to the same survey, not in any of the few cases where individual performance target do exist are these linked to institutional targets.
Table 2.9. Personnel reviews by job classification and mode of contract (percent)

<table>
<thead>
<tr>
<th>Type of review</th>
<th>Total</th>
<th>Support</th>
<th>Professional</th>
<th>Managers</th>
<th>Contractual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Informal conversation</td>
<td>45.54</td>
<td>49.33</td>
<td>25.00</td>
<td>50.00</td>
<td>33.33</td>
</tr>
<tr>
<td>with boss</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Some type of review of</td>
<td>11.70</td>
<td>11.24</td>
<td>14.00</td>
<td>25.00</td>
<td>11.11</td>
</tr>
<tr>
<td>goals</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Report of activities</td>
<td>37.88</td>
<td>34.73</td>
<td>56.00</td>
<td>25.00</td>
<td>44.44</td>
</tr>
<tr>
<td>Other</td>
<td>4.87</td>
<td>4.70</td>
<td>5.00</td>
<td></td>
<td>11.11</td>
</tr>
<tr>
<td>TOTAL</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Survey INE

Rotation of staff

2.39 The retention of skilled and competent staff is likely to be one of the largest drivers of performance within the public sector (see Ketelerr, Manning and Turkisch, 2007 for a discussion). Although it is true that some degree of rotation of staff is both inevitable and sound in any organization, unpredictable rotation that is unrelated to professional development can negatively affect institutional capacity. In the case of Honduras, interviews with users of public services, businessmen, and staff from international donor agencies point to this as a serious problem for the public administration. An observation that is widely shared is that change of government or even changes of ministers, provoke rotation not only among political appointees but also of technical and support staff, and that this significantly weakens the implementation of policies, programs and projects. However, it is extremely difficult to get beyond the anecdotes and prove this with hard data.

2.40 Unfortunately, a register of personnel has still not been established that would allow the trajectory of personnel to be followed and thereby determine the magnitude of the problem. An approximate way of quantifying this phenomenon is by observing the trend in Government expenditures in the budget categorized as severance payments, which the Government pays as compensation for dismissals. Graph 2.3 shows the trend in these expenditures by year from 2000 to 2007. What is interesting is the peaks in spending that occur in 2002 and 2006, which are years in which the Government changed hands, indicating that the rotation of staff is related to the political cycle. This data does not adequately reflect the substitution of contractual staff for political reasons, since these contracts are limited in time and the generalized practice is to simply not renew them. Qualitative data indicates that staff with contracts is more vulnerable to political changes than employees under other regimes.
Data on budget execution of external funds indicates that staff rotation does have a negative impact on implementation of projects and programs. As it is shown in PER (2007:240), budget execution data points to a clear electoral cycle in external financing, with marked drops in external financing in both 2002 and 2006 following elections, as new staff become familiar with project management arrangements, then ramping up in the following years (see Graph 2.4). Underlying this electoral cycle, trend analysis of externally financed expenditures indicates that external financing flows have been relatively flat (see Graph 2.4).

Assuming that technical staff possesses more specific knowledge and skills, one could expect that this personnel category would be less subject to rotation than support staff. However, the data from the survey carried out by INE indicate that the rotation of personnel is greater among technical staff than among support staff. A total of 25.7 percent of technical staff and 16.3 percent of support staff reported having been less than two years in their position. If we assume that it is unlikely that new employees are hired during the last year of a government, we can estimate that 40.5 percent of professional staff and 30 percent of support personnel assumed their current position with the present government, while 59.5 percent of technical staff and 70 percent of support personnel have more than six years of experience in the position. It is important to note, however, that they could have worked previously in other areas of the public administration.

In respect to security in the position, which is an important determinant of motivation and professional development of personnel, 66 percent of public employees say that they do not know how much time they will remain in their current position and only 18 percent respond that they expect to remain at least “four years or more”.

According to what was reported by INE, the respondents had problems remembering the exact date on which they began working in the position, the majority associating three years with the current administration. Therefore, it is likely that the majority of those responding “between 3 and 5 years” have little more than 3 years of experience.
2.44 It is practically impossible to estimate the costs of rotation in a precise manner. As far as direct costs are concerned, in the last eight years the Government has assigned an approximate annual average of 120 MLp. to cover the separation expenditure of personnel during each budget exercise. This figure does not include the compensation that the State pays the public servant that the Administrative Tribunal (Tribunal Contencioso Administrativo) finds has been dismissed without the required justification, nor the costs for reintegrating these persons into their positions. In addition to these direct costs, the rotation imposes incalculable indirect costs. The data on execution of external funds provided in graph 2.4 indicates that rotation is having a serious impact on the continuity of programs and policies. In addition, the rotation is also likely to have a negative impact on the accumulation of human capital and to weaken the public servant’s incentives to take long-term decisions on the job.

*Transparency*

2.45 Together with a greater focus on results, the Zelaya administration has emphasized the importance of increased transparency in the public administration as a key element to strengthening the accountability of politicians and civil servants to the citizens. The entry into force of the Transparency and Access to Information Law is an important step in this direction.

2.46 The Transparency Law requires public agencies to publish the “monthly pay of public servants by position, including other payments associated with the position.”\(^49\) Each ministry has started to publish data about its payroll in its respective Transparency Portal. Nevertheless, as can be seen in Table 2.10, not all of the ministries have the same level of commitment to transparency, with the Ministries of Interior and Justice and of Agriculture and Livestock at the top, and others, like Defense, Education, Health, and Labor with limited transparency in respect to their human resources.

**Table 2.10. Information published on the internet page of the ministries and consistency with the data of DGSC and SEFIN on human resources, June 2008.**

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Number of workers</th>
<th>Salaries</th>
<th>Position</th>
<th>Labor regime</th>
<th>Data DGSC and SEFIN vs. Portal data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interior and Justice</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>Do not agree</td>
</tr>
<tr>
<td>Agriculture and Livestock</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>Agree approx.</td>
</tr>
<tr>
<td>Culture, Arts and Sports</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>Agree approx.</td>
</tr>
<tr>
<td>Defense</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>No data</td>
</tr>
<tr>
<td>Education</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>No data</td>
</tr>
<tr>
<td>Finance</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>No data</td>
</tr>
<tr>
<td>Industry and Commerce</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>Agree approx.</td>
</tr>
<tr>
<td>Public Works, Transport, Housing</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>Do not agree</td>
</tr>
<tr>
<td>Presidency</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>Do not agree</td>
</tr>
<tr>
<td>Natural Resources and</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>Agree approx.</td>
</tr>
</tbody>
</table>

\(^{49}\) Art. 13, numeral 7, Decreto 170-2006.
2.47 Another very important effort of the Zelaya government is the implementation of the Integrated System of Human Resource Administration (SIARH). SIARH, which is developed as a module of SIAFI, has great potential to become a key instrument to support the modernization of the management of human resources in Honduras and significantly increase its degree of transparency. The system is not only designed to provide consolidated and reliable information on public sector employees, regardless of their employment regime, but also to carry out transactions and processes related to human resource management. It is expected that the system will be fully developed and functional in 2009 with the modules for payroll and appointments implemented in the Central Government in December 2008. The system will be integrated with SIAFI in its budget, treasury and accounting modules. To give an idea of how SIARH might increase transparency, Box 2.1 describes some key functions of the system and the outlines procedure that it establishes for the appointment of personnel. The consolidation of SIARH should be a priority, as it will support further HR reforms by providing the government with the basic information needed to take informed decision and with a management tool to structure HR procedures.

Box 2.1. The System for Human Resource Administration (SIARH)

Some key functions of SIARH are:

- It will create a Unique Registration Code for each public employee. This code is linked to a profile with all relevant data on the staff person and is used in any type of procedure that is done within the system. The system also generates a code for each position that includes the corresponding functions and requirements, if the position is vacant, or the profile of the public servant who is registered initially in the position if it is occupied.
- It conditions the payment of the severance benefit for separation of staff under the legal figure of “redundancy” (contemplated for the case of administrative restructuring when the position disappears) on the elimination of the budget item for the position, to impede the practice of dismissing officials under this legal clause to later employ others in their place.
- In order to ensure that the employee is the person who receives the salary, the system validates bank account (through an interface with the banking system), as well as the identity of the employee (through the National Registry of Persons), to ensure that he or she is the employee and that the person who really works is the one that receives the salary.
- The system automatically calculates the labor benefits, income tax, municipal tax, payroll contributions, employer contributions, vacations, deductions and withholdings (fines, embargos).
- It has an attendance module that will be connected with a biometric clock whose installation is foreseen in the institutions included in the system, which will allow the real attendance of public employees to be recorded.

The SIARH defines the roles and delimits the actions that each actor involved in a human resource process can carry out. It also registers each transaction in the user code, facilitating ex post administrative audits. As an example of how the SIARH structures human resource processes, the appointment process is to be carried out through the system as follows:
1) *The Executing Unit* enters an appointment request into the system that includes information on the mode of hiring (statute, civil service or contract), the data on the public servant and the organizational position. The system only allows a request to be made if there are available funds in the corresponding budget line.

2) *The Director or Vice minister* of the area on which the executing unit depends, is responsible for approving the request for appointment through the system.

3) *The Human Resource Department* of the institution receives the request for appointment and registers the data on the person and the position, including the salary. The system automatically validates the salary amount with the Table of Salary Levels in force. It also verifies that all of the required supporting documentation exists. Finally the appointment is approved.

4) *The DGSC* is responsible for reviewing the formal qualifications of the candidates and the support documentation for the position. Finally the General Director of the Civil Service is responsible for authorizing the appointment. If it is not approved, it returns to the Human Resource Department.

5) *The legal department* of each one of the institutions is responsible for verifying the terms of the Legal Agreement. The procedure ends with the approval of the Legal Department Director.

6) *The Minister* is responsible for signing the agreement through the system.

7) *The Human Resource Department* is finally responsible for recording the data that are missing in the personnel file (including studies, experience, attendance, payments, evaluation, and training) and approving the file.

**CASE STUDY: THE UPEGs**

2.48 Given the central role that the Planning, Evaluation and Management Units of the ministries play in the formulation, implementation and evaluation of public policies, the human resource situation in these units merits particular attention. According to the Regulation of the General Law of Public Administration, the responsibilities of the UPEGs are:

"The analysis and design of policies, programs and projects of the ministries (...); including the preparation of the annual operational plans and medium- and long-term operational programming in areas of their responsibility; the periodic evaluation of program execution (...); the conduct of studies for defining spending and investment priorities for the annual budget proposal and for the management of resources intended to finance projects; the formulation of technical rules for the design and operation of information and statistics systems (...).”

2.49 In other words, the Law confers a central role to the UPEGs in managing some of the core functions of the Central Government, such as planning, budgeting and monitoring & evaluation. The technical complexity of the functions carried out by the UPEGs demands professional and capable staff, while the importance of these functions to the implementation of public policies requires stability and permanence of this staff in order to ensure a minimum of continuity during changes in the political leadership.

**Endowment of human resources**

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50 This section is based on a survey carried out as a part of the preparation of the new Public Sector Management Reform program, which the Government of Honduras is preparing with the support of the World Bank, the Inter-American Development Bank and the Swedish International Development Cooperation Agency.

51 PCM-008-97.
2.50 Quantitative and qualitative data indicate that the UPEG do not generally perform all of the functions for which they are responsible, and that they generally suffer from low capacity in terms of human resources. Table 2.11 shows the number of UPEG personnel for ten ministries compared with the budget of each ministry\(^2\). Even though the figures show a general low capacity in terms of human resources, it also reveals large variations between the different UPEGs. The wide variation in the ratios presented in the last column that indicate that these differences are not explained by differences in the volume of work.

Table 2.11: Endowment of human resources of the UPEGs in selected ministries

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Management staff</th>
<th>Technical staff</th>
<th>Support staff (1)</th>
<th>Total Budget of the Ministry 2008 (MLp)</th>
<th>Budget/Professional Personnel (MLp)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health</td>
<td>1</td>
<td>21</td>
<td>3</td>
<td>7391</td>
<td>336</td>
</tr>
<tr>
<td>Culture, Arts and Sport</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>214</td>
<td>n/a</td>
</tr>
<tr>
<td>Defense</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1807</td>
<td>1807</td>
</tr>
<tr>
<td>Security</td>
<td>1</td>
<td>4</td>
<td>3</td>
<td>2532</td>
<td>633</td>
</tr>
<tr>
<td>Labor and Social Security</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>448</td>
<td>224</td>
</tr>
<tr>
<td>Foreign Affairs</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>560</td>
<td>187</td>
</tr>
<tr>
<td>Governance and Justice</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1995</td>
<td>998</td>
</tr>
<tr>
<td>Tourism</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>403</td>
<td>n/a</td>
</tr>
<tr>
<td>Agriculture and Livestock</td>
<td>2</td>
<td>26</td>
<td>17</td>
<td>888</td>
<td>34</td>
</tr>
</tbody>
</table>

NB: (1) Does not include day workers employed by hourly wage, nor drivers.

Source: UPEG

**Stability**

2.51 The data obtained reveals that the stability of personnel in the UPEG is affected by political changes. Management positions are political appointees and as such excluded from Civil Service Law. However, it seems that the rest of the personnel are also affected by political changes. Table 2.12 shows that the average time that the employees have spent in their current position is low, except in the case of the Ministries of Health and Agriculture and Livestock. In a large proportion of the UPEGs, fewer than half of the technical personnel have been in their positions for four years or more. If we assume that the hiring of new personnel during the last year of a government is rare, we can conclude that a significant number of employees are likely to have assumed their position during this administration.

Table 2.12. Stability of personnel in the UPEG

<table>
<thead>
<tr>
<th>Average time in position (years.months) (1)</th>
<th>Personnel with four years of more of stability (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\(^2\) It is assumed that the budget volume is rough approximate measure of the volume of work, given the central role that the UPEG have in the planning and supervision of budget execution. However, this is just an approximation since the ministries are not homogeneous in respect to the roles and functions they fulfill.
The data for the UPEGs demonstrates that the diversity of employment regimes cuts across the individual units of the Central Government. As shown in Table 2.13, the most frequent form of employment in the the UPEGs investigated, is the civil service regime. Surprisingly, a significant share (41 percent) of the technical staff is employed under contracts despite that the UPEGs fulfil core functions for which continuity is vital. Among the disadvantages of operating with various forms of contracting and sources of financing, the UPEG surveyed indicate that it is administratively complex and increases the risk of duplication of tasks. On the other hand, they point out that diversity creates a more flexible system of incentives. Employees under civil service or statute enjoy greater stability and certain labor benefits, but have relatively low salaries. The contract personnel, by contrast, have more attractive salaries, but lack stability and certain benefits. Contracts with external funds allow highly qualified persons to be attracted by means of more generous salaries, but create serious problems of continuity once the project ends.

2.52 The analysis of the UPEG shows that these units, which are the backbone of the Central Government, share the characteristics of the general public administration in general: low capacity in terms of human resources, an allocation of human resources that does not respond to their functions or workload, and problems of stability and continuity of staff. Given their fundamental role in the formulation, implementation and evaluation of public policies in Honduras, it is important to improving human resource management in the UPEGs should be priority of any policy for strengthening public sector management in Honduras.

### Forms of employment

The table below shows the distribution of employment forms among the UPEGs:

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Management</th>
<th>Technical staff</th>
<th>Support staff</th>
<th>Professional staff</th>
<th>Support staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health</td>
<td>0.2</td>
<td>9.2</td>
<td>16.4</td>
<td>5 of 20</td>
<td>3 of 3</td>
</tr>
<tr>
<td>Culture, Arts and Sport</td>
<td>1</td>
<td>n/a</td>
<td>2.6</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Defense</td>
<td>8</td>
<td>2</td>
<td>3</td>
<td>0 of 1</td>
<td>0 of 1</td>
</tr>
<tr>
<td>Security</td>
<td>9</td>
<td>2</td>
<td>4.4</td>
<td>2 of 4</td>
<td>2 of 3</td>
</tr>
<tr>
<td>Labor and Social Security</td>
<td>0.4</td>
<td>3.6</td>
<td>0.9</td>
<td>1 of 2</td>
<td>0 of 2</td>
</tr>
<tr>
<td>Foreign Affairs</td>
<td>0.6</td>
<td>2.1</td>
<td>2</td>
<td>2 of 3</td>
<td>0 of 1</td>
</tr>
<tr>
<td>Governance and Justice</td>
<td>0.7</td>
<td>5</td>
<td>0.4</td>
<td>1 of 2</td>
<td>0 of 1</td>
</tr>
<tr>
<td>Tourism</td>
<td>4.4</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Agriculture and Livestock</td>
<td>0.11</td>
<td>5.11</td>
<td>8.7</td>
<td>10 de 26</td>
<td>7 de 17</td>
</tr>
</tbody>
</table>

(1) Positions for which no data is available are excluded from the average.

Source: Survey of the UPEG

### Table 2.13. Form of Employment in the UPEG

<table>
<thead>
<tr>
<th>Form of employment</th>
<th>Technical staff</th>
<th>Support staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent (1)</td>
<td>59%</td>
<td>86%</td>
</tr>
<tr>
<td>Contract with national funds</td>
<td>34%</td>
<td>14%</td>
</tr>
<tr>
<td>Contract with external funds</td>
<td>7%</td>
<td>0%</td>
</tr>
</tbody>
</table>

Source: Survey of UPEG

(1) Mostly Civil Service, but may also contain some personnel under special statutes

**Some regional comparisons**
This sections aims to put the findings of the analysis of public employment in Honduras into a regional perspective. Little analysis exists at the international level that permits consistent cross-country comparisons of human resource management systems between countries. One of the most recent and complete studies on this topic is that carried out by the Inter-American Development Bank (IDB) in 2006, in which individual diagnostic studies of 18 countries in the region were undertaken using a common conceptual framework. Annex II.A describes this analytical framework in some detail, as it may serve as a useful reference for deepening the analysis and designing reforms for public employment in Honduras.

Quantitative comparisons

Table 2.14 compares the indicators reported for Honduras with regional averages for various dimensions related to the overall size and cost of public employment. Salary expenditures as a percentage of GDP in Honduras (10.3%) is well above the regional average and only lower than that of Venezuela (13.14%). At the same time, the size of the central public administration in Honduras in terms of the number of employees in the Central Government compared with the total population is below the regional average and the average salary of the Central Government expressed as a percentage of GDP per capita is among the lowest in the region. The combination of a relative high overall cost together with a relative small public administration with a low average salary reflects the disparities in remuneration caused by the fragmentation of civil service. This is also confirmed by the index of salary compression, which measures the relative dispersion between salary levels within the public administration (a higher score meaning less compression). In the case of Honduras this indicator of compression is 23.07, well above the regional average of 16.74.

Table 2.14. Indicators of human resource management in Latin America

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Latin American Average</th>
<th>Honduras</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary spending of Central Government/Gross Domestic Product</td>
<td>6.57%</td>
<td>10.30%</td>
</tr>
<tr>
<td>Salary compression</td>
<td>16.74</td>
<td>23.07</td>
</tr>
<tr>
<td>Average Central Government salary/GDP per capita</td>
<td>2.45</td>
<td>1.51</td>
</tr>
<tr>
<td>Average salary in Central Government/average salary private sector</td>
<td>1.95</td>
<td>2.02</td>
</tr>
<tr>
<td>Total number of public employees in the Central Government/total population</td>
<td>2.10%</td>
<td>1.67%</td>
</tr>
</tbody>
</table>

It is important to note that the term “Civil Service” used in this study refers to the “set of practices that in reality characterize the functioning of the national political-administrative systems.” The term, therefore, refers to the system of human resource management in the public administration in general and not to a legal framework in particular.
2.55 In addition, even though the average Honduran salary is lower than other countries of the region, it is still higher than the equivalent salary in the private sector, which is at similar levels or even a little greater than that of other countries in the region. Thus, in a situation of high dispersion and inequity in the pay of public sector employees, and in which average pay is still at a level which is competitive with the private sector, it would be possible for the Government to correct the existing distortions without this requiring increases in the aggregate amount assigned to salaries.

Qualitative Comparisons

2.56 The IDB study (2006) proposes a comprehensive analytical framework that allows for a detailed evaluation of various dimension of human resource management in the public sector in 18 Latin American countries, including Honduras (see Annex II.A for a description of the framework and its associated indicators). The study evaluates countries against the performance of HR management systems in respect to 93 “critical points” across eight HR management sub-systems. These critical points are grouped along five dimensions that cut across all the sub-systems and are quantified in five aggregate indicators to allow for comparisons between countries. A summary of the results for Honduras on the five indices in comparison with the Latin American average is shown in Graph 2.6.54 The data reveals that there most countries in the region are far from the ideal model that serves as a reference to define the maximum values of each indicator. It also shows that Honduras scores below the average on all of the indices evaluated in this report.

Graph 2.6. Human resource management indicators in Latin America

Source: IDB (2006)

Note: The indices are built on the basis of an evaluation by experts of 93 “critical points” of the human resource management system. These items are then grouped into five dimensions or indicators (two of which is composed by sub-indicators). The number of critical points that comprise each indicator varies, as does the weight that is assigned to each one in the composition of the index. See Annex 1 for more details.

54 The indices are built on the basis of an evaluation by experts of 93 “critical points” of the human resource management system. These items are then grouped into five dimensions or indicators (two of which is composed by sub-indicators). The number of critical points that comprise each indicator varies, as does the weight that is assigned to each one in the composition of the index. See Annex 1 for more details.
of which is composed by sub-indicators). The number of critical points that comprise each indicator varies, as does the weight that is assigned to each one in the composition of the index. See Annex II.A for more details.

2.57 The comparative analysis of the different subsystems of human resource management confirms that many of the weaknesses identified in Honduras are also present in other countries in the region. In a classification by five of levels of development proposed in the IDB study, Honduras is classified in level 0 (low or no development) in the aspects related to the following human resource management subsystems (countries at a similar level within parenthesis):

- planning, in view of the limitations of information about human resources and the low capacity for implementing policies (El Salvador, Panamá and Paraguay);
- employment management, due to the predominance of discretional practices in the appointment, relocation and separation of personnel (Panamá, El Salvador);
- performance management, due to the inexistence of mechanisms for evaluating the performance of personnel (Nicaragua, Guatemala, Panamá, Paraguay, Bolivia, El Salvador, R. Dominicana);
- compensation, due to the high inequity and inefficiency of remuneration systems (Peru, Ecuador, El Salvador, Panamá, Paraguay);
- management of career development, due to the limited organized training activity (Peru, Ecuador, El Salvador, Bolivia, Nicaragua, Paraguay);
- management of human and social relations, due to the high level of conflict between unions of the public administration (El Salvador and Paraguay); and
- organization of the human resource function, due to the notorious institutional weakness of the governing body of the system and the human resource units in all of the institutions of the public administration (El Salvador and Paraguay).

2.57 Only in the sub-system of job organization does Honduras classify in level 1 on the five-point scale, with a low performance, but with recognition of some efforts that have been made to organize and classify the positions of the public administration using modern techniques of evaluating the positions (Bolivia, Guatemala, Panamá, Ecuador, Nicaragua and El Salvador are classified at the same level).

2.58 Taken together, the regional comparisons show that Honduras stands out for high levels of salary spending, combined with limited development in respect to the majority of the indicators of quality and efficiency of public employment management. In other words, in spite of the fact that Honduras invests more than other countries in the region in human resources in the public administration, the management of human resources is significantly worse than in most of the neighboring countries. The data also show that the high level of spending on salaries is not the result of a public administration which is over-sized in terms of the number of employees, nor is the average public employee better paid than in other countries. Rather, the high level of spending on salaries reflects a high salary disparity across the public administration, which is result of the pressure exercised by different union groups.

ATTEMPTS TO PROFESSIONALIZE THE PUBLIC ADMINISTRATION IN HONDURAS
In the last five years, two important initiatives to reform the public service through comprehensive legal changes have been undertaken: the first in 2003 and the second in 2004. This section reviews these two reform attempts with the aim of drawing some lessons for the future. It also reviews the reforms and human resource management tools developed by the DEI, as a successful experience that may offer useful elements for new approaches to human resource management reform in other government institutions.

**First attempt to reform the Civil Service Law – 2003**

In the context of limited fiscal space, and in line with the agreement with the IMF, the Ricardo Maduro government promulgated the Law of Rationalization of Public Finances\(^{55}\) which prohibited the creation of new positions during the 2004-2006 period, established an upper limit on salaries, and defined the policy of salary adjustment for public servants as a function of the inflation rate. In addition, the Reorganization Act of the Remuneration System of the Central Government established the salary base and modes of adjustment for the 2004-2006 period for those employees governed by the special statutes (essentially teachers and doctors), and for those that worked in decentralized state institutions.

The reform strategy of the Government was based on two fundamental elements: first, to reduce the differences in respect to the economic benefits of the statutes versus other public servants; second to reunify the different employment regimes and modalities under a single framework: the Civil Service regime.

Through the Presidential Commission of State Modernization (CPME) the Maduro government drafted a first bill that regulated all public employees, including those subject to statutes and those working in decentralized institutions. In addition, the proposal established the Rules of the Remuneration System that created a general policy and remuneration system that covered all public employees. Clearly, the control of government salary spending and the establishment of an equitable salary regime were at the centre of the reform.

This reform proposal was never accepted by the unions representing the employees covered by special statutes, which exerted great pressure and forged alliances with other social groups. On August 26, doctors and nurses in alliance with central labor confederations, the Popular Block (*Bloque Popular*), and indigenous organizations blocked the roads to Tegucigalpa leaving the capital isolated (OSAL, 2003). Facing these strong protests, the National Congress decided to suspend the discussion of the proposal until the executive delivered an initiative that had the consent of the main stakeholders, particularly that of those protected by statutes. As a result, the executive withdrew the proposal with the intention to broaden the discussion to a wider array of social groups and to come up with a version that enjoyed consensus. This new proposal was never discussed in Congress.

This attempt at reform seems to have been submitted prematurely, supported only by technical arguments and without the necessary political support that might have resulted from a broader negotiation among interest groups. The outcome was ordained by...

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the emphasis on duties and obligations, leaving aside the proper emphasis also on benefits and rights.

**Second reform attempt – 2004**

2.65 Due to the strong resistance to the inclusion of all public employees under the same employment regime, the Government changed its strategy. It maintained the goals, principles and essential objectives of the first proposal, but it excluded the public employees governed by statutes.

2.66 This second proposal called for the substitution of the current Civil Service Law with a new law called the Law of the Public Servant Regime, whose most relevant elements were the following:

- Creation of a National System for the Administration of the Public Servant as a decentralized entity directly under the Office of the Presidency in charge of ensuring the application of the new Law of the Public Servant Regime. This agency would have technical, administrative and financial autonomy.
- Greater coverage of the Administrative Career in respect to positions that are currently excluded from the Civil Service Law.
- Establishment of an Administrative Career based transparent procedures and a competitive selection process open to all citizens.
- Creation of a Special Committee in charge of selection and recruitment.
- The application of a qualification exam to all public servants that had not been recruited through competitive selection process. Those who did not pass the exam would be separated from their position and would be paid the severance benefit.

2.67 For this second version of the law, the Government made greater efforts to reach consensus with key stakeholders and the proposal was discussed in the National Convergence Forum (Foro de Convergencia Nacional, FONAC) with representatives of the private sector, professional associations, universities, civil society, political party leaders, the President of Congress and public sector unions. On May 31, 2004, the proposal was presented to Congress for its consideration, write-up (committee report) and approval.

2.68 Nevertheless, these efforts were not sufficient to gain the support of the unions, especially the teachers’ unions, which protested strongly in alliance with the Popular Block and the National Coordinator of Popular Resistance (CNRP). As a result of these pressures, the National Congress received the proposal, but did not show any interest in moving it through the legislative process. Finally, the Maduro government withdrew the proposal from Congress in order to avoid losing political support in the run up to the November 2005 elections.

2.69 The two reform intents described here show the limits of the approach of comprehensive legal reforms, in a context where public employment is fragmented in different interest groups that are likely to oppose wide-ranging reforms. The experience of the DEI, described in the next section, offers an alternative approach.
A third alternative – the experience of the DEI (2006)\textsuperscript{56}

2.70 The Executive Directorate of Revenues (Dirección Ejecutiva de Impuestos, DEI) was created in 1994\textsuperscript{57}. The organizational structure that was defined in 2001 contemplated the creation of an administrative career\textsuperscript{58}. During the Maduro administration the DEI lost its status as a decentralized agency and became a directorate within SEFIN\textsuperscript{59}. Even though formally, the staff of DEI fall under the Civil Service Law, in practice the institution has been given significant leeway in defining its human resource policies and management procedures.

2.71 During the current administration, the director of DEI has led a bold effort to professionalize the institution. The process was initiated in a context that according to CNA (2008) was characterized by political interference in the recruitment process, corruption within the institution, and problems of administrative efficiency.

2.72 A key element of the new approach to human resource management was the implementation of a rigorous and transparent recruitment process (See Box 2.2). These new practices met resistance on behalf of politicians striving to keep their influence over the recruitment to the institution. However, these pressures were overcome thanks to three main factors:

1. Strong political backing from the Minister of Finance and the President of the Republic, conscious about the strategic importance of improving the efficiency of DEI in order to achieve fiscal sustainability.

2. The use of an external oversight body to guarantee the transparency and credibility of the process – the Special Inter-institutional Commission for the Modernization of the Customs System (CEIMSA)\textsuperscript{60}.

3. The establishment of strategic alliances with external actors such as the private sector through COHEP and the Chamber of Commerce, with various civil society organizations, including CNA, and with public institutions such as the Ombudsman (CONADEH).

2.73 The actual recruitment process was carried out by a private firm contracted for this purpose, supervised by CEIMSA and validated by the private sector and civil society. Box 2.3 describes the process in greater detail.

\begin{table}[h]
\centering
\begin{tabular}{|c|}
\hline
Box 2.2. The recruitment process in the DEI
\hline
All of those candidates for a position in the DEI, whether permanent or temporary, had to participate in a selection process which included the following steps:
\begin{itemize}
\item Public notification. Through different written and radio media outlets an announcement was
\end{itemize}
\hline
\end{tabular}
\end{table}

\textsuperscript{56} This section is based on the case study prepared by the National Anticorruption Council (CNA) as a part of the series “Good Practices in the Management of Human Resources, 2008.”

\textsuperscript{57} Decree No. 159-94, November 15, 1994.


\textsuperscript{59} Legislative Decree 216/2004.

\textsuperscript{60} Created by Executive Decree No. 004-2004 (May 7, 2004) as an advisory body to the president in customs matters.
published requesting applicants for the position.

- Receipt of curriculum vitae.
- Primary evaluation for determining the candidates who complied with the minimum requirements for each position.
- Training and evaluation in customs matters for the candidates selected in the first evaluation.
- Investigation of personal and criminal background.
- Psychometric evaluations and oral interviews.
- Second selection of candidates that had passed the previous requirements.
- Final interview based on competence of candidates by the members of the CEIMSA.
- Report and recommendations of the sub-commission of human resources to CEIMSA.
- Appointment and induction of the candidates that qualified.

To guarantee the transparency of all of these processes, they were codified in the “Regulations for the application of the selection process” that established the general guidelines, specific regulations for the Human Resources Department and selection instruments. The selection instruments are:

- Tests of technical knowledge. The design, application and review of the technical knowledge tests are the responsibility of the chiefs that are requesting a position be filled; in addition specialized personnel designated by the Department of Human Resources participate. These tests are applied simultaneously to all candidates and practical exercises are included that allow the evaluation of abilities related to the job to which they are applying. The candidate that does not qualify in these tests has the option to participate in them again when a new competition is opened.

- Psychometric tests. The elaboration, application and management of psychometric tests are done under the responsibility of professional psychologists, in accordance with the criteria and abilities that are demanded by the position. These tests are applied only once, except in circumstances which merit a repeated application of the test. During the hiring processes of 2006 and 2007, the DEI subcontracted the Centro Asesor para el Desarrollo de los Recursos Humanos (CADERH) to carry out these tasks.

- Evaluation of performance. This test measures the potential of the candidate to carry out the technical and professional tasks required by the position to which he applied. Its application is the responsibility of the manager of the open position.

- Interviews based on abilities. Based on the guided questions elaborated by the managers of the department that request the positions and Human Resource Department personnel, this test is administered by a panel composed by the immediate manager that asks for the position, three higher level representatives and a manager that is selected according to the requirements of the position. In addition to the members of the panel, two observers attend this process – one of them represents the Human Resources Department – with the purpose of supporting objectivity; these have a voice but no vote.

Source: CNA, 2008, Buenas de Gestión de Profesionalización – Dirección Ejecutiva de Ingresos

2.74 Based on these new procedures, a competitive and transparent process of recruitment and selection for the positions of administrators, subadministrators and customs officials was carried out in 2006. A total of 2,256 candidates participated and in the end 200 new officials were hired: 30 administrators and sub-administrators and 170 customs officials (see Table 2.15).

<table>
<thead>
<tr>
<th>Candidates</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial candidates</td>
<td>2,256</td>
</tr>
<tr>
<td>Eliminated because lacked requirements</td>
<td>269</td>
</tr>
<tr>
<td>Registered in the training</td>
<td>1,188</td>
</tr>
<tr>
<td>Took the technical knowledge test</td>
<td>1,030</td>
</tr>
<tr>
<td>Passed the technical knowledge test</td>
<td>588</td>
</tr>
<tr>
<td>Took the psychometric exam</td>
<td>565</td>
</tr>
<tr>
<td>Eliminated because of criminal background</td>
<td>23</td>
</tr>
<tr>
<td>Passed the psychometric test and took the voice stress analysis (VSA) test</td>
<td>424</td>
</tr>
<tr>
<td>---------------------------------------------------------------</td>
<td>-----</td>
</tr>
<tr>
<td>Passed the VSA</td>
<td>249</td>
</tr>
<tr>
<td><strong>Finally hired</strong></td>
<td>200</td>
</tr>
</tbody>
</table>

Source: Human Resources Department, DEI.

2.75 The new procedures for personnel recruitment is the first step towards a human resource management model that includes performance evaluations, training programs and the introduction of a flexible salary regime that offers performance incentives. To ensure the sustainability of the model, the DEI intends to formalize its administrative career in law by adding special articles on the subject to the Anti-Evasion Law that will be presented to the National Congress for its approval.

2.76 The most notable result of the professionalization process is its contribution to the improvement of the efficiency of the DEI, which has had a significant impact on tax revenue collection. In a self-evaluation report (DEI, 2008), the institution demonstrates how it has been able to increase its productivity as a result of the professionalization process and other management improvements. As can be seen in Graph 2.7, the proportion of increases in tax revenue collection attributable to increases in the administrative efficiency of DEI, are significantly higher in 2006 and 2007 than in previous years.
The experience of the DEI shows that it is possible to carry out reforms of human resource management in the Honduran public sector and that an improved management of human resources has an impact on the efficiency of the institution. It also shows that it is possible to introduce merit as the main selection criteria in the recruitment of staff and thus deal effectively with political pressures to influence public employment (see Box 2.3 below for a broader discussion on politicization). Three factors contributed decisively to making the implementation of these reforms possible: strong political backing, the external supervision mechanism that provided the process with transparency and credibility, and strategic alliances with key stakeholders. The fact that the DEI has been able to demonstrate, even quantitatively, the positive effect of professionalization on its provision of services, has also facilitated the mobilization of support in favor of the reforms.

Box 2.3. Politicization of public employment

Politicization in its broader sense is inherent to the public employment system in all countries, regardless of their level of development. The public administration is a political creation – it determines who gets what from the public sector - and as such it will always be subject to pressures for political control. In more developed countries, these pressures tend to stem from attempts to ensure that the public administration is responsive to the politicians who formulate the policies it is supposed to implement. In many developing countries, there is an additional force driving the politicization of public employment – the need to provide jobs to political party members or other groups in return for favors.

In a more narrow sense, and for the purpose of addressing the challenge facing Honduras, politicization can be defined as: “The substitution of political criteria for merit-based criteria in the selection, retention, promotion, rewarding and disciplining of members of the public service” (Peters and Pierre (ed., 2008)).

The challenge of the modern state is to develop institutional arrangements, norms and procedures that counteract these pressures and ensure that the public administration is responsive to the government without resulting in a public employment system that is over-politicized and serves partisan interests rather than the general public.

Studies show that there are no “one-size-fits-all” solutions to achieve this. A recent study on OECD countries concludes that constraints on political influence on public employment vary with constitutional type and administrative history, and depends on the wider social context. For example, the study suggests
that informal arrangements can be effective in countries with a strong popular support for an apolitical public service, while strong formal oversight arrangements are necessary in countries where such support is absent.

Data from the *Latinobarómetro* 2007 summarized in the table below suggests that the attitudes towards politicization of public employment among citizens in general seems to be significantly more permissive in Honduras than in its Central American neighbors; a fact that suggests the importance of strong formal mechanisms to make sure that merit prevails over political criteria in human resource management.

### Is it correct that a government official only employs members of his/her own political party?

<table>
<thead>
<tr>
<th></th>
<th>Costa Rica</th>
<th>El Salvador</th>
<th>Guatemala</th>
<th>Honduras</th>
<th>Nicaragua</th>
<th>Media</th>
</tr>
</thead>
<tbody>
<tr>
<td>Correct</td>
<td>6%</td>
<td>7%</td>
<td>7%</td>
<td>12%</td>
<td>7%</td>
<td>6%</td>
</tr>
<tr>
<td>Incorrect but understandable</td>
<td>41%</td>
<td>36%</td>
<td>41%</td>
<td>52%</td>
<td>36%</td>
<td>34%</td>
</tr>
<tr>
<td>Incorrect and should be sanctioned</td>
<td>53%</td>
<td>58%</td>
<td>52%</td>
<td>36%</td>
<td>58%</td>
<td>43%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>935 (100%)</td>
<td>958 (100%)</td>
<td>953 (100%)</td>
<td>954 (100%)</td>
<td>963 (100%)</td>
<td>4763</td>
</tr>
</tbody>
</table>

The experience of DEI shows that the combination of well-defined procedures, which are applied in a transparent way under strong external oversight, can be a powerful tool to limit the scope for political interference in human resource management. The merit-based recruitment processes described in Box 2.1 are a case in point. Management within DEI also indicates that the new procedures not only limited the scope for political interference, but changed the expectations and behavior of the politicians. Once the new procedures were institutionalized and it became clear that they were not being revoked, politicians went from intervening directly to have their protégées employed in DEI regardless of their skills, to suggesting candidates who complied with the requirements for specific positions open for recruitment. Similar tendencies have also been observed in the Municipality of Comayagua.


### CHALLENGES AND OPPORTUNITIES FOR IMPROVING THE MANAGEMENT OF HUMAN RESOURCES: CONCLUSIONS AND RECOMMENDATIONS

2.78 The diagnostic carried out in the previous sections of this chapter, shows that human resource management is an area with enormous challenges, but at the same time important opportunities for improving the public administration in Honduras. Among the principle challenges to be addressed are:

- The fragmentation of public employment in the civil service regime, the special employment statutes and temporary contracts, each with its own legal framework and implementing mechanisms.
- Closely related to this fragmentation, a high degree of salary disparity, driven principally by the pressure exercised by union groups.
- Lack of transparency in human resource management and lack of consolidated information on human resources that would allow for effective monitoring and could inform policy decisions.
Weak evaluation of performance and poor management of human resources for results. The Results-Based Management System has still to be linked with the management of human resources.

A high rotation of personnel, linked to the political cycle.

2.79 Different governments have attempted to tackle at least some of these problems but with little success. The failed reform attempts of 2003 and 2004 show that an excessive emphasis on the control of salary expenditures and wide-ranging legal reforms that radically alter the structure of public employment lower the chances for success. At the same time, the example of the DEI shows that it is possible to significantly improve human resources management if reforms have sufficient political support, are realistic, are connected to an improvement of management in general, and are carried out in a transparent way.

2.80 Despite all its weaknesses in terms of human resources, Honduras has already put in place the key pieces to continue advancing towards a professional public administration: a generally acceptable legal framework, an already approved Professionalization Plan, an Integrated System of Human Resources Administration in the process of consolidation (SIARH) and a well-institutionalized Results-Based Management System. Hence the recommendations in these sections do not require any major legal reforms or institutional engineering, but rather that the laws, systems and instruments already in place are fully articulated and applied.

2.81 Based on the lessons learned from the past and the experience of the DEI, the current government has formulated a plan for the professionalization of public employment in Honduras. The Professionalization Program of the Public Servant and its Implementation Plan will be implemented within the framework of the Civil Service Law, but will require a new regulation that is in the process of being approved. The proposed process began, in practice, with the actions already carried out in the DEI, and aims to extend this experience toward other areas of government in a gradual manner, while taking into account the reality of each institution.

2.82 The main points of the Plan are the following:

- **Selective and gradual process.** The gradual application of the professionalization process for a selected group of positions in the Central Government.
- **DGSC strengthened as governing entity.** The strengthening of DGSC as the governing entity of the human resource system.
- **Process of external accreditation.** The hiring of advisors and specialized consulting firms to carry out the processes of accreditation of personnel in the selected areas and entities.
- **Creation of a Validation Committee.** This committee will be composed of representatives of civil society and the private sector in order to provide support and guide the implementation of the plan. The committee should act as an informed

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guarantor of the process, ensuring that it follows technical criteria and is politically independent.

- **Public outreach.** The parallel implementation of a communication strategy with the aim of building public legitimacy and ensure the sustainability of the process.

2.83 The first stage of the process is estimated to cover 6,855 public employees, including 3,885 in the government ministries and 2,970 in the selected pilot agencies, including the DGSC. The second stage of the process has not yet been defined.

2.84 If implemented carefully with the required political backing, the Professionalization Program has the potential to significantly strengthen the public administration in Honduras. The following recommendations based on the analysis carried out throughout this chapter are meant to directly guide the application of this program:

2.85 **Be selective, starting by professionalizing key functions:** The professionalization plan identifies a number of key cross-cutting areas to be targeted in Central Government in the first stage of the professionalization process (planning, financial management, procurement, internal auditing and human resources) together with four pilot institutions (DGSC, DEL, General Direction of Migration and the Property Institute). Although, this is a selective approach in itself, there is scope for further calibrating the process by adopting a sequence and pace that respond to the most urgent needs of the public administration. A priority should be to apply the professionalization process in the DGSC and in the human resource departments in Central Government, so that these institutions are equipped to implement the rest of the process. The weaknesses identified in terms of human resources in the UPEGs make these units, central to the planning and budgeting cycle, another clear priority for the initial phase of the program.

2.86 **Function and not employment regime at the centre of the process:** Given that the fragmented nature of the current public employment system cuts across institutions, professionalizing key functions requires adopting an approach that starts with identifying the key functions of public administration that need strengthening, rather than starting by identifying positions under a certain regime or salary scale to be professionalized. As an example, the analysis of the UPEGs showed that this key function is fulfilled by staff in all three categories of employment – civil service, statutes and contracts. To effectively address this situation, a process to professionalize the UPEGs would need to start with a review of the UPEG’s functions and, based on the identified needs, a definition of the positions that are required to fulfill these functions. The process to match the existing staff with the profiles of the defined positions would need to cover staff in all three categories.

2.87 **Apply a universal set of basic principles to all public sector employees, irrespective of their employment regime:** For the previous recommendation to be successfully applied, the implementation of the professionalization plan needs to recognize the existence of diverse categories and regimes of employment, and allow the universal application of the same set of basic principles to all positions: (i) transparency throughout all the procedures related to human resource management; (ii) application of meritocratic criteria for the selection, promotion and removal of public servants; (iii) introduction of performance measurement to steer actions towards institutional goals; (iv) improved equity in salaries and a pay policy that contributes to fiscal sustainability.

2.88 **Flexibility and coordination:** Putting the needs and functions of the public administration at the centre of the process also means that the DGSC, as the leader of the
process, must coordinate closely with the line functions and adapt the process to their needs. As the analysis of the civil service regime earlier in this chapter showed, the DGSC does not have specialized knowledge in all fields. In order to inform the process of the needs of public administration, the DGSC must coordinate closely with the institutions concerned, already at the design stage of the process. This also means that the process must allow for a great deal of flexibility, tailoring the solutions according to the needs. The human resource departments within each institution will be key in day-to-day coordination, but close cooperation with Ministers, Vice Ministers and Directors will also be required.

2.89 The following recommendations are relevant for the implementation of the Professionalization Plan, but also go beyond:

2.90 **Make professionalization an integral part of other state modernization reforms:** As stated in the beginning of this chapter, one of the weaknesses of many state modernization reforms is that they have not been conceived, programmed and implemented together with improvements in human resource management. The sustainability of reforms to modernize institutions and develop new public management systems, depends crucially on there being a critical mass of skilled and professional staff with a permanence beyond the lifetime of the project. Professionalization needs to be an integral part of new reforms. As for reform initiatives already in progress, the Government should study how their sustainability could be assured within the framework of the professionalization program. This is particularly important so as to ensure that the achievements made during the present administration endure beyond the next elections.

2.91 **Make transparency a guiding principle in human resource management:** Open and transparent processes are crucial in guaranteeing that the rules, norms and procedures are followed and that the professionalization process gains the credibility that it needs in order to achieve sustainability. Qualitative evidence indicates that clearly-defined procedures that are applied in a transparent manner can be a powerful instrument to limit the scope for political interference in recruitment processes and even to reduce the pressure exercised by politicians on the institutions to recruit their followers (Interview with the Mayor of the Municipality of Comayagua, October 2008 and CNA, 2008). The experience of CEIMSA in DEI shows that mechanisms that guarantee transparency by allowing for outside scrutiny of human resource practices are essential to guarantee their credibility in a context in which distrust is high. In order to strengthen transparency, the following is recommended:

- Consolidate the SIARH. The SIARH will guarantee the availability of consolidated data on human resources throughout the Central Government and provides a modern tool for applying human resource management procedures (such as salary payment, creation and cessation of positions, recruitment and promotion) in a transparent way.
- Make sure that all obligated institutions publish information on human resources in accordance with the Transparency and Access to Information Law.
- Establish the Validation Committee foreseen in the Professionalization Plan and involve it as early on as possible in the process.

2.92 **Focus on Performance:** The Introduction of the Results-Based Management System clearly signals a stronger focus on performance in the public sector. However, this shift in administrative culture has not yet permeated human resource management. It is
worth emphasizing, that selecting the right staff and retaining skilled employees are likely to be the two measures with the greatest positive impact on performance.\textsuperscript{62} In addition, there are various concrete steps that could be taken to strengthen the link between the Results-Based Management System and human resource management:

- Introduce regular reviews of each employee’s performance against previously identified performance targets. The objective of the performance measurement is to generate a continuous dialogue on how to improve performance (and not to control).

- Link individual performance targets to the institutional targets established in the Results-Based Management system by: (i) making sure that the staff participates in the discussion around the formulation, and subsequent reviews of the institutional targets, in order to create a common understanding of the department’s or unit’s role in achieving them; and (ii) ensuring that the formulation and review of the individual performance targets takes place within this broader discussion.

- Develop indicators for the Results-Based Management System that measures the progress of the professionalization process. Box 2.4 includes a few suggestions.

2.93 Leave room for innovation: The experience of DEI shows that successful reforms in human resource management must be tailored to the needs of the institutions. There are also other institutions, such as the Supreme Audit Court, that developing innovative approaches to human resource management. It is important to leave space for these types of innovations, learn from them and try to replicate the successful measures in other institutions.

2.94 In addition to these recommendations, there are more long-term challenges that, although they cannot be addressed in the short term, should stay form part of the agenda to improve human resource management in the future:

- The formulation of a coherent pay policy that better reflects the priorities of the Government and ensures fiscal sustainability.

- The development of a strategy to gradually incorporate the consultants and contractual staff, currently working in line functions, into the regular structures of human resources. This would include agreeing a common approach with the donors on the use of external funds to pay for contractual staff that guarantees sustainability. The latter could be conceived within a broader framework that includes the strengthening of country systems, such as those for public financial management, procurement and control, and increased alignment of the donors to these.

- The review of the institutional structure for human resource management, making sure that it responds to the needs of the public administration and that it guarantees the sustainability of the systems and procedures that are established.

- Linking performance to incentives is important in order align the individual behavior of public employees with organizational objectives and priorities. It is worth emphasizing that these linkages go in both directions: on the one hand, incentives work to induce improved performance; and, on the other hand, clear institutional

\textsuperscript{62} See Ketelaar, Manning and Turkisch (2007) for a more detailed discussion.
performance targets help direct the actions of the employees towards the achievement of organizational objectives and may have important motivational effects. It is also important to take a broad approach to incentive systems, as incentives encompass not only performance-related compensation, but also comprise job contents, work environment, career development perspectives (including training and career paths) leadership behavior and other non-monetary elements.

The importance of political support for these actions cannot be overstated

**Box 2.4. Suggested indicators for the Results-Based Management System**

| Indicator 1: Number of complaints against undue application of the redundancy figure (cesantía) registered in the Administrative Tribunal. |
| Indicator 2: Number of positions in Central Government that have passed through a complete professionalization process. |
| Indicator 3: Percentage of staff in Central Government covered by SIARH. |

1“A complete professionalization process” could be defined as including the following steps: (i) review of the profile of the position in the light of the needs of the institution, (ii) application of an accreditation process to the public servant occupying the position and (iii) certification/separation/training of the public servant depending on the outcome of the accreditation process.

**PRIORITIES IN THE SHORT TERM**

2.94 Of the recommendations in the previous section, the crucial ones in the short term are the following ones:

- Sequence the Professionalization Plan so that the DGSC, the human resource departments within Central Government, and the UPEGs, become the top priorities for the initial implementation phase.

- Include also in this first phase, the functions and positions that are necessary to provide sustainability beyond the next change in government to the state modernization reforms currently under implementation.

- Establish the external Validation Commission immediately, in order to ensure strong external oversight of the professionalization process from the outset.
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Decreto Ejecutivo PCM-030-95, Programa de Reforma de la Administración Pública, Marzo 1996.


**INTERVIEWS**

Interview with the Mayor of the Municipality of Comayagua, October 2008.

**ANNEX II A. IDB 2006 ANALYTICAL FRAMEWORK**

A Schematic Overview

The analytical framework laid out in IDB 2006 presents the human resource management system as an integral system, composed of seven interlinked sub-systems. Figure 2.1 provides a schematic view of the system, including the interlinkages between the different sub-systems.

**Figure A2.1. Schematic overview of the HR management system**

![Schematic overview of the HR management system](source)

**Source:** Adapted from IDB, 2006.

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This section does not pretend to provide an exhaustive account of the IDB 2006 analytical framework, but rather illustrate some of its main features. The model presented here is thus a condensed version, the purpose of which is to facilitate the understanding of the comparisons made in the section “Some Regional Comparisons”.
The final objective of the HRM system is to align the actions of the staff to the overall strategy and priorities of the organization (in this case the State or a particular public sector institution). An HR Strategy, derived from the overall strategy, is necessary to align the HR policies and practices with the priorities of the organization, achieving what in the framework is called “strategic coherence”. The HR Planning is the nexus between the strategy and the rest of the sub-systems that facilitates this strategic coherence.

The Organization of Jobs defines the tasks to be carried out (positions) and the education and skills required of the persons that carry them out (profiles). The positions and profiles are basic material for the Employment Management sub-system, which manages the flows of persons into, within, and out of the organization (recruitment, selection, introduction, promotion, separation etc.).

The sub-system of Performance Management influences the performance of the employees with the objective of aligning it with the priorities of the organization (through definition of performance targets, evaluation and feedback). The Performance Management sub-system provides information on performance to: the system for Management of Career Development, which matches the needs and potential of the employees with career trajectories and learning; Employment Management, informing decisions on mobility and separation of staff; and Compensation Management that manages compensation in exchange for the contribution of the employee to the goals of the organization.

Finally, the sub-system of Management of Human and Social Relations manages the relationship between the organization and its employees with respect to policies and practices that concern the employees as a whole (workplace environment, relationships with unions, social security etc.).

**How are the indices constructed?**

Each of the seven sub-systems described in the previous sections is evaluated by experts against a number of critical points, in total 93. These critical points are then grouped into five dimensions or indicators, two of which consist of sub-indicators. The number of critical points that comprise each indicator varies. The indices and sub-indices are described in Table A2.1.

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64 For example, the along the dimension of “strategic coherence” for the sub-system of HR Planning there are two critical points: (i) “The HR Planning is derived from the priorities of the organization” and (ii) “The HR Planning mechanisms facilitate the flexible adjustment of personnel policies to changes in the strategic priorities of the organization”.

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109
<table>
<thead>
<tr>
<th>Indicator</th>
<th>Sub-indicator</th>
<th>Number of critical points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Efficiency</td>
<td>The degree to which the investment in HR is optimized and coherent with the country’s fiscal policy and labor market situation.</td>
<td>None</td>
</tr>
<tr>
<td>2. Merit</td>
<td>The degree to which the system ensures the use of criteria based on merits that protect the HR policies and practices from arbitrariness, politicization and rent-seeking.</td>
<td>None</td>
</tr>
<tr>
<td>3. Structural consistency</td>
<td>Strategic coherence</td>
<td>The linkages between HR management and the overall government priorities.</td>
</tr>
<tr>
<td></td>
<td>Management consistency</td>
<td>The quality direction of the system, with emphasis on the relationship between central and line functions.</td>
</tr>
<tr>
<td></td>
<td>Consistency of the processes</td>
<td>The degree to which the processes in the different sub-systems are consistent with each other.</td>
</tr>
<tr>
<td>4. Functional capacity</td>
<td>Competence</td>
<td>The extent to which the system ensures the key competences that the public sector needs.</td>
</tr>
<tr>
<td></td>
<td>Motivation for performance</td>
<td>The existence positive incentives that stimulate productivity, learning and quality services.</td>
</tr>
<tr>
<td></td>
<td>Flexibility</td>
<td>The degree to which the system is able to adapt to changes and overcome rigidities and bureaucratic habits.</td>
</tr>
<tr>
<td>5. Capacity to harmonize interests</td>
<td>The extent to which the system is capable of harmonizing the interests of different actors (management, employees, interest groups etc.) and reducing conflicts.</td>
<td>None</td>
</tr>
</tbody>
</table>
ANNEX II. B: A TECHNICAL NOTE ON THE SURVEY OF PUBLIC SERVANTS

The Survey of Public Servants was carried out by the National Statistics Institute (INE) during March and April, 2008, in the Central Government Ministries. The objective of the survey, which was designed in collaboration with the DGSC and the Access to Information Institute (IAIP), was to gather data on a series of variables related to transparency and human resources in the Central Government, including basic characteristics of the staff, human resource management practices, performance incentives and knowledge, attitudes and practices related to the implementation of the Transparency and Access to Information Law.

The population consisted of 22,435 public employees that were identified by the DGSC as being employed under any of the following arrangements: Civil Service (technical staff and support staff), political appointees, managers or contractual staff. The sample was stratified according to these five staff categories and consisted of 794 public employees, a sample size that provided a level of confidence of 95 percent.

<table>
<thead>
<tr>
<th>Strata</th>
<th>Population</th>
<th>Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Support Staff</td>
<td>17,593</td>
<td>629</td>
</tr>
<tr>
<td>2 Technical Staff</td>
<td>3,173</td>
<td>113</td>
</tr>
<tr>
<td>3 Managers</td>
<td>103</td>
<td>4</td>
</tr>
<tr>
<td>4 Political Appointees</td>
<td>281</td>
<td>10</td>
</tr>
<tr>
<td>5 Contractual Staff</td>
<td>1,285</td>
<td>38</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>22,435</strong></td>
<td><strong>794</strong></td>
</tr>
</tbody>
</table>

The Surrey was carried out through interviews and the respondents remain anonymous.
CHAPTER III

JUSTICE AND PUBLIC SECURITY IN HONDURAS

INTRODUCTION

3.1 This chapter explores two, closely-related topics: the strengthening of the “justice sector” as a key element in good governance, and the role this sector plays in improving citizen security. Honduras has undertaken important reforms in both areas since the early 1980s, especially regarding the adoption of legal changes, the creation or expansion of key organizations, and the allocation of additional human, financial, and material resources, including cutting-edge technology.

3.2 The process has not always run smoothly; it has faced opposition and attempts to sidetrack the most fundamental changes, especially those that threatened to reduce the influence of de facto powers and traditional political parties, sometimes with success. Nevertheless, the reforms have provided the sector with a more modern structure, a clearer definition of processes and of the responsibilities of the key institutional actors, and most probably, a higher degree of transparency in its activities. Nonetheless, the impact on outputs

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65 This chapter was prepared by Linn Hammergren (consultant, World Bank) based on a comprehensive report and data collected by Miguel Calix (consultant, AECI), and with the contribution of Ramón Romero (consultant, World Bank). The author is responsible for all conclusions and assessments made, based on the inputs provided by the other two consultants. The team would also like to thank the following people: From the Public Ministry: Attorney Danelia Ferrera, Director of the Public Prosecutor’s Office; Attorney Gina Sierra, Advisor to the Director of the Public Prosecutor’s Office; Attorney Jenny Almendares, Advisor to the Director of the Public Prosecutor’s Office; Attorney Sandra Ponce, Special Prosecutor on Human Rights. From the Judicial Branch: Attorney Carlos Roberto Ortega Medina, Executive Director of CEDIJ; Attorney Fabiola Pineda, Technical Unit for Judicial Branch Reform; Attorney Sandra Ponce, Special Prosecutor on Human Rights. From the Secretariat for Security: Commissioner Francisco Murillo, Director of DGIC; Deputy Commissioner Félix Maldonado, Assistant to General Management; Deputy Commissioner Rafael Girard, Strategic Planning of Preventive Police; Commissioner Mario Leonel Zepeda, Inspector General of the General Director of Special Preventive Services; Inspector Henry Miranda, Assistant to General Management; Mr. Nahum Ortiz, Analyst for the Secretariat for Security.

66 The justice “sector” or “system” is the term currently used to acknowledge that reforms necessarily involve more than the Judicial Branch. It can be defined as the array of institutions involved in the resolution of conflicts through the application of the legal framework, strengthening the latter’s impact on the behavior of private and public actors.

67 Citizen security does not depend only on the sector’s actions. There is still debate over the relative contribution of repressive policies (criminal justice system) and socioeconomic programs to the reduction of crime rates (Wilson, 2004: 546-547). It is likely that both types of policies contribute in particular ways, but that in the short run, criminal justice (police, prosecutors, judges) achieves more concrete results. It is clear that the socioeconomic situation has a strong impact on crime tendencies, but results obtained by investments here take longer and, therefore, do not respond to the popular demand for prompt results.
and system capacity to respond to the growing demand has been slow to take effect and requires more attention. As further elaborated below:

- The productivity of all sector institutions is very low, especially considering the amount of additional resources that have been invested. There are also problems of corruption and non-compliance with legal norms by sector actors, possibly because they do not fully understand the new rules.
- The reforms have not reduced political interference in the sector as manifested in various areas, including in the systems for selecting personnel.
- The sector also suffers from a variety of management weaknesses: an inefficient use of budgetary resources, inadequate monitoring systems and a failure to use what exists (e.g. performance statistics), absence of planning mechanisms, and structures and processes that tend to duplicate efforts and create intra- and inter-institutional conflicts.
- In some cases, more resources will be necessary, but in all of the institutions, much more could be achieved with those already available. If political interference is not reduced and some of the above-mentioned problems are not addressed, substantial performance improvements to human, technological and material resources are unlikely to be achieved by increasing expenditure.

3.3 These four points, summarizing the conclusions from this assessment, are also evident in the attitudes of citizens. In spite of the reforms implemented over the last two decades, Hondurans are still demanding general improvements to the justice system, particularly with regard to security. These demands respond to individual needs (“private goods”) but are essential for national development (“public goods”). A “well-functioning” justice system contributes to advancing the “rule of law,” which in turn is theoretically and empirically linked to greater political stability, democratic development, economic growth, and citizen welfare (Kaufmann et al., 2007; Méndez et al., 1999; The Economist, 2008).

3.4 There is still debate among justice reform experts in the international community, regarding optimum organizational structure of the sector and how to implement it, but they do tend to agree that to perform well the sector needs strong and responsible institutions that combine the following characteristics:

- Adequate resources, personnel selected on the basis of their professional qualifications and paid according to their performance; and structures and procedures designed to facilitate the delivery of the desired products or services;
- Sufficient coordination among the system’s institutions; and
- Minimal political interference in their operations.

3.5 Although the need for institutional independence is mainly associated with the Judicial Branch, it is also a consideration for the other institutions of the sector (police, Public

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68 Qualifying adjectives such as “adequate”, “sufficient”, and “minimal” depend for their real value on political decisions about desired results. If the decision is that all claims submitted to the Judicial Branch be resolved regardless of the time it takes, the value of “adequate resources” is different than that of a decision that sets specific resolution deadlines. If there is a filter (not all claims are accepted), the value is different. The frequent error, it seems, is to place a value (or budget percentage) without specifying results (as a means of calculating resource needs).
Ministry, Public Defender’s Office, Bar, Attorney’s General Office, etc.) who ought to be able to operate according to official procedures and not in response to external interference. In addition, all institutions must be “accountable” to civil society and political leaders. Honduran reforms have aimed at these goals. This chapter considers the extent to which they have achieved their objectives, whether the methodologies used were the most appropriate, the nature of the obstacles that have been confronted, and the likely alternatives for obtaining future progress.

3.6 Since the eighties, the reform objectives and models used by most Latin American countries have been very similar, and considering its starting point, Honduras is considered to have made the most significant progress in the region, with regard to certain areas\(^69\). Still, sector performance remains below the regional average on indicators of productivity, efficiency, citizen approval, perception of corruption, and crime prevention\(^70\). There are numerous explanations for the insufficient progress: the starting point itself (and the number of deficiencies to overcome), technical errors in the design of laws and new structures, budget constraints, the quality and quantity of the personnel recruited by the sector, the low level of coordination among sector institutions, and the power of interested parties both within and outside the sector, whose agendas conflict with the proposed changes.

3.7 In every reform process there are always winners and losers. Potential losers will inevitably seek to reduce the negative impacts of reform by blocking the adoption of new policies, manipulating their content, or hindering their implementation. In Honduras, various initiatives have had their implementation delayed or suspended altogether, despite showing promise at the outset, due to the employment of such tactics. Resistance to specific aspects of a reform does not necessarily imply total opposition, however, where core elements are concerned, the consequences of such resistance can have greater impact.

3.8 This chapter is divided into four sections. The first reviews the reforms carried out since 1980; the second analyzes the performance of the sectors’ core institutions in general terms and as regards their internal development and role in citizen security; the third discusses the obstacles encountered; and the last explores the potential options for overcoming them.

**IMPLEMENTATION OF SECTOR REFORMS: THREE MAIN PHASES**

**The initial situation (early 1980s) and first reforms**

3.9 In the early 1980s, Honduras was emerging from almost two decades of military rule. The state of its justice sector was typical of that of many other Latin American countries, especially its closest neighbors – Guatemala, El Salvador, and Nicaragua (Due Process of Law Foundation, 2007). The sector’s core institutions – which comprised at the time, the Judicial Branch and the security forces – had suffered operational interference during the

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\(^69\) For instance, Honduras approved a modern, mixed type of criminal procedural code in 1984, and has maintained a judicial information system since the eighties. It was not the first or the most advanced country in either of the two areas, but it was ahead of many others in the region.

\(^70\) For comparable data and experiences, see CEJA (2003 and 2005) and Vargas (2005).
military period, and their structure and performance did not conform to the requirements of a democratic system (Méndez, 1999). Their territorial coverage was limited, and their response to the demands of the general public was slow and unsatisfactory, whereas for those with influence, it was extremely fast and biased. Data are lacking on corruption, but there are indications that political influences had a significant impact on the decision-making in the sector (Romero, 2008; 6-8). As in most of Latin America, two lines of reform were emphasized at the beginning of the period:

- Measures to increase judicial independence and ensure equitable treatment of all citizens in addition to expanding the judiciary’s role in controlling abuses of power by other branches of government.
- Measures to direct criminal justice procedures toward the accusatory process, which is considered to be more progressive and better-suited to democratic regimes.

3.10 Moreover, in accordance with regional trends, the selected methodology was essentially legal: constitutional changes (introduced in the 1982 Constitution) to set basic principles, and a series of infra-constitutional laws to put these principles into effect. Some of these laws were approved during the final years of the military regime. Among the most significant are:

- The Judicial Career Law, 1980
- The Criminal Procedures Code, 1984
- Sections of the 1982 Constitution that established the sector’s basic principles and key institutions, such as basic legal rights, the independence of the Judicial Branch, the composition of the Supreme Court, mechanisms for appointing Judges and defining their terms, and the stipulation for a budgetary earmark of three percent for judicial operations.

3.11 Historical documents from the period recorded no resistance to these changes nor any efforts made to alter their content. It is very likely that – just as in neighboring countries – these first steps did not encounter viable opposition, as they were linked to a transition that no one could question openly. However, the impact of the laws also depended on their implementation, and here there were additional setbacks.

3.12 First, in many cases, their real impact depended, on the approval of additional laws and regulations, which either took too long or still have not been approved (new Organic Law of the Judicial Branch, Judicial Council and Judicial Career Law) (Palacios M., 2004). It is not clear whether the delays were intentional or were simply due to disagreements over their contents. The answer probably varies for each law, but what is clear is that the delays impeded the real implementation of many of the planned changes.

3.13 Second, the *de facto* powers (economic groups, the military, traditional political parties) tended to exert their influence to either impede changes or distort their effects. They did this to protect themselves from the likely outcome of a more effective criminal justice process (capable of investigating and prosecuting crimes committed during the

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71 For a discussion on *de facto* powers in Honduras and their impact on other sectors (but not justice), see Centro de Documentación de Honduras (2007). For a discussion on *de facto* or non-institutional powers in judicial reform, see Romero (2008).
authoritarian regime or more recent illegal actions) and a more independent Judicial Branch (less willing to recognize their traditionally-privileged status), and to maintain the power they had customarily exerted over the sector’s actors. Reforms themselves have created new interest groups within the sector, which increasingly fight with each other to retain and advance their privileges and powers.\(^{72}\)

3.14 Third, new political dynamics – based on competition between political parties (and among their internal factions) and a reduction in military power – were transferred to the relationships with sector institutions and within a sector with a more complex organization. Thus, even though the legal framework aimed at depoliticizing personnel appointments, traditional parties and their factions found ways to maintain their influence (Due Process of Law Foundation, 2007; Romero, 2008).

3.15 Finally, changes in the country’s situation and, especially, the remarkable (and apparently inevitable) increase in crime and violence have altered the demands made by the public (A. Cálix, 2006). At first, curbing the abuse of due process rights by government authorities was the major concern, but over time, citizens have placed more emphasis on the need to combat crime. Other, lesser but still significant issues have also shaped demands on the sector, such as increasing complaints about the delay in resolving other types of cases, and the system’s inefficacy with regard to investigating and prosecuting alleged corruption cases.

3.16 Towards the end of the 1980s, reform objectives were therefore modified due to changes in the country’s situation, vested interests, and performance criteria. An assessment (ILANUD, 1987) carried out by Florida International University (FIU) in 1986 and funded by USAID, highlighted problems in the following areas:

- **Access:** This was limited for various reasons, including citizens’ inadequate comprehension of the law, their lack of trust in the system’s actors (judges, police, and public prosecutors), and the cost of using the system. Furthermore, access for lower income groups was limited by the absence of a public defense system.

- **Efficiency:** Two indicators were used: delays and impunity. There was consensus among the individuals surveyed (citizen users and system staff) that “justice is too slow”. However, only 52 percent of judges agreed with this statement while the national average was 90 percent. The system scored a little better on impunity, but still 54 percent of the population believed that little action was taken against criminals.

- **Fairness:** There were doubts about the impartiality of judges. When asked whether they believed judges were subject to external pressures, 82 percent of respondents nationwide answered affirmatively; only judges disagreed.\(^{73}\)

3.17 The study offered several explanations for these problems, most of them common to all sector institutions. They included: the lack of explicit objectives, planning, management, and

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\(^{72}\) For a discussion on the same phenomenon in Brazil and the so-called “intéresses de classe” (a “classe” being a functional group such as prosecutors or one of the many police forces), see World Bank, 2004.

\(^{73}\) At the national level, 92 percent of respondents stated that justice favored the rich over the poor. Among sector actors, only in the case of Supreme Court, appellate, and first instance judges did the majority disagree (ILANUD, 1987; 213)
evaluation in relation to the reforms; scarcity of funds but also the inadequate institutional incapacity to prepare, defend, and manage their budgets; the deficient quantity and quality of personnel in each institution; and shortages of equipment and materials. The study’s conclusions about the Judicial Branch illustrate the seriousness of the problems and the relationship between them: “The Judicial Branch lacks organization manuals, internal regulations and written procedures; therefore, the objectives, goals, purposes, and policies of each of its administrative departments are disregarded. It also lacks an adequate system to implement and evaluate progress in each department, as well as to supervise workload, productivity, and on-the-job performance of judicial staff. Although data are available, they have not been analyzed or used for evaluation and control purposes, but are simply filed” (ILANUD, 1987; 205).

3.18 Four years after the new constitution came into force, and only two years after the new criminal procedural code was implemented, it was to be expected that there would be areas needing more development. However, many of the criticisms coming from this period continue to be relevant 20 years later.

Evolution of reforms and corrective measures (1986-1997)

3.19 During this period, efforts focused on implementing the new legal framework continuing the progress already made with the initial objectives, whilst at the same time taking into consideration the new demands. There were delays and setbacks. For example, it was not until 1993 that the Organic Law of the Public Ministry was approved, allowing the Ministry to assume the role that the 1984 and (later) 2002 criminal procedural codes assigned to it74. The Public Defenders’ Office was established in 1989, but it relied on external financing until 1993. Police reform was not carried out until 1998 although, as mandated by the Organic Law of the Public Ministry, an investigative police (Criminal Investigation Division) was created within the new body. The creation of the “High-level ad hoc Commission for Institutional Reform to ensure security and social calm in Honduras” in March 1993 (Callejas Administration) was important in advancing these reforms along with other proposals (Code of Childhood and Adolescence, Domestic Violence Law) that were approved during the same period (Cálix, 2008).

3.20 A second assessment, once again sponsored by USAID (Rico et al., 1996), revealed significant advances during these years. Among those emphasized in the report were: an increase in the number of judges, prosecutors and public defenders; the use of merit-based, competitive selection methods for the appointment of new judges and public defenders; increases in the judicial budget (which reached 2.4 percent of the national budget in 1996) and in the judicial salaries; a 10 percent increase in judicial output between 1992 and 1995 (and a 27 percent increase in the criminal jurisdiction); and the creation of the General Inspectorate of the Courts and Tribunals in 1991. In addition, a new version of the 1984 code

74 This ministry had existed since 1880 but as a series of different functions performed by various organizations (ILANUD, 1987; 75-89). Prosecutors were part of the Judicial Branch (and were appointed by the Supreme Court); traditionally they did not need a law degree and thus their intervention in criminal proceedings was limited (Orellana, 2002; 11). Once the Procuraduría (Solicitor General’s Office) was created in 1961, prosecutors worked also under its supervision. This office performed other Public Ministry functions, most notably, representing state interests in litigation.
was drafted to complete the transition toward an accusatory system. This second code was presented to Congress in 1996, but was not approved until 2002.

3.21 The assessment identified various problems still requiring attention: the lack of coordination between public prosecutors and police investigators, and between the investigative and the preventive police; the delegating of judicial functions to support staff (a long-standing practice that the new code had not eliminated); failure to observe of many of the due process protections; delays in the processing of cases, and the increase in backlog. Among the main causes it identified were: imperfections and irregularities in the legal framework; delays in the approval of key legislation; the persistence of traditional attitudes and practices (an “inquisitorial mentality”) that were inconsistent with the new principles; insufficient training; and inadequate resources, especially in the Public Ministry.

3.22 The assessment mentioned two factors that in the longer run would lead to further changes. The first was political interference in the selection of Supreme Court justices and in the appointment of other judges. This had already been observed in 1986 when the first assessment noted its impact, not only on the quality of judges, but also on their remarkably short tenures. As the Court’s terms coincided with the Government’s terms of office, each administration appointed new justices, who, in turn, replaced a large number of the lower court judges. Job security was not yet guaranteed, despite being acknowledged by the Judicial Career Law. In addition, political criteria prevailed during the selection of justices, and some politicians interfered overtly in the process (del Cid, 2000; Romero, 2008; 14). On several occasions, they even negotiated a seat in the Court as part of electoral (political) deals and used judicial funds to finance political campaigns. All this had a negative impact on citizens’ confidence in the judges and eventually provoked the decision to make changes in the system.

3.23 The second factor involved the constant complaints about the performance of the police, which remained under the control of the armed forces until 1998. During the eighties and early nineties, repression drastically increased to such an extent that the National Directorate of Investigation (DNI) was eliminated, and the Public Ministry was created to take over criminal investigations (M. Cálix, 2008; Orellana M. 2002.).

The third round of reforms (1998-2008)

3.24 Over the past ten years, three substantial changes were adopted: a new civilian police force was created (the last step in a process that began in the previous period); a new criminal procedural code was approved and put into effect (also a result of the previous administration’s efforts); and constitutional amendments were enacted to modify the structure, method of appointment and some of the responsibilities of the Supreme Court (Palacios M., 2007; Romero, 2008). These three measures aimed to correct a number of weaknesses – which were considered as serious by reformers – in the legal framework and the structures it created, either when they were initially conceived or upon their implementation.

3.25 It is important to note that although these were the most critical changes made during this period, they were not the only ones. Reformers created a longer list, of mostly legal changes, intended to eliminate contradictions in the legal framework and provide institutions with the means to fulfill their mandates. Many of them are still pending.
3.26 The creation of a civilian police and a supervisory ministry (Secretariat for Public Security) to replace the armed forces in its supervision, had been delayed since the 1980s due to the opposition from various groups (the military, certain politicians, and the economic elite) that were either afraid of losing their traditional influence or simply believed that a civilian force would be less efficient in controlling crime. The process began with the creation of the Public Ministry and its incorporation of the investigative police. However, the final step in 1998 transferred the Ministry’s investigators to the civilian force. In fact, this was not unreasonable. Most international experts agree on the benefits of combining preventive and investigative police forces within the same organization. Nonetheless, there are indications that the decision was not based on this rationale, but was intended to punish the Public Ministry for carrying out investigations of a sensitive nature. Critics (Portillo, 2008) also note that the transfer ended some of the special training provided to the investigators by the Public Ministry, blaming this and the lack of other support, for the increasing backlog of cases pending investigation.

3.27 In subsequent years, the budget of the Secretary of Public Security and, consequently, of the police, was increased to allow for the recruitment of more officers. This was a response to public concerns about rising crime rates. The police-to-population ratio continues to be low, but it has improved substantially. Accelerating its growth might have resulted in other problems (for instance, the recruitment of officers without adequate qualifications, training, and appropriate supervision mechanisms, although even the incremental strategy has left gaps in these areas). Eventually, the traffic police were incorporated into the civilian force, as a National Directorate (on the same level as the other General Directorates). Donors, especially the Spanish assistance agency, have contributed with the provision of technical assistance, training, and equipment in an effort to build capacity, particularly among investigators.

3.28 The approval and entry into force of the new Crime Procedural Code was a reform that had been pending since the early 1990s. The main impetus behind it came from a regional movement (Hammargren, 2007 and 2008; Langer, 2007; Llobet, 1995) promoting complete transition to a fully “accusatory” system. Despite considerable national opposition, the regional example and donor support (mainly USAID) and financing pushed it forward.

3.29 Local reformers had deemed the 1984 Code insufficient; they characterized it as a mixed model that preserved many inquisitorial details (Palacios, M. 2004). An examination of the legal arguments goes beyond the present topic, but the principal changes were: the elimination of the juez de instruccion – the judge formerly in charge of the investigative phase; the strengthening of the public prosecutor’s role in supervising police investigation; apparently, there is no interest in improving the investigation of political corruption cases.

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75 Apparently, there is no interest in improving the investigation of political corruption cases.
76 Various publications address these aspects in Honduras (Palacios Mejía, 2004) and worldwide (Langer, 2001, 2004, 2007; Hammargren, 2007 and 2008). Recently, analysts have realized that the inquisitorial-accusatory distinction is used in several ways (Illuminati, 2005; Langer, 2001), and that its influence in decision-making has been largely rhetorical – practices described as “accusatory” are adopted whether they belong to the accusatory tradition or not. Preexisting systems in many countries did not work because they were “inquisitorial” but because of institutional and political problems. Current systems do not respond to a single paradigm and are strongly influenced by old mental models. Moreover, traditional institutional and political factors continue to be the major obstacle to achieving desired improvements.
and carrying the case to trial; the elimination of a written dossier to inform of the deliberations of trial judges; and the creation of two categories of first instance judges – the trial judges (usually sitting in panels of three) and the supervisory judges (responsible for making decisions on pre-trial matters, including the authorization of searches and arrest, arraignments, preventive detention, and indictments, as well as conducting summary proceedings, and applying other alternative mechanisms included in the new code).

3.30 The implementation of a new procedural system implied modifying the internal structure of the Public Prosecutor’s Office and the Judicial Branch and recruiting additional personnel. The effect is most obvious in the Judicial Branch, which doubled the number of judges (see Table 3.1) in order to separate their functions. In addition to justices of peace and first instance (supervisory) judges, it now has trial and enforcement judges. It is possible that the increase in personnel has been excessive, since the productivity of judges (as well as of prosecutors and police officers) seems to have decreased substantially as has overall judicial output (see Table 3.5). As an Italian expert said in reference to changes in his country: the accusatory process aims to be fairer but it also must also be efficient (Iluminati, 2005). This issue is discussed further below.

3.31 The process of constitutional amendment began in the 1980s. It gained momentum in 1999 thanks to a dialogue held between the National Congress and civil society organizations, which “encouraged various national networks to establish the National Legislative Convergence, which was the precursor to the Coalition for the Strengthening of Justice” (Romero, 2008). The Convergence’s objectives included: “1) to prepare a shared agenda that, from the civil society perspective, would present legislative proposals; and, 2) to establish a formal body to serve as a liaison between congress and civil society” (Romero, 2008; 7).

3.32 Subsequently, the National Commissioner on Human Rights, Leo Valladares, prepared a special report in which he highlighted the importance of increasing judicial independence due to the “critical duties they [judges] perform” (Romero, 2008). As a result, President Carlos Flores appointed a “Commission of Notables” in May 2000 to explore the need to broaden judicial reform. “There was a clear consensus among wide sectors of civil society on the urgent need for judicial reform to advance the democratization process and strengthen the rule of law” (Romero, 2008).

3.33 The Coalition for the Strengthening of Justice was driving force behind the process. “It comprised the Federation of Private Development Organizations in Honduras (FOPRIDEH), the Association of Honduran Municipalities (AMHON), the Honduran Private Enterprise Council (COHEP), the National Commission on Human Rights (CONADEH), the Investment and Export Promotion Foundation (FIDE), and the Episcopal Conference; subsequently, the Human Rights Research and Promotion Centre (CIPRODEH) and the National Anti-Corruption Council (CNA) were included. Its main purpose was to pave the way for judicial reform, which was aligned with the attention that international donors in the sector, particularly USAID, were giving to the issue” (Romero, 2008, 11).

3.34 According to Romero (2008; 12), the context was favorable for the coalition (it was during the period following Hurricane Mitch, and had the backing of the donor community). His analysis of the interests of the member organizations suggests that the common objective linking their diverse approaches was advancing legal security – that is, achieving a level of
consistency in the application of the law by impartial judges. This paved the way for a constitutional reform aimed at strengthening the independence and powers of the judiciary through:

- Changes in the mechanisms for selecting Supreme Court justices – through the creation of a Nominating Board responsible for submitting a list of potential candidates to congress, based on the nominations made by the Board’s members.
- An extension of the terms of office of Supreme Court judges (from four to seven years) so that the terms would not coincide with those of the government.
- An increase in the number of Supreme Court justices (from nine to 15)
- The creation of a Constitutional Chamber within the Supreme Court
- The creation of the Judicial Council
- Direct submission of the Supreme Court’s budget proposal to congress
- The concession of responsibility, regarding the establishment of territorial jurisdictions, and the creation, elimination, and merger or relocation of courts, to the Supreme Court.

3.35 The constitutional reform was approved through Legislative Decree No. 262/2000 (December 22) and ratified through Decree No. 38/2001. The Law on the Nominating Board was approved in November 2001, and came into effect in January 2002 with the election of new Supreme Court justices for the 2002-2009 period. Nevertheless, despite the fact that the reform was a critical step forward in this regard, it was not able to eliminate political interference. The selection of both the members of the Nominating Board and the Supreme Court justices became politicized, and the new justices all have allegiance to one party or the other.

3.36 Just as before, the governing party obtained the majority of seats (i.e. eight) on the Supreme Court, whereas the opposition obtained seven. Board members even sabotaged the move to prohibit the nomination of representatives from their own organizations, through internal agreements (one member nominated a representative of another member’s organization). As explained by Romero (2008; 31), “the majority of members in the Nominating Board (representatives of the Supreme Court of Justice, the Bar Association, the Commission on Human Rights, Honduran Private Enterprise Council, law professors, civil society organizations, and workers’ confederations) are influenced by the traditional political parties. Traditional political parties promote previously selected individuals in alliance with Board members and, of course, the same parties ultimately make the final appointments in the congress”.

3.37 Consequently, the three main lines of reform in the last period were problematic from the outset. Constitutional reform was perhaps the worst-affected of these, since its overall impact depended on depoliticization, which did not transpire. Nevertheless, extending the tenure of justices may bring about some changes, as there is the potential for the court to remain in place after the party which (for the most part) was responsible for its selection, is no longer in power, thereby removing the risk of automatic support for government programs.

77 According to EMIH and IRSTD (2007; 30), until then, National Congress performed a number of these functions.
CURRENT SITUATION AND NEW CHALLENGES

3.38 As a result of the reforms, Honduras has established basic structures and rules to improve the situation in two key areas: institutional development (linked to an increase in independence) and citizen security. However, citizens continue to complain about poor performance throughout the sector. It is one thing to create new institutions and another, to guarantee that they function well; it is here where challenges remain. When institutions are examined separately, the gap becomes more evident. What follows is an assessment of the reform efforts and the main challenges faced by the key institutions in the judiciary chain: the Judicial Branch, the Public Defense, the Public Prossecutor’s Office and the Police.

Judicial Branch

3.39 The judiciary more than any other institution has benefited materially from the reforms. Thanks to a budget now guaranteed by constitutional mandate, as well as the funds from various donors, the judiciary has been able not only to increase the number of judges and auxiliary staff, but also to raise their salaries, carry out a construction program, install automated equipment, expand the training program, add new offices, and introduce innovations like mobile courts and an automated fingerprint registry to strengthen parole administration. Furthermore, in alliance with the police and Public Ministry, it is implementing a new case management system that will track case processing from initial complaint to final disposition, and will later be expanded to include sentence execution as well. All of these innovations are in the experimental stage, but there is a good chance they will be extended nationwide. In brief, the Judicial Branch stands out as the most technologically-advanced institution in the Honduras justice sector, and is among the most open to new technologies in the region.

In terms of human and physical resources, the situation has significantly improved since the eighties (see Table 3.1).

3.40 The ratio of judges to 100,000 inhabitants has remained stable since 1986 and always above the regional average (8.1 in 2005, CEJA, 2005; see Annex III for more country statistics on the justice sector). However, workload and performance indicators have remained low. It is important to recognize that Honduras is one of the few countries in the region with data available since the eighties, which facilitates this type of analysis. However, there are concerns about their reliability and their use within the Judicial Branch. Nonetheless the availability of the data is remarkable and has allowed an analysis that would be impossible in many other countries.

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78 This section is based on information collected by Miguel Cálix (2008) and, in some cases, incorporates his text verbatim.
Table 3.1. Number of Judges in 1986 and 2008

<table>
<thead>
<tr>
<th>Type of Court/Judge</th>
<th>1986</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supreme Court</td>
<td>9</td>
<td>15</td>
</tr>
<tr>
<td>Court of Appeals</td>
<td>24</td>
<td>33</td>
</tr>
<tr>
<td>Specialized Trial Judges (criminal only)</td>
<td>N.A.</td>
<td>70</td>
</tr>
<tr>
<td>Enforcement Judges (criminal only)</td>
<td>N.A.</td>
<td>30</td>
</tr>
<tr>
<td>General Jurisdiction First Instance Judges (civil matters and pre-trial criminal issues)</td>
<td>28</td>
<td>163</td>
</tr>
<tr>
<td>Specialized First Instance Judges (civil matters and pre-trial criminal issues)</td>
<td>21</td>
<td>127</td>
</tr>
<tr>
<td>Justices of the Peace</td>
<td>317</td>
<td>330</td>
</tr>
<tr>
<td>TOTAL</td>
<td>399</td>
<td>768</td>
</tr>
<tr>
<td>Number per 100,000 inhabitants</td>
<td>10.5</td>
<td>10.6</td>
</tr>
</tbody>
</table>

Source: ILANUD (1987; 140) and Judicial Branch, 2008.

3.41 According to the ILANUD report, 48,248 cases were filed in 1985 in first instance and peace courts, with an average of 132 annual cases per judge (ILANUD, 1987). Distribution was unequal; the 317 justices of the peace each received an average of 11 cases annually, whereas the 49 first instance judges each received an average of 912. The justices of the peace, despite their modest workload, resolved only half\(^{80}\), whereas first instance judges resolved almost a third (295 per judge). Since then, the demand has increased but not as rapidly as the supply (number of judges). As a result, in 2006, the average annual incoming workload per year reached 115 new filings for sentencing, first instance and peace judges in 2006, as calculated on the basis of 80,613 new cases in all subject-matters\(^{81}\).

\(^{79}\) Given the several procedural changes, categories have been modified. The criminal procedural code required the introduction of three categories of judges: “first instance” (retaining the old title but now only handling pre-trial matters), “sentencing” (for oral trials) and “enforcement” (for supervising sentence execution). However, the data provided by the Supreme Court divide first instance courts into two additional categories: “coordinators” (main judge of a first instance court) and “supernumerary officials” (remaining judges in a court). It is worth mentioning that there are substantial disparities between official data provided by the Supreme Court and other sources. We have particular concerns regarding the figure of 30 enforcement judges (another source indicated 80 and CEJA, 2007, indicated 13, based on its own calculations using information posted on the Supreme Court’s website).

\(^{80}\) As it is impossible to identify the year of entry for outgoing cases, it cannot be assumed that half of the new incoming cases were resolved; it is very likely that a large number were from previous years. However, the ratio of outgoing/incoming cases is the most common efficiency indicator and serves as a proxy to determine delay. Some of the Judicial Branch data try to determine the entry year of outgoing cases, but are incomplete (they cover 10 out of the 12 months and only first instance judges) and, thus are not suitable for this purpose.

\(^{81}\) Even though sentencing judges work in panels of three, calculations are based on the total number of judges – as this is an efficiency indicator, organization does not matter. Calculations do not include executing judges as they only work in criminal matters. New criminal proceedings require the involvement of a larger number of judges to reach sentence in first instance courts. This specialization was not done according to the efficiency principle but to avoid conflicts of interest (which are not recognized as such by Anglo-Saxon tradition). Iluminati’s (2005) observation is particularly relevant at this point as proceedings must also be efficient. If in the past, only one judge was required to complete a proceeding in first instance courts, whereas now five are, then the five judges’ shared output must be equivalent to the output of five individual judges in the previous scheme.
There are more detailed available data on the output and productivity of judges for 2006. The annual case dispositions (judgments or other definitive resolutions) range between 12 and 348 depending on the jurisdiction. These numbers are very low and indicate, *inter alia*, that productivity (cases resolved per judge) has substantially decreased in the last twenty years. Clearance rates (incoming/outgoing cases) show some improvement but only because the workload of judges has decreased (see Table 3.2).

### Table 3.2. Productivity of first instance and peace judges by category in general matters, 2006

<table>
<thead>
<tr>
<th>Type of Judge</th>
<th>No. of judges</th>
<th>Total monthly incoming cases</th>
<th>Monthly incoming cases per judge</th>
<th>Total monthly outgoing cases</th>
<th>Monthly outgoing cases per judge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Specialized in Criminal Matters</td>
<td>48</td>
<td>227</td>
<td>5</td>
<td>112</td>
<td>2.3</td>
</tr>
<tr>
<td>Specialized in Civil Matters</td>
<td>20</td>
<td>493</td>
<td>20</td>
<td>149</td>
<td>7</td>
</tr>
<tr>
<td>Specialized in Civil Non-contentious Matters</td>
<td>5</td>
<td>235</td>
<td>47</td>
<td>176</td>
<td>35</td>
</tr>
<tr>
<td>Specialized in Labor Matters</td>
<td>10</td>
<td>194</td>
<td>19</td>
<td>134</td>
<td>13</td>
</tr>
<tr>
<td>Specialized in Juvenile Matters</td>
<td>19</td>
<td>305</td>
<td>16</td>
<td>221</td>
<td>12</td>
</tr>
<tr>
<td>Specialized in Family Matters</td>
<td>12</td>
<td>678</td>
<td>57</td>
<td>293</td>
<td>24</td>
</tr>
<tr>
<td>Specialized in Contentious Administrative Matters</td>
<td>4</td>
<td>70</td>
<td>18</td>
<td>26</td>
<td>7</td>
</tr>
<tr>
<td>Specialized in Landlord-Tenant Matters</td>
<td>3</td>
<td>28</td>
<td>9</td>
<td>35</td>
<td>12</td>
</tr>
<tr>
<td>Specialized in Domestic Violence Matters</td>
<td>4</td>
<td>492</td>
<td>123</td>
<td>117</td>
<td>29</td>
</tr>
<tr>
<td>Specialized in Fiscal Matters</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Courts of Mixed Jurisdiction</td>
<td>163</td>
<td>1,882</td>
<td>12</td>
<td>1,042</td>
<td>6</td>
</tr>
<tr>
<td>Justices of the Peace</td>
<td>330</td>
<td>2,031</td>
<td>6</td>
<td>1,151</td>
<td>3</td>
</tr>
</tbody>
</table>

*Source: Judicial Branch, Centro Electrónico de Documentación e Información Judicial, 2008.*

As seems true universally, the most productive judges are those handling family and domestic violence issues. This may be because they tend to deal with less complex issues, but experience suggests these types of judges often work more. The relatively high productivity of judges specializing in civil non-contentious matters is less significant, since they are responsible for registering legal documents (e.g. wills) that could be done through public notaries, but they charge a fee. What is noteworthy, however, is that despite increases in the numbers of judges handling criminal matters – mixed-jurisdiction judges, first instance

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82 Monthly output was estimated based on 12-month-years although statistics on the Memorias published only refer to 10 months. However, as the Supreme Court provided those figures in response to our request, those are deemed official.

83 This figure does not include sentences issued according to the former criminal procedural code. CEDJ provided data on cases processed under the new code. According to calculations based on the Memorias 2006, if cases processed under the old code are considered, monthly output per judge reaches 6.3 cases. As these judges, as well as judges of mixed jurisdiction and justices of the peace also handle the preliminary stages of cases that will be resolved in sentencing courts, there may an additional problem regarding data on caseload – this part may not be included. The source does not indicate if outgoing cases include resolved cases at this stage or only those resolved in trial.
judges, trial judges, and enforcement judges – their productivity is among the lowest (see Table 3).

3.44 Of course in the criminal area, productivity depends on various factors beyond the control of judges. For example, if demand is low, it does not allow for high levels of output. Output is also affected by delays in the investigation process and dilatory tactics used by the parties concerned (which have a negative impact on the other jurisdictions as well). In addition, first instance judges and justices of the peace (the latter are not included in the Table 3.3) are responsible for conducting hearings during investigations and are in charge of summary proceedings, conciliations, and other alternative forms of case resolution.

Table 3.3. Productivity of trial, first instance, and mixed-jurisdiction judges in criminal proceedings, 2006

<table>
<thead>
<tr>
<th>Type of Judge</th>
<th>No. of judges</th>
<th>Monthly incoming cases</th>
<th>Monthly incoming cases per judge</th>
<th>Monthly dispositions 85</th>
<th>Monthly dispositions per judge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trial Judges</td>
<td>60</td>
<td>182</td>
<td>3</td>
<td>106</td>
<td>2</td>
</tr>
<tr>
<td>Specialized First Instance Judges</td>
<td>48</td>
<td>227</td>
<td>5</td>
<td>303</td>
<td>6.3</td>
</tr>
<tr>
<td>Mixed Jurisdiction First Instance Judges</td>
<td>163</td>
<td>505</td>
<td>3.1</td>
<td>287</td>
<td>1.8</td>
</tr>
</tbody>
</table>

Source: Supreme Court Memoria 2006 except for incoming cases for trial judges (CEDIJ; Justices of the peace are not included since available data do not distinguish among the different types of proceedings they handle.

3.45 Judges of mixed-jurisdiction courts are not limited to criminal proceedings, so the above figures only represent part of their workload and output. However, with such low demand, even including cases pending from previous years, it is hard to understand why judges, whether in criminal or other areas, cannot keep up with their work. Two recent evaluations (Vargas, 2005 and Tijerino, 2007) highlighted the small number of hearings carried out in trial courts, and indicated that this consists of less than one per day.

3.46 For comparative purposes, Table 3.4 below shows some figures for other Latin American countries, and for some European nations and the United States. Differences exist due to many factors, for instance the use of filters (to dismiss cases for inadmissibility or to transfer them to alternative forums); powers assigned to other judicial (e.g. prosecutors) and extrajudicial officers (the French *hussier* 86) to handle conflicts without the involvement of a judge; complexity of proceedings; and in countries like the United States, a tendency to promote extrajudicial negotiation (settlement), which means that a majority of cases do not go to trial. However, it is worth mentioning that Honduras has a low litigation rate, does not use filters, and most incoming cases are fairly simple. We have not included data on

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84 According to judicial sources, 29 justices of the peace handle criminal proceedings. They are not included in the Table as there is no information on their performance.

85 Except for trial judges, this figure includes cases from previous years processed under the old code. The majority of these dispositions are dismissals, many of them because the statute of limitations has expired.

86 The *hussier* can order debt repayment based on an executive title that does not need to be validated by a judge – if the debtor does not protest. This, or the issuance of a payment order by a judge (with no further action), substantially reduces the use of courts for “enforcement trials,” as these proceedings are known in Latin America.
dispositions for the remaining countries as they are not comparable. In any event, available data indicate that in most of them, clearance rates (disposed/incoming cases) stand at 90 percent or above (Ecuador is an exception). Admittedly, any rate below 100 percent represents a problem, especially if the backlog from previous years is high. Thus, all countries are seeking ways either to reduce demand or increase efficiency.

Table 3.4. Judicial workload – selected countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Incoming cases per 100,000 inhabitants</th>
<th>Judges per 100,000 inhabitants</th>
<th>Incoming cases per judge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Honduras (2006)</td>
<td>1,089</td>
<td>10.1</td>
<td>108</td>
</tr>
<tr>
<td>Ecuador (2006)</td>
<td>1,802</td>
<td>6.7</td>
<td>269</td>
</tr>
<tr>
<td>El Salvador (2006)</td>
<td>2,375</td>
<td>9.2</td>
<td>258</td>
</tr>
<tr>
<td>Colombia (2006)</td>
<td>2,893</td>
<td>10.2</td>
<td>283</td>
</tr>
<tr>
<td>Peru (2006)</td>
<td>3,919</td>
<td>7.7</td>
<td>509</td>
</tr>
<tr>
<td>Argentina (2004)</td>
<td>10,225</td>
<td>11</td>
<td>930</td>
</tr>
<tr>
<td>Brazil (2004) (1)</td>
<td>8,568</td>
<td>5.7</td>
<td>1503</td>
</tr>
<tr>
<td>Chile (2004)</td>
<td>12,305</td>
<td>5.0</td>
<td>2461</td>
</tr>
<tr>
<td>Costa Rica (2004)</td>
<td>22,911</td>
<td>17.4</td>
<td>1316</td>
</tr>
<tr>
<td>The Netherlands (2004)</td>
<td>7,224</td>
<td>12.3</td>
<td>587</td>
</tr>
<tr>
<td>Italy (2004)</td>
<td>8,611</td>
<td>10.4</td>
<td>828</td>
</tr>
<tr>
<td>Germany (2004)</td>
<td>7,151</td>
<td>24.7</td>
<td>289</td>
</tr>
<tr>
<td>Spain (2004)</td>
<td>14,000</td>
<td>9.8</td>
<td>1428</td>
</tr>
<tr>
<td>USA (2004)</td>
<td>33,848</td>
<td>10.2</td>
<td>3351</td>
</tr>
</tbody>
</table>

Sources: Unidos por la Justicia, 2006 (Latin America and USA), CEPEJ, 2006 (Europe) and official country data (Colombia, Ecuador, El Salvador, Honduras, and Peru). (1) federal, labor and state courts – does not include military or electoral jurisdictions or small claims courts.

3.47 Based on the statistics cited it can be concluded that: i) the Honduran overall average of incoming cases per judge is well below regional and international levels, and even below the country’s own levels 20 years ago; ii) although there are relatively few new filings in Honduras, productivity is very poor in almost all jurisdictions and, even the performance of the most productive ones is barely satisfactory; and iii) as neither delays nor the low clearance rate can be explained by the amount of workload (or its content), additional research will be needed to identify the causes. Part of the problem could be the result of an extremely uneven distribution of workload among judges and jurisdictions. Although available data do not allow this conclusion, the uneven workload may be a by-product of policies aimed at expanding access (thereby relocating judges to places where demand is low).

87 After 2004, the litigation rate and number of cases per judge decreased by half as transit cases were transferred to administrative forums.

88 The judges’ typical response (or prosecutors’ or defendants’) to this type of comparison is that they handle very complex cases. However, a content analysis of the incoming (and outgoing) cases demonstrates that most are fairly simple (debt collection, minor offenses and criminal actions based on in flagrante arrests, etc.)
3.48 This basic analysis of the demand for, and supply of, judicial services reveals the problematic situation of the Honduras Judicial Branch even after 20 years of reform and substantial investments. In addition to general inefficiency and in the criminal area in particular, there are important concerns about more qualitative elements: transparency, politicization, corruption, and access. With regard to the first three elements, it would appear from experience and supporting evidence (Due Process of Law Foundation, 2007; Cálix, 2008; Romero, 2008; USAID, 2007) that despite the recent reforms, political interference has not ceased, which increases the likelihood of corruption, hampers transparency, and may also reduce access not only to courts but to justice in general.

3.49 It should be stressed that there is only conclusive evidence with regards to politicization, and that claims regarding problems in the other areas are less substantiated. Nonetheless, when the judiciary has strong and visible political links, it loses much of its credibility and legitimacy, and this is indeed worrisome.

3.50 Thus, Honduras’ court system displays an interesting paradox: a substantial increase in funding has allowed for significant improvements, such as: increases in the number of judges and the expansion of service delivery to more regions of the country; improvements in court facilities and salaries; adoption of cutting-edge technology and the introduction of impressive innovations. However, indicators of the quantity and quality of service delivery to the public remain low, mainly due to the persistence of traditional practices. Although this pattern is common to many countries, it is perhaps extreme in Honduras. There are two explanations for this situation: the persistence of political interference in the appointment of key personnel and internal operations and, perhaps as a result, the lack of attention paid to the following series of institutional reforms that experts have been recommending for the past 20 years:

- **The adoption of statistical information systems to facilitate the monitoring of procedures and the evaluation of judges’ performance:** The new SEDI system may be successful in achieving this, but it has only been installed recently, as a pilot, and it only comprises cases that have been filed recently in Tegucigalpa’s and San Pedro Sula’s criminal courts.

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89 For examples of fairly questionable decisions that involve economic and political elites see Romero (2008) and Due Process of Law Foundation (2007). Evidence as to the level of corruption in cases which do not interest powerful groups is less systematic, but for a brief discussion, see USAID (2007).

90 See M. Cálix (2008; 63-66) for a complete list of innovative programs; see Romero (2008) for a summary of judicial reform efforts, characterizing them as “focused organizational, technical, and administrative aspects, related to modernization,” and concluding that “these measures have barely contributed to strengthening judicial independence in respect to other branches of government.”
It is not clear whether SEDI is already being used to monitor and detect problems. The Judicial Branch currently uses statistical data from other automated and manual systems, but even Court officials have expressed concerns about their reliability. Available data have been mostly used in the publication of annual reports, however, it is hard to interpret published data since they only cover the period from January to October of each year and do not provide much detail about the justices of the peace.

- **The depoliticization of the appointment of Supreme Court justices**: This was attempted through the 1982 Constitution and when this was not sufficient, with the 2001-2002 reforms. Nevertheless, these reforms were not successful in reducing the traditional political parties’ influence or the resulting identification of each justice with one party or the other. Before the reforms, the division by party identification was five to four; now it is eight to seven (Romero, 2008). The recently-created multi-sector Nominating Board did not succeed in reducing political interference since, according to observers, the Board itself became politicized (Due Process of Law Foundation, 2007; Romero, 28-32).

- **The complete implementation of the judicial career**: This implied the appointment of all new judges through a merit-based competitive process supervised by the Judicial Council, pursuant to the law. Although the Judicial Council was created, it is ineffectual. The justices delegated all their appointment powers to the Supreme Court President in 2002. The most recent judicial appointments have included competitive examinations, but the impression remains that the final selections ignore the resulting rankings, and that transfer and promotion decisions are based on other criteria (Romero, 2008; 32-34; López Lone, 2007; 17-18). Although Supreme Court justices and appeals judges are included in the law, they remain effectively outside of the judicial career.

- **The creation of a career for auxiliary and administrative staff and their selection, promotion, and transfer according to merit criteria and institutional needs**: Up to now, no inventory or classification of positions has been done, and as with the selection of judges, the recruitment of all other staff was delegated to the Supreme Court Chief Justice in 2002.

- **The development of an effective and transparent internal control system (Inspectorate of the Courts)**: The system is operating but many of those interviewed complained about its poor performance (Romero, 2008) and its dependence on the Supreme Court Chief Justice.

- **An administrative reorganization positioning the Administrative Director as head of the whole apparatus and the unique liaison with the governance body** (currently, the

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91 SEDI is one of the first attempts, perhaps in the world, to track proceedings from the filing of a complaint through the criminal chain, up to (eventually) the penitentiary system. Its future implementation in other areas will be easy, as these are centered in courts. Even in its rudimentary form, the system has faced numerous problems and strong resistance. It is slow, training seems insufficient, and assistance to those who enter the data is limited. For instance, in Tegucigalpa’s integrated reception centre, technical support staff is only present during the day although the centre operates 24 hours. There may be some conceptual shortcomings as well, for instance, the use of a single ID number from the moment the claim is filed, given that claims can generate several judicial cases (multiple authors or multiple offenses). The firm that is developing the system has designed similar systems in Mexico, but has never linked such a large number of institutions (and or included the police). The idea is excellent, but its implementation seems more complicated than expected. During the interviews conducted, some respondents (a minority) said they liked SEDI, but even they pointed out a series of problems.
Supreme Court). The Director would also be responsible for day-to-day decision-making: As in the rest of the region, in spite of continual complaints (even from sitting justices) about the Supreme Court’s heavy administrative workload, the Court’s members have been reluctant to delegate these tasks to administrative staff. This concentrates power in the Supreme Court and its Chief Justice, but fragments the administrative apparatus, as the Administrative Director acts only as the head of one department. It is worth mentioning that some local reformers believe these problems could be solved with a new Judicial Career and Judicial Council Law transferring the Supreme Court’s administrative oversight to the Judicial Council. There seems to be a misunderstanding here. The Council would replace the Supreme Court as the judicial governance body, but regardless of which institution fulfills this role, the key issue is creating an administrative structure capable of carrying out day-to-day “housekeeping” tasks.

3.51 When confronted by external (and internal) critics, supporters of the current system usually point out its consistency with Honduran “values”. Whether or not this is true, it is important to differentiate positive values, from those responsible for decades – if not centuries – of poor results. Unless the latter are changed, it will be very difficult to advance further in realizing the objectives of the past 20 years of reform.

Public Defense

3.52 Even though the right to defense was guaranteed by the 1982 Constitution and a public defenders’ office figured in both criminal procedural codes, the institution was not established until 1989, financed initially by USAID. In 1993, it became part of the Judicial Branch. Since then, the number of public defenders has increased, currently reaching 239 nationwide.

3.53 More than half of the defenders (127) perform their duties in Tegucigalpa and San Pedro Sula. This figure is not bad in itself, but their caseload is very light with an annual national average of 25 new filings per defender, dropping to 15-20 in the two main cities. Attorneys working in countryside receive an average of 30-40 new cases each year. This distribution seems inefficient given that the defenders in the provinces cover broader territories. One possible explanation is the influence of political commitments (providing jobs where people want to work). In any event, the appointment and location of public defenders is decided not by the program director, but by the Supreme Court (now the Chief Justice). The defenders’ workload comprises not only incoming cases but the backlog from previous years. However, this is generally the case and thus does not represent an unusual obstacle to productivity.

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92 It should be noted that in the region and among the first European countries to adopt them (France, Spain, Italy and Portugal), judicial councils have not been very successful, especially in overseeing judicial administration (Hammergren, 2002). Hondurans are apparently unaware of the regional debates about the councils’ shortcomings. There are more interesting models in Europe, among Nordic countries, but they are barely known in Latin America.

93 See M. Cálix, (2008) with data from the Program’s Director.

94 It is true that delays caused by other institutions, especially during the investigative phase, may increase the defenders’ backlog, but these cases “on hold” do not require much of their attention.
3.54 The program has other weaknesses (Cálix, 2008). There is no career system for defenders; there are no grades or salary scales, and it is assumed that defenders will be “promoted to judgeships” and their selection is not very transparent. According to the Program Director, there are insufficient vehicles and funds to transport staff to prisons and criminal courts, so defenders must use their own cars. As a dependency of the Judicial Branch, the office lacks administrative and budgetary autonomy. It also lacks an appropriate database for performance oversight and monitoring, and there are major inconsistencies between data provided by individual defenders and the consolidated reports sent by Regional Directors. There are also complaints about the insufficient training offered (through the Judicial School).

3.55 The continual complaints from all institutions about insufficient resources should be received with caution. However, in the case of the Public Defense office, the lack of operational funds may be a real problem. Staffing seems to be adequate, even if the distribution could be improved, but the low output is inexplicable (as is the proposal to broaden their responsibilities to civil and labor cases). Arguably, the program’s director lacks the power necessary to motivate staff. There may also be a lack of strategic vision – clearly, the extremely low productivity should be addressed before expanding coverage to other types of cases. It is worth recognizing that only a few countries in the world are able to provide free legal services beyond the criminal area.

3.56 In short, there is no paradox in Public Defense. Services are badly structured and the institution seems to lack the power to allocate them where they are needed. Political interference is again one of the main causes, although in this case the desire to manipulate outcomes seems less important than the desire to control sources of employment. The sector’s output is among the lowest in the region, and the quality of services provided has also been questioned. However, raising current levels of output (at least fourfold) is arguably the most immediate priority.

Public Ministry (Public Prosecutor’s Office)

3.57 The Public Ministry was established, in its present form, in response to complaints about police abuse. It was included in the 1982 Constitution (Article 316, and in a similar way in previous constitutions) and also in the 1984 Procedural Code, but only in 1993 did it emerge as an independent body with its own investigators (the then Criminal Investigation Division, DIC). When the new civilian police force was established, the DIC was transferred to it, its name was changed (to General Division of Criminal Investigation, DGIC), and it soon lost most of its original staff.

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95 However, this is also the case of Public Defense in Costa Rica, which is widely regarded as an exemplary model. This is explained partly by the fact that the Costa Rica Supreme Court is careful not to interfere with its operations.
96 According to one local observer (Portillo, 2008), the defenders’ expectation that they will be promoted quickly to the judiciary, also reduces their incentives and, moreover, accounts for a high level of turnover in their ranks.
97 None of these references acknowledged it as an independent entity, thus many reviewers have disagreed with this sentence. Also, the 2000 constitutional reform removed it from Article 316.
3.58 Local experts (Orellana, 2002) assert that during its early years (1993-2000) the Public Ministry’s performance was significantly better than it is at present, partly because of the presence of the investigators but mostly due to the staff it attracted and the mystique of the new organization. Nevertheless, its relationship with the police and political elites was tense because the ministry chose to investigate some fairly sensitive subjects. In 1998, many of the investigators lost their jobs with the DIC’s transfer to the civilian police. Local critics also contend that senior management appointments in the ministry have become increasingly political, reaching a crisis in 2004-2005, when the Prosecutor General and the Deputy Prosecutor General had to be removed from office for abuse of power (Due Process of Law Foundation, 2007; 313-315; M. Cálix, 2008). The selection of their replacements was negotiated among the political parties, and according to various observers, was illegal because as members of congress, they were prohibited from taking these positions.

3.59 The Association of Prosecutors has filed a series of public complaints protesting these practices and an alleged tendency to disregard the prosecutorial career law. The ministry’s hierarchical structure gives its head the final decision as to when an investigation should end and when the requerimiento fiscal (i.e. formal accusation) can be filed. The Association argues that these decisions often respond to political interests. It also complains about non-competitive salaries, hiring of unqualified staff, inadequate budgets, and lack of basic tools and materials to perform their duties (especially vehicles, but also supplies for the forensic laboratory and for the collection of evidence in the field).

3.60 The number of prosecutors (482) and the ratio of four to six per 100,000 inhabitants in the past six years do not seem inadequate. The caseload does not seem excessive either – 132 cases filed per prosecutor in 2006. The real workload may be lower as many of these claims will not proceed beyond the police investigation stage. Total productivity (cases resolved in trial or by other alternative mechanism) is very low – 10.5 per prosecutor in 2006 (see Table 3.5).

Table 3.5. Evolution of criminal cases, from filing to resolution, 1999-2006

<table>
<thead>
<tr>
<th>Criminal cases</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaints received</td>
<td>56,845</td>
<td>64,236</td>
<td>51,700</td>
<td>41,689</td>
<td>52,965</td>
<td>59,561</td>
<td>62,463</td>
<td>63,537</td>
</tr>
<tr>
<td>Complaints investigated DGIC</td>
<td>15,633 (48.89%)</td>
<td>17,514 (44.02%)</td>
<td>12,749 (36.08%)</td>
<td>4,987 (21.09%)</td>
<td>8,005 (30.67%)</td>
<td>8,697 (25.55%)</td>
<td>7,825 (16.13%)</td>
<td>9,213 (18.73%)</td>
</tr>
<tr>
<td>Prosecutor appearances (during summary)</td>
<td>9,931</td>
<td>11,135</td>
<td>10,525</td>
<td>8,056</td>
<td>9,407</td>
<td>4,392</td>
<td>5,157</td>
<td>3,367</td>
</tr>
</tbody>
</table>

98 This assessment must be carefully analyzed as the author is the Prosecutor General. However, many other people agree with his findings.

99 In April 2008, the Association unsuccessfully approached the National Council on Corruption and the National Commission on Human Rights. As a result, four prosecutors went on a hunger strike in Congress that lasted 28 days.

100 According to M. Cálix (2008), prosecutors themselves estimate their workload to be around 200 new cases per year, and the “Diagnóstico Estratégico” (Republic of Honduras, 2005) sets a workload between 150 to 160 cases per year. Even so, figures are not excessively high considering the nature of complaints.
Under both procedural codes (1984 and 2002), prosecutors participate in all stages of the criminal proceedings, but their involvement has increased with the elimination of the juez de instrucción (who until 2002 was in charge of supervising investigations). In the current system, once a complaint is filed (usually with the preventive or investigative police), the prosecutor (on duty or appointed) determines whether it should be dismissed or will be submitted for “investigation”\(^\text{101}\). On receiving the investigative report prepared by DGIC, he examines it and if necessary, requests further investigation. Once a suspect is identified, the prosecutor requests an initial hearing\(^\text{102}\) to produce the equivalent of an arraignment, request preventive detention or alternative measures (bail, limitations on travel, etc.), and if it seems feasible, suggest a summary process or conciliation. After the investigation is completed, the prosecutor participates in the preliminary hearing in which the equivalent of an indictment may be requested, allowing the process to move forward to trial. Finally, he represents the case against the defendant in the trial and any appeals.

\(^{101}\)It is very likely that the police make similar decisions (as in other countries) but they are not officially recognized by the law in Honduras, which assumes they belong to the prosecutor.

\(^{102}\)In cases where the suspect is detained, the hearing must take place within six days after detention or within 30 days after identification.
3.62 Workload varies according to the stage and complexity of the case, but in Honduras, as in most countries, the majority of the cases are simple and the findings included in the first police report can constitute the full investigation\(^{103}\). Otherwise, in modern systems, be they common or civil law, the investigative police get involved almost automatically. In these systems, prosecutor “oversight” is minimal since it is assumed that the police know what they are doing, and it is in the prosecutor’s interest that they complete the investigation as soon as possible and gather useful evidence for decision-making and presentation before the judge\(^{104}\).

3.63 In Honduras, for reasons probably related more to custom than any other factor, the prosecutor tends to be more involved and in many cases duplicates the work of the police. This could also be associated with a lack of confidence in the work of the police, or a certain degree of distrust between both institutions. For instance, the prosecutor’s order to initiate the investigation (*auto de requerimiento*) seems superfluous. Typically, in modern accusatory systems (USA, United Kingdom and other countries) and mixed European systems, the police perform an independent investigation until they find some evidence that is worth presenting to the prosecutor. If a suspect has been arrested, the prosecutor must be notified so as to make decisions on the arraignment (formal charging) and any request for preventive detention; otherwise, he may only be minimally involved for some time. The prosecutor’s presence at the crime scene is optional, whereas in Honduras it is compulsory. Depending on the type of crime and previous (informal) agreements entered into with the Public Prosecutor’s Office, the police need not even notify prosecutors. Furthermore, the prosecutor does not “oversee” investigations as such. There is communication between the prosecutor and investigators, but not a hierarchical relationship. The police investigate and the prosecutor determines what is needed to make the case.

3.64 The first issue and part of the explanation for the alleged work overload is that the new procedural code assigns new duties to the prosecutor, which are normally performed by the police. As a result, especially in main cities, the Public Prosecutor’s Office has adopted an internal specialization scheme, in which different prosecutors are assigned to the various stages in the process. There are prosecutors “on duty” to receive the complaints, visit the crime scene, organize the initial investigation, decide whether to request preventive detention, and attend the initial hearing once a suspect is identified. In addition, there are investigative prosecutors to supervise the police, hearing prosecutors to attend pre-trial hearings, prosecutors to argue the case during the trial, and other prosecutors to manage any appeals. In principle, the division of labor is more efficient, but in practice, it may cause problems, not only because it generates conflicts between investigation prosecutors and police investigators, but also because it gets a new prosecutor involved in each step. Even in Honduras, having a prosecutor with little knowledge of the case’s evolution (and investigation) present arguments during the oral trial is already being questioned.

\(^{103}\) Caballero (2007) highlights this, and Tijerino’s (2007) findings, that few changes are introduced during the 60 days allowed for further investigation between the initial and preliminary hearings, suggest the same.

\(^{104}\) See Díez-Picazo (2000) for information on the functioning of the Public Ministry (Public Prosecutor) in other systems. Fionda (1995) and Macauley (2007) are also relevant.
3.65 The relationship with the police seems unlikely to improve under the existing arrangements. However, the problems are also rooted in the history of both institutions (and their rupture in the 90s) and the exacerbation of the general (and universal) police resistance to having prosecutors try to direct their work. Difficult relationships among institutions are not limited to the police. Prosecutors also complain about forensic doctors’ lack of commitment to the institution (where they only work six-hour shifts\textsuperscript{105}) and their resistance to fulfilling prosecutors’ orders and requests.

3.66 The prosecutors’ additional responsibilities partly explain their complaints about insufficient equipment. Their need for transportation – be it to visit the crime scene or carry out investigations (if the police do not abide by the established deadlines) – exceeds what is currently made available. Prosecutors, like other actors in the system, also cite the need for additional staff, better office facilities (their own buildings), and larger operating budgets. The current Prosecutor General has submitted a proposal for a constitutional earmark of four percent of the national budget, even higher than that of the Judicial Branch (Public Ministry, 2007). It is doubtful the request will be granted (it would be a regional – if not worldwide – record) but any funding increase, for this or other institutions, should be based on an analysis of current expenditures and the likely uses of additional financing.

3.67 As a result of their dissatisfaction with police performance, prosecutors are currently circulating a proposal to create their own body of investigators, along the lines of the previous DIC, to handle high impact crimes. Some specialized prosecutors’ offices (minors, domestic violence) already have dedicated investigators, and according to the Prosecutor’s Office their performance is better. In addition, the anti-narcotics division (Dirección de Lucha Contra el Narcotráfico) has 60 assigned investigators, although its members still complain about the need for additional staff (M. Cálix, 2008). Observers and prosecutors note that inter-institutional relationships are more fluid in the country’s interior, despite lower staffing levels and less specialization. It is worth mentioning that the integrated complaint reception centres, located in three different cities, seem to be successfully coordinating police and prosecutorial services. However, the ministry is finding it difficult to support their costs, and the La Ceiba centre is on the verge of being closed\textsuperscript{106}.

3.68 It is clear that the Public Prosecutor’s Office could use its budget more efficiently\textsuperscript{107}, but implementing changes without modifying its current internal structure and division of labor between prosecutors and the police, would require a substantial increase in funding. This increase would not solve other problems related to the politicization of appointments, transfers and promotions, the interference of senior officials in the investigations, and the

\textsuperscript{105}According to their employment statute, doctors work in six-hour shifts, regardless of their place of employment. This means that many hold multiple jobs. As soon as they complete their six hours at the Public Prosecutor’s Office they leave, even if they are in the middle of a task or – all too frequently – refuse to start any work that they will not be able to complete within their shift.

\textsuperscript{106}Portillo (2008) notes that initially the centres were to be co-financed by all participating institutions, but that the funds from the others never materialized.

\textsuperscript{107}This was evident in the interviews conducted for the field work. For example, vehicles provided to the prosecutors on duty were in very poor condition, although we were told higher officials had much better cars despite rarely having to use them for their official duties. Portillo (2008) also maintains that the Ministry’s administrative offices are overly large and filled with political appointees.
tension between prosecutors and investigators, forensic doctors, and other actors they depend on to do their job. Nor will it guarantee the efficient control (without political interference) of institutional performance.

**Police**

3.69 In 1998, the police changed dramatically. Military control of its operations officially ended (and it was no longer called Public Security Forces, FUSEP), and a real Police Ministry – the Secretariat for Public Security – was created to oversee and coordinate its operations.

3.70 The former Criminal Investigation Division (DIC) was transferred to the new civilian force as one of its five (now six) General Directorates, leading to the prosecutors’ complaints that the investigators no longer served their needs. However, the transformation was incomplete. The fear of centralizing too much power in one official, militated against the creation of a Police Director, and each directorate was thus left with an unusual degree of independence and the ability to define its own policies. Initially, the appointment of general directors was intended to incorporate the recommendations of the National Council for Internal Security (CONASIN), an institution comprising representatives from the government and civil society. However, this provision was never respected and, in practice, the Secretary of the Police (and the President) made the appointments based on their own criteria. To avoid open violation of the law, the “general directors” are really deputy directors (who can be appointed without CONASIN assistance). The position of general director has remained unoccupied despite being included in the budget, and deputy directors are paid lower salaries; a situation they understandably do not like. Currently, almost all deputy directors come from the police (altering the earlier tendency to appoint former military officers to these positions), but the Secretaries continue to be retired military officers.

3.71 Currently, the police structure incorporates six divisions: Preventive, Criminal Investigation, Special Investigation Services (smuggling, fraud and tax evasion, laundering of assets from drug-trafficking, international cases, and control of private security agencies), Special Preventive Services (prisons), Police Education, and Transit. Concerns about the country’s rising crime rate have resulted in an increase in the Secretariat’s budget. This has mainly been used to recruit more police officers, especially in the Preventive Police (see Table 3.6).

<table>
<thead>
<tr>
<th>Police Division</th>
<th>Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preventive Police</td>
<td>9,449</td>
</tr>
<tr>
<td>Criminal Investigation</td>
<td>1,518</td>
</tr>
<tr>
<td>Special Investigation Services</td>
<td>664</td>
</tr>
<tr>
<td>Transit</td>
<td>1,251</td>
</tr>
<tr>
<td>Police Education</td>
<td>178</td>
</tr>
<tr>
<td>Special Preventive Services</td>
<td>1,572</td>
</tr>
<tr>
<td>Total</td>
<td>14,632</td>
</tr>
</tbody>
</table>

*Source: M. Cálix (2008)*

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108 This includes 1,500 administrative personnel.
3.72 Even with the increase, the ratio of police to population (148 per 100,000 inhabitants\textsuperscript{109}) is just half the regional average, and the training and preparation of recruits could be significantly improved. Both factors have a negative impact on their capacity to fulfill their current responsibilities and will hamper any effort to reassign duties within divisions, and between them and the Public Prosecutor’s Office. The police budget, despite recent increases, seems insufficient to meet the needs for equipment or improved facilities, but the real obstacles to improved performance are the quality, number and distribution of staff.

3.73 There is still no general policy (which, in principle, should be set by the Secretariat in the absence of a director for the whole police force) to guide police development and operations. Nor, it appears, do the divisions have a policy to orient their own actions. CONASIN – which was created in 1998 to provide assistance in the formulation of policies, supervise police activities and guarantee the political independence of the National Police – has been marginalized. Since it does not have a technical secretariat, it also lacks the capacity to carry out its designated role. Although the Preventive Police have frequent contact and interaction with citizens, there are complaints of abuse of power, inefficiency, and even involvement in criminal activities. As a consequence, the suggestion that its members take a more active role in criminal investigations is normally dismissed. However, if no progress is made in this direction (starting with the training and selection of the most highly qualified staff), the pressure on the investigators and prosecutors will become unbearable. Viewing the Preventive Police’s function as mere street presence is a waste of its real potential and it may also discourage those who are capable of doing more.

3.74 Were it not for these problems, the ratio of investigators to preventive police officers (one to eight) could be deemed more than adequate. However, given the current circumstances, it is not. Since investigators are also responsible for “investigating” misdemeanors and in flagrante crimes, they dedicate less time to their regular duties, i.e. investigating more serious, high-impact crimes. Even so, the number of investigations completed annually (6.1 per investigative police officer, see Table 3.5 above) is low and the number of investigations opened is not that great (32.1 per investigative police officer)\textsuperscript{110}. In addition, there are strong indications that those “completed” are the simplest cases (Due Process of Law Foundation, 2007; Tijerino, 2007, both authors indicate that 90 percent of investigations focus on in flagrante cases of lesser impact).

3.75 Transferring the Investigative Police back to the Public Prosecutor’s Office, as proposed by prosecutors, or letting the office create its own investigative body will not put an end to the problem. In addition, there are solid arguments for keeping the investigators where they are, given the potential for better coordination with the police on the streets and the ability to benefit from their knowledge in the field. The prosecutors’ complaints about the poor quality of both police entities, their resistance to “cooperate”, and the low quality of the investigations delivered, may have some foundation. Nevertheless, much of the problem

\textsuperscript{109}This figure is calculated against the number of preventive and investigative police officers only, as is usually done (Republic of Honduras, 2005). If transit officers are included, the figure reaches 169, which is still low. The region’s average (and recommended ratio) is 300 per 100,000 inhabitants.

\textsuperscript{110}Once again (see M. Cálix, 2008), investigators calculate a much heavier workload, of 90 cases each. We cannot explain the difference.
originates in the inefficient division of labor, inter-institutional distrust, and the tendency, clearly inspired by the new code (and some carry-overs from the old “inquisitorial” system in its Honduran and Latin American versions\textsuperscript{111}) to give prosecutors a role in conducting investigations they do not have in modern systems. It is evident that it will not be easy to move past these vicious circles, especially given the weaknesses of the police, but continuing on the current path implies more duplication of efforts, inefficiencies, and expenditures that the country cannot afford.

3.76 Although this study has not examined the remaining divisions, it is worth mentioning a few details about the Division of Special Preventive Services and the prison system in general.

3.77 Despite the reformers’ aim of creating a more humane and rehabilitation-oriented system – as stated in the Constitution, the Criminal Procedural Code, and the Law on Criminal Rehabilitation (approved in 1984, but until now without regulation) – the prison situation continues to be deplorable, with high levels of overcrowding, escalating violence and only limited improvement in the percentage of pre-trial detainees (which fell from 88 percent of the prison population in 1997 to nearly 50 percent currently).

3.78 The problems go beyond the quality of human resources, but this is compounded by the absence of a career system and the low educational level of most personnel. Only 72 are considered technical staff (lawyers, doctors, psychologists, and social workers), and they are mostly concentrated in the National Penitentiary. The staff in charge of security and custody is overburdened, and has to work extra hours because of understaffing and their inefficient distribution across the prison system. There is a high rate of staff resignations (mainly police officers) because of low salaries and the absence of other types of incentives. Enforcement judges (a position created by the new code to ensure, among other things, an adequate control and management of prison conditions) are also insufficient in number and lack adequate transportation and communication facilities to support their work. It is worth noting that the effectiveness of enforcement judges has increasingly come into question in the other countries where they are utilized.

3.79 The prison situation has changed little over the years, as it has been a low priority for the Government and the general public. The only major initiative was a construction program carried out in the 1980s. The legal framework may be too ambitious, given the country’s possibilities, and given that there is no country in the world with an effective rehabilitation program. However, much more could be done to improve the conditions in which prisoners live, eliminate abuses, and control violence. A key obstacle is donors’ reluctance to provide funding for such purposes, not because of the amounts needed, but because they fear the repercussions for their image if efforts fail.

3.80 Although the point is debatable, the police seem to be the weakest link of the criminal chain and perhaps the key to achieving improvements in overall performance. New programs to finance equipment and infrastructure, and a series of outreach initiatives to bring the police

\textsuperscript{111}It should be noted that neither the classic inquisitorial system nor the modern ones (France) give instructional judges such a leading role. The judge never conducts the investigation and his “supervision” of the police is limited to requesting lines of inquiry that will enable him to reach conclusions. He acts as a user of services provided by the investigative police.
closer to the community and foster citizen cooperation hold some promise\textsuperscript{112}. However, what is needed most is organizational restructuring, efforts to improve the quality of existing staff and to attract more qualified recruits, a more efficient control of performance (including information systems, which are significantly underdeveloped\textsuperscript{113}), better coordination among all parties, and the formulation of policies for the overall sector and individual police divisions. In order for such actions to be successfully undertaken, representatives from the political parties, from each organization involved and from other organizations, must be engaged.

**RESULTS OF THE REFORMS**

**Institutional quality – independence, professionalism, efficiency, and access**

3.81 Over 25 years of judicial reforms in Latin America, institutional quality has been gaining importance. Institutional quality, with its subdimensions of independence, professionalism, efficiency and access, were reform objectives from the beginning, but it is now understood that it takes more than new laws to facilitate their realization. These are long-term processes. It is also increasingly recognized that because of potential conflicts among the subdimensions, each country must decide how it wants strike a balance among them. Additional subdimensions have been added over time: transparency, accountability, and equal treatment. Equality of treatment have been added over time: transparency, accountability, and equal treatment. Equality of treatment was always considered implicitly, but it now receives separate attention and special efforts to compensate for the disadvantages faced by low-income individuals.

3.82 The process, it can be argued, starts with ensuring adequate levels of institutional independence (which vary according to each institution) aimed at improving the quality of services delivered to the public and thus, entailing the required increases in professionalism, efficiency, access, and other characteristics like efficacy, honesty, and equity. Total independence is never feasible, but it must at least be sufficient to allow the institution to function properly.

3.83 The principle obstacle is usually a lack of political will, at the highest level, to relinquish traditional controls and influence. In Honduras, this will has not increased much since 1982 and, in some sense, it seems to have decreased because of competition within and among traditional parties, and the feared negative impacts that a functional justice sector could have on vested interests. The other effects of the reforms on the various institutions have been diverse, if in the end somewhat negative.

3.84 The Judicial Branch has been the winner in financial terms – with a percentage of the government budget above regional and international averages\textsuperscript{114}. However, it has maintained strong ties to the centers of power; central leadership exercises an unhealthy control over

\textsuperscript{112} These are described in some detail in Republic of Honduras (2005) and other documents related to the new security strategy. For additional discussions, see M. Cálix (2008).

\textsuperscript{113} See M. Cálix (2008) on this issue.

\textsuperscript{114} Of course, the budgetary base is smaller in Honduras, but this affects all sectors, not only justice. A Judicial Branch receiving four percent of the national budget is among the best-financed in the region and worldwide.
subordinates’ decisions, and the improved financial situation has not translated into substantial improvements in performance and quality (Romero, 2008 for a review on quality). Negative results are clearly illustrated by the very low levels of productivity, questionable and questioned judgments, and the low rankings obtained in regional and international surveys on transparency, corruption and public trust. The judiciary has not shared its additional resources with the Public Defenders’ office, except in the hiring of more personnel. However, defenders’ salaries remain low and incentives and operational budgets, insufficient.

3.85 The Public Ministry and the Police have also benefitted financially, but on a smaller scale than the Judicial Branch. Deficiencies in their internal structures and in the division of labor have undermined a more efficient use of funds. If these deficiencies are corrected, existing investments would have higher returns; if they are not, additional funding would have only a minimal impact. Although less often mentioned than in the case of the judiciary, political interference is a problem in both institutions. Two new factors warranting attention are the emergence of internal interest groups (based on the new functional divisions) and their development of corporatist policies that run contrary to more efficient practices.

3.86 These new developments are illustrated by the difficult relationship between prosecutors and police officers, which apparently revolves around police resistance to prosecutors’ control. This is discussed further in the following section since it directly affects citizen security and also the internal development of each institution. The situation in the judiciary is similar; there are conflicts between first instance and trial judges, and between those recruited, more or less, on the basis of the new career rules and those who were appointed earlier.

3.87 Lawyers are another interest group that merits mention, as they (especially those engaged in litigation) have vested interests in the current system. They may also be guilty of corrupt activity, delaying tactics and excessive complexity (EMIH, 2007 comments on their practices in labor trials). Lawyers do not police their own ranks, there is no internal disciplinary system for the bar, and it seems that no one has ever thought of creating one. Recently some observers have commented on a similar situation in southern and eastern Europe (Uzelac, 2008); a sort of traditional practice developed over time by this group but contrary to contemporary needs – in southern and eastern Europe (Uzelac, 2008).

3.88 In brief, institutional quality has improved as regards staffing and resource levels and their distribution nationwide, the organization of internal processes, and especially in the Judicial Branch, the adoption of technological innovations. However, there is a long way to go in terms of product quality. This is mainly due to persistent political interference in institutional operations, especially in the selection of leadership and in the handling of cases that affect elite interests (i.e. those related to economic matters, corruption, and the traditional political parties). Without broad commitment at the highest levels to eliminating these traditional practices and providing institutions with sufficient independence to perform their duties and appropriate leaders to direct them, it is doubtful that service quality will improve, regardless of the amount of additional funds committed.

3.89 Politicization is also a contributing factor to the low standard of institutional management and governance systems and as a consequence negatively impacts the institutions’ capacity to organize programs and operations. While this is a secondary
problem, it deserves attention. A more independent institution with no self-management capacity is no real improvement over an institution completely subservient to external powers. It is also clear that inter-institutional coordination needs attention, and that it suffers because institutions lack a clear vision of the common products they must deliver to the public. Given the amount of resources Honduras has invested in the sector, results should be much better. The improved financial situation of the institutions does not correspond with their performance. Further explanations for this performance gap are discussed in subsequent sections.

**Citizen security**

3.90 Enhancing citizen security involves more than the courts and the criminal justice system, but this study only focuses on their contributions. The concerns about insecurity and the increase in crime were already evident at the beginning of the period under analysis. The levels of violence have fluctuated, but have consistently been among the highest in the region. In 2007, Honduras’ homicide rate ranked third, exceeded only by El Salvador and Colombia.

3.91 The situation has improved somewhat since 2001-2003 when the homicide rate reached its peak\(^ {115}\). Apart from demonstrating the country’s status as one of the region’s most violent, the data published by criminal justice institutions show worrying trends. The Table below contains data on officially recorded crimes for the last years.

<table>
<thead>
<tr>
<th>Crimes Reported</th>
<th>Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robbery</td>
<td>8,570</td>
</tr>
<tr>
<td>Domestic violence</td>
<td>3,900</td>
</tr>
<tr>
<td>Threats</td>
<td>6,086</td>
</tr>
<tr>
<td>Theft</td>
<td>4,523</td>
</tr>
<tr>
<td>Injuries</td>
<td>4,559</td>
</tr>
<tr>
<td>Homicide</td>
<td>3,799</td>
</tr>
<tr>
<td>Murder</td>
<td>226</td>
</tr>
<tr>
<td>Damages</td>
<td>2,250</td>
</tr>
<tr>
<td>Intra-family violence</td>
<td>909</td>
</tr>
<tr>
<td>Fraud</td>
<td>1,820</td>
</tr>
<tr>
<td>Rape</td>
<td>936</td>
</tr>
<tr>
<td>Abuse</td>
<td>606</td>
</tr>
<tr>
<td>Motor vehicle theft</td>
<td>1,339</td>
</tr>
</tbody>
</table>

\(^{115}\) The higher rates have not been satisfactorily explained, but two factors considered important are the budget cuts and reductions in the number of police officers at the beginning of the decade, and the adoption of the new criminal procedural code. Damages caused by Hurricane Mitch may have had an impact as well. Finally, given the poor quality of statistics there are doubts as to the veracity of the figures.
3.92 As the table demonstrates, the eight most frequent offenses have maintained the same order of importance in 2005 and 2006. Among them, are crimes against property (robbery and theft) and crimes against personal integrity and life (domestic violence, injuries and homicides). During 2002-2006, reported robberies have doubled and domestic violence has almost tripled (the latter may be due to an awareness campaign to promote the reporting of domestic violence and overcome victims’ traditional reticence to filing complaints). Data on threats, theft, injuries and homicides are similar in 2005-2006, though the first three decreased slightly while homicides increased somewhat.

3.93 Two factors that have definitely contributed to this situation (and to other problems in the country) are the increased presence of drug traffickers and their penetration of government institutions (including the justice sector), and the economic situation (high levels of unemployment and inequality). The contribution of the maras or gangs (and especially of members who have been expelled from other countries) is still debated however, the country is clearly dealing with crimes committed not only by single individuals but also by organized groups.

3.94 Comparing the number of offenses reported against the number of cases resolved, submitted for investigation, or with investigations completed, the problem becomes evident. The level of impunity remains high and thus a source of citizens’ complaints\textsuperscript{116}. Despite the reforms, the system’s growth, and a better ordering of internal processes, the criminal justice system continues to be inefficient, thus limiting its ability to deter crime. None of the system’s actors delivers an adequate level of output, and their collective output is very low – less than 10 percent of reported crimes are resolved. While the available data do not allow confirmation of this claim, some sources (Tijerino, 2007) allege that one cause of this inefficiency is that the system focuses mainly on minor offenses and/or in flagrante arrests, leaving the more serious or complex cases unattended (among them, corruption). This is another aspect of the gap between investments and results. In this section, we have offered some explanations for this low performance. In the next section we review them more systematically.

\section*{Analysis of the Causes of Poor Performance and Possible Solutions}

3.95 The analysis of the causes of the poor performance identified in previous sections, focuses on two levels of causation: proximate causes, which are mostly related to technical deficiencies and the quality, quantity and distribution of human, material and financial resources; and fundamental causes, which refer to political and institutional factors.

3.96 There are links between these two, and some proximate causes undoubtedly originate in fundamental ones. In other words, sometimes apparent technical deficiencies are not involuntary but are a form of intellectual sabotage. Nevertheless, there are others that seem to be the result of certain misunderstandings or an inadequate approach despite the good intentions of the authors.

\textsuperscript{116} We have not been able to get a hold of victimization studies to define the “black figure”, that is, unreported offenses. Nevertheless, the majority of them tend to be of lesser importance. Homicides are always registered.
3.97 We mention proximate causes first, but with an important reservation: solutions for these matters are not possible without addressing the fundamental causes. There have been cases (a few) in which proximate causes were addressed without modifying fundamental ones. However, this is an unlikely strategy for Honduras. Exceptions are found in countries with authoritarian, highly-centralized governments (e.g. Singapore), where it is possible to improve sector efficiency according to a single criterion (defined by the interests of a unified elite). This model is not advisable, and even if it were, conflicts within the elite and between the political parties would make it almost impossible to implement in Honduras.

**Proximate causes**

3.98 Designing a reform for a complex system requires in-depth knowledge of the context and of general principles and broader experience. It is common to find that reforms are designed and implemented without meeting these conditions. The Honduran experience is no exception; in fact, the country replicated some of the regional model’s weaknesses.

3.99 Throughout the region, the preferred model for reform was based on changes to the legal framework, inspired in large part by a series of principles and practices supposedly supported by international experience. This facilitated implementation but incorporated a series of problems, including: an excessive degree of faith in the power of the law to modify behavior; imperfect imitation of or unquestioning confidence in imported models; overreliance on “magic bullets” or multi-purpose global solutions; certain errors, of commission or omission, in the drafting of laws; and the common failure to analyze the financial implications of any bill to ensure sufficient funding would be available for its implementation.

3.100 Reformers are gradually realizing that improving the legal framework is only the first step in a process of institutional change, and that its success requires the support of various additional mechanisms. This is particularly true when there is resistance to change, but it must be considered even when there is no active opposition.

3.101 In order to overcome the human tendency of retaining old habits, institutional actors require – more than vague instructions on the new rules – incentives, resources, knowledge, and most of all, clear guidelines on how to organize their work schedules. In the absence of these elements, as has been observed in other countries, prosecutors keep acting as instructional judges, and the selection of judges, which should be merit-based, continues to be done according to traditional criteria. The law is helpful, but not sufficient.

3.102 As regards the use of imported models, there is often considerable misinformation as to how they work, or do not work, in their countries of origin. In Honduras, as in the rest of the region, many of the “axiomatic” principles behind the imported models were not so axiomatic after all. A criminal accusatory proceeding is not necessarily as transparent or efficient as reformers claimed. In fact, it is as vulnerable to traditional vices as the previous system. Therefore, these vices must be confronted directly. Use of oral proceedings is

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117It is worth highlighting that while adequate salaries constitute one incentive, an effective performance monitoring system is more important. Unfortunately, the current system depends, perversely, on “monitoring” by political interests.
another “magic bullet” with similar risks. If not implemented appropriately (and there are situations in which oral procedures are not advisable) it can create additional complications, and just as with written proceedings, it leaves opportunities for dilatory practices (including simply not showing up for the hearing) and corruption (Uzelac, 2008).

3.103 The same is true of other models and practices that are imported with the expectation of triggering automatic improvements. Judicial councils have been subject to strong criticism in Latin America and even in Europe (Hammergren, 2002) as they become politicized too easily and have not demonstrated great success in running the courts (where that is one of their functions). When new models perform well, it is usually due to favorable contextual conditions. For instance, Chile had fewer problems when implementing its new criminal process because of its more advanced institutional development. It is interesting that Chile, despite maintaining judicial governance with the Supreme Court, has a fairly successful justice administration (as well as a highly-organized administrative apparatus capable of performing day-to-day operations).

3.104 Finally, because of inexperience or excess creativity, the drafters of the codes and other laws have added some infelicitous details. One example, already mentioned above, is the impact of specific sections of the criminal procedural codes on the tense relationship between prosecutors and the police. This addition, common to all new codes in the region, seems to arise from an imperfect understanding of how these two institutions usually function in developed systems (Macauley, 2007; Díez-Picazo, 2000; Fionda, 1995). As many observers have commented (Tijerino, 2007; Rubio, 2001), the decision to include deadlines for the stages of the proceedings is often made (as in Honduras) without considering the different needs of different types of cases. As a result, simple cases last too long and more complex ones may not be resolved at all. And, although frequently motivated by special local conditions, the composition of various key organizations (CONASIN, National Police, Nominating Board, and Judicial Council) and the power assigned to them, have sometimes resulted in additional problems.

3.105 Any flaws originating in the legal model were compounded by the lack of skills in organizational planning – i.e. how to structure new or existing institutions to work under the new rules and, what proved an even greater challenge, how to do so with insufficient human and material resources. The choices made sometimes seem to be the most expensive and the least efficient. The proliferation of judges to comply with the principle of ensuring trial judges have no prior knowledge of the case is one example; similar results might have been attained at a lower cost (and without creating new types of judges) by utilizing better scheduling techniques. The most extreme example, however, is the prosecutorial process. In a high-income country, the degree of specialization present in the Honduran Public Ministry might work. However, in Honduras it makes little sense to require that a single case passes through the hands of four prosecutors only in the first instance, or that every investigation, even of minor offenses, be conducted by a specialized investigator (and then be submitted for prosecutorial investigation). This apparent inefficiency is partly due to the lack of preparation of the various actors, and especially the police. However, it is imperative that this problem be addressed in order to prevent time being wasting by repeatedly covering the same ground.

3.106 It is clear that other decisions were motivated by the fear of concentrating power (for example, like the decision to reject the proposal to create a single chief of police or administrative director with broader powers), but consequently did not take into account the
associated negative effects that might ensue. This same fear might explain the preference for an exaggerated vertical specialization (horizontal specialization is another matter, but it can also impede the efficient use of resources) where every decision requires review from higher-level staff. However, current thought suggests that review should not be so formulaic or predictable. This is the foundation of an accountability system – not clipping the wings of managers but making them aware that their decisions and actions could be subject to the review and audit of other institutions.

3.107 Apparently, authorities responsible for organizational planning lacked clear ideas on what constituted reasonable workloads for each type of actor. It is interesting, for instance, that no one in the Judicial Branch commented on the poor productivity of all types of judges, or the fact that police investigators complain about an annual workload of 30 investigations (many of which are very simple), using this to substantiate their requests for additional staff and funding. The absence of this comparative data and an overall lack of familiarity with organizational alternatives worldwide, have led to the design of structures based on extrapolation from historical experiences and practices, which in turn results in difficulties responding to new levels of demand. An increasing workload poses challenges for all justice systems, but while in other countries (even within the region) judges encounter problems handling 700 or 1,000 incoming cases, in Honduras, judges find it difficult to cope with only 100. To makes matters worse, possible solutions to the problem, such as improving the courtroom organization, trying out new schemes for the division of labor, and finally, filtering demand (Uzelac, 2008) – are not being considered.

3.108 Part of the gap between societal demands and the sector’s response, may be explained by a series of methodological failures. Honduras faces a scarcity of basic resources, but the most significant deficiency is the capacity to program, organize, and monitor the use of all the other inputs. The typical response – to request additional resources, with no modification to how they are managed – is not unique to Honduras, but it is not the best solution; nor will the implementation of modern technologies suffice, though Honduras’ progress in this area is noteworthy. Reformers will have to overcome technical weaknesses compounded by a history of political and institutional obstacles, in order to develop more effective solutions.

Fundamental causes

3.109 We start with an assumption: if reforms in the overall justice sector and citizen security succeed, all citizens will benefit, but the process implies costs for certain groups. In most cases, these groups do not oppose the entire reform package (nor the adoption of modern mechanisms and techniques), but only specific elements. However, these elements are often critical for the success of the overall reforms. Maintaining partisan influence in the appointment of judges, for instance, not only affects rulings on particular cases but provides negative incentives for judicial staff, undermines management capacity of senior authorities, and so distorts the overall performance of the institution.

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118 This does not refer to creating more specialized jurisdictions but to courts’ division of their own workloads (called multi-tracking) – separating cases that do not require much work from the judge (and so can be handled more rapidly) from those that do require more of his time (see Uzelac, 2008).
The fundamental causes thus arise from the efforts of various actors to maintain their traditional control over sector institutions and over specific rulings and actions. Included among these actors are the traditional political parties, economic elites, and functional groups like the military (Romero, 2008). Despite officially accepting the reforms, all of these groups have worked to ensure that their power was not diminished as a result. The basic maneuver has been to maintain control over key institutions like the Supreme Court, the Nominating Board, the Secretariat for Public Security, and high level officials in the Public Ministry. This control then extends to the selection of subordinate personnel and thus to the incentives shaping their activities.

Box 3.1. Citizen perceptions of insecurity

Although Honduras was not a direct party to the civil wars afflicting its neighbors during the 1970s and 1980s, it currently has a very high crime rate, approaching that of Guatemala and El Salvador. (Interestingly, Nicaragua, despite its civil war, has a relatively low crime rate for reasons no one has satisfactorily explained.) Currently, crime vies with unemployment as the greatest concern of Honduran citizens. Unfortunately, figures on crimes rarely coincide, even from Honduran government institutions, and there is no good measure of the “cifra negra”, as the number of real as opposed to reported crimes is termed throughout Latin America. Some information on victimization has been made available by recent surveys. The 2005 Survey on National Perceptions on Human Development (Encuesta de Percepción Nacional sobre Desarrollo Humano) for example found 40.5 percent of respondents reporting that they or members of their family had been victims of crime within the prior 12 months. Moreover, 10.8 percent reported a family member having been a homicide victim.

The same survey demonstrated an unsurprisingly higher incidence of victimization in urban areas – the numbers for homicides was 13.1 percent in the central district and 8.8 percent in rural areas. Figures for those reporting being targets of death threats were nine percent urban and six percent rural. There are also socioeconomic differences, with those of the higher strata being the most frequent victims of property crimes; again not a surprising statistic. While absolute numbers are not given in the survey, the responses do suggest that many crimes do go unreported, in part because of an accompanying lack of faith in the justice sector, and especially in the police. Another consequence is recourse to self-protection; 23 percent of the non-victims and 27 percent of the victims questioned in the 2005 survey reported they were disposed to arming themselves as a means of protection.

More recently, without affecting the actions of the first set of interest groups, a series of new vested interests have emerged. They comprise functional groups within institutions, for instance, judges, prosecutors and police officers, and the subcategories of each. We can also add practicing lawyers and their subdivisions to the list. As has been observed in other countries (World Bank, 2004), the politics of judicial reform is not only a conflict between non-institutional elites and those who want to limit their influence, but also encompasses struggles among the members of the sector. This second conflict is both inter- and intra-institutional. The danger it poses is that the larger purpose, i.e. improving service delivery to

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119 Based on data provided by Rigoberto Portillo (2008).
the public and contributing to the country’s development, may be forgotten in favor of disputes over the distribution of power.

3.112 To some extent, the technical obstacles originate here, first in determining who will occupy leadership positions and whose interests will be promoted; and second, because the necessary organizational and procedural changes clash with the interests of those who work in the institutions. The structure created to implement the new laws, whether appropriate or not, has given rise to new interests among sector staff. To tell the prosecutors that they will be consumers and not managers of the police investigation implies a loss of power for them. Setting productivity goals for any of the actors means that they will need to change their standard practices. A public defender should obviously handle more than 25 cases annually, but insisting on a higher workload implies modifying his normal pace or changing the manner in which he works. Unfortunately, as work practices are already established, demanding changes will provoke resistance from vested interest in the sector.

3.113 This second tier of interests is less important, but still worthy of consideration. Still, the main resistance comes from higher levels and their reluctance to allow sector institutions to operate without interference. Politics always plays a role in the selection of institutional authorities; however, if decisions are linked to specific improvements in performance, positive results can be achieved nonetheless.

3.114 It is worth mentioning an additional interest group – donors. They too have influenced the choice of strategies and not always positively. It is in their interest to have programs and, sometimes, to influence specific policies of the sector (Salas, 2001). Donors are important in providing funding and technical assistance, but sometimes due to ignorance or their individual agendas, their recommendations are not the most appropriate. Donors should not attempt to define sector policies, but they can be more demanding as to the initiatives they support and the conditions they place on their financing. However, it is ultimately up to the country to establish priorities and consider whether to use external funding as part of a limited basket of funds. Allowing donors to finance some less necessary actions squanders resources, and needs to be evaluated in this regard.

**MAIN OPTIONS TO ADVANCE REFORMS**

3.115 During the last two and a half decades of reforms, Honduras, and the region in general, have made improvements to the legal framework, the overall organization of the sector, and the provision of infrastructure and equipment. It is now time to address actors’ behavior and the quality and quantity of their output. These changes require the adoption of new attitudes and mental models. Although it would be possible to continue efforts with the same structures and practices, as stated above, given the scarcity of resources and the many demands place upon them, it would be preferable to use more efficient modalities.

3.116 There are three critical steps here:

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120 On this issue, see Romero (2008; 37), where the author contends that donors have funded mostly organizational and technical aspects, “as well as infrastructure…but has not been aimed at strengthening judicial independence”.
• **Reach an agreement on the need to improve the current situation and establish broad consensus to support it:** This agreement should be based on objectives and not strategies and tactics, since once a discussion of the latter begins, conflicts arise regarding models, laws, and the distribution of power.

• **Reach a political agreement on reducing political interference in the operations of the various institutions (starting with changing the criteria for the appointment of their leaders and other staff):** In Latin America, the few countries that have overcome this obstacle (Chile, Colombia, Costa Rica, and to a certain extent, Brazil, and Argentina at the level of the Supreme Court and in some provinces) have done so through political agreements, which are not always respected, but are a first step. Based on their successful promotion of legal and organizational changes during the two earlier decades, Honduran civil society groups should be able to lobby for this agreement as well, but only if they redefine their demands to emphasize specific improvements in output as opposed to more laws.

• **Define, based on the two previous agreements, the appropriate measures to accomplish the objectives:** On this issue alone, would it be possible to include changes to the legal framework, but as stated above, such changes are of the least importance. If the law blocks reforms, then it should be modified, but new laws without key agreements in place will not be very productive.

**Establish a basic consensus**

3.117 The first step would be to acknowledge the poor level of performance within the sector and all of its institutions. Quantitative issues can be examined objectively without placing the blame on any person in particular. Data speak for themselves, and in Honduras, what they say is not positive. Even taking into account the poverty of the country, the lack of resources and the shortage of qualified human resources, the sector could perform much better. Some explanations for its poor performance that will be discussed below. Qualitative issues are more controversial, but there are sufficient criticisms and highly publicized cases to demonstrate that there is also a gap in this respect.

3.118 Once these low quantitative and qualitative levels of performance are acknowledged, the next step would be to define clear short-, medium- and long-term goals. We are still not exploring strategies and tactics, but only defining the specific improvements in performance that will be sought. These may be quantitative (reduction of certain types of crimes, number and type of complaints processed, corruption cases or major crimes ending in convictions) or qualitative (better treatment of users, “better” resolutions, more equitable treatment of interlocutory and final decisions so that the tough and soft approaches are applied to everyone equally). The exercise of identifying reform goals should involve users as well as staff interested in reforming their sector. The focus should be on defining the goals and not yet on how to achieve them. Consideration in that regard will be addressed later. During consensus building, donors could contribute by in sponsoring and facilitating meetings, but making the decisions is not their responsibility.
Consensus to reduce political interference in the sector

3.119 As has already been emphasized, the reduction of political interference has been key in countries that have been able to achieve advances in the sector. It does not guarantee better performance, but it is definitely a necessity. Those supporting the first (basic) consensus would need to exert pressure, but making improvements, without committing to addressing the underlying, obstacle is worthless. Obviously, consensus alone is sufficient and, at this point, concrete steps such as the following would need to be taken:

- The creation of a Judicial Council and a judicial career, for which the Council would be responsible.
- The creation of profiles for each type of judge, including Supreme Court justices, to be used for appointment and promotion purposes. The appointment of the new Supreme Court provides an opportunity to implement this proposal, and if effected imminently, would have sufficient time to realize an impact.
- The creation of profiles for senior staff and other members of the institutions in the sector and their consistent application in the future.
- The creation of administrative careers in each organization and the preparation of profiles for all administrative positions (which should be awarded according to merit-based criteria and no longer on the basis of friendship or political contacts). The requirement for this is less pressing, but should nonetheless be initiated.
- Transparent processes (with the participation through voice or vote of civil society) in the appointments of Supreme Court justices and senior management positions in the remaining institutions.
- Frequent performance evaluations, based on transparent criteria. Implementing this practice would take time, but should be initiated now.

3.120 Many of these steps will eventually be modified depending on the future evolution of the program. However, if they are not implemented imminently, particularly the transparent appointment of senior officials, the consensus on depoliticization will be valid only on paper. Introducing concrete changes is an integral part of this step as it demonstrates a level of commitment.

3.121 Donors could also participate in this process, especially by providing technical assistance based on the experiences of other countries. As a more radical step, they could condition their support on concrete advances.

Refinement of models and other technical steps

3.122 This step will take longer, but organizational alternatives should be considered from the outset in order to achieve the desired improvements. Following practices in other countries, both within the region and worldwide, a reevaluation of the structures implanted under the new legal framework will be needed. Assuming that financial constraints will not permit substantial increases in personnel, much can be done to improve the performance of the existing staff. Preventive police officers must be trained to carry out simple investigations, leaving investigators in charge of more complex ones.
3.123 It would be advisable to consider reorganizing the Public Ministry to eliminate part of the vertical specialization. Horizontal specialization (in areas such as domestic violence, drugs and minors) is more debatable but also affects productivity. With regards to the judiciary, Honduras might reconsider the need for a separate category of judges to handle preliminary proceedings, as has been done in Chile and several other countries. If these judges are retained, it is still worth reviewing their numbers relative to the underutilized trial judges.

3.124 This process can draw on the several alternative models. In criminal justice, there is an Anglo-Saxon model, British and American versions, and the European model in all its different forms. Organizational models for other sector institutions also vary and demonstrate different advantages and disadvantages. Although Judicial Branch governance takes several forms (e.g. centered in ministries of justice in many European countries, judicial councils, or the Supreme Court) it is evident that regardless of the model selected, it will not operate well without a well-structured (and usually separate) administrative apparatus. The judicial governance body should not administer day-to-day activities, but monitor the performance of administrators and define policies to guide their actions.

3.125 It is worth reiterating that none of the above will work without the two preliminary steps and, most of all, without the political decision to reduce external interference and maintain it over time. This is not a matter of modifying laws because, as the Honduras example shows, the law is easy to manipulate. Advances in this direction will depend on the demand, not only for more effective systems, but for transparency in their application. It would be useful to explore the possibility, for instance, of having an outside monitoring body for appointments, instead of trying to depoliticize them by including representatives from civil society in the processes. The current system is vulnerable to the representatives’ co-optation. Perhaps through an effective check and balance system, the same groups could have a greater impact.

CONCLUSIONS AND PRIORITIES FOR THE SHORT-TERM

3.126 The Honduran paradox – significant investment, systemic expansion, and an admirable level of new technology, with stable or decreasing productivity and many complaints regarding the end product – can indeed be explained. However, addressing the situation will not be easy, not only because of long-standing political obstacles, but also because of the potential problems that new institutional vested interests might cause, and the lack of knowledge regarding international experiences and the lessons that may be learned from them.

3.127 Donors could provide further support with the latter, but the rest is up to the country’s willingness to maximize the results of its investments in the sector, and reexamine initial options and the values behind them. It is important to recognize that no guaranteed models exist and whatever choice is made should be considered as a hypothesis to be verified in action. The key is not the model, but the commitment to improving outcomes. Without this commitment, debating over alternative solutions will lead nowhere. If Hondurans wish to overcome the problems in the sector, they will need to make some sacrifices, but the results will benefit everyone.
3.128 As we have seen, the large investment that has been made in the sector, over the last decade, is not yielding the expected results. Data speak for themselves, and in Honduras, indicators are very poor. Even taking into account the poverty of the country, the lack of resources and the shortage of qualified human resources, the sector could perform much better. The first step should therefore be to acknowledge the poor level of performance within the sector and all of its institutions, and generate a public discussion about institutional performance, holding each institution accountable for the resources it receives and the services it provides.

3.129 In addition, it would be critical to implement and deepen the reforms carried out in 2000-2001 aimed to restrict political interference through a new process of selecting the judges and the extension of judges’ terms to seven years. The establishment of this new selection process in which actors can veto any candidate who is considered incompetent or corrupt is an important achievement that needs continuous support so there are not major setbacks during the upcoming renewal. The next step on the Supreme Court would be to move a rolling renewal process so a couple of judges are replaced every year, instead of having a big bang replacement which is exposed to backsliding on the politization of the process.

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ANNEX III. HUMAN RESOURCES OF SECTORAL INSTITUTIONS IN THE REGION

Table A3.1. Number of judges per 100,000 inhabitants, Latin American (2005-2006) and selected European countries (2004)\textsuperscript{121}

<table>
<thead>
<tr>
<th>Country</th>
<th>Nº of Judges</th>
<th>Population</th>
<th>Per 100,000 inhabitants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina (national 2004)</td>
<td>834</td>
<td>38,226,000</td>
<td>2.2</td>
</tr>
<tr>
<td>Argentina(subnational 2004)</td>
<td>3429</td>
<td>38,226,000</td>
<td>9.0</td>
</tr>
<tr>
<td>Bolivia</td>
<td>933</td>
<td>9,627,000</td>
<td>9.7</td>
</tr>
<tr>
<td>Brazil (federal and labor)</td>
<td>3835</td>
<td>187,600,000</td>
<td>2.0</td>
</tr>
<tr>
<td>Brazil (state)</td>
<td>9469</td>
<td>187,600,000</td>
<td>5.0</td>
</tr>
<tr>
<td>Chile</td>
<td>1,023</td>
<td>16,598,000</td>
<td>6.2</td>
</tr>
<tr>
<td>Colombia</td>
<td>5,179\textsuperscript{122}</td>
<td>42,090,000</td>
<td>12.3</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>767</td>
<td>4,402,000</td>
<td>17.4</td>
</tr>
<tr>
<td>Dominican Republic</td>
<td>610</td>
<td>9,250,000</td>
<td>6.6</td>
</tr>
<tr>
<td>Ecuador</td>
<td>902</td>
<td>13,215,000</td>
<td>6.8</td>
</tr>
<tr>
<td>El Salvador</td>
<td>642</td>
<td>6,990,000</td>
<td>9.1</td>
</tr>
<tr>
<td>Guatemala</td>
<td>783</td>
<td>12,700,000</td>
<td>6.2</td>
</tr>
<tr>
<td>Haiti (2003) includes 368 lay justices of the peace</td>
<td>573</td>
<td>9,151,000</td>
<td>6.3</td>
</tr>
<tr>
<td>Honduras</td>
<td>768</td>
<td>7,200,000</td>
<td>10.6</td>
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<tr>
<td>Jamaica</td>
<td>84</td>
<td>2,660,000</td>
<td>3.2</td>
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<tr>
<td>Mexico</td>
<td>1,374</td>
<td>104,900,000</td>
<td>1.3</td>
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<tr>
<td>Nicaragua</td>
<td>1,032</td>
<td>5,483,000</td>
<td>19.0</td>
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<tr>
<td>Panama</td>
<td>256</td>
<td>3,200,00</td>
<td>8.0</td>
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<tr>
<td>Paraguay*</td>
<td>1,045</td>
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<td>Peru</td>
<td>2,060</td>
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<td>Puerto Rico</td>
<td>375</td>
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<td>Trinidad and Tobago</td>
<td>88</td>
<td>1,057,000</td>
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<td>Uruguay</td>
<td>473</td>
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<td>Venezuela</td>
<td>1,822</td>
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<td>Belgium</td>
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<tr>
<td>France</td>
<td>6,278</td>
<td>62,177,00</td>
<td>10.1</td>
</tr>
<tr>
<td>Germany</td>
<td>0,395</td>
<td>82,500,000</td>
<td>24.7</td>
</tr>
<tr>
<td>Italy</td>
<td>6,105</td>
<td>58,462,375</td>
<td>10.4</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>2,004</td>
<td>16,292,000</td>
<td>12.3</td>
</tr>
<tr>
<td>Russian Federation</td>
<td>29,685</td>
<td>143,474,143</td>
<td>20.7</td>
</tr>
<tr>
<td>UK, England and Wales</td>
<td>305</td>
<td>53,046,300</td>
<td>2.5\textsuperscript{123}</td>
</tr>
</tbody>
</table>


\textsuperscript{121} This table is part of a study being done within the World Bank (LCSPS). Additional information on sources and calculations is available from the Bank offices.

\textsuperscript{122} Includes, 1,401 justices of the peace, a new office about which little is yet known.

\textsuperscript{123} The number of judges does not include magistrates (justices of the peace) who handle largely simple cases, often are not lawyers, and usually work part time.
Table A3.2. Public prosecutors per 100,000 inhabitants, Latin American and other selected European countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Nº of public prosecutors</th>
<th>Population</th>
<th>Por 100,000 inhabitants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina (federal)</td>
<td>N.A.</td>
<td>38,226,000</td>
<td>N.A.</td>
</tr>
<tr>
<td>Bolivia</td>
<td>393</td>
<td>9,627,000</td>
<td>4.08</td>
</tr>
<tr>
<td>Brazil (federal)</td>
<td>N.A.</td>
<td>187,600,000</td>
<td>N.A.</td>
</tr>
<tr>
<td>Chile</td>
<td>751</td>
<td>16,598,000</td>
<td>4.52</td>
</tr>
<tr>
<td>Colombia</td>
<td>3,552</td>
<td>42,090,000</td>
<td>8.44</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>367</td>
<td>4,402,000</td>
<td>8.3</td>
</tr>
<tr>
<td>Dominican Rep.</td>
<td>705</td>
<td>9,250,000</td>
<td>7.6</td>
</tr>
<tr>
<td>Ecuador</td>
<td>323</td>
<td>13,215,000</td>
<td>2.44</td>
</tr>
<tr>
<td>El Salvador</td>
<td>647</td>
<td>6,990,000</td>
<td>7.0</td>
</tr>
<tr>
<td>Guatemala</td>
<td>847</td>
<td>12,700,000</td>
<td>6.7</td>
</tr>
<tr>
<td>Haiti</td>
<td>71124</td>
<td>9,151,000</td>
<td>0.8</td>
</tr>
<tr>
<td>Honduras</td>
<td>483125</td>
<td>7,200,000</td>
<td>6.7</td>
</tr>
<tr>
<td>Jamaica</td>
<td>83</td>
<td>2,660,000</td>
<td>3.12</td>
</tr>
<tr>
<td>Mexico (federal)</td>
<td>2060</td>
<td>104,900,000</td>
<td>1.96</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>260</td>
<td>5,483,000</td>
<td>4.7</td>
</tr>
<tr>
<td>Panama</td>
<td>74</td>
<td>3,200,000</td>
<td>2.3</td>
</tr>
<tr>
<td>Paraguay</td>
<td>284</td>
<td>6,216,000</td>
<td>4.6</td>
</tr>
<tr>
<td>Peru</td>
<td>1,290</td>
<td>27,219,000</td>
<td>4.7</td>
</tr>
<tr>
<td>Puerto Rico</td>
<td>349</td>
<td>3,928,000</td>
<td>8.9</td>
</tr>
<tr>
<td>Trinidad and Tobago</td>
<td>N.A.</td>
<td>1,057,000</td>
<td>N.A.</td>
</tr>
<tr>
<td>Uruguay</td>
<td>85</td>
<td>3,314,000</td>
<td>2.6</td>
</tr>
<tr>
<td>Venezuela</td>
<td>27,758,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Belgium</td>
<td>823</td>
<td>10,446,000</td>
<td>8.5</td>
</tr>
<tr>
<td>France</td>
<td>1,848</td>
<td>62,177,00</td>
<td>3.0</td>
</tr>
<tr>
<td>Germany</td>
<td>5,106</td>
<td>82,500,000</td>
<td>6.2</td>
</tr>
<tr>
<td>Italy</td>
<td>2,146</td>
<td>58,462,375</td>
<td>3.7</td>
</tr>
<tr>
<td>Holland</td>
<td>598</td>
<td>16,292,000</td>
<td>3.7</td>
</tr>
<tr>
<td>Russian Federation</td>
<td>55,021</td>
<td>143,474,143</td>
<td>38.3</td>
</tr>
<tr>
<td>UK, England and Wales</td>
<td>2,819</td>
<td>53,046,300</td>
<td>5.3</td>
</tr>
</tbody>
</table>

*Source: CEJA 2007 and others as indicated, for Latin America. CEPEJ 2006, for Europe.*

124 Data for 2003 from Saint-Louis (2004). In rural areas, the justices of the peace operate as instructional judges, under the traditional French system.

CHAPTER IV

TRANSPARENCY AND ACCOUNTABILITY IN THE EDUCATION SECTOR

INTRODUCTION

4.1 From 1990 to 2007, Honduras increased expenditure on education from 5.0 percent to 8.6 percent of GDP. The Secretary of Education’s expenditure increased from 17.3 percent of the Central Government budget in 1999, to 32.5 percent in 2007, which represents an important and growing effort to channel resources to the sector. Nevertheless, as discussed below, education outcomes have not been on par with this effort.

4.2 The country has made important advances in the following areas: reducing illiteracy (which reduced from 19.4 percent in 2001, to 16.4 percent in 2008); increasing coverage at the preschool, and middle and higher education levels (from 41 percent to 57 percent, 14 percent to 23 percent, and 11.6 percent to 15.6 percent between 2001 and 2008, respectively); increasing the completion rate for sixth grade (from 38 percent in 2001 to 53 percent in 2008); and extending matrícula gratis—a program which pays school costs previously covered by the fees paid by parents—to 83 percent of preschool, elementary and middle school children. However, despite the heavy investments in education, Honduras has not been able to make significant improvements to student learning achievements.

4.3 Scores on standardized tests in Spanish and mathematics in third and sixth grade have not improved since 1997. The average percentage of correct responses among the students evaluated in sixth grade in the 2007 Standardized Survey of the External Unit for Measuring Education Quality (UMCE), did not reach 50 percent in Spanish and mathematics. This affects the country’s competitiveness, especially considering that in international evaluations Honduran students perform worse than almost all of the other Latin American countries.

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126 We thank Rafael del Cid of ESA Consulting and Napoleón Morazán who prepared the background material for this report. Thanks also to the following persons for their comments and contributions: Marcos Cambar, Santos Elio Sosa, Omar Palacios, Adalid Romero, María Elena Quan and Rodolfo Zelaya, of the Secretary of Education; Francisco Saravia and Marcia López of UNAT; Lizeth Coello and Lourdes Valladares, of GSC; José Manuel Linares, of Fe and Alegría; María Antonieta de Bográn, of FEREMA; Karla María Verde, of CEPROD; and Ingrid Noll, of Foro Dakar.

127 In the same period, education expenditure in constant Lempiras grew more than 2.5 times. Expenditure per student has also increased in the same period.

128 Secretaría de Finanzas e Informes de Avance Trimestral, CET-EFA/SE.

129 Preschool is for 0- to 5-year-old children. Basic education is from first grade to ninth grade. Middle education is from tenth to twelfth grade. Higher education is all training after twelfth grade, including university.

130 See report of sectoral goals in: www.gerencia.gob.hn.

131 Honduran third grade students were those with the worst performance in language and mathematics of the 18 Latin American countries participating in the “Evaluation of Latin American Laboratory” of 1997. Honduran fourth grade students obtained the lowest scores in language and the second lowest in mathematics. Honduras did not participate in the “Second Regional Comparative and Explanatory Study of the Quality of Education” carried out in 2006.
Table 4.1. Performance of sixth grade students in mathematics and Spanish, 1997-2007

<table>
<thead>
<tr>
<th>Subject</th>
<th>1997</th>
<th>2002</th>
<th>2004</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spanish</td>
<td>42.0</td>
<td>42.5</td>
<td>42.6</td>
<td>45.0</td>
</tr>
<tr>
<td>Mathematics</td>
<td>35.0</td>
<td>38.5</td>
<td>38.5</td>
<td>38.8</td>
</tr>
</tbody>
</table>

Source: UMCE. Percentage of correct responses.

4.4 Part of the explanation for the issue concerning why the country is investing more for each unit of learning achievement, and why student achievement has declined with each additional Lempira invested, lies in the structural characteristics of public expenditure on education. Increases in spending have been highly concentrated on personnel expenditures, and especially teachers’ salaries, which have increased sharply in the last eight years. The gap between teacher pay and performance is great and in general teachers are not accountable for the poor achievement of their students. Teachers are regulated under a separate employment regime (estatuto), allowing them to negotiate significant increases in pay, compared with the other civil servants.

4.5 The public sector deficit experienced a significant deterioration between 2000 and 2003, attributable in part to an increase in the salary portion of the public sector. This led the Government to issue a Framework Law of Public Sector Salaries in December 2003 that helped, at least temporarily, to slow the growth of the public sector salary budget. The information available on salaries and public sector employment, though limited, suggests that growth in the real salaries of healthcare workers and other public sector workers (excluding teachers) stabilized between 2002 and 2006. However, it is estimated that the real salary rate of teachers increased by 18 percent during the same period, reflecting their comparative power in terms of union organization and influence. Teachers were able to negotiate salary increases without the condition of improving their performance.

4.6 In August 2006, after various prolonged teachers’ strikes, the Government negotiated a new agreement with the teachers’ unions. The agreement included:

- Salary increases tied to a system based on the performance of teachers (the Social Adjustment and Education Quality Program – PASCE), combined with the rationalization of human resource policies (including a census of teachers and auditing of posts, the improvement of the Integrated System of Administration of Teachers Human Resources (SIARHD), and early retirement schemes for teachers).
- The implementation of a national system for the evaluation of the quality of education through standardized academic performance tests.
- Independent social audits carried out by parents regarding teacher attendance in schools.

4.7 Preliminary estimates of the fiscal impact of the pay structures included in this agreement indicate that salaries will double in nominal terms from 2007 to 2009, increasing government spending on salaries between 1.0 and 1.5 percent of GDP.

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132 In other words, these spending increases have improved the salary conditions of teachers, but they have not increased the number of teachers on the payroll, improved the provision of education services, enhanced school infrastructure, or led to the construction of more schools.

133 The PROHECO teachers are the exception.
4.8 Some terms of the agreements have been met. For example, the requirement to visit all of the schools requesting payment of the PASCE, and efforts to carry out the census of teachers and the audit of positions. However, the efforts to tie the higher salaries associated with the PASCE to improvements in the quality of education, have not been successful. After prolonged negotiations with the teachers’ unions, the PASCE regulations were approved (in March 2007), but the verification variables considered for the payment of the PASCE (fulfillment of the school calendar, punctuality and planning of classes) can hardly qualify as indicators of the quality of learning taking place in schools. The future challenge of the Honduran Government is to incorporate quality indicators within the system, which requires changing the PASCE regulations, regardless of the likely opposition of the teachers’ unions.

4.9 It is important to mention that many of the initiatives and reforms that the country has attempted in the past several years have failed, or have diverged from their initial objectives, fundamentally due to the powerful influence of the teachers’ unions over the Secretary of Education. This influence is derived from their role in the appointments of key personnel in the institution and their ability to mobilize members to strike. These factors have enabled them to block or substantially change important reforms. The power that the teachers’ unions has does not have a counterweight in Honduras, and for this reason, it is important to empower the communities and the parents, so that they can participate more as natural allies of the Secretary of Education, in bringing about improvements to the learning achievements of Honduran children.

4.10 At the departmental and district levels, the Secretary of Education lacks information regarding the learning achievements of students, absenteeism of teachers, and the administrative and educational performance of the schools, which would facilitate decision-making and planning. Communities and parent associations also lack information which would enable them to monitor schools and teachers, and make them accountable for their performance, and would facilitate collaborative efforts to improve educational standards.

4.11 By affording access to such information, and empowering communities and parents at the school level, the Secretary of Education could bring about a change in the education sector’s power structure (currently dominated by the teachers’ unions), thus facilitating improvement in the country’s educational standards and achievements.

4.12 Rather than suggesting alternative reform models, or questioning the content of existing reforms, this chapter offers a structural and functional analysis of the Honduran public education system. For this purpose, the accountability framework developed in the 2004 World Development Report is adopted. This framework emphasizes the principal-agent relationship between citizens, politicians and service-providers or public institutions. This framework is described in the second section. To illustrate the dynamic of the sector and the behavior of the actors involved, two sections are included on different reforms – the Teachers’ Statute (Ley del Estatuto Docente) and the General Education Law. A further section analyzes the compact of the education sector, including the planning and budget

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134 For example, the parents could monitor the applications of the clauses of the Teachers’ Statute which establish that the absenteeism of a teacher could lead to a written reprimand from the principal, a salary deduction after the written reprimands and the loss of the position if the behavior is not corrected. These warnings and sanctions are not usually applied to teachers in Honduran schools.
process, the administration of teaching personnel, and client power; that is, the accountability of teachers, schools and the Secretary of Education to society.

4.13 This chapter presents recommendations for strengthening voice (the relationship between parents and communities and the State), the compact (the relationship between the State and providers) and the client power and accountability. However, the principal recommendation concerns the need to empower other actors to participate in policy discussions and decision-making in the sector, and to act as a counterweight for the teachers’ unions. Short-term recommendations are identified within each area.

**THE CONTEXT: EVOLUTION OF PRINCIPAL REFORMS SINCE 1990**

4.14 In contrast to other Latin American countries where education reform is referred to explicitly, Honduras has been carrying out a process of reform since 1990 that is not officially referred to as reform. Instead of employing the concept of education reform and of stressing the continuity of the process, education officials have preferred to call the changes introduced “the transformation of education”. Different governments have created different names, among them, the “Modernization of Education” (1990), “Escuela Morazánica” (1994), and “Education for All” (2001). Thus, despite the fact that, in reality, the actions carried out have been part of an ongoing educational reform process, failing to identify them as such has created a sense of discontinuity, to the extent that they have merely been linked the incumbent government’s education policy, and not viewed as a sustained political process of educational reform.

4.15 The reform process was launched in 1986 with the Efficiency of Primary Education project. It then continued with the Education Modernization Program in 1990, the Escuela Morazánica and the Program for Improving the Quality of Primary Education in 1994, and the Honduran Program of Community Education (PROHECO) and Education for All in 2001 (see Table A4.1 in Annex IV).

4.16 Since 2002, the objectives and goals of Education for All (EFA), the Millennium Development Goals (MDG), the goals of the Poverty Reduction Strategy, the application of the policies outlined in the Honduran Society Proposal for the Transformation of National Education135, and the Strategic Plan of the Education Sector for the period 2005-2015, are framing the current process of education reform in the country. In 2007, FONAC led a new consultation process within the framework of a technical study, which aimed to analyze the advances and limitations of the educational transformation process. The study concluded that some important changes in coverage, efficiency, curriculum design, teacher training, investment and management of education have been achieved in recent years. However, such changes have been slow and they have not had such a significant effect on the process and quality of education as to make education a key factor for national development.

4.17 Based on these processes, one can conclude that the conditions of the sociopolitical environment – such as the prolonged conflict with the teachers’ union, and the dispersion of actors and of institutions – conflicted with reform and affected its momentum. The actors and institutions approach reform from their own perspectives which, combined with the Secretary

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135 Developed by the National Convergence Forum (Foro Nacional de Convergencia, FONAC – 2000).
of Education’s lack of leadership and technical vision, has generated an absence of general cohesion and coordination regarding reform processes. The factors that affect the implementation of reforms can therefore be delineated as follows:

- A gradual and consensual approach to reforms, planned over the long term, increases the probability of acceptance.
- Teachers’ unions have sufficient influence to ensure either the success of the reform processes or to restrict or slow its execution.
- The participation of civil society organizations – which has, thus far, been lacking (with the exception of the FONAC initiatives) – is key to ensuring the continuation of the educational reform process.
- Incorporating education reforms with State and economic reforms can increase the probability of their successful implementation.
- The probability of the successful implementation of national education policy reform is increased by comprehensive dialogue between interested parties, and a sustainable, coherent, and systematic reform process.
- A requirement for suitably qualified personnel, and a reduction in turnover of more highly qualified staff, could increase the probability of successful reform implementation.
- Establishing independent pro-reform advisory councils can strengthen the leadership of reforms.
- Lack of access to information regarding the nature of reforms, affects the demand for them.
- The participation of possible beneficiaries and civil society in the design and evaluation of reforms increases the probability of their successful implementation.

4.18 In respect to the elements that limit the realization of reforms the following factors can be identified:

- The lack of commitment to the reform by middle management and public servants.
- Government’s wavering commitment to the reform may provoke opposition from interest groups that are key to its success.
- Governments and administrations motivated by partisan goals or that respond to particular interests.
- The lack of commitment from teachers’ unions, which have sufficient influence to ensure the reform’s success or failure, or to limit or slow its execution.
THE ACCOUNTABILITY FRAMEWORK IN THE EDUCATION SECTOR

4.19 The provision of public services in education entails the delegation of responsibilities and finances to the various actors and tiers of the education sector (national, departmental, local). However, these actors have limited and inconsistent information about the processes involved and the results of the activities carried out.

4.20 Based on the framework proposed in World Bank (2004), the current chapter assumes that outcomes in the education sector are determined by the actions and interactions of the following four groups of actors:

- **Clients-citizens.** This category groups students and parents together on the assumption that the interests of parents are closely linked with the interests of children and that, therefore, parents can act as their children’s agent in dealing with other actors.
- **State.** This category includes all those actors in the education sector that have the authority to make decisions about funds and how they are used. It also includes responsibilities of the different actors, including the President, Congress, Ministers and personnel from the Secretaries of Finance and Education—the principal institutions by law that have the authority to set and modify policies for the sector.
- **Providers.** Between the Secretary of Education and the teachers there is a substantial hierarchy of relationships, including officials from the national, departmental, municipal, district and local levels, school principals, and administrative personnel.
- **Teachers.** Their role is the most significant element of the education system, with regard to educating students, and as such, their performance directly affects the outcomes that are obtained from the education process.

**Figure 4.1. The Accountability Framework**


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4.21 The education sector presents a series of relationships in which accountability is desirable: the State needs to be accountable to clients-citizens (voice); organizations that provide the services through the management pact need to be accountable to the State; the teachers need to be accountable to the providers (management), and educational institutions and teachers need to be accountable to clients-citizens.

4.22 Accountability can be obtained via long and short routes. The long route links clients-citizens with the teachers through the State and involves the mechanisms of voice and the management pact. The short route links clients-citizens to the providers and involves client power. Both routes present some interesting questions for Honduras. For example, in the case of the long route, are the different levels of government (national, departmental and municipal) accountable to the population? Do sufficient incentives and adequate information exist so that accountability can be effective? In the case of the long route, do parents have information about what takes place in the classrooms and about the learning achievements of their children? Do they have the power or capacity to demand results regarding student achievement from the schools and the teachers?

4.23 In the provision of public services in education, principal-agent relationships are characterized by information asymmetries throughout the service delivery chain at different levels of operation (national, department, municipal, district). The general case can be summarized in the following way:

- The client-citizens (principal) delegate to the State (agent) the function of public service provision while they contribute to its financing by paying taxes.
- The Government elaborates the policy for the sector and prepares a budget proposal, submits it for congressional approval, and obtains a budget allocation for the sector.
- The Secretary of Finance (principal) assigns a budget and, in some cases, demands to see results from the Minister of the sector in question (agent).
- The Secretary of Finance (principal) transfers resources and delegates responsibilities for the provision of services to local governments (agent) or directly to service providers (agent). In other cases, such as in the PROHECO model (school-based management), the chain is shorter and implies a direct relationship between the provider and the clients. Both in the long and the short routes the delegation of responsibilities involves principal-agent relationships at various levels of the service provision chain, such that the same entity can be a principal and an agent at the same time (as in the long route described previously).

4.24 In all cases, the amount of information available and how it is used by the principal at each link of the chain are critical elements for aligning the incentives of the agents, and thus, for achieving the results prescribed in national policies. In other words, the delegation of responsibility regarding the provision of public services by the principals to the agents, requires a solid accountability framework throughout the chain, that includes an appropriate and transparent information flow, an aligned structure of incentives, and consequences for the agents in relation to the results obtained.

4.25 The results obtained in the education sector in terms of access, quality (learning), equity, and efficiency depend on the level of governance. This is defined as the set of incentives and accountability mechanisms that monitor service providers’ and teachers’
performance and results. In Honduras, governance problems throughout the service delivery chain have negative consequences for the quality and efficiency of the social sectors, especially at the school level.

4.26 For example, the increase in spending per student has not translated into a significant improvement in student achievement, indicating bottlenecks or pressure points through the service delivery chain. Experience demonstrates that results do not necessarily improve automatically in proportion to the increases in resources. This may be attributed to the impact of factors beyond the control of the education sector (e.g. the level of poverty of families), but also, amongst other factors, to the waste of resources along the chain (e.g. strikes, absenteeism of teachers and students), low technical quality of service providers, inferior management capacity, limited quantity, quality and frequency of information usage. All of these problems occur throughout the chain of service provision and are related to governance and management issues, which need to be addressed in order to increase the productivity of investments in the education sector.

**VOICE IN EDUCATION**

4.27 This section describes the principal actors in education (Secretary of Education, teachers’ unions, civil society, and international cooperation) and analyzes the interaction between these actors, through cases studies, that were chosen because of their relevance for the sector: the Teachers’ Statute Law (la Ley del Estatuto Docente) and the General Education Law.

**Key Actors**

*Secretary of Education (SE).*

4.28 The internal structure of the Secretary of Education consists of the Minister, three sub-secretaries – technical-pedagogical, educational services and union – and the social and financial administration. The General Directorate of Education, which is subordinate to the minister, is the liaison between the Minister’s office and the 18 departmental administration offices of the Secretary of Education. The district administration offices are subordinate, in turn, to these offices, while the education centres are subordinate to these district offices.\(^{138}\)

4.29 Technically each department has powers to conduct its functions and delegated authority for decision-making, but the lack of capacity at the decentralized level and the

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\(^{137}\) According to the school census, 40 percent of the teachers in Honduras missed a month or more of school in 2000 (World Bank, 2005). It is a concern, that the gravity of the problem of absenteeism is not completely recognized. According to a school survey carried out by UMCE (2003), only seven percent of school principals consider absenteeism to be a problem.

\(^{138}\) The organizational structure is described at [www.se.gob.hn](http://www.se.gob.hn)
tradition of centralism results in many decisions still being taken at the central level\textsuperscript{139}. Thus, even though the process of deconcentration has granted administrative autonomy and control over the curriculum to the departmental administrations, these depend directly on the office of the Secretary of Education (through the General Directorate of Education), who also continues being the final decision-maker at the departmental level. This type of centralization, which is subject to party influence and influence from teachers’ unions, contributes to the inefficiency and inefficacy of education services.

4.30 As a consequence, given the \textit{de facto} influence that the teachers have, it is the Minister who centralizes the relationships with them for decision-making purposes. In practice the fundamental decisions that affect the process of education transformation are made in the National Board of the Teacher Directorate – an organization created by the Teachers’ Statute as the highest level body for decision-making regarding the application of the dispositions of the Statute, including its regulation and manuals. Nevertheless, this procedure is inadequate since the Law only refers to this Board in regard to issues related to the Statute, and not other issues concerning the education transformation process or the administrative management of the Secretary of Education.

4.31 Every four years, when a new government is elected, changes are made to the personnel that lead the education system, including the Secretary and subsecretaries of Education, the executive director of INFOP, and the general directors and coordinators of programs and projects. While it is true that, since the 1990s, there has been a continuous process linked to education reform, a national education policy enjoying a broad consensus has not yet been defined. This allows each new government to define its own policy, without ensuring continuity in the application of education reform processes. In other words, with every change in administration, even if the governing party remains the same, a four-year strategy for education is implemented. This naturally leads to a delay in actions being undertaken, and undermines the previous technical agendas, thereby affecting the continuity of the processes.

\textit{Teachers’ unions.}

4.32 The six professional teachers’ organizations in Honduras, in order of their founding date, are: \textit{Colegio Profesional Superación Magisterial Hondureño} (Colprosumah); \textit{Primer Colegio Profesional Hondureño de Maestros} (Pricphma); \textit{Colegio Profesional Unión Magisterial de Honduras} (Coprumh); \textit{Colegio de Profesores de Educación Media de Honduras} (Copemh); \textit{Sindicato Profesional de Docentes de Honduras} (Sinprodoh); and the \textit{Colegio de Pedagogos de Honduras} (Colpedagogosh) (see Table I in Annex IV).

4.33 Each organization has a different organic structure but, in general terms, has a central leadership that is elected every two years and regional, sectional and local factions. Similarly, each organization maintains its own independence and autonomy, and develops its union

\textsuperscript{139} For example, there are processes that should operate in a deconcentrated manner in the departmental administration offices, such as: departmental planning based on the national agenda; the evaluation of student achievement; the evaluation of teacher performance (carried out by boards and departmental, district and local committees); the training of teachers for the implementation of the national curriculum, by departmental teams or committees in coordination with INICE (central entity); technical-pedagogical and administrative supervision; the accreditation and granting of degrees and qualifications; the certification of studies; the recruitment, selection and appointment of teaching personnel; transfers; exchanges; licenses; and sanctions
action on the basis of its statutes, the resolutions of its congresses, or general assemblies, and the actions of its national leadership. However, the body responsible for negotiations with the Secretary of Education, on subjects that affect all teachers, is the Federation of Teachers’ Unions of Honduras (FOMH). This is a coordinating entity without legal status and, therefore, every negotiated agreement is signed not by FOMH, but by each organization. Even though the agreements with the Secretary are made through a process of joint deliberation and the agreement of the six organizations, they only acquire validity with the separate signature of the authorized representatives of each one of the six teachers’ unions.

4.34 The teachers’ unions gather resources through a quota paid monthly by teachers, calculated as a set percentage of their base salary. Membership of these organizations has grown because membership is a requirement for appointment to a teaching position in the official schools. The deduction of the quotas and the social security contributions are effected through withholding by the Government on the teachers’ monthly salary, which is later transferred automatically to each teacher organization. Due to this strategy, the teachers’ unions enjoy financial solvency. For example, in 2007 the teachers’ unions collected 242 million Lempiras (approximately US$12.7 million) and from January to July 2008 they collected about 189 million Lempiras (approximately US$9.9 million). The application of the salary regime of the Teachers’ Statute has considerably increased the base salary of all teachers, which explains the strengthened financial position of the teachers’ unions (see Table 4.4).

4.35 The teachers’ unions have powerful incentives to mobilize their representatives to obtain salary increases, since the revenue they collect increases proportionally to teachers’ salaries and their representatives receive direct benefits (that justify their membership) financed by the public budget and not by their contributions to the teachers’ organization. In this sense, it is noteworthy the lack of transparency around the amount of funds that these organizations collect and its use.

| Table 4.4. Contributions by teachers to teachers’ unions (in Lempiras) |
|-----------------|--------|--------|--------|-----------------|
| Colprosumah     | 60,953,327 | 81,271,908 | 97,591,985 | 70,490,745 |
| Pricphma        | 5,181,979  | 5,835,693  | 21,753,304 | 30,792,269 |
| Sinprodoch      | 6,163,731  | 8,160,758  | 15,844,089 | 15,453,583 |
| Colegio De Pedagogos | 6,915,979  | 10,299,455 | 16,012,346 | 13,019,414 |
| Copemh          | 55,001,153 | 63,594,368 | 66,081,900 | 42,829,297 |
| Coprumh         | 16,953,885 | 18,287,545 | 24,297,831 | 16,058,262 |
| **Total in Lempiras** | **151,172,059** | **187,451,734** | **241,583,462** | **188,643,569** |

140 All of the teachers’ unions have internal social security plans that are also financed with dues calculated as a percentage of salary. These social security plans administer large sums of money that are deposited in the national bank where they collect interest.
4.36 A fact that emerges from the historical narrative about the teachers’ movement is the permeability of these organizations to the activism of the political parties, a characteristic that explains their strong internal disputes and their methods of fighting against their common “adversary,” the Central Government. Complaints of party interference in the internal elections of the larger teachers’ unions are frequent, and there is also suspicion of teacher organization leaders “sold out” to Government. The growing and increasingly influential membership at the national level makes the organizations attractive to politicians, with whom the teachers have been learning to negotiate, and at the same time, mobilizations and strikes (which the teachers call “informational assemblies”) make the teachers’ unions a formidable force. In some ways, one might say that the love-hate relationship between the governing elite and the teachers’ unions has proved to be a mutually beneficial forum. The support of the organizations’ large membership, which is multiplied when the family of each teacher is considered, is continuously sought by governments and politicians given that it could tip the balance in presidential or legislative elections.

4.37 All of the organizations are highly centralized. Decisions are made at the level of the central leadership. Even though they publicly assert the need to consult with their constituencies and the regional structures, in practice decisions are made at the central level and communicated to the regions so that they can be executed. The usual practice in decision-making is not democratic; decisions are accepted and followed in a disciplined way by the sectional structures and by the membership base. The teachers’ organization leaders foster the idea that a regional organization exists that can have a different opinion than the national leadership but, in practice, such contradictions have rarely been seen. The notion of a decentralized structure is promoted by convenience; to avoid making concessions, or to play for time at the negotiating table, teachers claim the need to consult with their regional organizations.

4.38 Strikes are the mechanism to which teachers’ unions resort in order to achieve their demands\(^{141}\); a factor that links them to the broader Honduran union movement. However, the teachers’ unions have shown little initiative regarding education reform policies. Until now they have pursued a destabilization approach, but without the capacity to play a constructive role in the process of education reform.

\textit{International donor community.}

4.39 The international donor community is a significant presence in the sector through various commissions, particularly the Round Table of External Donors in Education

\(^{141}\) According to information from the Secretary of Education, as a result of the numerous strikes in 2006, of the 200 scheduled school days only 100 days of classes (50 percent) could be held. In 2007, which was a school year characterized by low levels of conflicts with the teachers, the number of class days increased to 190 – a 90 percent increase in the number of class days. The fulfillment of the programmed school year is important since Honduras has fewer hours of class per year (882 hours) than the standard in Europe (1,200 hours), which without a doubt affects the learning of children and the competitiveness of the country.
4.40 The proposals for education reform, agreed upon since the 1990s, have benefited from strong support from international donors, without which it is likely that such agreements would not have been possible. While it is not correct to say that the donors imposed the reforms, one cannot minimize their influence regarding the proposal of agendas, the sustainability of the policies, and the advocacy of the most important contents, especially upon transitions of government. The abundant interaction that occurs between international aid agencies, the Government, and civil society organizations, provides a golden opportunity to exchange views and approaches. Although the EFA funds represent only two percent of the SE budget for 2008, the high proportion of the SE budget reflected by salaries, means that these resources are fundamental to the implementation – in agreement with donors – of other important initiatives, aimed at improving the quality of education in the country (see Table 4.5).

<table>
<thead>
<tr>
<th>Year</th>
<th>National budget</th>
<th>Secretary of Education budget</th>
<th>%</th>
<th>Spending on education as share of GDP</th>
<th>EFA budget</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>1,891,271,609</td>
<td>504,224,366</td>
<td>26.7</td>
<td>7.3</td>
<td>28,704</td>
<td>-</td>
</tr>
<tr>
<td>2004</td>
<td>1,978,081,891</td>
<td>530,450,216</td>
<td>26.8</td>
<td>7.3</td>
<td>18,695,976</td>
<td>3.5</td>
</tr>
<tr>
<td>2005</td>
<td>2,086,241,684</td>
<td>637,395,663</td>
<td>30.6</td>
<td>7.2</td>
<td>37,187,808</td>
<td>5.8</td>
</tr>
<tr>
<td>2006</td>
<td>2,275,518,493</td>
<td>678,838,440</td>
<td>29.8</td>
<td>7.6</td>
<td>20,227,716</td>
<td>3.0</td>
</tr>
<tr>
<td>2007</td>
<td>2,613,570,716</td>
<td>850,286,984</td>
<td>32.5</td>
<td>8.6</td>
<td>17,604,754</td>
<td>2.1</td>
</tr>
</tbody>
</table>

Source: Secretary of Finance and Reports of Quarterly Progress (Informes de Avance Trimestral) (IAT) CET-EFA/SE.

Civil Society

4.41 In the education sector, 28 non-governmental organizations\(^{143}\) and foundations support and cooperate with the Secretary of Education, that execute programs and projects serving children and adolescents at the preschool, primary and secondary levels. These include, among others: ALFASIC, Asociación Compartir, Asociación Kindernothilfe Honduras, CEPROD, Christian Children Fund, Christian Relief Service, Fundación Fe y Alegría,

\(^{142}\) MERECE, created in 1998, currently is composed of 15 institutions: the Canadian Agency for International Development (ACDI), Japan Agency for International Cooperation (JICA), United States Agency for International Development (USAID), Spanish Agency for International Cooperation for Development (AECID), German Development Bank (KfW), Central American Bank for Economic Integration (BCIE), Inter-American Development Bank (IDB), World Bank (WB), European Commission (EC), German Technical Cooperation (GTZ), United Nations Children Fund (UNICEF), Population Fund of the United Nations (UNFPA), Organization of the Iberian American States for Education, Science and Culture (OEI), the World Food Program (WFP), and the Embassy of France in Honduras, which was recently incorporated.

\(^{143}\) It is important to mention the donor und ACI-ERP that provides partial financing to the NGOs that work on education matters.
Fundación Aldeas Infantiles, Fundación FICOHSA, FUNDANASE, Programa Amigos Unidos, Visión Mundial, Save the Children Honduras, CARE, Fundación Educativa Ricardo Ernesto Maduro Andreu and Fundación MHOTIVO. These serve approximately 555,214 children and adolescents. It is also important to highlight the financial support of private banking to preschool education, through the construction of classrooms and the improvement of infrastructure that the Foundation FICOHSA carries out.

4.42 The Advisory Council of the Poverty Reduction Strategy (CCERP) is also a critical actor in the sector, in particular, the role of the Technical Unit of the Civil Society Group, in monitoring education performance targets set up in the Poverty Reduction Strategy, monitoring the implementation of education policies and following up on the Dakar agreements.

4.43 In almost all of the schools at the preschool, primary and secondary levels there are parent associations that are beginning to participate in the management of schools. However, there is no organization in the country at the departmental level, nor at the national level, that represents all of the parent associations; hence their participation and influence on the process of education reform and improving the quality of education is extremely limited. Although an effort has been made to improve the organization and strength of the parent associations – (the PROHECO program, analyzed below, has done a lot for this objective), and the General Education Law also includes measures to give more relevance to these organizations – the reality is that there is currently no parent organization with influence worth considering. In general such organizations have a very weak voice and are usually restricted to the school environment or the education networks.

4.44 The various actors (Secretary of Education, teachers’ unions, international donors, and civil society) have different powers and capacities to organize, successfully undertake negotiations, and formulate responses or technical proposals in respect to the demands and needs that arise. They also have different amounts of resources and levels of influence regarding education policy, and an alternative appreciation of educational needs and with different capacities to promote them. Figure 4.2 shows scores pertaining to the different actors’ capacities in the six afore-mentioned areas, based on interviews of leading actors in the sector.

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144 In addition to having programs and projects at the preschool and primary school levels, FEREMA executes technical support programs directly with the different general administrative offices and departments of the Secretary of Education and with the National Forum of Convergence, oriented to supporting the process of transformation of national education, to raising the quality of education and to developing innovative methodologies and techniques; for this reason its incidence in the national education system is broadly recognized.

145 Based on data from CONCORDE.

146 The exception is the active participation of the community in more than 2,500 PROHECO schools distributed in the rural areas of the country.

147 The current education administration aims at organizing the parent associations, strengthening their participation and continuing with the decentralization process. El Patronato Regional de Occidente, which brings together 400 local organizations such as water boards, trustees and 200 parent associations, has been selected for initiating a pilot experience in the western region.
Figure 4.2. Relative position of the different actors

4.45 Figure 4.2 shows that the teachers’ unions are the best organized and have the greatest capacity to negotiate, but they have less influence than the Secretary of Education and international donors. These organizations lack the technical capacity and vision regarding the real educational needs of the country (quality of education), but they have sufficient influence to have a veto capacity, especially in respect to the allocation of resources for salaries.

4.46 The Secretary of Education is the entity with the greatest influence, since he possesses formal decision-making power. However, he has fewer resources available than international donors, especially if annual resources available for investments and purchases of goods and services are taken into account, which are strongly limited by salary demands. Because of the high turnover rate of qualified staff, the Secretary of Education exhibits less technical capacity than international organizations. In this regard, international organizations are important actors since they have more resources available for investment and greater technical capacity, even though their vision of needs and potential for influence is limited, because they are not national actors and have separate and sometimes conflicting agendas. Finally, parents and students (users of education services) have the best vision of the needs, but limited resources, scarce organization, and therefore, little capacity and influence. The phenomenon of the emergence of civil society organizations that are well-organized and, in some cases, with strong technical capacities, is recent and still limited.
Case studies: Teacher Statute Law and the General Education Law

4.47 In this section, two periods of reform in the education sector are analyzed with a focus on the influence of the actors and institutions involved (i.e. the stakeholders). One of the cases is the Teacher Statute Law, which is the regime for the administration of personnel that governs the teaching career in official, semi-official, and private institutions overseen by the Secretary of Education.

4.48 The critical feature of the Statute concerns the granting of automatic salary increases tied or indexed to the average minimum salary. In addition, collateral payments (or bonuses) for the teachers were also created, which also increase with the base salary. The Statute, which had been an aspiration of teachers for more than half a century, has in practice become the most important factor in the planning and budget process, defining the real possibilities of the Honduran state to invest in education. Dialogue between government officials and representatives of the teachers’ unions is therefore needed in order to manage the impact on the education sector finances. However, perhaps the greatest challenge is how to tie it to accountability measures imposed on teachers by the Statute, to guarantee the fulfillment of defined obligations.

4.49 In general, the labor organizations (mainly from the public sector), popular organization movements, and minority political parties have joined with the teachers in their fight over salaries, as they share many common factors in their approaches to society and the State. But just as the teachers’ unions vary in terms of their ideological approaches, these organizations also vary in their degree of affinity with the teachers’ unions. Public sector unions have begun to evaluate the manner in which the professional statutes affect their annual minimum salary negotiations, given that it is common for worker and business representatives to disagree on specific figures, but to resort to the final arbitration of the Government.

4.50 In this regard, the Government has acted with much greater caution in recent years, since it knows the immediate impact that the figures decided upon for the minimum salary have on expenditures related to the statutes. The setting of the minimum salary tends to approximate the proposals made by private business. The parties more closely identified with the union movement and the teachers’ and other professional organizations (the UD for example) tend to show sympathy with the positions of the teachers. However, this position can vary to the extent that public opinion is modified by the refusal of the teachers to allow more strict control of their job performance. In addition, the position of these parties could be influenced by the position of the unions, if they think that the provisions of the Statute are negatively affecting their annual minimum salary negotiations (Table 4.6).

4.51 The Remuneration System Law of the Central Government (La Ley del Sistema Retributivo del Gobierno Central) offered an alternative formula between the extreme positions of total abolition or complete application of the Statute. Even though it is true that this law abolished the collateral benefits of the Teachers’ Statute, it simultaneously raised the base salary and, most importantly, decided that beginning in 2007 the base salary would be indexed to changes in the minimum national salary. However, the teachers maintained the pressure to uphold the status quo (the complete application of the Statute) and again took advantage of weaknesses to extract electoral commitments that would later permit them to
detach the Statute from the Remuneration System Law and, with it, increase their economic gains. It is now much more complicated to return to the point specified by the Remuneration System Law, given the commitment acquired by the Zelaya administration to begin fully applying the Statute beginning in 2010\textsuperscript{148}. This commitment has already created an expectation for the teachers’ unions and their membership bases, which undoubtedly they would aim to have fulfilled (see Figure 4.3 and Table A4.3 in Annex IV).

**Figure 4.3. Relative position of the actors in respect to a reform of the economic clauses of the Teachers’ Statute**

![Diagram showing relative positions of actors](image)

*Source:* Authors’ elaboration.

4.52 For its part, the General Education Law has become the legal formulation of the education reform proposed by FONAC in 2001. The approval of this law is among the priorities of the SE, but it faces the opposition of the teachers’ associations. In addition to considering that it was developed without their participation or consent, the teachers’ unions oppose some of its important provisions, including those that condition the salary gains of teachers on their performance levels, prescribe university education as a requirement for entering the teaching career, or that place the direction of the reform process in different hands than the Secretary of Education, an institution that is more acquiescent to the demands of the union. In spite of being the result of great consensus-building efforts in FONAC, it is still necessary to overcome significant difficulties before its approval (see Figure 4.4 and Table A4.4 in Annex IV).

\textsuperscript{148} Subsections 12 and 13 of the Special Act PASCE, August 2006.
Figure 4.4. Relative position of the actors in respect to the proposal of the General Education Law

Source: Authors’ elaboration.

4.53 In short, the General Education Law proposal has a good chance of being approved by the National Congress without changes that radically alter the proposal for various reasons:

- The proposal is nothing more than the education reform (of FONAC) in a legal format. In this sense, the law’s proposal inherits the acceptance that the education reform proposal gained.
- The goal of obtaining the approval for the General Education Law is one of the priorities of the Secretary for Education in the current governmental period.
- Approving this law also appears to be on the agenda of the National and Liberal political parties.
- The remarks made so far by the teachers’ unions, UNAH and INFOP refer to very specific aspects that could be resolved in internal talks with the Secretary of Education.

4.54 The reform, nevertheless, could be “filed away” in the Ministry or in the National congress due to the following circumstances:

- The current Minister of Education has not participated in the discussions about education reform in the past. Somehow this reform may not represent a personal commitment but rather could be considered as a risk to the stability of his tenure.
- To judge by their previous conduct, the teachers’ unions would have little interest in whether the Law is approved, since technically it does not affect them, with the exception of some articles, which according to the teachers’ organization leaders contradict the Teachers’ Statute. Nevertheless, their political calculations could make them think that their situation would be preferable without this law. An institutional framework with clear accountability lines and more transparency around decision-making will reduce the room for action for the unions and limit its influence. This is what some leaders with a short-term vision fear; and the voices of these leaders could prevail in the discussion.
In some ways it seems that the General Education Law has been left as an orphan without a strong sponsor for the moment.

4.55 In the National Congress, the General Education Law could be approved as long as it is submitted before the end of 2008. The National Congress has been involved in the Education Commission of FONAC, so one would assume that it is aware of its content and the arguments behind it. However, 2009 is an election year and the issue could become controversial. If it does, it is likely that Congress withdraws it from consideration.

THE SERVICE DELIVERY COMPACT

4.56 This section analyzes the relationship between the State and the providers, represented in the triangle of accountability shown previously in Figure 4.1.

The legal framework

4.57 The Constitution of 1982 defines the general principles that govern national education, including the following:

- The State has the obligation to provide basic education to its citizens through the administrative and technical agencies that depend on the Secretary of Education.
- The levels of formal education will be determined by the respective law, except the higher education level, which is the responsibility of the National Autonomous University of Honduras.
- Education, in all of the levels of formal education, except the university level, is authorized, organized, directed and supervised exclusively by the executive through the Secretary of Education.
- The National Autonomous University of Honduras enjoys exclusivity in organizing, directing and developing higher education and professional education.
- The training of teachers is a function and exclusive responsibility of the state.
- Public education is free, and primary education is obligatory and fully paid for by the State.

4.58 The general management of the national education system is the responsibility of four institutions: the Secretary of Education, National Autonomous University of Honduras, National Institute of Vocational Training, and the Alternative Commission for the Development of Non-Formal Education (see Table 4.8).

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149 Title III, Chapter VIII, of Education and Culture.
150 In addition to the Constitution, the national education system is regulated by the following laws: (i) Organic Education Law, approved October 6, 1966, which still regulates school education for preschool, primary, secondary, literacy and adult education; (ii) Organic Law of the National Autonomous University of Honduras, approved by the National Congress in September 1989; (iii) Higher Education Law approved by the National Congress in September 1989; (iv) Law of the National Institute of Vocational Training (INFOP) approved through Decree Law December 10, 1972; and (v) Law for the Development of Alternative Non-Formal Education, approved by the National Congress through Decree no. 313-98.
Table 4.8. Governing entities of the National Education System

<table>
<thead>
<tr>
<th>Secretary of Education (SE)</th>
<th>National Autonomous University of Honduras (UNAH)</th>
<th>National Institute of Vocational Training (INFOP)</th>
<th>National Commission for the Development of Non-Formal Education (CONEANFO)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Formal education 1/</td>
<td>Formal education 1/</td>
<td>Non-formal education</td>
<td>Non-formal education</td>
</tr>
<tr>
<td>Preschool education</td>
<td>Higher and professional education</td>
<td>Vocational training</td>
<td>Basic needs, comprehensive training, work training of children, youth and adults excluded from the formal education system.</td>
</tr>
<tr>
<td>Primary education</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Secondary education</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Teacher education</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Literacy</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adult education</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1/ Formal education is organized at four levels: preschool level from 0-5 years of age, with the last year at age 5 being required; primary education which is free and obligatory and comprises nine grades divided in three cycles: first cycle of three years (1st, 2nd, and 3rd grades); second cycle of three years (4th, 5th and 6th grades) and the third cycle of three years (7th, 8th and 9th grades); secondary education of two and three years that ends in a Bachelor’s Degree or in a vocational training degree; and tertiary education that lasts between two and eight years.

4.59 Currently there is no institution that coordinates the education functions carried out by each of the governing entities of the national education system. Thus, they remain as isolated institutions without an institution that coordinates their work. Even when this situation appeared to have been overcome with the Strategic Plan of the Education Sector, in practice coordination and articulation is almost non-existent, since the strategic actions and operational activities of the Plan continue to be executed by each institution in an independent manner. It is important to mention that the General Education Law proposal stipulates the creation of the National Education Council which, under the presidency of the Secretary of Education 151, would be the body responsible for defining policies and coordinating national education.

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151 It would be composed by the Dean of the National Autonomous University of Honduras, the Dean of the Francisco Morazán National Teaching University, the Executive Director of the National Institute of Vocational Training, the Executive Secretary of the National Commission for Alternative Non-Formal Education, the Secretary of Culture, Arts and Sports, the Commissioner of the Honduran Council on Science and Technology, a civil society representative with representation in the National Convergence Forum, a representative of each teaching organization, a representative of private universities and a representative of private education institutions (preschool, basic and middle levels).
Planning and budgetary process

4.60 The budgetary process contains the following stages: formulation of the operational plan and the budget, presentation, approval and execution.

Formulation of the operational and budgetary plan, presentation and approval

4.61 A decade ago there was a state agency, the Secretary of Planning (SECPLAN), which was responsible for planning and for the national budget. The functions of SECPLAN were absorbed by the Secretary of Finance through the Directorate of the Budget and Public Credit and the unit that coordinates SIAFI and the Secretary of the Presidency through UNAT. A weakness of this model is that it separates financial planning from the technical aspect provided by the Secretary of Education, making decision-making by SEFIN possible, which can mean that decisions are not always supported by technical rationales. To overcome this difficulty, the current administration has made this a coordinated responsibility of UPEG and SEFIN. The challenge that still remains is that UNAT leads the planning policies and provides the technical guidelines, since this is the unit that finally evaluates the goals planned through the Results-Based Management System (SGPR).

4.62 The initiation of this process requires knowledge of the budgetary policy guidelines that the General Directorate of the Budget of SEFIN elaborates and submits to the President for his approval. This document establishes investment priorities according to the directives of the Office of the Presidency and contains the budget proposal for the sector, defining a maximum amount of spending, calculated based on the executed budget of the previous year. Once this requirement is fulfilled, the Secretary of Education initiates its work on the formulation of the operational plan. For this purpose the UPEG organizes seminars with central level officials and with the departmental administrations of the 18 regions of the country, to construct the departmental budget. The departmental budgets are distributed within the schools where the most urgent needs are detected. The needs of the centers are passed to the district administrations and from these to the departmental education administrations, where they are prioritized and are set forth in the departmental annual operational plan (AOP). The departmental AOPs are sent to the UPEG which consolidates the AOP of the Secretary of Education. This phase is possibly the one of greatest importance in the process of budget formulation, since it is the moment in which resources are assigned to address the central education issues of the country.

4.63 Once it has the consolidated budget, the UPEG presents it to the secretary, subsecretary, and line directors of the Secretary of Education for their review. The budget can be changed on the basis of this review, but it has to be presented to the Secretary of Finance by August 15 of each year, so that it can be reviewed before being submitted for the approval of the National Congress, where the definitive ceilings are defined. Once the process of formulation and consolidation of the operational plan and the budget of the centralized public sector departments is finished, the executive, through the Secretary of

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152 If a ministry under-executes the budget in the previous fiscal year, it will receive a reduced budget in the subsequent fiscal year.

153 The Annual Operation Plan (AOP) is complemented by a narrative AOP.
Finance, presents the general budget of revenues and expenditures of national and decentralized institutions to the Congress in the first 15 days of September.

4.64 The AOP reflects the institutional goals that the Secretary of Education defines and reports to the UNAT, which revises and expresses an opinion on them. The UNAT supports the UPEG in respect to the planning methodology and the formulation of the goals and indicators. The goals are analyzed with the Secretary and his vice ministers, who commit themselves to their fulfillment. These goals are monitored and evaluated on a quarterly basis by the SGPR. In this respect, the 2008 budget for the Secretary of Education has begun to reflect institutional changes for orienting the resources toward the SGPR goals that are defined in the planning process.

4.65 Up to now, the AOP has not yet been turned into a management instrument for each one of the different levels that comprise the education sector, since the majority of the heads of programs and departmental administrations do not know the budgetary ceilings that they have been assigned, as well as the group of expenditures of their programmatic window. This situation is explained by the fact that the budgetary allocation for the whole government is done by the Secretary of Finance, who sets the priorities of personnel services and, within these, the budgetary items targeted at wages and basic salaries, including bonuses (collaterals). In the case of the Secretary of Education, the item of personnel services had a structural weight of 92 percent in 2007, not counting the expenditures allocated to transfers and donations. On this point, it is important to emphasize that, based on an analysis of the international evidence; the World Bank (2006) suggests that this percentage ought to be between 65 percent and 70 percent.

4.66 The amounts assigned to wages and salaries are not transferable and consequently, this limits the new positions for teachers that can be authorized at the national level. After the Secretary of Finance calculates the annual budget allocation for wages and salaries, the Secretary of Education decides how the new positions (if any) will be distributed among the regional departments. However, as it will be explained below, sometimes the departments open new positions for teachers without the budget allocation to fund it, creating serious problems for the public finances. Given the large weight of personnel services in total spending, not much is left for covering the demands of other areas of spending such as investments.

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154 The Results-based Management System consolidates the sectoral and institutional goals set by UPEG in the planning process of its sector or institution. These goals are part of the national development plan and the government plan.


156 It should be mentioned that in spite of these evident restrictions, in 2007 the country implemented the matrícula gratis (free enrolment program) for all of the official schools in the basic education level, including starting with the 2008 budget, the PROHECO schools. The matrícula gratis eliminates the practice of schools that were used to informally charging parents fixed amounts for the purchase of materials and financing expenditures on minor repairs. This implies substituting the contributions that were charged to families by a transfer from the Central Government. The Secretary for Education calculates the amount of the transfer for each school based on the number of students enrolled at the beginning of each school year, the so-called initial enrolment. In the 2008 school year 100 Lempiras were transferred per student in grades 1-6 and 150 Lempiras for students enrolled in grades 7-9 of the basic level.
4.67 However, the main weakness is not the lack of resources per se but the poor efficiency of public spending, that is, the lack of results that are being achieved within the budget envelope assigned to the sector. In spite of the advances, the lack of connection between planning and the budget process persists. The allocation of resources is conducted based on historical trends and is not the result of a planning process, where performance targets are set for each institution and outputs properly defined together with the mix of inputs, including human resources. The lack of basic information about inputs, outputs and learning outcomes makes it very difficult to assess the overall performance of the sector and identify where efficiency gains could be achieved in the short-term. But given that human resources is the main asset, the priority should be on improving performance in this area.

4.68 Finally, it is important to emphasize that the Secretary of Education has a strategic plan for 2006-2015, which establishes the main targets to be reached by 2015. In the formulation of this plan, there was broad institutional participation of the public sector, representatives of international donors and NGOs. The annual operational plans of the Secretary of Education should be derived from the strategic sectoral plan, but there is not a clear relationship between this sectoral plan and the AOP. In fact, the sectoral plan would accumulate a financial gap in 2015 of close to US$1 billion, so that the goals set forth in this plan cannot be reached. Thus, a matter of urgent need to put in practice a systematic and sustained plan that connects the process of planning of activities in the education sector with the planning of the budget, and that identifies priorities that are realising within the budget envelop of the sector.

*Execution of the operational plan and the budget*

4.69 This stage includes budget execution, supervision, evaluation and audit of the budget. Potentially, the most important part of the execution of the budget is the efficacy in the use of assigned resources. Given that the requirements of the sector surpass the availability of financial resources, it would be ironic if, at the end of the exercise, the Secretary of Education would not use close to 100 percent of its budget allocation. To improve the execution rate is a priority task which is the responsibility of the different executing units of the Secretary of Education.

4.70 Supervision and evaluation are fundamental tasks of the UPEG, since they highlight aspects of execution at particular moments, allowing for adjustments during the process. It is important to mention that the coordination between UPEG and UNAT is necessary not only at the level of planning, but also in the monitoring and evaluation of the performance of the sector, which is done by UPEG under the coordination of UNAT in the framework of the SGPR. The UPEG execute the evaluation in quarterly periods, analyzing the evolution of

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157 According to the plan, the main targets set up for 2015 are: (i) to obtain 100 percent net coverage for five years old children; (ii) to obtain 100 percent net coverage for the six first grades of primary education; (iii) to obtain 84.2 percent net coverage in the third cycle of primary education; and (iv) to obtain 56.8 percent net coverage in secondary education.

158 In 2007 the Secretary of Education executed 91 percent of its budget. Breaking it down by spending category, personnel services exhibited a high level of execution (99 percent), followed by the category of materials and provisions (66 percent), non-personnel services (59 percent) and capital goods (41 percent). The item transferences and donations exhibit a level of execution of 80 percent.

159 In the 2008 Budget Law this coordination was formally incorporated.
the fiscal and financial goals in the corresponding fiscal exercise\textsuperscript{160}. This process is not completely independent given that it is carried out based on information sent by the different executing units, who conduct a preliminary self-evaluation. In general, these evaluations incorporate a small component of results indicators, taking into account the broad annual targets. However, to date, this evaluation component is incomplete and, as a consequence, it is not adequate for supervising the management of spending and for measuring its efficiency over time.

4.71 To improve performance accountability along the service delivery chain, two critical points would require to be strengthened in the short-term: verification of the achievement of the performance targets reported by the UPEG and the link between the results-based management and budgeting for results. Even though one of the functions of the UNAT is to monitor the performance of the sector and verify progress in achieving the targets, this agency bases its assessment on available information on budget execution; thus without necessarily comparing it against the achievement of results. This is mainly due to the lack of reliable information on performance, but it needs to be addressed since the Secretary of Education, for example, could under-execute its budget, but get close to achieving its goals or could execute its budget without getting close to reaching its goals. It is also important to standardize the budget classification across government, as currently different institutions use different spending categories; for example, SEFIN considers teacher salaries as investment, whereas UNAT considers them correctly as current spending.

4.72 Thus, developing this information about inputs, outputs, and learning outcomes would be critical to strengthen the planning function in the sector and facilitate the role of UNAT and the UPEG. To make a proper performance assessment, records of coverage and education quality per school should be kept in each educational program, so they can be easily aggregated at the municipal, departmental and national levels. To evaluate coverage the statistical tables of enrolment for each quarter should be used and compared with the goals estimated at the beginning of the year in each school. Quality evaluation should be carried out by using the table on grade promotion and complemented with the assessment resulting from the implementation of standardized tests in core subject areas, using samples at the departmental level. However, the UPEG cannot always travel to areas where programs are being executed because of the lack of resources, so the evaluation carried out is partial.

4.73 Improving the levels of execution requires a greater presence of the UPEG and better education statistics, but in the current conditions this unit does not have the capacity to achieve this. The strengthening of this unit should be considered an administrative priority for improving the problems of execution and evaluation. Forty individuals work in the UPEG in positions classified as technical, but the majority of these positions are politicized and influenced by the teachers’ associations\textsuperscript{161}. A problem that should be overcome is that “Only between five and eight individuals carry out UPEG operations, since the rest of the personnel exhibit a very low level of commitment. In order to avoid problems, the UPEG operates

\textsuperscript{160} In the 2006-2009 period the goals correspond with those set as proposed to the UNAT, who carries out the supervision based on results management.

\textsuperscript{161} The turnover of personnel is minimal and occurs only because of retirement or transfers to other units.
under the unwritten rule, that they do not sanction the non-fulfillment of tasks, nor do they discipline inefficiency”162.

The regime of personnel administration

4.74 The regime of personnel administration that oversees the teaching career is regulated by decree No. 136-97 of September 1997, through which the Honduran Teachers’ Statute was created, and agreement No. 0760-SE-99 that approved the General Regulation of the Honduran Teachers’ Statute. The Teachers’ Statute “establishes the regime of personnel administration that oversees the teaching career in public, semi-public and private institutions governed by the Secretary of Education”163. The Statute regulates entry into the teaching career, and establishes obligations, prohibitions, and rights of the different direct agents that provide education services. It also indicates the procedures for recruitment, selection and appointment of personnel, and regulates professional development and labor mobility, the evaluation of teaching personnel, the disciplinary regime, the salary regime and the national system of administration of the teaching career.

4.75 Among the rights of the teachers protected under the Statute164 are: job stability; academic freedom; mobility between different positions; paid leave and vacations; bonus (collateral) in relation to the position, years of service, academic background, professional merits and risk area; tax exemptions; and recruitment by open competition through a national selection system created for this purpose.

4.76 The Statute aims not only to guarantee job security and adequate pay for teaching personnel, but also to ensure a high quality education; in that sense it obligates the teachers to “provide efficient, high quality education services according to their responsibilities, carry out the instructions of their superiors with regard to their position, comply with the requirements regarding hours of work for the school-year and devote all of this time to the functions of the position, and undertake direct personal responsibility for the work performed”165. Consequently, it also prohibits the “intentional delay, abandonment or negligence in the fulfillment of their obligations”166.

4.77 The critical point of the Statute concerns the granting of automatic salary increases, tied or indexed to the average minimum salary. Annual tripartite discussions, between the Government, private business, and union confederations, address this issue on the basis of a special law. Collateral payments which increase with the base salary are also recognized167.

4.78 Various aspects of the Statute indicate that the objective of education quality was a secondary one:

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162 Information obtained from the director of UPEG engineer Omar Palacios.
163 Article 1.
164 Chapter III.
165 Article 9; app. 2, 4, 6 and 13.
166 Article 12, app.5.
167 An analysis of the fiscal impact of the Statute can be found at World Bank (2005): «Demanda educativa y salarios de maestros en Honduras». Evaluación del gasto público.
• The obligations of the teachers with regard to the quality of education are limited to rhetoric, given that in the Statute and its associated regulatory law, no mechanisms were created in relation to the implementation, supervision and sanctions of such obligations.

• The lack of pre-established criteria to approve transfer of teachers to other positions makes it difficult to plan and ensure coverage nationwide, especially in remote areas. For example, the transfer can occur simply at the request of the teacher or when a special reason is given\(^\text{168}\). How a school will be compensated for the loss of the teacher (and its position or respective budgetary allocation) is not indicated.

• Four types of work schedule are established: namely, part-time, full-time (156 class hours per month), exclusive dedication (50 percent more than full-time in the same school), and full day (double full-time in different schools). The so-called “full day” is debatable, since it creates an incentive for the teacher to look for another full-time day (or creates a disincentive for exclusive dedication) without considering the adverse effect that this has on the quality of service provided. A teacher with a double full-time day is unlikely to have time to deliver a quality service to the school and the community. This type of practice should be eliminated for that reason, and also to allow the recruitment of new teachers who have not been able to be placed in positions.

• There are positive and negative factors associated with the awarding of academic degrees. On the positive side, it creates the incentive for teachers to seek professional development. However, this in turn generates teachers’ preference for positions closer to the universities. This consequently leaves a shortfall of teachers in the more isolated geographic areas, which suffer from greater problems of coverage and quality. A further disadvantage stems from the fact that the creation of a diverse range of masters and doctorate programs often leads to their quality being questionable and results in the value of such qualifications being eroded\(^\text{169}\).

• As some experts suggest, obtaining basic competency – which in the end is what the Statute wants to promote – is acquired over the long term, not so much through the accumulation of degrees and diplomas, but in the demonstration of performance capacity in specific problem situations (Gallart and Jacinto, 1995)\(^\text{170}\). The Statute seems to place more value on the formality of degrees and generic measures of quality, than on serious periodic evaluations that reward what is really important.

4.79 The Statute sets out the following goals: to regulate the teaching career; to make the education system efficient; to dignify the work of the teacher; to stimulate improvement,

\(^{168}\) Article 28.

\(^{169}\) There are cases of teachers that obtain degrees in liberal professions like medicine, law and business, and become members of the professional associations of their new career, but maintain their connection with teaching at primary or middle level, to comply with the minimal formalities that allow them also enjoy the prerogatives of the Teachers’ Statute. This has created an even more privileged caste, compared to other non-teaching university professionals. An example of this is the case of a known teacher activist, who was first president of a teaching association and years later, was president of the Doctors’ Association (Colegio Médico). This last position was obtained without renouncing his previous membership, which was still held.

efficiency, efficacy and professional ethics; to guarantee the teachers their rights; and to ensure the fulfillment of their corollary duties. However, ten years after the Statute’s approval, its implementation is only partial and emphasis has been given to complying with what is stipulated in the portions of the Law dealing with entry into the teaching profession; recruitment, selection and appointment of personnel, and above all salaries and benefits.

4.80 Some fundamental aspects set forth by the Statute, like the evaluation of performance, the professional code of ethics, the fulfillment of 200 days of classes, and the promotion of the quality of education, have not merited sufficient attention from the teachers’ unions for them to gain approval. Thus, ten years after the Teachers’ Statute was approved, the Manual for the Evaluation of Teacher Performance, which is the legal instrument needed to make progress in this direction, still has yet to be approved.

4.81 The General Directorate for the Evaluation of Education Quality says that the National Board of Teacher Evaluation mandated by the Statute has been established, and the Manual for the Evaluation of Teachers Performance and its regulation have been developed with participation of representatives from teachers’ unions, and is ready for implementation on a pilot basis. However, for this Manual to be applicable it must be approved by the National Board of Teaching Management (Junta Nacional de Dirección Docente), a participatory body in which the teachers’ unions are generally represented by their highest executives. Thus, the Board will have to approve the Manual before its implementation can begin.

4.82 In this context, in 2005-2006 the Regional Education Department of Lempira carried out a pilot exercise for the evaluation of teacher performance, through the application of an instrument that was approved and validated by the teachers’ organization leadership at the departmental level, and the teachers in service in the different schools. The results, which represent an advance in the process of evaluation of teacher performance, have been delivered to the Secretary of Education.

4.83 Government officials recognize that the poor performance of teachers is one of the principal factors responsible for the low quality of education. However, they recognize that the political base, on which they can support substantive reforms in their management of human resources, is also extremely limited. Any effective action that aims to correct the problem would need to begin by implementing a better information system for the administration of human resources. However, this would require strong political will to continue the efforts over the long term, and strong allies in civil society would be needed to act as a counterbalance to the pressures that the teachers organizations exercise over government officials.

4.84 It is important to mention that the Secretary of Education’s web page shows payroll data for each department\(^{171}\) and that the Administration System of Educational Human Resources (Sistema de Administración de los Recursos Humanos Docentes, SIARHD) has been adapted for registering the information on the school to which the teacher is assigned. However, this information is not correct, due to the lack of controls in the schools and departments, which has an impact on the costs of the payroll. To rectify this, in 2007 the

\(^{171}\) The information on the payroll for departments produced by the SIARHD was published on the web page of the Secretary of Education in the middle of 2007. This is a temporary situation until the Census of Teachers and the Auditing of Position is completed.
country implemented the Census of Teachers and the Auditing of Positions, which improves and increases the accuracy of the information maintained by SIARHD, which is under the responsibility of the Secretary of Education.\[172\]

4.85 The census of teachers is already finished and the auditing of positions is in process and should be finished in November 2008. A preliminary report issued on June 30, 2008 by the *Tribunal Superior de Cuentas*\[173\] has shown inconsistencies between the databases that the SIARHD contains and the information obtained from the census. Among the findings are the following:

- Schools that are registered in SIARHD but were not found in the census.
- Differences between teachers that are found to be registered in SIARHD and those that were encountered in the census.
- Inaccurate record of teachers’ hours, as some of them overlapped or crossed.
- Schools that do not have the basic requirements (especially hygiene) for providing preschool, and primary and secondary education.
- Teachers assigned to the departmental administrations and that, according to the SIARHD, work in schools.
- Teachers who are receiving geographical area allowances (zonaje), when the schools in which they work do not qualify for them.
- Teachers who are receiving bonuses (collateral) for the departments of Islas de Bahía and Gracias a Dios without working on them.
- Teachers who are receiving bonuses (collateral) for professional merits and that did not provide the supporting documentation.
- Teachers who are receiving bonuses (collateral) for academic qualifications, but whose degrees either presented some form of anomaly or were not able to be substantiated by certification.
- A number of temporary teachers that increases each year and, in some cases, teachers who only work on a temporary basis without the Department of Education having any record of the number of temporary positions or the need for replacements.

4.86 This report makes a series of recommendations both to the Minister of Education and the departmental directors, regarding the full implementation of the information system which would allow the operation of a system of human resource administration with reliable and current information.

4.87 It is important to emphasize that in the context of the August 2006 salary agreement, signed jointly by the teachers’ associations and the Secretaries of the Presidency, Finance and Education, the payment of annual bonuses was established and initiated in 2007 for those teachers that contribute to the quality of education. However, the operational framework for this bonus has not tied teachers’ performance – with regard to how they contribute to improvements in educational standards – to the payments they receive.

\[172\] This work was done by the *Tribunal Superior de Cuentas* in the framework of the August 2006 agreement signed jointly by the teachers’ associations and the Secretaries of the Presidency, Finance and Education.

CLIENT POWER: ACCOUNTABILITY OF TEACHERS, SCHOOLS AND SECRETARY OF EDUCATION TO SOCIETY

Participation of the community in decentralization

4.88 The justification for the process of decentralizing the provision of education is to raise the quality of education and democratize it by permitting local actors to participate in education management, especially at the level of the school.

4.89 The United States, United Kingdom, and Canada were the first to decentralize administrative responsibilities in education to the school level in order to strengthen the short route of accountability (see Figure 4.1). With time, these models have also been incorporated in Latin American countries, for example in Mexico\textsuperscript{174}, Chile\textsuperscript{175} and in a still more localized way in El Salvador, Guatemala and Honduras.

4.90 The principal objectives that are sought with this type of reform are: to raise student achievement by improving the quality and efficiency of school administration; to strengthen local capacities; to increase the participation of actors involved in the process; to include both the users (parents and students) and the service providers (principals and teachers); and to increase client power by involving the community directly in the management of the schools.

4.91 In the cases of El Salvador (EDUCO), Guatemala (PRONADE) and Honduras (PROHECO) important decentralization reforms have been implemented that base management within the school. In these models, the community – through legally established entities that are comprised of members – selects and pays the teachers, controls attendance and the performance of teachers and students, administers the funds assigned for school materials, and gets involved in investments in the schools. For these purposes, they contract parent associations for delivering education services to a community, transferring funds under clear guidelines regarding their use, and providing them with teaching materials, supervision and training.

4.92 The parent associations select, contract and supervise the teachers, construct and maintain the schools, and mobilize the support that the community provides to the school. District supervisors promote the participation of the community through the delivery of administrative and technical support to the parent associations, technical support to the teachers, assistance in the creation of schools, and provision of information about programs. These programs include periodic assessments by personnel from the Ministry, both in respect

\textsuperscript{174} The program Support to School Management (AGE) of Mexico consists in providing financial and training support in school management to the parent associations (Asociaciones de Padres de Familia, APF). Its implementation, initiated gradually during the 1990s, is focused on primary schools in rural areas. In 2003, the intervention of the AGE was complemented with training for improving the capacities of the APF in the management of funds, increasing the participation of parents in school activities, and providing information about the learning achievements of students and the ways in which parents can help to improve learning. See: World Bank (2006). *Empowering parents to improve education: evidence from rural Mexico*. Washington D.C.

\textsuperscript{175} At the beginning of the 1980s, the Government decentralized the administration of the schools, transferring the responsibility for their administration from the Secretary of Education to the municipalities. The municipal schools are financed centrally based on a subsidy tied to the number students attending classes. See: *Informe del Consejo Asesor Presidencial para la calidad de la educación*. Santiago de Chile, 2006.
to administrative as well as educational aspects; in addition the parent associations are required to allow and collaborate in all types of internal and external audits ordered by the Ministry.

4.93 In 2007, there were 2,400 PROHECO schools distributed throughout all of Honduras’ departments, with an enrollment of 121,524 children – 20,613 at the preschool level and around 100,911 at primary education in grades one to six\(^\text{176}\) – and employing approximately 4,200 teachers. PROHECO has been a direct response to the proposal for national education transformation. In the 1990s, the proposal asserted that “It is evident that education transformation requires a deeper commitment to the process, in order to bring about a degree of decentralization that permits students, parents and other members of the community to participate actively and assume a stronger link to education management. New structures should be established that allow the actors to have a closer relationship with the schools. This does not mean reducing the role of the Government as the principal sponsor of education, but creating models that give rise to a better and more effective collaboration of efforts between the Government and civil society.”

4.94 Di Gropello (2006)\(^\text{177}\) formally evaluated the impact of the PROHECO schools and concluded that this experience has been successful in respect to increasing the accountability of teachers and school principals to the parents and the community, increasing the number of days in which the schools operate, and significantly reducing the absenteeism of the teachers\(^\text{178}\). In terms of student achievement, Di Gropello indicates that the children in these schools perform similarly to children in official schools. However, in general, a larger share of the PROHECO students comes from poor and marginalized homes.

4.95 The cost of operating these schools is less than the cost of operating official schools, since their teachers are not governed by the Teachers’ Statute. The PROHECO teachers are contracted by the Community Education Association (Asociación Educativa Comunitaria, AECO), which is a private entity formed by the community. Because of this contractual relationship between the PROHECO teachers and the AECO, the teachers’ unions tenaciously oppose the model, under the premise that it is a step toward the privatization of education.

4.96 The current administration has taken important steps to ensure the sustainability of this program, such as:

- Starting in 2006, the complete absorption of the costs of PROHECO within the budget of the Secretary of Education.
- The inclusion, starting in 2008, of the PROHECO schools within the *matrícula gratis* program.
- The incorporation of PROHECO as a modality of the education system and not as a separate program of the Secretary of Education.

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\(^{176}\) This corresponds to about eight percent of national enrollment at these levels of education.


\(^{178}\) In 2006 the official schools operated on 100 days; by contrast, in the same year the PROHECO schools functioned on over 175 days of classes.
• The management of PROHECO by the same departmental administrations and Secretary of Education Officials that manage the official schools.
• Ensuring the access of PROHECO teachers and schools to all of the programs and actions that the Secretary of Education regularly executes.

4.97 It should also be mentioned that, in addition to the successful PROHECO program, the current administration has supported other initiatives that have the objective of strengthening the participation of the community in the schools, such as the education networks and the Associations of Local Education Development (ADEL)\textsuperscript{179}. Since 2004, Honduras has been implementing education networks in rural areas under the premise that, in order to reach the goals that the country has set in education, participation in schools needs to be strengthened. These networks are composed of schools at all levels (preschool, primary and secondary), that participate jointly to develop relevant and culturally appropriate educational development processes for the schools in the network\textsuperscript{180}. This effort involves teachers, parents and communities. Towards the end of 2007, the country had implemented 100 education networks, a quantity it hoped to increase in 2008 to 200 education networks.

4.98 At the beginning of 2008 there were 3,750 ADEL, distributed throughout all of the departments of the country. The financing of their School Education Project (\textit{Proyecto Educativo de Centro}, PEC) has been restored (with EFA funds) after its suspension in 2006.

4.99 The support of the current PROHECO administration to the education networks and the ADEL, is an example of the strengthening of community participation, and should be continued as national education policy by future administrations. The challenge is how to increase accountability in the official schools of the country. Reform options for advancing in this objective are discussed in the following sections.

**Accountability and social audits in education**

\textit{Accountability}

4.100 The country has implemented an interesting Results-Based Management System (\textit{Sistema de gerencia basado en gestión por resultados}) that defines goals for the education sector (11 indicators) and institutions (25 indicators) for the Secretary of Education\textsuperscript{181}. It is a good example of accountability, because it establishes goals and presents progress made towards obtaining them in a way that is understandable to the general public. In addition,

\textsuperscript{179} The ADEL represents another form of community participation in schools. In contrast with the AECO, the principals and teachers participate in the school board of the ADEL. The ADEL cannot hire and fire teachers, but they are responsible for monitoring the attendance of teachers and students, administering funds for education materials, improving the activities of the school, overseeing minor school construction projects, and maintaining infrastructure.

\textsuperscript{180} The networks are established on the basis of historical, administrative and geographical considerations and are usually composed of 10 or 12 schools. The school with the best conditions acts as the centre of the network. The networks also represent a strategy of the Secretary of Education for reducing the presence of multi-grade rural schools.

\textsuperscript{181} This system is available on the website: \url{www.gerencia.gob.hn}. The web page of the Secretary of Education, \url{www.se.gob.hn}, has incorporated information on accountability.
there were consequences for the ministers, when a poor response was observed in the achievement of institutional goals\(^1\)\(^8\)2.

4.101 To improve this initiative, one could implement a process of accountability to citizens through which the Secretary of Education and his management team periodically report to society about education outcomes, through public hearings. This would permit the Secretary of Education to answer questions, provide explanations, carry out joint evaluations, and generate proposals for improving management outcomes and impacts, through a direct exchange with citizens and civil society organizations. This forum would allow for the strengthening of the public service ethic, enhancing the legitimacy of the system, promoting the exercise of social control on public management, and the establishment of a forum for direct interaction between public servants and citizens.

4.102 At the same time, this accountability system should be expanded gradually, to assign goals and evaluate progress in achieving them, by departmental and district administrations. The challenge is to reach down to the level of the school and implement an effective accountability system which does not currently exist. It is not possible to supervise the educational achievements of students systemically, due to a lack of goals at the school level that can be measured easily and reported regularly. Furthermore, the capacity of the actors to provide and demand information, has also not been clearly and definitively established. Currently, nobody is responsible for providing information about the school and its education results, nor do the parents demand this type of information. As a consequence, a possible system that could be implemented consists of the following:

- A clear commitment of the school to measurable goals\(^1\)\(^8\)3.
- To offer teaching and financial support (through the PEC) to the schools for reaching the goals.
- To regularly measure the advances obtained in the school and inform the community about them.

4.103 These recommendations are oriented toward providing more power to the schools and the Government, through departmental and district level administrations, which should monitor advances and establish an information system that reports and evaluates progress in the outlined goals.

4.104 A vital issue in this whole process is the need to incorporate equity criteria ensuring that schools that face the greatest disadvantages do not remain behind; this implies, for example, greater and more specialized support to the single teacher schools or those that serve indigenous populations.

4.105 It is suggested that there be a maximum of three goals, and including those related to student achievement, such as reading performance and school efficiency (based repetition and desertion rates). Information boards can be installed in the schools to display the

\(^{182}\) The former minister Rafael Pineda Ponce had to leave his position due to the poor advances of the sector in respect to the goals established for 2006.

\(^{183}\) Usually the schools' goals are general, ambitious, and impossible to measure and consist of declarations, which do not serve as goals.
progress of the school on these indicators and innovative teacher performances can be highlighted by spots on radio stations to serve as an example to other teachers, and show the value that the community places on good teaching. In terms of reading performance, one recommendation would be to diversify the ways in which results can be shown to parents, students, communities and the society in general, in a way that is gratifying and challenging for the teaching profession and prevents teaching from becoming a mainly administrative and control function. For this purpose, the organization of cultural evenings can be tried, in which students are encouraged to use their reading skills (reading poems, letters, books, biographies, etc.). In addition, it is also possible to involve the parents or community members as readers, to help make the activity entertaining and as a strategy for bringing the community and students together.

Social audit

4.106 In Honduras, timely social auditing of education processes at the local and national level is being undertaken. This has been promoted by NGOs, parent boards, and citizen transparency commissions and their networks, and has contributed to the dialogue between these bodies and the Secretary of Education for improving education services.

4.107 The challenges that have to be overcome in the country to strengthen social monitoring in the education sector are the following:

- Greater focus given to education by civil society organizations at each level of government, especially in the framework of the Poverty Reduction Strategy (ERP), given that the education sector absorbs half of these funds.
- Fulfillment of the Law on Transparency and Access to Public Information and of a culture of accountability toward users and the community in general, on the part of the Secretary of Education at the central, departmental and local levels, including the teachers in their role as civil servants.
- Empowerment of parent organizations, children, and youth to conduct social monitoring of the education process.
- Greater connection between parent, youth, and children’s organizations, and civil society organizations, that are involved in working on the topics of transparency and anticorruption at the local, regional and national level.
- Increase technical, methodological, and logistical support provided by national, regional and local bodies to concrete social auditing exercises of the education policies, resource allocation to sector institutions and quality of services.
- More dialogue and generation of mutual confidence among the members of the education community, through the fulfillment of agreements that result from the social auditing processes.

4.108 In this respect, it is important to emphasize the experience of the Tribunal Superior de Cuentas, which has initiated a process for stimulating citizen participation in its own auditing exercises. Under this modality, financial audits and audits of compliance with the Law have

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184 These boards could show information about the school and its performance relative to other schools in the district. This would require information mechanisms of schools at the district level.
been carried out of a regional centre of the National Autonomous University of Santa Rosa de Copán and of a public institute of secondary education in Tegucigalpa. The process of citizen participation consists of:

- A prior discussion of the audit, with citizen organizations linked to the institutions being audited, about possible anomalies identified during the provision of the service.
- The incorporation of information provided by the population during the planning and execution of the audit.
- A day of accountability of the Tribunal to present the results of the audit.
- An invitation to citizens to follow up on the audit recommendations, and the fulfillment of the commitments made, by the audited organizations. The audits include areas such as the budget, procurement, infrastructure projects, human resources and the achievement of performance targets. The audit incorporated more than 60 percent of the observations of citizens, which were considered as useful for its development. The Tribunal Superior de Cuentas is making efforts to incorporate this modality in all of the audits that are done in the education sector.

CONCLUSIONS AND RECOMMENDATIONS FOR THE SHORT TERM

4.109 In recent years, Honduras has made important efforts for increasing the budget assigned to education, and this sector now accounts for 50 percent of the funds of the Poverty Reduction Strategy (ERP). However, education outcomes do not reflect this effort. Various reasons explain this poor result, but the weak accountability of all of the actors, and collective action problems, are at the root of all of them. Those problems are characterized by:

- The lack of information about inputs and outcomes, which makes it difficult to hold actors accountable and to know who is responsible for poor performance.
- Disperse and poorly organized beneficiaries who have little voice in the discussions about education policy.
- A group of actors with very specific interests, who have the capacity to organize and finance without precedence in a country like Honduras, and that have learned to negotiate with political actors exchanging political support for salary gain. In this government as well as in previous ones, the Secretary of Education has made important efforts to introduce reforms aimed at improving the quality of education and linking public spending with outcomes, but these reforms have failed because of the opposition of the teachers’ unions.

4.110 This chapter has provided recommendations on how to improve the quality of education structures with regard to voice, compact, client power and accountability, but the main recommendation in the short term is the need to empower other actors to participate in policy discussion, acting as counterweight for the teacher’s unions, and to focus such discussion on performance and quality of education.

To facilitate the participation of other actors in policy discussion

4.111 To facilitate the participation of other actors in policy discussion, the most important action in the short term is the establishment of a National Education Council that leads and
supervises the process of sector reform. While the creation of this council is considered in the General Education Law proposal, it is not necessary to wait until the Law is approved to create it. Moreover, the Government has the power to provide the council with broad representation and its first mandate would be to obtain a national consensus for the approval of the General Education Law. The participation of the association of municipal governments (AMOHN), the private sector and the Poverty Reduction Strategy Council is especially relevant as strong actors that have an interest in the sector. Similarly, the participation of representatives from the three education levels (primary, secondary and tertiary) is essential to provide an integral perspective of the sector, and from parent associations.

4.112 Similarly, other immediate priorities are to continue with the support for community participation throughout the school networks – AECOs (Community Education Associations) and ADELs (Associations of Local Education Development) – to enhance the accountability of the education service providers; to strengthen the process of the institutionalization of PROHECO within the formal national, departmental, and district structures; to continue supporting the social audit initiatives carried out by civil society organizations; and to empower parents with simple tools and standards to measure quality of education (e.g. reading assessments).

To enhance performance accountability of service providers

4.113 The priorities in the short term are the implementation of performance indicators at the departmental and district level to be monitored systematically through the SGPR; and to promote the implementation of governance indicators at the school level. Table 4.9 below presents recommended indicators at the school level. Parent should be involved in producing and monitoring these key indicators through Parent Associations.

4.114 The other priority in this regard is the full implementation of the recommendations arising from the Teacher Census and Auditing of Position conducted by the Tribunal Superior de Cuentas. It would have devastating consequences on Government’s credibility if no action is taken against those teachers that are receiving bonuses unduly. The Ministry of Finance and Education need to lead this process together.

4.115 Full disclosure by the Secretary of Education of revenues collected by Teachers’ Unions is also needed.

4.116 Revision of those economic clauses of the Teachers’ Statute most harmful to public spending is also critical. The full application of the Teachers’ Statute was agreed with the teachers, starting in 2010. The fiscal implications of the application of the Teachers’ Statute should be analyzed, with the purpose of advising the future government if it should be applied fully or if a compromise proposal should be offered. The Teachers’ unions should be invited to participate in this analysis. If by 2010 differences remain in the perception of the problem and its possible solutions with the Teachers’ unions, the possibility of convoking a national plebiscite should be considered. In the meantime, the implementation of the articles of the Statute in relation to performance evaluations for teachers should be applied.
Table 4.9. Governance indicators to be implemented at the school level

<table>
<thead>
<tr>
<th>#</th>
<th>Indicator</th>
<th>Definition</th>
<th>Instrument</th>
<th>Units</th>
<th>Benchmark</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ghost teachers</td>
<td>Teacher who continue to be listed on the payroll of the school, but are no longer providing services there</td>
<td>Percentage of teachers listed on the Education Ministry’s payroll for a given school that is not longer providing services in the school.</td>
<td>Percentage</td>
<td>No ghost teachers</td>
</tr>
<tr>
<td>2</td>
<td>Teacher absenteeism</td>
<td>Unauthorized absences by teachers during official schooling hours</td>
<td>Average percentage weekly attendance by teachers.</td>
<td>Percentage</td>
<td>(Min of) 92% attendance</td>
</tr>
<tr>
<td>3</td>
<td>School time usage</td>
<td>Number of days in the official school day calendar actually used for instruction</td>
<td>Schools days devoted to learning, net of class cancellations, delays, and early terminations.</td>
<td>Percentage</td>
<td>(Min of) 180 days</td>
</tr>
<tr>
<td>4</td>
<td>Reading fluency</td>
<td>Parent assessment of oral reading by children</td>
<td>Number of words that students read in 60 seconds</td>
<td>Words per minute</td>
<td>Depends on grade level</td>
</tr>
<tr>
<td>5</td>
<td>Informal payments</td>
<td>Charges for educational services or supplies that should be provided for free</td>
<td>Parental reporting of informal payments in school</td>
<td>Yes or no</td>
<td>No informal payments</td>
</tr>
<tr>
<td>6</td>
<td>Job purchasing</td>
<td>Extent to which personnel hiring decisions are influenced by illegal payments</td>
<td>Teacher reporting of job purchasing behavior</td>
<td>Yes or no</td>
<td>No informal payments</td>
</tr>
<tr>
<td>7</td>
<td>Budget misallocation</td>
<td>Intentional diversion of officially-budgeted public educational expenditures toward unintended uses</td>
<td>Budget accounting, recording, and reporting</td>
<td>Yes or no</td>
<td>No informal payments</td>
</tr>
</tbody>
</table>
### ANNEX IV

**Table A4.I. Processes of reform of the education system in Honduras**

<table>
<thead>
<tr>
<th>Year</th>
<th>Name</th>
<th>Most important components</th>
<th>Results</th>
<th>Reform leader/sponsor</th>
</tr>
</thead>
</table>
| 1986 | Project of primary education efficiency | • School textbooks  
• Training of teachers  
• Education research  
• Computers  
• Evaluation of learning  
• Infrastructure | • Improvement in the provision of textbooks  
• Poor results in respect to the quality of education | SE-USAID |
| 1990 | Program of education modernization | • Broadening of primary education  
• Updating of curriculum  
• Bicultural education  
• Adult literacy  
• Training of teachers  
• Link formal sector and non formal sector  
• Restructuring of the SE  
• Deconcentration/ regionalization  
• Supervision systems  
• Single teacher to two teacher schools  
• Alignment of international cooperation | • Teacher opposition mainly to the deconcentration program that also affected the execution of the other actions.  
• Poor results | SE-BM |
| 1994 | Escuela Morazánica | • Creation of SE administrative units at departmental level  
• Bilingual education  
• *Educatodos*  
• PRALEBA | | SE |
| 1994 | Program for improving the quality of primary education | • Improve quality of primary education  
• Reorganization of SE | | SE-BM |
| 1998 | Honduran program of community education (PROHECO) | • Extension of education to poor regions  
• Community participation | • Opposition of teachers’ unions who considered it to violate the rules of the Teachers’ Employment Statute (*Estatuto Docente*) and as a step leading to the privatization of education | SE-BM |
| 2000 | Proposal of the Honduran society for the transformation of national education | • Broadening of coverage with equity  
• Creation of a new legal framework for the education system  
• Modernization of management | • Participatory elaboration of the proposal delivered to the President; poor follow-up and implementation | FONAC-Civil society |
- Internal and external articulation of the system
- Develop curriculum in response to demand
- Evaluation and accreditation of international cooperation

2001 Education for all

- Universalize preschool education
- Quality and teacher performance
- Equity and access to special and intercultural primary education
- Equity of access to primary education in rural areas.

- Union opposition in respect to curriculum development and the requirement of teachers to be trained at the university level

### Table A4.II. Current teachers’ unions

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full name</th>
<th>Date founded</th>
<th>Membershipa</th>
<th>Affiliations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>International: Federation of Teachers’ unions of Central America (FOMCA); the International of Education (IE).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>International: FOMCA; Latin American Workers in Education and Culture (FLATEC); International of Education (IE).</td>
</tr>
</tbody>
</table>
| Sinprodh  | Sindicato Profesional de Docentes Hondureños (previously Sindicato de Empleados Públicos de la Educación Rural, SINEPUDERH, or the so-called “empirical” primary education teachers, later receiving degrees from the Escuela Superior del Profesorado). | May 30, 1971 as SINEPUDERH; April 28, 1984 as SINPRODH. | About 6,000 members; approximately 4,500 paying dues. | National: General Workers’ Confederation (CGT).
<p>|           |                                                                           |                      |             | International: FOMCA, FLATEC and IE.                                                                 |
|           |                                                                           |                      |             | International: FOMCA, FLATEC e IE.                                                                   |</p>
<table>
<thead>
<tr>
<th>Organization</th>
<th>Description</th>
<th>Membership</th>
<th>National</th>
<th>International</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colpedagogos</td>
<td>Colegio de Pedagogos de Honduras.</td>
<td>No information. Approximately 4,000 members all of which pay monthly dues. All of the members of this organization are at the same time members of any of the other professional associations (unions).</td>
<td>No national affiliation.</td>
<td>International: Federation of Teachers’ Unions of Central America, FOMCA.</td>
</tr>
<tr>
<td>FOMH</td>
<td>Federation of Teachers’ Unions of Honduras. Groups all teachers’ unions of the countries.</td>
<td>1993. C</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

a. It should be indicated that the membership figures in this column are greater than the total of the teachers that work in the preschool, primary and secondary for two fundamental reasons:
   - Much of the membership does not work as teachers and are inactive within the organization, but in the registries of each organization they are still listed as members.
   - There are some who are members of two or three teachers’ unions and it is not possible to determine how many belong to only one organization. However, since the payment of union dues is done by the Government through a monthly payroll deduction, those who have double or triple membership, pay dues to each organization.

b. The Teachers’ Statute makes affiliation with a professional organization for teachers a prerequisite for entering a teaching career. Since Sinprodoh is a union and not a professional association, all of its members have to be affiliated with a professional association to be able to enter and work as a teacher; the majority are affiliated with Colprosumah.

c. Theoretically FOMH combines the members of all of the teachers’ unions, but in reality the Federation is limited to having a political existence to express the common positions in respect to the fundamental problems of teachers.

Table A4.III. Matrix of actors related with reforms to the economic clauses of the Teachers’ Statute

<table>
<thead>
<tr>
<th>Actor</th>
<th>Position</th>
<th>Motive/Possibility position could change</th>
<th>Power</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secretary of Education</td>
<td>Would prefer its revision (implicit position)</td>
<td>Ordinary sectoral spending impedes allocating more resources to investment; interest in obtaining guarantees of teacher performance</td>
<td>Has ability to initiate laws</td>
</tr>
<tr>
<td>President</td>
<td>Would prefer its revision (implicit position in the current government)</td>
<td>Budget of the SE diminishes the possibility of giving attention to other development priorities. Political pragmatism can lead to change of position.</td>
<td>Decisive. His will determines the final position of the SE. Influence among congressmen.</td>
</tr>
<tr>
<td>National Congress</td>
<td>Variable, depends a lot on the alignment of the majority wing with the executive</td>
<td>Budget of the SE diminishes the possibility of giving attention to other development priorities. It is difficult to imagine that in an electoral year any attempt at reform of this type is approved.</td>
<td>Approval of laws</td>
</tr>
<tr>
<td>Teachers’ unions</td>
<td>Openly oppose reform</td>
<td>Economic clauses of the Statute are a “conquest,” or an inalienable right. They perceive that the education budget continues to be low. They expect the promise of the complete application of the Statute starting in 2010 to be fulfilled.</td>
<td>Influential among popular sectors and political leaders. Power of numbers and mobilization capacity.</td>
</tr>
<tr>
<td>Political parties (Liberal and National)</td>
<td>PN explicitly proposes a revision. PL is divided on this matter.</td>
<td>Political pragmatism rules. PN is more clearly in favor of reform. PL vacillates more in its position. All depends on the proximity of the elections.</td>
<td>They dominate the National Congress and the executive (PL). Influence in public opinion.</td>
</tr>
<tr>
<td>Political parties (PDCH, PINU)</td>
<td>They have expressed concern. An opinion and precise position is not known.</td>
<td>They have a clearer vision of development priorities.</td>
<td>Minority in the National Congress, even though it is strengthened by alliances.</td>
</tr>
<tr>
<td>Political parties (UD)</td>
<td>Similar position to that of the teachers’ unions but it is not a unanimous position.</td>
<td>They view salary conquests of teachers as an example for other popular organizations. They search for political support from teachers’ unions.</td>
<td>Minority in the National Congress with little possibility of forming alliances</td>
</tr>
<tr>
<td>Public sector unions</td>
<td>Open opposition to reforms</td>
<td>The broadening of economic prerogatives is the principal incentive for defending the different existing statutes. Their support to already privileged groups is given under the expectation of reciprocal support in similar future struggles.</td>
<td>Numbers, mobilization capacity and political influence, they control the principal union confederations of the country.</td>
</tr>
<tr>
<td>Private sector unions</td>
<td>Opposition to reform but not very visible</td>
<td>The sentiment of worker solidarity leads them to support the teachers, as long as this is not seen as a threat to their own salary conquests. The indexing of teachers’ salaries to minimum salary can become a point of disagreement.</td>
<td>Numbers and some mobilization capacity, unions of manufacturing and of the private sector in general do not control the union confederations.</td>
</tr>
<tr>
<td>Popular organizations (patronatos, Bloque Popular)</td>
<td>Open opposition to any reform</td>
<td>Sentiment of solidarity leads them to support the teachers. The teachers sell the idea that their salary demands are for popular benefit. The enemies of the teachers are the same enemies of the people, who push for privatization of education and savage capitalism.</td>
<td>Number and mobilization capacity with tendency to use measures of force like occupying roads and other actions.</td>
</tr>
<tr>
<td>Other civil society organizations</td>
<td>Moderate support</td>
<td>The majority would agree with the revision of the salary clauses, particularly if it is shown that the teachers make demands, but do not fulfill their obligations or deliver low quality services.</td>
<td>Influence in public opinion.</td>
</tr>
<tr>
<td>Cohep</td>
<td>In favor of reform</td>
<td>Has been clear in indicating that the</td>
<td>Influential particularly during</td>
</tr>
</tbody>
</table>
economic demands of the teachers are excessive in relation to the budgetary capacity of the State and job performance shown until now.

International donors
Implicitly in favor of reforms
Are implicitly in favor of reforming the Statute. Political pragmatism and diplomacy limit the open expression of its position. They make clear that it is an internal matter for the country, but express concern about the excess levels of current spending. The IMD and World Bank have been blunt in showing the negative impact of the Statute on public finances.

Influence in government and civil society organizations. The major education proposals have international financing and reflect influence of international organizations.

Note: Power: The capacity or ability to obtain objectives. The ability to affect the implementation of reforms due to the actor’s strength.

<table>
<thead>
<tr>
<th>Actor</th>
<th>Position</th>
<th>Motive/possibility of changing position</th>
<th>Power*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secretary of Education</td>
<td>Moderate support</td>
<td>The moderation is related to political pragmatism to avoid confrontation with the teachers and to the fact that the initiative for this law came from outside (from FONAC). It can become a <em>de facto</em> opponent and abandon the proposal.</td>
<td>It has the power to initiate legislation. Can withdraw a proposal or send it in expedited fashion to the congress.</td>
</tr>
<tr>
<td>Presidency</td>
<td>Moderate support</td>
<td>Moderation is related to political pragmatism to avoid confrontation with the teachers and to the fact that it has not demonstrated more than delegated leadership (in the SE) in relation to the proposal. Can become an opponent by ordering or tolerating the abandonment of the proposal.</td>
<td>Decisive. Its will determines if in the ultimate moment the project is blocked or is sent, after revision, to the congress. Influence with congressmen. Veto power.</td>
</tr>
<tr>
<td>National Congress</td>
<td>Moderate support</td>
<td>The support would be conditioned to avoid major conflicts. Can become an opponent <em>de facto</em> by letting the proposal die without being put up for vote or approved.</td>
<td>Approve the law. Its own Education Commission could present its own project or wait for the initiative from the SE. It could also abandon the proposal.</td>
</tr>
<tr>
<td>FONAC</td>
<td>Moderate support</td>
<td>Until now it has not demonstrated similar enthusiasm to that which it exhibited in relation to the 2000 proposal. Could view with indifference the abandonment of the proposal.</td>
<td>Influential in public opinion, power to call together societal groups to discuss public issue.</td>
</tr>
<tr>
<td>Teachers’ unions</td>
<td>Moderate opponent</td>
<td>Would seem to be the group most interested in maintaining the <em>status quo</em> with respect to institutions of the sector. But this attitude could change if it sees that traditional allies (unions, Bloque Popular) are supporting the adoption of the law.</td>
<td>Influential among popular sectors and political leaders. Number and mobilization capacity.</td>
</tr>
<tr>
<td>Liberal and National Parties</td>
<td>Moderate support</td>
<td>The moderation is related to political pragmatism to avoid confrontation with the teachers. If a broad social demand is perceived their position could change to one of more open support for the law.</td>
<td>They dominate the National Congress and the executive (PL). Influence in public opinion.</td>
</tr>
<tr>
<td>Parties PDCH, PINU</td>
<td>Moderate support</td>
<td>Political pragmatism is also relevant but they are more inclined to support the approval of the law.</td>
<td>Minority in the National Congress, even though they strengthen themselves by forming alliances.</td>
</tr>
<tr>
<td>Party (UD)</td>
<td>Moderate support</td>
<td>Tend to confuse teacher cause with popular cause. Attitude of workers’ organizations and NGOs can change their position to a more decisive form of support.</td>
<td>Minority in the National Congress, little possibility of alliances.</td>
</tr>
<tr>
<td><strong>Cohep</strong></td>
<td>In favor</td>
<td>Have shown sympathy for education reform and the Education Law. Could go from taking a fairly passive attitude to a more active one.</td>
<td>Has influence particularly in times of electoral campaigns. Media play a preponderant role in influencing public opinion.</td>
</tr>
<tr>
<td>------------</td>
<td>----------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Worker and popular organizations</strong></td>
<td>Moderate support</td>
<td>Have been traditional allies of the teachers. The ghost of privatization is the resource of the teachers’ unions for maintaining this alliance.</td>
<td>Power of numbers and certain mobilization capacity.</td>
</tr>
<tr>
<td><strong>Other civil society organizations</strong></td>
<td>In favor</td>
<td>FEREMA could take leadership role in favor of the Law and with it could carry along other civil society organizations. The Ombudsman (CODEH) also could intervene on behalf of this cause, given that education is a second generation human right. The confusion with privatization can take away the support of some organizations.</td>
<td>Influence on public opinion.</td>
</tr>
<tr>
<td><strong>International donors</strong></td>
<td>In favor</td>
<td>Have supported FONAC. Political pragmatism and diplomacy encourages them to show alignment with the Government and other groups, but implicitly (and through advocacy and financing) the support the educational reform of which the LGE is the legal expression.</td>
<td>Influence in government and civil society organizations. The major education proposals have international financing and reflect influence of international organizations.</td>
</tr>
</tbody>
</table>

* Power: The capacity or ability to obtain objectives. The ability to affect the implementation of reforms due to the strength one possesses.
CHAPTER V

TRANSPARENCY AND ACCOUNTABILITY IN THE HEALTH SECTOR

INTRODUCTION

5.1 Honduras has made progress in most of its national-level health, nutrition and population indicators. Since the ‘90s, the country has significantly reduced neonatal, infant and child mortality, and to some degree, chronic malnutrition. While there are no recent estimates of maternal mortality, the number of births attended by skilled health professionals (a proxy for reduction in maternal mortality) has also increased to 67 percent (ENDESA, 2005-2006). These improvements are mainly due to the following factors: the continued expansion of prevention, promotion, and health care programs and services with an emphasis on Maternal and Child Health Programs, as well as the use of alternative models of service provision with increased participation of communities; improvements in access to potable water; and higher educational levels of Honduran women (ENDESA, 2005-06).

5.2 Nevertheless, in spite of the progress achieved, serious challenges remain in the sector. In 2005, close to 1.2 million people (17 percent of the Honduran population) did not have access to any type of health service (MOH, 2005). Significant gaps in access and quality persist between rural and urban areas, as well as between low and high-income households (ENDESA, 2005-2006). For instance, 43 percent of children suffering from malnutrition come from households in the lowest income quintile, whereas only five percent come from those in the highest income quintile.

5.3 Quality of service in terms of availability of adequate staff, equipment and medicines also remains a serious issue, with only 12 percent of health centres and eight hospitals accredited in 2006. Most of the main problems during the licensing process were related to lack of facility norms and equipment, insufficient personnel, and inadequate infrastructure (MOH, 2007). Thirty percent of ambulatory facilities remain closed due to lack of personnel; this resulted from the rapid expansion of facilities – mainly due to political interests, rather than compliance with established criteria for opening facilities (MOH 2007).

5.4 Health expenditure increased in real terms since the ‘90s, but remains relatively low compared to average expenditure in Latin America (WB, 2007). Honduras’ total health expenditure as a percentage of GDP is slightly higher than the average for Central American (CA) countries in 2005. However, it has the lowest health expenditure per capita (PPPUS$226) in purchasing power parity terms in CA. When only public health spending is considered, Honduras’ per capita spending on health is also lower than the CA average and only higher than that of Guatemala (WHO, 2008).

185 This chapter was prepared with contributions from Victor Melendez, Rafael del Cid, Hector de Silva, Mark Payne, and Jorge Irias. It also incorporates written inputs from the Ministry of Health, IHSS, and the Technical Assistance Unit of the Presidency (UNAT), as well as inputs from the series of consultations held with the IGR Steering Committee, Technical Committee, and civil society representatives in July and September 2008.
Table 5.1. Health expenditures in Central America, 2005

<table>
<thead>
<tr>
<th>Country</th>
<th>Total health expenditure as a % of GDP</th>
<th>Per capita total health expenditure in international US$</th>
<th>Per capita public health expenditure in international US$</th>
<th>Government expenditure on health as % of total health expenditure</th>
<th>Private exp. on health as % of total health expenditure</th>
<th>OOP exp. on health as % of private expenditure on health</th>
<th>External resources as a % of total health expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costa Rica</td>
<td>7</td>
<td>684</td>
<td>519</td>
<td>76</td>
<td>24</td>
<td>79</td>
<td>0.2</td>
</tr>
<tr>
<td>El Salvador</td>
<td>7</td>
<td>364</td>
<td>196</td>
<td>54</td>
<td>46</td>
<td>91</td>
<td>2.2</td>
</tr>
<tr>
<td>Guatemala</td>
<td>5</td>
<td>244</td>
<td>92</td>
<td>38</td>
<td>62</td>
<td>92</td>
<td>1.1</td>
</tr>
<tr>
<td>Honduras</td>
<td>7.5</td>
<td>226</td>
<td>114</td>
<td>51</td>
<td>49</td>
<td>87</td>
<td>6.8</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>7.9</td>
<td>240</td>
<td>131</td>
<td>54</td>
<td>45</td>
<td>93</td>
<td>9.7</td>
</tr>
<tr>
<td>Panama</td>
<td>7.3</td>
<td>660</td>
<td>455</td>
<td>69</td>
<td>31</td>
<td>81</td>
<td>0.2</td>
</tr>
<tr>
<td>Average</td>
<td>7.0</td>
<td>403.0</td>
<td>251</td>
<td>57</td>
<td>43</td>
<td>87</td>
<td>3.4</td>
</tr>
</tbody>
</table>

Source: WHO Core Indicators 2008

5.5 In Honduras, health expenditure has been oriented more towards curative care, with hospitals accounting for the largest share of total Ministry of Health (MOH) expenditures (38 percent), while the proportion of funds allocated to ambulatory care and epidemiological control of diseases (prevention and health promotion services) decreased to only 16 percent in 2005 (WB PER, 2007).

5.6 In addition, while the majority (at least 54 percent) of total public health expenditure is spent on personnel, human resource development and public health training received one of the lowest scores in the national assessment of essential public health functions (PAHO/WHO, 2006). Moreover, while there have been efforts to improve pharmaceutical management, there are still allegations of corruption in the procurement process and reported stock-outs by health facilities (Melendez, 2008).

5.7 Various reforms have been attempted in the Honduran health sector to address the above issues with varying degrees of success. The health sector is an interesting case in the Honduran context because, on one hand, it has performed somewhat better, relatively speaking than other sectors analyzed in this report. This is partly due to: (i) some continuity in undertaking certain reforms, particularly those related to engaging the local level in improving access to health services; (ii) the process followed in undertaking some reforms in the sector (for example, a gradual, consensus-building among stakeholders in the regional reorganization process, together with focusing on a bottom-up approach in the case of the decentralized models of service delivery and also holding a discussion with unions to gain sufficient support to continue and avoid large scale opposition); (iii) the nature and number of unions in the sector. Major unions are centralized making negotiations a little simpler. There are also 30 unions, syndicates, and groups representing various types of health personnel making it more difficult for them to unite against reforms compared to teachers; and (iv) the sector has also benefited from having some committed Ministers of Health who
have championed certain reform initiatives\(^{186}\) in spite of opposition from strong interest
groups.

5.8 On the other hand, the health sector also needs to address the following significant
institutional weaknesses that impede the progress of reforms and that also affect sector
performance: (i) the frequent changes in ministers and resulting high staff turnover; (ii) the
lack of clearly-defined policies and strategies and well-articulated, budgeted operational
plans; (iii) a sector institutional framework that does not have adequate accountability
mechanisms to motivate policymakers and traditional service-providers to meet sector
objectives. In general, there is a lack of incentives and sanctions to promote good
performance and coordination, making the sector depend to a considerable extent on the level
of commitment of political leaders and the ability of various interest groups to influence the
direction of reforms; (iv) the lack of definition, in some cases, and the overlap of some
functions makes it difficult to clearly define lines of accountability between sector
institutions and across administrative levels. Insufficient coordination between the Ministry
of Health (MOH), the Honduran Social Security Institute (IHSS) and the private sector also
results in the duplication of interventions in some areas and their marked absence in other
areas; (v) there is a lack of timely information to guide management decision-making and
planning and budgeting processes, as well as to regularly inform citizens about sector
performance. Information-sharing is also limited and would need to use more and different
dissemination channels; and (vi) various opportunities exist for civil society associations to
participate, but there is limited information available on their actual effectiveness in
influencing policy-making and implementation. There is also a lack of a sufficient number of
well-organized citizen associations and advocacy groups in the sector.

5.9 With a view to understanding the institutional and governance factors that affect the
functioning of the health sector, this chapter will first examine the main health sector reforms
undertaken in Honduras since 1990. In doing so, it will draw on the experiences of two
important reforms in the sector (regional reorganization and the establishment of alternative
models of health care with decentralized management) and the lessons learnt from
implementing them. It will then analyze the sector’s institutional framework and the manner
in which different institutional arrangements affect sector performance and stakeholders’
behavior, following the accountability framework developed by the World Development
Report, WDR (WB, 2007). In particular, this section will deal with the decision-making
process and the factors that influence how decisions are taken in the sector, and the different
main actors involved in institutional coordination, planning and budgeting, and the
management of two important sector components (human resources and pharmaceuticals).
The last section will summarize the main conclusions and provides recommendations to
advance reforms focusing on improving institutional strengthening and governance aspects,
particularly accountability and transparency in the sector.

\(^{186}\) for example, Ex-Minister E. Zelaya in the case of regional reorganization and Ex-Minister E. Palou in the
case of decentralized models and in the design of the new health reform proposal.
**EVOLUTION OF THE MAIN HEALTH SECTOR REFORMS SINCE THE ‘90s**

*Overview*

5.10 Since the 1990s and prior to the current Administration, the health sector reform process can be grouped into four main periods: the Modernization of the Health Sector in 1990; the New Health Agenda in 1998, the Transformation of the Health Sector in 2000, and the National Health Plan 2002-2006. Table 5.2 summarizes these main reform periods while Annex V provides details on two reforms selected as case studies for this report: the regional reorganization and the decentralized management models.

<table>
<thead>
<tr>
<th>Date</th>
<th>Title</th>
<th>Components</th>
<th>Results</th>
<th>Sponsor/ Support</th>
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| 1990         | Modernization of the State                 | MOH steering role                                                         | - Introduction of the “municipalization” concept  
- Preparation of municipal plans in 86 percent of municipalities.  
- This period was useful in fostering local government participation especially in planning. However, there were no significant changes in the service delivery modality and the national health situation since local management of health services was not really implemented. This was partly due to a change in Administration and the end of some key donor financing. | MOH/ASDI, IDB                        |
|              | Modernization of the Health Sector         | Decentralization                                                          |                                                                                                                                  |                                       |
|              |                                             | Beginning of the ACCESS Process                                           |                                                                                                                                  |                                       |
| 1998         | The New Health Agenda                      | MOH steering role and regulatory function  
Reorganizing regional health departments into 18 regions and two metropolitan areas  
Reorganization of health care model  
Human resources  
Policy on medications  
Information systems  
Environment and health | - Preparation of the reform proposal. Its implementation had to be postponed because of Hurricane Mitch and the change in Minister of Health | MOH/PAHO                             |
| 1998-2001    | Master Plan for National Reconstruction    | Reconstruction of damaged infrastructure  
Institutionalization of risk management  
Reorganization of services  
Adjustment of the health care model | - Some contents and proposals (e.g. regional reorganization and municipalization) were postponed due to a change in Government  
- Mixed results of reconstruction processes  
- First models of health care at the municipal level were implemented | MOH/FONAC/AMHON/Multiple international cooperation agencies |
| post Mitch   | and Transformation                         |                                                                             |                                                                                                                                  |                                       |
| 2002-2006    | Health Sector Government Plan              | MOH institutional development  
Regional Reorganization  
Hospital management | - MOH reorganization implemented  
- Development of Health Plan 2021 which serves as the basis of long-term planning for the sector in the current administration. However, this plan does not have a budgeted operational plan | MOH/IDB/WB                            |
IHSS institutional development

- Moderate achievements in hospital modernization because performance contracts were not signed and many functions continue to be centralized.
- Progress in IHSS institutionalization, e.g. in separation of functions, modernization of management system, and increase in service coverage. IHSS costs need to be contained: its costs are exceeding its revenues mainly due to its curative care focus and increasing capital expenditures.
- Implementation of additional service delivery modalities:
  - NGO mobile health prevention and promotion teams. By 2006 the program had reached 1142 rural communities in 95 municipalities, and 289,000 persons. This program, however, was not institutionalized into the MOH network.
  - Piloting of alternative models of care. In 2006, the MOH financed 29 decentralized health care units, covering 10 municipalities and 130,000 inhabitants.
  - Subcontracting of private providers by IHSS. By mid-2005, 25 private providers were operational in select, urban areas.
- Improvements in several national health indicators but significant gaps remain between rural and urban areas and the rich and the poor.

Coverage extension

- IHSS institution
- al development
- Coverage extension
- Moderate achievements in hospital modernization because performance contracts were not signed and many functions continue to be centralized.
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  - Subcontracting of private providers by IHSS. By mid-2005, 25 private providers were operational in select, urban areas.
- Improvements in several national health indicators but significant gaps remain between rural and urban areas and the rich and the poor.

5.11 The current administration took office in 2006, proclaiming its citizen power policy to “transform Honduras through participatory democracy” or by strengthening social participation. It adopted the long-term National Health Plan (Plan Nacional de Salud 2021 or PNS 2021) prepared during the previous administration that promotes a sector wide approach to achieving sector goals that include the Millennium Development Goals and those of the PRSP. Key actors in the health sector participated in the review and development of the Plan. However, it was prepared without a budgeted implementation plan (Melendez, 2008).

5.12 In September 2008, the National Health Council (CONSALUD) presented a draft framework for health sector reform in a public forum. It still needs to be further developed and supported by a budget and action plan. Since then, however, there has been another change in Minister of Health. The current Minister indicated that, in principle, he supports the proposed health sector framework but would like to make some changes. He has assigned a team to revise it.

Analysis

5.13 Reflecting on health reforms since the early ‘90s, the reforms reveal some continuity in certain sector policies and strategies, particularly in terms of identifying mechanisms to delegate functions to local levels to improve access to services. There have also been efforts to enhance the efficiency of service delivery, modernize the hospital network, improve the administrative structure of the MOH and IHSS, and, in recent years, to increase transparency in procurement processes and encourage civil society participation.
5.14 In general, reforms related to increasing physical access have demonstrated more progress compared to those related to: (i) improving financial access (about 80 percent of Hondurans do not have access to health insurance); (ii) service quality (as of March 2008, only 12 percent of public health establishments and 11.5 percent of private health facilities had been licensed according to MOH/PRSS reports); and (iii) efficiency (for example, resources are still disproportionately allocated to curative care relative to prevention and health promotion; there is a lack of coordination between IHSS and MOH in the purchase of medicines resulting in higher prices and duplication of services in some areas; hospitals separately purchase equipment instead of consolidating the purchase in lots to benefit from lower prices, etc.). On one hand, lack of resources has been cited as a main constraint to improving financial access and quality in the health sector but, on the other hand, inefficiencies in resource use also exist.

5.15 The hospital modernization program achieved modest results because, first of all, management agreements were not signed, and they were supposed to define incentives and criteria for the evaluation of hospital performance. Second, there was no effective transfer of competencies related to human resources and procurement; both processes continued to be implemented in a centralized manner (Rodriguez Herrera, 2006; Melendez 2008).

5.16 IHSS has made progress in separating the financial administration of its pension and health insurance regimes. From 1999 to 2007, it increased the number of its affiliates by 75 percent and its total number of beneficiaries by 62 percent. It has also started to cover domestic helpers. Through its Local System of Social Security Program (SILOSS), it has extended service coverage through the use of private contractors. However, as a result of the significant increase in its capital investment and its continued emphasis on curative care, IHSS has been operating at a high cost. During 2002-2006, its expenditures increased at a rate of 17 percent while its income increased only at a rate of 13 percent (ILO, 2007).

5.17 Although a significant portion of the health sector budget is allocated to human resources, no substantial reforms in this area have been undertaken, and personnel management remains one of the weakest areas of the Honduran health system: clientelism has been observed in appointing and hiring of personnel; there is a lack of regular performance evaluations and incentives to promote good performance; and it is also difficult to fire underperforming public health staff because of the Estatuto Medico.

5.18 The regional reorganization [restructuring of the 9 regional health administrations (RHAs) into 18 RHAs, based on the country’s administrative territorial division and two Metropolitan Health Regions (Tegucigalpa and San Pedro de Sula); as well as establishment of regulations that define structure, functions and competencies of RHAs] is now generally viewed as having been “institutionalized, after following a gradual process of about 7 years that included consensus building among various stakeholders such as the Ministry of Finance and the Health Workers Syndicate (SITRAMEDYS). It has demonstrated advantages such as simplifying administration and surveillance because of the reduction in the size of geographical areas covered per RHA. Nevertheless a number of factors limit the RHAs ability to perform their major functions. For example, they face capacity constraints in terms of strategic planning, and monitoring and supervision. Moreover a number of main management functions such as human resource management continue to be implemented or influenced by the central level. Annex V provides a summary of the regional reorganization process.
5.19 The alternative or decentralized models are still in the process of being implemented in more rural areas and being institutionalized. At present there are 106 functioning decentralized health units in 57 municipalities in 13 regional departments, covering 800,000 persons or approximately 11 percent of the total population (MOH UECF 2008). About 50 percent of the facilities are managed by community based organizations; 27 percent by an association of municipalities (mancomunidades) or a municipality; and 23 percent by NGOs. The MOH has been progressively including more decentralized units in its budget and has already incorporated them as part of its overall health service network. However, these models continue to face resistance from the health sector unions. Capacity and resource constraints may also pose challenges to their expansion. Nonetheless these challenges are not expected to completely stop their spread because more rural communities are requesting for them after learning about their advantages from beneficiary communities. In addition both major national parties support their expansion. Annex V provides a summary of these models.

5.20 The manner in which these alternative models have been introduced and gradually gained support may offer lessons for other types of reforms planned in the sector. Through the bottom-up approach adopted, and by establishing services with defined standards in poor remote areas with no access to traditional health services, these models gradually gained allies including mayors, municipal governments, municipal associations, community groups, and local service providers. The models also received technical and financial support from international partners. The dialogue initiated by the former Minister of Health (Dr. Palou) with the major syndicates in early 2008 to discuss their concerns regarding the models also limited large scale opposition (del Cid, 2008).

5.21 Despite the progress made in certain reforms, the reform process in the sector has also faced the following challenges:

(a) Changes in administration and high staff turnover as demonstrated by the frequent changes in ministers and key technical staff such as the head of the Planning and Management Evaluation Unit (UPEG) which have, in turn, affected the continuity of policies. For example, a number of activities included as part of the Modernization of the Health Sector, New Health Agenda, and Master Plan for Reconstruction were not fully carried out because they were identified with a particular administration and/or a particular minister;

(b) The lack of an overall sector-reform framework with clearly defined strategies and a multi-year budgeted implementation plan to guide the process. Over the years, various administrations have introduced their own plans with some specific areas for reform instead of using a coordinated sector-wide approach. This has also contributed to fragmented, uncoordinated interventions between sector institutions, resulting in duplication of efforts in some areas and their absence in other areas. Most of these plans were also not supported by clear operational plans; they were also generally not budgeted. In September 2008, the National Health Council (CONSALUD) headed by the previous Minister presented a draft health sector reform framework. While it outlines the sector’s main issues and the proposed overall approach to addressing them, it still needs to define how to operationalize the suggested changes, taking into account available resources and resource needs together with institutional changes needed to support the reform process. With the recent change in Minister of Health, it
would be important to define the next steps that will be taken to move the proposed reform process forward.

(c) Insufficient political commitment vis-à-vis the pressures exerted by other sector stakeholders such as unions and syndicates or other policymakers (i.e., party politics or political interests) making sector reforms subject to the negotiating power of various interest groups.

5.22 The following sections will complement the above analysis by examining the accountability system in the sector and its effect on performance, following the analytical framework provided below.

**ACCOUNTABILITY FRAMEWORK FOR THE HEALTH SECTOR**

5.23 This chapter will examine the sector’s institutional framework and how institutional arrangements affect sector performance and actors’ behavior, based on the accountability framework developed by the WDR, 2004. The framework includes the set of relationships, including incentives, that hold health service providers, insurers, and the Government accountable towards their clients and citizens in order to accomplish the sector’s main objectives (WB WDR, 2004, WB HNP Strategy, 2007).

5.24 Figure 1 depicts two mechanisms through which accountability takes place in the provision of health services: (i) via the “long route” – citizens elect politicians who, in turn, establish a compact or agreement with health care providers, by delegating service delivery to them, making use of information systems and monitoring and evaluation mechanisms to guarantee that services are delivered in accordance with established goals; and (ii) through the “short route” or “client power” – citizens directly influence service delivery, by having the means to compel service providers to take their views into account using financial (for example, by seeking care from their preferred providers) or legal means (litigation), in addition to participating directly in monitoring and/or managing service providers (for example, approximately 50 percent of the functioning 106 decentralized health centres in Honduras are managed by community associations). For both routes, the main challenge lies in aligning incentives and the behavior of the different actors so as to optimize the use of resources given that asymmetry of information tends to exist in the sector.

5.25 Health sector governance issues can stem from weaknesses in the lines of accountability between the Ministry of Health (MOH) and the providers, providers and their clients, and the MOH and citizens or clients. Examples include lack of leadership, capacity or commitment, and transparency on the Government’s part to ensure that services are performed as agreed, poor management across the health service delivery chain because of weaknesses in the compact – such as the absence of adequate incentives and/or sanctions to address staff absenteeism – low productivity, input shortages, and leakages. It can also result from the inadequate ability of users to exercise their power either because they do not have sufficient funds, lack information, or are insufficiently organized to effectively demand changes (WDR, 2004).
Figure 5.1. The Accountability Framework for the Health sector

**DECISION-MAKING PROCESS – VOICE**

**System of Appointments**

5.26 The President appoints the Minister of Health and the Director of the IHSS. The current administration has replaced the Minister of Health on two occasions while the third Minister of Health resigned. To date, there have been four changes in Ministers of Health in three years, but the same Executive Director of IHSS since 2006. The frequent changes in ministers has also resulted in changes in some vice ministers as well as the head of the Planning and Management Evaluation Unit (UPEG) of the MOH. This has also consequences for the continuity of policies. For instance, in September 2008, the National Health Council (CONSalud) presented a draft framework for health sector reform. Since then, however, there has been another change in Minister of Health. The current Minister has indicated that he supports the proposed health reform, in principle, but would like to propose some changes and has assigned a team to revise it.

5.27 A well-known tradition in the Honduran public administration has been to appoint as State Ministers, individuals who hold the professional title that is closest to the type of services offered by the sector even though they might not have management skills. For example, a doctor is almost always appointed as the Minister of Health. In the current administration, all four ministers and the Director of the IHSS are physicians.

5.28 In general, clientelism in appointments has been observed in the health sector, with the appointment of political supporters to key positions within the public administration. Regional and hospital directors tend to be politically appointed and are not necessarily selected based on competitive processes. In addition, in the case of staff appointments that

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187 President Ricardo Maduro broke that tradition when he appointed a professional in the field of administration as Minister of Health, Mr. Elias Lizardo Zelaya.
are not governed by statutes, decisions tend to be taken at the political level (the recruitment process is influenced by politicians and union leaders)\textsuperscript{188}, taking this authority away from regional or hospital directors. This leads to the recruitment of personnel that, in certain cases, are not well qualified and/or experienced. However, it is expected that this practice will decrease as more professional recruitment procedures are introduced as part of the institutionalization of the regional reorganization and as part of the implementation of the Government’s Professionalization of the Public Servant Plan.

**Decision-making bodies**

5.29 There are various decision-making bodies in the sector. The limited available information on how they function suggests that they tend to depend on the style of their respective leaders/management.

- The MOH has the Advisory Council to the Health Secretariat (CONCOSE) that consists of members of the MOH’s central political level. It is chaired by the Minister of Health. Throughout the years, the actual role played by the Council has largely depended on the management style of each Minister. For instance, there were some ministers that did not make any decision without CONCOSE and others that only convened it to request counsel on specific matters particularly in handling issues related to unions and syndicates (de Silva \textit{et al}, 2008).

- At the Technical-normative and regional levels, there exist corresponding councils as the main decision making bodies

- At the hospital level, there is the Council of Directors of National Hospitals and, in some administrations, there is also a similar body for regional and specialized hospitals. Hospitals also have their own technical councils, as well as other committees (e.g. infections committee, quality committee, etc.). On several occasions, these technical councils have been useful to find broadly supported solutions although there have also been some instances when they did not prove to be effective (Melendez, 2008). However, more information is needed to achieve a better understanding of how these various councils work.

- Within the IHSS, the Board of Directors is responsible for decision-making as well as for the definition of institutional policies. This Board is comprised of representatives from the Government, labor sector, business sector, and the Honduran Medical Association. It is chaired by the Minister of Labor. Limited information is available, however, on how the IHSS board functions and its performance.

**Modalities to improve over-all sector performance accountability**

5.30 Efforts are being made to improve overall performance accountability in the health sector through (i) the introduction of the Results-Based Management System or Sistema de Gestion Por Resultados (SGPR) and (ii) two key bodies for dialogue: the National Health Council (CONSALUD) and the Sector Table (mesa sectorial), and more opportunities for

\footnote{188 Based on the interviews conducted for this study and V. Melendez’s observations.}
civil society participation. These initiatives are important and would need to be supported and strengthened.

Results-Based Management System (SGPR)

5.31 The Government has recently adopted a Results-Based Management System or SGPR. The SGPR involves the consolidation of the sector and institutional goals defined by each ministry’s Planning and Management Evaluation Unit (UPEG), during the sector’s planning process. These goals and indicators are part of the National Development Plan and the Government Plan. In the health sector, 19 indicators were selected based on consultations with the different MOH institutions. The Technical Assistance Unit of the Presidency (UNAT) is responsible for performing quarterly assessments of these goals based on the information provided by UPEG. It publishes the results on its website.

5.32 In order to improve the SGPR process, four main issues need to be addressed:

- Preliminary experiences with the process indicate that ministries and UNAT tend to focus on budget execution performance, rather than applying a balanced assessment of results based on both budget use and the rest of the sector indicators. A balanced assessment is needed because a ministry could spend its entire budget yet not deliver the expected results while another ministry could underspend and yet meet its goals;
- Almost all of the non-budget related health sector indicators are focused on outputs and coverage; only one indicator measures quality, which is the percentage of licensed facilities;
- Goals need to be standardized to facilitate consistency in reporting and make progress reports comparable. For example, sector indicators do not always specify the same age-group and the same number of vaccination doses, as those reported by visited health centres during some site visits. Data sources also need to be reviewed; for example, UPEG only uses hospital records as the source of data for institutional births, it does not take into account deliveries in maternal and child clinics and health centres (WB-PRSS SPN mission October 2008 observations); and
- A formal mechanism to improve verification of the achievement of goals reported by UPEG needs to be established.

Bodies to Promote Inter-institutional Dialogue

5.33 The National Health Council (CON SALUD) was created in 2004, and is presided over by the Minister of Health. This Council serves as an advisory body for the health sector and coordinates consultations with the different institutions that comprise the sector.

5.34 In general, according to stakeholder consultations, this Council has not successfully met expectations as: (i) it includes a large number of institutions, associations, unions and ministries who discuss a wide variety of current issues but, in most cases, do not reach a consensus, because opinions tend to depend on the interests of each organization; and (ii) it is chaired by the Minister of Health, which, in the opinion of some of its members, undermines impartiality when sector issues are discussed (Melendez, 2008). In moving forward, it would be important to ensure that the CON SALUD addresses priority issues, and improve its consensus building and decision-making processes by providing incentives to increase the
likelihood of its members agreeing for the common good, while minimizing party/interest group politics.

5.35 The sector table (mesa sectorial) is mandated to serve as a forum for dialogue and consultation between the Government, civil society, and international cooperation, in order to provide recommendations to support the effective implementation of the Poverty Reduction Strategy (PRSP) which includes health as one of its priority sectors. A Technical Committee supports the sector table. Meetings occur on a quarterly or semestral basis. So far it has been functioning more as a forum to report activities on behalf of the MOH rather than as an effective instrument to facilitate dialogue and consultation. According to some stakeholders, the sector table could meet more frequently; encourage more active civil society participation, and become a more proactive body for advancing improvements in health sector performance.

Civil society (CS) participation in the decision-making process

5.36 There has been some progress in the creation of bodies where citizens’ representatives can express their views and raise queries. Aside from the CONSALUD and sector table) which have been briefly discussed above, these bodies include:

- The Inter-institutional Commission of Medicines (CIM) which is composed of the National Forum for Convergence, the National Forum on AIDS, the Honduran Medical Association, the National Anti-Corruption Council, and the Tegucigalpa Archbishop. The Executive Decree of 2007 delegates the CIM to handle the purchase of medicines and to undertake social monitoring activities. Its performance is discussed in the pharmaceutical management section.

- The Country Coordinating Mechanism of the Global Fund-Honduras; the Consultative Council for Poverty Reduction, whose civil society representatives establish alliances with civil society organizations in various parts of the country; the National Council on Potable Water and Sanitation; the National Commission on Micronutrients; and programs on tuberculosis, malaria, etc. The extent to which most of these councils or bodies have been effective instruments in the reform process still needs to be assessed.

Analysis of key actors in the sector

5.37 This section summarizes the strengths and weaknesses\(^\text{189}\) of the major stakeholders involved in the negotiation of public health policies.

Ministry of Health (MOH)

5.38 Among local actors, the MOH has the most resources, the most developed vision of overall sector needs, and the highest technical capacity. In 2005, it had 16,024 employees of which 31 percent were in administration and the rest were in service provision. Together with its political authority, it is considered to be the most influential institution in the sector. However, its high degree of internal fragmentation and its lack of consistently strong leadership, have also limited the extent to which it can advance sector reforms.

\(^{189}\) This analysis is based mainly on background papers prepared by Melendez (2008) and del Cid (2008) for this study.
Association of Municipalities of Honduras (AMHON)

5.39 AMHON is an association that unifies all municipal governments in Honduras. It is governed by a Board of Directors and includes an executive secretariat responsible for implementing policies. Although its close contact with the population works in its favor, AMHON does not have the capacity to translate the local situation to a national level vision. Furthermore, it does not have sufficient resources for negotiation, and its technical capacity is limited compared to that of the MOH and the Medical College (CMH). In addition, political party pressures limit the action of many mayors which, in turn, limits AMHON’s capacity to influence the national dialogue.

Unions

5.40 The Honduran health sector has approximately 30 health-related unions, syndicates, and groups that represent different types of health personnel (doctors, nurses, pharmacists, radiologists, laboratory technicians, social workers, etc). In general, each union in the health sector tends to look out for the interests of its own members who have different salaries and working conditions than the other unions. Thus the MOH tends to negotiate with different unions, unlike the MOE, who has to deal with a bigger and stronger block of unions who tend to come to the negotiating table as one. Most of the organizations in the health sector are centralized, which helps facilitate discussions and negotiations.

5.41 The following discussion will focus on the Health Workers Syndicate (SITRAMEDYS) and the Honduras Medical Association (Colegio Médico de Honduras or CMH) because of their important roles in the sector.

- SITRAMEDHYS\textsuperscript{190}. This syndicate is comprised of over 10,000 MOH employees, with 16,204 employees working in 65 branches nationwide. It is better organized for negotiations compared to AMHON, but has a limited vision of sector needs compared to the MOH due to the vested financial interests of its members. It has more resources than AMHON, but it has a lower technical capacity compared to the CMH and the MOH, thereby limiting its technical contributions to the sector.

- CMH. With a membership of 6,309 doctors in 2005, the CMH\textsuperscript{191} is the major professional association in the health sector. Even though it does not have the highest score in terms of overall vision for the sector, resources, and technical competence, its capacities in these areas are generally well-developed and it does not have any major weakness. The CMH’s public credibility is generally favorable, and it has occasionally demonstrated remarkable convening and negotiating power; for example, it successfully negotiated the legislation of the Estatuto Médico. It participates in a number of decision-making and/or consultative bodies including the CONSALUD and the IHSS Board of Directors.

\textsuperscript{190} SITRAMEDHYS was created 40 years ago. It is governed by a Board of Directors whose members are elected every two years in general elections.

\textsuperscript{191} CMH was established in 1962; it is the main professional association in the health sector. In 2005, CMH had a total of 6,309 practicing members, of which 2,033 have completed specialization studies and 4,276 are general doctors. Out of the 4,276 general practitioners, 2,080 work for the MOH and 600 for IHSS.
Users of Health Services

5.42 Users of health services have a good vision of needs but insufficient resources and weak organized systems. Although there has been some progress in the creation of bodies and forums where citizens’ representatives can express their opinions and raise queries, the number of well-organized civil society associations in the sector is still limited (Irias 2008; Melendez, 2008).

International Cooperation (IC)

5.43 The IC has played an important role in providing technical and financial assistance in the health sector in Honduras. External funds (loans and grants) accounted for an average of 14 percent from 1999 to 2005 (WB, 2007). Multilateral partners are represented by the United Nations Agencies such as WHO/PAHO, UNDP, UNFPA, UNICEF, FAO, and UNSAID; the IDB; and the World Bank. The main bilateral agencies in the sector are USAID, JICA, United Kingdom, European Union, GTZ and SIDA (who is now withdrawing its aid from the country). In general, the IC has been viewed as having better technical capacity and more resources than most national actors. However, many technically well-designed reform proposals with adequate funding have encountered obstacles during implementation because of political intervention and inefficient use of funds, as well as bureaucracy and divergent visions among international agencies.

5.44 In order to improve the dialogue between local and international stakeholders, forums for dialogue have been created in the health sector such as the Health Table or mesa sectorial, and the donor health table, known as the CESAR table. The CESAR table aims to increase the effectiveness of technical cooperation in the sector through monthly meetings. Based on sector consultations, the health sector donor table could be more proactive in supporting the MOH if it organized committees that could be responsible for specific topics that are relevant to the MoH’s technical agenda, for example, an annual operational plan or POA committee to support planning, an HIV committee to support the HIV strategy, etc. This would require the definition of counterparts within the MOH, as well as a close dialogue between the government and donors. The donor roundtable could also prepare an Annual Workplan, so as to organize and carry out specific actions for supporting the MoH; for example, organize forums to discuss policies, review the legal framework, etc. This would also foster donor coordination. Another recommendation received is to rotate the agency that coordinates the table on a semestral basis based on a predefined calendar. The table could be co-chaired between the current coordinating agency and the upcoming agency for some period of time to facilitate a smooth turnover and continuity.

5.45 Box 5.1 summarizes the roles played by the key stakeholders in the two reforms (regional reorganization and decentralized models of health care services) analyzed as case studies for this chapter.

Box 5.1. Stakeholder roles in two reforms: Regional Reorganization and the Establishment of Alternative Models of Health Service Delivery.

A. Regional Reorganization

Central Government. The new regionalization was supported by former Health Minister E. Zelaya who considered it a high priority; a view shared by the President of the Republic although the reform process was delayed because the Ministry of Finance had to agree to adjust the budget allocation from nine to 20
regional health administrations (RHAs). During the early stage of the current administration, former Health Minister O. Velazquez attempted to return to the former regional set-up, but this was strongly opposed by health personnel and the new RHAs (interview with Dr. Juan Ramón Pereira, 2008).

Unions and syndicates. The Honduras Medical Association (CMH) was indifferent to the regionalization process. However, the Health Workers Syndicate (SITRAMEDYS) and the Association of Public Employees (ANDEP) initially opposed it because they were concerned that it was a precursor of privatization. They gradually changed their views when they observed that health personnel in the regions were promoted, and during 2004 and 2005, the MOH proposed to start a permanent dialogue with the Union about establishing guarantees for labor stability.

Municipalities, mancomunidades (groups of municipalities) and other local stakeholders have strongly supported this reform, in view of its expected benefits such as improved services and enhanced capacity through training. AMOH has supported it since its inception, viewing it as part of the over-all agenda of decentralization.

International partners played an important role in advancing this process, especially PAHO which also supported this process in other countries in the region. SIDA also made a very important contribution in its support of the Access Program. With the institutionalization of this process in 2004, USAID and CIDA also contributed to strengthening the regions, especially the newly established ones. The IDB and the World Bank were also important supporters through their lending programs.

B. Alternative/Decentralized Service Delivery Models

Central Government. Although the promotion of services at the local level with decentralized management officially started with the Access Program in 1995, it did not receive MOH’s attention until after 2004 with the regionalization reorganization. Since 2006, the MOH has focused more attention on these models, demonstrated by the establishment of the UECF which has been responsible for the coordination of the process. The MOH has also faced pressures and opposition from unions and syndicates, which has slowed down the expansion of these models. The previous Minister strongly supported these models, in collaboration with AMHON, and held discussions with unions such as SITRAMEDYS to reduce opposition to these models.

SITRAMEDYS and the CMH do not support these models because they view them as attempts to privatize health services; they believe that the MOH should continue to provide these services in the country. However, the CMH is starting to recognize the benefits of these decentralized models. Its new president seems more open to supporting the models as possible sources of employment of unemployed doctors. The organization is now mainly concerned about ensuring that health personnel working in these centres are paid based on the Estatuto Medico.

Group of municipalities (mancomunidades), mayors, and managers of decentralized health services have been increasing and are becoming important players in the sector and could contribute to the continuation of these models.

Local communities, particularly those in rural, remote areas have been supportive of the models operating in their vicinity because they have observed tangible benefits. More communities are requesting for alternative models to be established in their area.

International cooperation. Similar to the new regionalization, these models were financially and technically supported by international partners such as SIDA, USAID, CIDA, Italy, WB, IDB and PAHO. (LACRSS, 2002: 2).

Source: del Cid, R. 2008

Recommendations to improve decision-making accountability and voice

5.46 Review experiences and achievements of key decision-making and consultative bodies especially the Advisory Council to the Health Secretariat (CONCOSE), the IHSS Board of Directors, and the National Health Council (CONSALUD), improving their decision-making...
process by providing incentives to increase the likelihood of their members reaching consensus for the common good, while minimizing party/interest group politics.

5.47 Undertake a stakeholder survey to obtain recommendations on how to better engage civil society representatives in the different spaces for dialogue (for example, at the sector table (mesa sectorial), CONSALUD, CCERP, etc.).

5.48 Improve the negotiation process between the MOH and unions and professional organizations: (i). Strengthen the MOH’s structure for handling negotiations through the creation of a permanent technical negotiation advisory committee at the central level that would be responsible for establishing and maintaining dialogue with unions and recommending possible solutions, (ii). Identify opportunities to benefit from constructive contributions from the Medical Association of Honduras (CMH), turning it into a special interlocutor for other key actors on behalf of the MOH. For instance, CMH’s new authorities have shown some willingness to adopt a constructive attitude toward the implementation of the new service delivery models that, in addition to providing services to underserved communities, could serve as a potential source of employment for unemployed doctors in Honduras, and (iii) Design and implement measures that facilitate the participation of mayors, community leaders, and other community representatives as part of the negotiation process.

5.49 Enhance management tools to support decision-making by:

a. Improving the Results-Based Management System by (1) expanding it to include the regional health administrations and facilities; (2) standardizing indicators used (e.g. age groups, number of visits, number of dosage of immunizations, etc.) across different administration levels (central to local); (3) emphasizing results linked to quality aspects and output indicators being used and not just expenditures.; (4) establishing a mechanism for independent verification of reported results; and (5) making the results available through various channels of information aside from the internet, and

b. Strengthening the link between the planning and budgeting process by providing planners with timely information on the available resource envelope; establishing priorities based on estimated resources. Continue with efforts to prepare a medium-term expenditure framework.

c. Improving information systems at all levels, ensuring that data collected and reported are also disaggregated by regional department, municipality, and health unit. Streamline data flows to minimize fragmentation and duplication of data collection efforts. Ensure that data are shared in a timely manner, using appropriate channels depending on the target audience.

MANAGEMENT OF THE SERVICE DELIVERY PACT

Sector’s legal framework

5.50 The legal framework (Box 5.2) for decision-making in the health sector is composed of a series of laws that, for the most part, are included in the Health Code and, more recently, the General Law on Health.

5.51 The most important laws are those related to the implementation of health policies, such as: articles 59, 145, and 149 of the Constitution of the Republic, which stipulate the
constitutional right to health protection for all Hondurans and the delegation of authority to the Ministry of Health to coordinate all public health-related activities.

5.52 There are other important laws in the field of labor. The Labor Code and the Law on Medical Employees (Estatuto Medico) are particularly important because of their political and financial implications192, as these two laws govern the labor relations and conditions of most health sector employees. It is also worth highlighting the law of IHSS – as it is the second most important institution in the sector, the general law on public administration, the budget law, and the laws that regulate funding from international organizations, such as the PRSP and the Millennium Declaration.

**Box 5.2. Legal framework of the health sector in Honduras**

| Constitution of the Republic, Art.59 stipulates: that the human being is the supreme object of society and of the State; Constitution of the Republic, Art.145, acknowledges the right to health protection of all Hondurans; Constitution of the Republic, Art. 149, stipulates that the Ministry of Health will coordinate all public activities carried out by centralized and decentralized bodies in the sector; The Health Code, defines key guidelines for public health (based on Art. 149 of the Constitution of the Republic); Millennium Declaration, Sept. 2000, United Nations Heavily-Indebted Poor Countries (HIPC); Poverty Reduction Strategy; World Food Summit, Rome, 1996; Childhood and Adolescence Code; Family Code; Labor Code; Law of IHSS; Special law against domestic violence; Law on the National Registry of People; Law on equality of opportunities for women; Special law on HIV/AIDS; Declaration of Alma Ata, 1978; 52nd World Health Assembly, May 1999; International Conference on Population and Development, El Cairo Fourth World Conference on Women, 1995; Convention on the Rights of the Child; Organic Budget Law; General Law on Public Administration; Law on Medical Employees, approved by National Congress in Oct. 1985, and reformed in 1997 |


**Health sector institutions**

5.53 The sector is comprised of public and non-public subsectors. The public sector consists of the MOH, the IHSS, the National Water Supply and Sewerage Service (SANAA), the Honduran Institute on Alcoholism, Drug Addiction, and Drug Dependence (IHDAFA), and the Honduran Social Investment Fund (FHIS).

- The MOH has the constitutional mandate of directing the National Health Policy, and thus, it is regarded as a public institution responsible for organizing, steering and performing essential functions in health.
- The IHSS is responsible for collecting and administering funds from compulsory employee and employer contributions in the formal productive sector that finance health, disability, old age, and death benefits.
- The SANAA is the national public authority responsible for the provision of potable water and treatment of residual waste water in the country.

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192 The maintenance of compensation levels that have been governed mainly by the *Estatuto Médico* has resulted in high personnel costs, with doctors being paid disproportionate amounts relative to other staff and other neighboring countries. The average monthly salary of a physician in Honduras is higher, ranging from 1.5 times to 3.8 times that of average monthly salaries of physicians in five other Central American countries (Morales, 2006 and Honduras MOH data).
• The IHDAFA is an institute dedicated to research, prevention, treatment and rehabilitation of drug dependency in the country.

• The FHIS is responsible for promoting local development through social and productive infrastructure in the rural sector and medium and small urban cities. In the health sector, the FHIS builds and/or rehabilitates clinics.

5.54 The non-public sector consists of private and nonprofit institutions. The following section will focus on the MOH and the IHSS as the two major public institutions in the health sector.

Service and insurance coverage

5.55 The MOH is the major health care provider in Honduras, covering 60 percent of the population. Eighteen percent is attended to by IHSS, five percent by the private sector, and about 17 percent of the population is not covered by any type of health service (MOH, 2005).

5.56 IHSS’s limited coverage, and the more limited number of privately insured individuals, translates into a high proportion of the population in Honduras remaining completely uninsured (about 80 percent). Private spending accounts for approximately 49 percent of total health expenditure in Honduras (which is higher than the Central American average of 43 percent) of which, out-of-pocket spending is 87 percent (WHO Core Indicators, 2005). The Health Ministry recently indicated its intention to establish a mixed universal insurance scheme, as well as special insurance schemes for specific beneficiary groups such as students (MOH Draft Health Reform Document, 2008).

Institutional coordination

5.57 Despite some efforts to address this issue, there is still an overlap between management, service provision, procurement and financing functions in the health sector (MOH, 2008). This makes establishing clear lines of accountability challenging. In spite of the modest progress achieved in improving coordination between the MOH and the IHSS (e.g. a Framework Agreement was signed in terms of contracting services), duplication of functions (for example, procurement) and services between both institutions continue to exist. Another example of duplication of functions relates to the Coverage Expansion and Financing Unit or UECF which has been observed to also perform functions assigned to UPEG such as deciding where decentralized health centres should be opened, as well as performing stewardship functions (for example, evaluations) which should be undertaken under the supervision of the MOH in collaboration with the Planning and Management Evaluation Unit (UPEG) and the Modernization of Health Services Unit (UMSS).

5.58 The relationship between private and public institutions mainly focuses on the contracting of services, and the MOH lacks adequate capacity to fulfill its stewardship role to regulate the private sector (MOH, 2006 and 2008 and PRSS, 2008).

193 The UECF is mandated to administer the negotiation of agreements of the decentralized or alternative models and to carry out procurement of goods, works and services. It also has the mandate to harmonize health projects and programs defined by the MoH.
Finally, while there has been an improvement in the definition of overall functions as stated in the Manual of Organization and Functions at the Intermediate level of the MOH (La Gaceta, November 2006) there is still a need to ensure that the various administrative levels actually perform their respective roles and responsibilities. In practice, as discussed in the section on the regional reorganization experience (and further elaborated in Annex V), a number of functions that the regional health administrations are mandated to perform continue to be undertaken by the central level. For example, although regions can choose and propose their administrative and technical staff, the final decision on personnel selection still rests at the central level.

**Sector financing and expenditure**

The Government has consistently been the main source of total public health funds contributing, on average, about 86 percent while external sources provided, on average, 14 percent from 1999 to 2005.

The National Treasury has been the major funding source for the MOH. It financed, on average, about 85 percent of MOH expenditures from 1999 to 2005, followed by external credit (10 percent), and HIPC (three percent). MOH financing from its own resources has been very minimal (WB, 2007). IHSS funds come from the employers, workers and the State (MOH 2006).

Among the main government agencies involved in health, the MOH spends the most on health, its expenditure share averaging 77 percent of total public health expenditures from 1999 to 2005, while IHSS’s spending share averaged about 20 percent. Public expenditure per capita amounted to US$52.5 in 2005 (MOF statistics and WB PER, 2007).

In terms of sector programs, hospitals have the largest share of total MOH expenditure, averaging slightly more than 40 percent from 1999 to 2005 while ambulatory care’s average share was only 23 percent, declining to a low 15.6 percent in 2005. IHSS programs have been focused on curative care. However, it has recently initiated the pilot of a preventive and health promotion package (ESAF) in Tegucigalpa.

With regard to expenditure categories, personnel costs comprised the majority of MOH total expenditures, averaging about 53.7 percent, followed by transfers (16.3 percent), medicines (10.7 percent), and materials and supplies (10.5 percent). On the other hand, salaries as a percentage of IHSS total spending averaged 56 percent from 1999 to 2005. After the 2001 IHSS reforms, the share of salaries declined from the 65 to 70 percent range to 40 percent by 2005 because IHSS significantly increased its spending share on construction and equipment (WB PER, 2007).

**The planning and budget process**

The planning and budgeting process has traditionally taken place from March to June on an annual basis. The draft budget is presented to the Ministry of Finance (MOF) in July, together with the preliminary proposals of the other State ministries and institutions; the Executive Branch then submits it to Congress for approval in September.
Planning and Budget formulation

5.66 In the case of the health sector, the UPEG initiates the process at the central level by issuing guidelines to be followed in the formulation of annual operational plans (POA) and budgets. This process has two key stages:

(i) Discussions between technical teams of the central level and the directors of regions and hospitals to determine changes in line items based on operational annual plans (POAs). These POAs are supposed to be aligned with the National Health Plan of 2021, which is the basis for long-term planning in the sector. In the majority of cases, however, information on the previous year’s budget execution is not available to inform the preparation of plans. In addition, most program and departmental directors or managers are not aware of the budget ceilings, unit costs, expenditure items, and expenditure codes assigned to them. Thus, the budget is based on the previous year’s budget, adjusted for inflation. There are also delays in obtaining other data (such as epidemiological data and service data) needed for planning. As result the POAs prepared by the different levels do not serve as real management instruments, as they are not generally prepared using timely, updated information, nor are they consistent with the approved budget.

(ii) Negotiation between officials from the Ministry of Health (MOH) and the Ministry of Finance (MOF). After the MOH presents its budget to the MOF, the latter requests supporting documents from the MOH and negotiations take place. The outcome of these discussions is the budget finally assigned to the sector.

5.67 Once the Ministry of Finance (MOH) defines the budget, the MOH distributes it among three main recipients based on established allocation criteria: the central level; the 20 regional health administrations or departments; and hospitals. These in turn get allocated to the various programs (Figure 5.2).

Figure 5.2 Budget allocation process in the health sector

![Budget Allocation Process Diagram]


5.68 In general, additional budget funding is requested every September or October affecting the provision of services (for example, delayed salary payments, lack of sufficient resources for medicines) in the health sector because the plan and budget that were prepared were not based on needs and on the resources actually assigned to the sector.
Information availability for planning, budgeting, monitoring and evaluation

5.69 The health information system in Honduras is generally weak. Most of the health information comes from routine data reporting systems within the health services network. Data tend to be fragmented, coming from various intra- or inter-institutional sources; most of them are also transmitted in printed form, which slows down the process of data flow, collection, and analysis (OPS/OMS, 2007). Data are generally not available in a timely or precise manner (de Silva et al., 2008). The methodology for collecting data as well as various data formats and sources also affect data comparability and other statistical processes needed to have data as inputs for planning, budgeting, monitoring, and evaluation.

Human resource management

5.70 Even though (i) a considerable portion of the budget remains devoted to personnel (MOH, 2005; WB, 2007), and (ii) human resource development and training in public health received one of the lowest scores in the national assessment of Essential Public Health Functions (PAHO/WHO, 2006), no substantial reforms have been made regarding human resource management in the public health sector.

Personnel management in the traditional system

5.71 Traditional sector personnel mainly consist of public employees, and there is no mechanism to link their salaries with their job performance. Performance-based sanctions are rarely applied. It has also been difficult to fire underperforming health personnel because of the protection offered by the Estatuto Medico.

5.72 Health personnel deployment has not traditionally been based on existing needs, and doctors, in particular, remain inequitably distributed across regions (WB CA HS, 2007). Rural and impoverished areas are the ones that lack most medical staff. Staff members also tend to move with their posts, making it difficult to replace them. In many cases, personnel apply to a post in the rural area, using this as a way to enter into the public health system and then request a transfer to an urban area. (IGR consultations, 2008). This is different from the Nicaragua situation, for example, where deployment of social services staff is based on an identification of health region needs in the country. These workers remain in their assigned positions for several years before they can move to other places; they are also replaced once they leave (WB CA HS, 2007).

5.73 In 2005, the MOH approved a resolution to prohibit the transfer of health personnel without prior authorization of hospital and regional department directors. However, due to the change of management in the sector in 2006, this resolution was never strictly enforced. The current administration attempts to supervise personnel location through a payment mechanism that requires workers to report to their assigned workplace; unexcused absence of three consecutive days results in non-payment (WB PSTAC ICR, 2008; PRSS discussions, 2008). This system is not always applied as it should. Some newspaper articles have reported that some doctors work in a specific regional department but receive their payment from a different one, and according to El Heraldo (2007) some doctors are paid for as many as seven public posts.
5.74 The MOH is considering introducing management agreements to improve the functioning of traditional health centres. The adoption of these agreements between the MOH and health facility managers may be a first step in creating performance incentives for public health providers (García-Prado and Peña, 2008).

**Personnel Management in the decentralize/alternative models**

5.75 In decentralized management/alternative models, staff members are not civil servants and, as a result, management has more flexibility in recruiting and dismissing personnel. Accountability is established based on contract terms; payments are based on performance. A comparison of the employment terms between traditional and alternative models is summarized in table A.5.2 in Annex V.

**Pharmaceutical management**

5.76 Pharmaceutical management deserves special attention because of its importance as a determinant of health service quality and also because procurement of medicines in Honduras has been the subject of corruption allegations over the years.

5.77 Significant pharmaceutical policies have been established including the MOH’s National Policy on Medicines, 2002; lines of action in the area of medicines defined in the National Health Policy 2006-2010, and the Central American Policy on Medicines. It is likely that difficulties arose once these policies were to be implemented and translated into specific measures and instruments to strengthen the management of medicines. For instance, there are no specific guidelines on storage, distribution, transportation, formulation of therapeutics guides, inventory control, and quality control (Carikeo, 2008).

5.78 In general, the local pharmaceutical management system is fragmented with little coordination between the MOH, IHSS, and especially with the private sector, emphasizing the need to move towards an integrated system particularly in procurement and distribution, as well as regulation, control, and monitoring of rational use of medicines. Various functions and/or processes are duplicated between MOH and IHSS, such as the formulary for basic essential medicines, central storage, bids, and development of therapeutic guides.

5.79 Although defined rules exist regarding the procurement process for medicines\(^{194}\), this function has been the object of frequent allegations of corruption in Honduras.

5.80 Various modalities for the procurement of medicines in Honduras were tried. Prior to 2002, the MOH administered the purchases of medicines. Due to constant accusations of corruption and in order to improve the efficiency of pharmaceutical purchases, the administration assigned UNDP to handle pharmaceutical procurement. In 2006, in response to the accusations of corruption made by the media, the President of Honduras created the Inter-Institutional Commission of Medicines (CIM) comprised of representatives of the Catholic Church Archdioceses, the Honduras Medical Association (*Colegio Médico de...*)

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\(^{194}\) Guidelines for purchase processes are defined by Decree 74-200: Law on state procurement, the objective of which is “to promote efficiency and transparency in State purchases and procurement, in a sustainable manner” as well as: “… that State procurement public works, goods, and services take place under the best conditions of price, quality, timeliness, and transparency…”
Honduras), the National Council of Anticorruption, the Forum for AIDS and the Forum for National Convergence, to handle the procurement process for medicines (CNA, 2006).

5.81 The CIM has not necessarily succeeded in reducing administrative expenses in the procurement of medicines, and problems with timely distribution persist especially in the main hospitals. Moreover, according to Carikeo (2008) and stakeholder consultations for this report, not all of its members seem to be technically qualified to prepare bidding terms and conditions, or assess process compliance with technical requirements. The establishment of the CIM has also not resolved the lack of strategic planning regarding medicines. Moreover, the former Minister of Health questioned its role in the purchase of medicines that took place in December 2007 (interview with Mr. Álvarez, June 16, 2008), suggesting that the CIM acted beyond its mandate and approved the direct contracting of 13 firms that did not meet bidding requirements and that received half of the US$24 million-dollar purchase. With the departure of the former minister, the allegation has not been investigated and the CIM continues to work with the State Purchase and Procurement Office.

5.82 Other main issues related to pharmaceutical procurement are noted below:

- At the central level, the MOH does not have a unit or department dedicated exclusively to procurement management. IHSS has such a unit. This is worth noting because MOH purchases are more than double in value than those of the IHSS.

- The MOH does not systematically disclose the complete results of bidding processes for the procurement of medicines, nor are these results audited. On the other hand, the IHSS publishes the results of its bidding processes and also has these processes audited.

- Even though there are defined mechanisms (bidding processes, single-source purchasing) and instruments (bidding terms and conditions) for purchasing, procurement processes, such as sequential biddings, are not generally verified.

- The MOH and the IHSS fail to take advantage of lower prices because they do not coordinate their purchases. The combined purchase of these agencies account for close to 41 percent of the country’s supply of medicines.

Recommendations to improve accountability regarding the compact

Institutional coordination issues

5.83 As a priority, review and clarify roles and responsibilities of sector institutions and administrative levels. For example, MOH and IHSS should identify and agree on activities that they can implement together (such as joint purchases of medicines) and which to implement separately. Another example relates to reviewing the activities being undertaken by the UECF, which is supposed to focus more on administrative and coordination aspects rather than decision-making functions (for example, deciding where to locate decentralized facilities which is supposed to be recommended by UPEG) and oversight/evaluation functions which are supposed to be performed by the MOH in collaboration with UPEG and UMSS.

5.84 Efforts should be made to improve regulation of the private sector, or at the very least, in the short-run, start systematically collecting information on their number, coverage, and basic outputs.
5.85 Clarify roles and functions across administrative levels especially between the center and regional levels, ensuring that each level performs its officially mandated role and is provided the resources and training to do so, particularly in the case of the new regional health administrations.

**Human resource management in the sector**

5.86 As a priority, review the human resource strategy to improve the capacity of human resources to adequately respond to the needs of the sector (training and managing health staff, strategies to attract and retain technical staff, staff audits, performance incentives and additional incentives to work in rural and remote areas). This includes reviewing aspects of the Estatuto Medico that limit the sector’s ability to improve personnel performance, including constraints to firing poor-performing workers. Consultations should be held with the health workers to achieve a consensus on changes with the goal of improving health services.

5.87 Verify, through an unexpected census, where health workers are actually working and where they should be working, as well as the salaries they are paid, and address discrepancies. This should be implemented in the short run and repeated periodically and unexpectedly as a personnel audit exercise. The results of this audit could be included as one of the annual indicators for the SGPR.

**Pharmaceutical management**

5.88 As a priority, the MOH should act swiftly to resolve concerns raised in June 2008 regarding the CIM’s role in awarding contracts to 13 ineligible firms. The findings of the investigation should be made public and appropriate actions taken. Apart from this investigation, the CIM’s role in technical evaluations should also be reviewed, since not all of its members are technically qualified to prepare bidding terms and conditions, or assess process compliance with procedures and technical requirements.

5.89 The MOH should systematically disclose the complete results of bidding processes for the procurement of medicines, and ensure that the results are audited. This is already being done regularly by IHSS

5.90 Develop specific guidelines on storage, distribution, transportation, formulation of therapeutics guides, inventory control, and quality control. Having these guidelines will help establish who is responsible for what and when.

5.91 Establish a quality-assurance system oriented toward the definition of roles and processes for a health registry and pharmaceutical product quality control. This includes adequately defining quality assurance roles between the MOH (central level), IHSS, and health providers.

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195 The recommendations in this section are based mainly on Carikeo’s report (2008) which was commissioned by the World Bank to review pharmaceutical management in Honduras. The results and recommendations of this study were discussed in a June 2008 stakeholder workshop that was held in Honduras that also included the Minister of Health and the Director of IHSS.
5.92 In the medium to long term, consider the following more significant institutional changes:

- Establish a medicine and medical supply distribution agency that would manage the procurement and distribution of medicines in the health care network, including hospitals, to take advantage of economies of scale and scope. The agency would have a directorate composed of MOH and IHSS representatives. In addition, the award of contracts should be the responsibility of a Technical Commission. In this regard the role of the CIM, with regard to technical evaluations, would need to be reviewed.

- Create a quality regulator agency that would be responsible for overseeing quality of pharmaceuticals and medical supplies, as well as the rational use of medicines. This agency should operate within the MOH.

**CLIENT/CITIZEN POWER**

*Community involvement*

5.93 Community involvement in the Honduran health sector has been noted mainly in local health committees that work with local health centres and the communities on health surveillance and the provision of services. With regard to the latter, alternative models have involved communities through direct management of facilities, by community-based organizations (CBOs). Approximately 50 percent of the 106 facilities are managed by CBOs based on performance based contracts. In most cases, however, community involvement has been through participation in health committees, and via consultations, i.e. in deciding the location of facilities, in providing feedback through health committees, user surveys, exit polls, and suggestion boxes.

5.94 Local volunteer organizations also exist, such as the Guardians of Health – health representatives and volunteers involved in various health programs such as malaria, diarrhea, immunizations, growth monitoring, etc. There are also health management support committees that include civil society representation in some hospitals (OPS/OMS, 2006). Very limited information, however, is available on how these organizations and committees are functioning. Nevertheless, existing information indicates that community-based committees need to have their capacity strengthened to be able to function more effectively; for example, they need training on setting goals, formulating strategies and planning activities. Committees that have received such support have become more motivated to make changes in their communities (PRSS, May 2008).

*Social audit mechanisms*

5.95 The implementation of social audit mechanisms is limited at the different management levels within the health system, especially at the local level. In general, the few existing social audit experiences focus on municipal and/or HIV/AIDS issues (Irias, 2008).

5.96 The *Tribunal Superior de Cuentas* or Public Accounting Authority has initiated a process to promote citizen participation in audits performed in the health sector. Financial and legal compliance audits have been carried out at the San Marcos Hospital and the Medical School Hospital (*Hospital Escuela*) in Tegucigalpa (see Box 5.3). These audits have been particularly useful in highlighting financial administration deficiencies such as lack of
adequate controls in record-keeping, inconsistent data in reports, and lack of some supporting documentation for procurement of goods in these institutions.

**Box 5.3. Citizen participation in audits performed by the TSC in the health sector**

<table>
<thead>
<tr>
<th>The Public Accounting Authority or Tribunal Superior de Cuentas (TSC) has initiated a process to foster citizen participation in audits performed in the health sector. In particular, financial and legal compliance audits have been carried out at the San Marcos Hospital and the School Hospital in Tegucigalpa. The participatory process comprises: a consultation, prior to the audit, with citizen organizations on issues regarding services offered by the hospital and the identification of potential irregularities. The audit is oriented toward the issues identified by the participating citizens. An “accountability assembly” organized by the TSC presents audit results once it is completed. Citizens are invited to follow up on the recommendations made and compliance with agreements signed by the audited body.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Both audits assessed aspects related to income, storage in hospitals, goods, travel expenses, fuel and lubricants, and included over 80 percent of citizens’ observations, which were regarded as useful information for the audit process. The TSC is making efforts to incorporate this practice into all interventions it performs in the health sector and other sectors.</td>
</tr>
<tr>
<td>Sources: Reports of the Tribunal Superior de Cuentas on the audits conducted on the School Hospital (2008) and San Marco Hospital (2008); Irias (2008).</td>
</tr>
</tbody>
</table>

**Implementation of the Transparency Law**

5.97 With the intention of improving civil society’s access to information, the current government has launched initiatives to promote transparency and access to information in public offices such as the MOH. Citizens can request information about biddings, appointments, personnel, etc. from the MOH. Nonetheless, in practice, many Honduran citizens do not exercise their right to request for information (IGR Consultations, 2008).

5.98 The MOH also has a website which contains organizational information; there were earlier efforts to include information on procurement processes and achievements of the sector, but this has not been systematically updated (for example, data on results of procurement processes for pharmaceuticals is not regularly provided). In order to facilitate transparency it would be important to publicly disclose such information, using various forms of communication including town hall meetings and radio in order to reach people living in rural areas who may not have access to the internet and written media.

5.99 In order to promote transparency at the local level, each health facility could also post information regarding its budget and relevant personnel information in an area where it could be publicly viewed.

**Performance monitoring**

5.100 As discussed in an earlier section, data fragmentation, the use of various data sources and delays in the timely reporting of data, exist. This makes social monitoring of sector performance challenging.

5.101 Available information also indicates that there is a general lack of knowledge on the part of users, especially at the local level on their “rights” or what they can expect from their health providers (PRSS, May 2008), partly because a “culture” or “orientation” for this has not yet been developed. Simple quality indicators to guide and educate service users in assessing the performance of the various health service providers are needed. Nevertheless,
measuring quality, particularly in the case of curative services is a well-known challenge in the health sector, given the asymmetry of information resulting from the wide range of services provided (for instance, there are different types of surgeries) and various types of providers (WB WDR, 2004). In general, users tend to equate good quality with how well they have been treated during their visit, i.e. whether staff members were polite, rather than using other indicators such as waiting-time, availability of prescribed medicines medicines in the facility, and use of standard protocols.

5.102 The National Plan for the Continuous Improvement of Quality includes user surveys to obtain the opinions of clients, but it is not clear how results are being used to improve management of service-delivery in Honduras, i.e. whether facilities are obligated to respond to comments, whether the results are systematically being disseminated to the public, etc. In Guatemala, for example, a percentage of the compensation scheme for alternative models is linked to the results of client surveys.

Channels for recourse

5.103 In general, aside from resorting to the media to voice their concerns, there is a lack of other mechanisms for users to demand accountability, from the various institutions, or to file complaints or requests. For instance, there is a customer service unit at the Medical School Hospital (Hospital Escuela), but it does not offer 24-hour services; nor are there any similar units in other hospitals in the country.

Recommendations to improve client/citizen power

5.104 Strengthen the capacity of users to recognize and demand good quality services. This includes establishing a clear definition of quality using simple indicators to enhance consumer awareness. For instance, some countries disclose information on the budget allocated to each health service centre and the service standards (e.g. waiting time, availability of prescribed medications, operation hours, and certain protocols to be followed) that users may expect. This information should be posted in the facilities so that users can see them, and town hall meetings can also be held to disseminate the information. Other countries make use of community “scorecards” and publicly disclose information that compares different health providers. Enhance transparency and information-sharing by systematically disclosing experiences as they are generated, through different channels of communication, depending on the target audience (radio, print, internet, town hall/community meetings, etc.).

5.105 Continue and expand the social audit of accounts that was initiated in two main hospitals, to other health facilities and agencies. Establish mechanisms requiring audited facilities to formally respond to the audits through scheduled public forums, to present what actions they are taking to address the issues identified and to hold them accountable to the public.

5.106 In the short run, in addition to the customer support office operating in the Medical School Hospital, establish customer support offices in the rest of the main hospitals (Specialized Hospital of the IHSS, Mario Catarino Rivas, Hospital Atlántida, Hospital del Sur, Hospital de Occidente) and the country’s departmental regions (metropolitan regions, Cortes, Copan, Choluteca, Danlí). In the long run, all hospitals in the country should include this type of office.
5.107 Given the increasing demand from communities, continue to support the expansion of decentralized or alternative models of health service delivery, providing adequate management training to community-based organizations to oversee the facilities. Also, establish independent mechanisms within the community to monitor health facility performance.

CONCLUSIONS AND SHORT-TERM PRIORITIES

5.108 The health sector is an interesting case in the Honduran context because, on one hand, it has performed somewhat relatively better, in general, in advancing reforms than other sectors analyzed in this report. This is partly due to: (a) some continuity in certain policies and strategies particularly those related to involving local levels in improving access to services; (b) the process followed in undertaking some reforms in the sector (for example, a gradual consensus building among stakeholders in the case of the regional reorganization, as well as emphasizing a bottom-up approach in the case of the decentralized models of service delivery and also holding a discussion with unions to prevent large-scale opposition); (c). There are 30 unions, syndicates, and groups representing various types of health workers making it more difficult for them to unite in opposition to reforms compared to teachers; and (d) the sector has also had some committed Ministers of Health who have championed reform initiatives despite strong pressures from unions and other interest groups.

5.109 On the other hand, the challenges faced by the sector underscore the fact that it also has significant institutional weaknesses that impede reforms and that, in turn, impact its performance. These include: (a) frequent changes of ministers with corresponding high staff turnover; (b) a lack of clearly defined policies and strategies and well articulated, budgeted operational plans providing guidance on the implementation of reforms; (c) an institutional framework that does not have adequate accountability mechanisms to motivate policymakers and traditional service providers to meet sector objectives. In general, there is a lack of incentives and sanctions to encourage good performance. Moreover existing laws such as the Estatuto Medico make it difficult to fire poor performers; (d) duplication of interventions, lack of coordination, and some confusion of roles and responsibilities among different sector institutions, agencies, and administrative levels, within the Ministry and outside of it; (e) lack of access to timely information to guide management decision making and planning and budgeting processes, as well as to regularly inform citizens about sector performance; and (f) relatively few well organized citizen associations, especially at the local level who promote users’ welfare.

5.110 Some lessons learnt in the analysis undertaken for this chapter are the following:

• A sector-reform framework is needed to provide coherence in overall approach, supported by clear policies and specific strategies, with goals that are based on a realistic, budgeted implementation plan.

• Sector reforms need to be introduced gradually, building sufficient political, technical, financial, and social support from various stakeholders to ensure wide support and continuity.

• To improve the likelihood of their success, health sector reforms need to be accompanied by other reforms such as the implementation of the transparency law and
professionalization of the civil service. The latter, for example, would facilitate the hiring of qualified personnel and set conditions to ensure low rates of qualified staff rotation, thereby providing some continuity to the reform implementation process.

- A system of incentives and sanctions needs to be established in the sector and consistently implemented to encourage good performance.

- Civil society participation is a necessary but insufficient condition to guarantee compliance with established procedures, underscoring the need for other ‘checks and balances’ in the system, including a transparent process where the Government has to respond publicly, in a timely manner, to reported issues such as allegations of corruption. For example, even though the CIM has representatives from the Church and civil society, its role in awarding contracts to 13 nonresponsive pharmaceutical firms has been questioned; at present, however, it is still allowed to function without the corruption allegation being resolved.

- To be able to demand better services, users need to be better-informed of their rights and responsibilities, as well as be well organized because organized collective efforts are generally more effective than dispersed, individual efforts to seek recourse or demand changes.

5.111 This chapter has provided recommendations to improve voice, compact, and client power in the Honduran health sector based on the accountability framework used for this analysis. Recommendations in the short-term emphasize the importance of (1) strengthening the existing decision-making and consultative bodies and empowering other stakeholders, especially civil society to effectively participate in these processes; (2) enhancing and expanding the current Results-Based Management System; and (3) improving continuity of key health staff appointments to minimize disruptions in the implementation of sector reforms. These include:

i. Reviewing experiences of key decision-making and consultative bodies especially the Advisory Council to the Health Secretariat (CONCOSE), IHSS Board of Directors, and the National Health Council (CONSALUD), improving their decision-making process by providing incentives to increase the likelihood of their members reaching consensus for the common good, while minimizing party/interest group politics. As part of this review process, undertake a stakeholder survey to obtain recommendations on how to better engage civil society representatives in the different forums for dialogue (for example, at the sector table or mesa sectorial), CONSALUD, Consultative Council for the PRSP or CCERP, etc.).

ii. Developing indicators and disseminating performance information along the service delivery chain, improving and leveraging on the existing Results-Based Management System by (i) expanding it to include the regional and local levels; (ii) standardizing indicators used (e.g. age groups, number of visits, dosage of immunizations, etc.) across different administration levels (central to local); (iii) establishing a more balanced evaluation of results, looking also into output and qualitative aspects and not just focusing on budget execution; (iv) establishing a mechanism for independent verification of reported results; and (v) making the results available through various channels of information in addition to the internet. Table 5.3 proposes some indicators to be included at the national and facility levels.
Table 5.3 Proposed Indicators at National Level and Facility Level

<table>
<thead>
<tr>
<th>National Level Indicators (to complement existing indicators being used in the Results-based Management System)</th>
</tr>
</thead>
<tbody>
<tr>
<td>% of health facilities that are externally audited on an annual basis</td>
</tr>
<tr>
<td>% of health facilities who have participated in social audits on an annual basis</td>
</tr>
<tr>
<td>% of MOH procurement of medicines that are audited (annual indicator)</td>
</tr>
<tr>
<td>% of facilities with all required staff (annual indicator)</td>
</tr>
<tr>
<td>% of facilities completely stocked with essential drugs (annual indicator based on a facility survey)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Facility Level Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>% of employees who are listed in the facility payroll but who are not reporting for work in that facility (based on audit of facility)</td>
</tr>
<tr>
<td>% of staff vacancies</td>
</tr>
<tr>
<td>% of required essential medicines in stock (facility survey)</td>
</tr>
<tr>
<td>% of budget and % of actual expenditures allocated to personnel (facility report)</td>
</tr>
<tr>
<td>% of budget and % of actual expenditures allocated to medicines and supplies (facility report)</td>
</tr>
<tr>
<td>Is there a technical committee providing guidance/oversight to the facility? Yes/No</td>
</tr>
<tr>
<td>Is there community participation in the management of health facility resources? Yes/No</td>
</tr>
<tr>
<td>Average waiting time for services (based on client exit polls)</td>
</tr>
<tr>
<td>% of users satisfied with services received (based on client exit polls)</td>
</tr>
</tbody>
</table>

iii. *Enhance consumer awareness by developing service standards and simple indicators to assess service quality and expand the social audit initiative* that was initiated in two main hospitals in collaboration with the *Tribunal Social de Cuentas* to include other health facilities and agencies. Establish a formal process in which audited facilities have to formally respond to the social audit findings through public forums, presenting what actions they have taken to address the issues identified.

iv. *Improving the duration/stability of appointments of key personnel*, including the Minister and the technical staff at the planning and evaluation unit (UPEG). Include the Health UPEG in the first phase of the *Professionalization Program for the Public Servant*.

v. *Improve accountability and transparency in the procurement of pharmaceuticals*. The MOH should (i) resolve concerns raised in June 2008 regarding the Inter-institutional Commission on Medicine’s (CIM) role in awarding direct contracts to 13 ineligible firms. The findings of the investigation should be made public and appropriate actions taken; (ii) review CIM’s role in technical evaluations – if allowed to continue – based on the profile of its members; and (iii) systematically disclose the complete results of bidding processes for the procurement of medicines and ensure that the results are audited.

5.112 Other priority recommendations that might take some time to implement over the short to medium term are as follows:

- *Reaching a consensus on a strategic vision for health reform based on a budgeted operational plan*. The MOH needs to confirm based on the work being done by the review committee assigned by the new Minister of Health to what extent the draft health sector reform framework, presented by the National Health Council (CONSALUD) under the former minister in September 2008, will continue to be the basis for health sector reform.
• **Clarifying and possibly redefining (if needed) roles and responsibilities of sector institutions and administrative levels.** This also needs to be based on a review of the regulatory issues that affect the sector financing, service provision, and insurance functions performed by each sector entity, as they relate to the proposed health reform framework. For example, (i) the MOH and IHSS should agree on which activities they should undertake jointly, for instance, the procurement of medicines and which ones they should undertake separately; (ii) the Coverage Extension and Financing Unit (UECF) should perform its mandated functions of administration and harmonization rather than decision-making functions that are the responsibility of the MOH, UPEG and the Modernization of Health Services Unit (UMSS); and (iii) the MOH should clarify how the stewardship function will be implemented under a decentralized-management framework across the different administrative levels. The central and regional levels should perform their official roles and functions. Efforts must be made to ensure that each level is provided sufficient resources and training to do so, particularly in the case of the new regional health administrations.

• **Reviewing and updating the sector’s human resource strategy** (e.g. hiring qualified administrative and technical staff, staff deployment, training and managing health staff, including performance evaluations, incentives, and application of sanctions). This also includes reviewing and identifying provisions of the *Estatuto Médico* that should be changed. Consultations should be held with unions and syndicates to achieve a consensus on proposed changes and to minimize strikes.

• **Improving the management and distribution of pharmaceuticals in the sector.** Develop and implement specific guidelines on storage, distribution, transportation, formulation of therapeutics guides, inventory control, and quality control.

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ANNEX V - SUMMARY OF TWO KEY REFORM EFFORTS: REGIONAL REORGANIZATION AND DECENTRALIZED MANAGEMENT MODELS

Regional Reorganization

5.1 In order to bring the regional health administration offices geographically and culturally closer to the local level entities responsible for service provision, the MOH decided to reorganize the nine existing regional health administrations (RHAs) into 18 regional RHAs, in accordance with the country’s administrative territorial division and two specific Metropolitan Health Regions (Tegucigalpa and San Pedro de Sula). That same year, regulations that defined structure, functions and competencies of RHAs were approved. The implementation of this process was completed in June 2005.

5.2 In terms of overall functions, the MOH sets the budget envelope and transfers; regulates the user fee system, setting norms and standards and regulations; oversees staffing (planning, hiring and firing), salaries, and training; signs contracts with private providers; and regulates and procures medicines for traditional system providers. On the other hand, RHAs prepare annual operational plans; propose their needs for supplies and medicines; take charge of supervising norms and guidelines set by the MOH, including the supervision of service delivery; and administer user fees. Although the regions, in principle, can hire their own staff; in practice, however, the central level continues to have an influence on regional authority in appointing staff through political appointments and hiring workers. The latter is partly because of the Estatuto Medico which will be discussed below and in more detail in Section II.2 on human resource management.

Achievements of the regional reorganization

5.3 Regions now encompass smaller geographical areas and are well defined, which simplifies administration and coordination. This has also made it easier to identify geographical areas with epidemiological outbreaks. Epidemiological surveillance has improved as a result of the sharing of functions between the central and regional levels.

5.4 Coverage of health services has increased. Between 2002 and 2006, the MOH opened 181 new health care centres in places where previously, there was no access to health services. In addition, two hospitals in Tela and Danlí were refurbished. With IDB support, investments were made in 13 hospitals in order to improve facilities, equipment and management (Zelaya, 2006).

5.5 According to del Cid (2008), the regional reorganization has improved the collaboration of mayors in the distribution of medicines, fostered community participation, and gradually contributed to increasing resources (some external partners such as USAID, SIDA, and CIDA have been more willing to provide funding to the regions).

196 Decentralized or alternative health service providers purchase their own medicines.

197 This section is based on interviews of Doctor Juan Ramón Pereira, Coordinator of the Access Program, J. Aguilar Montano, Technical Advisor in the same Program, and Elías Lizardo Zelaya, former Minister of Health under the Maduro Administration; during his term the new regionalization agreement was issued.
5.6 The current regional set-up is widely considered by various sector stakeholders as institutionalized and “irreversible” (del Cid, 2008). The Access Program has worked on the details of institutionalization of processes and practices, clarifying the regional functions.

Progress has been made yet implementation challenges remain

5.7 The new health regions face resource-related constraints. The previous health regions (prior to the reorganization in 2004) did not distribute the resources in an equitable manner. The situation was exacerbated by planning authorities who tended to allocate resources according to population distribution in departments and municipalities, rather than criteria that include traditionally excluded territories.

5.8 In order to address this issue the MOH established a more equitable budget distribution across regions through: (i) the establishment of criteria in 2005 that take into account the socioeconomic situation and health needs in each health region; and (ii) the approval of the National Plan for Improving Health Care Quality (MOH, 2005). Despite these actions, it is expected that it will take time for the resource gap issue to be resolved because of the amount of resources needed by the new RHAs to perform their functions successfully.

In practice, the central level has not transferred certain main management functions to the RHAs

5.9 This situation is partly because regions face resource and capacity constraints in undertaking certain important functions, such as strategic planning and budgeting, policy monitoring and evaluation, and health surveillance. Another issue relates to some remaining confusion about the differences in stewardship functions between the central and administrative levels.

5.10 However, other factors also limit the ability of regions to fully exercise their functions. For example, the Estatuto Medico restricts RHA management of health personnel. RHAs cannot control the number of staff positions assigned to them since the Law permits health workers to move with their positions. They are also limited in the extent to which they can hire and fire personnel especially doctors.

5.11 RHAs also have limited discretionary authority to reallocate funds, thereby limiting the benefits of promoting a program-based budgeting approach. Also, given the issues related to management and distribution of medicines at the central level, the regions cannot be held fully accountable for not providing the services programmed in their operations plans or for the quality of their services (WB PER, 2007).

Decentralized management models

5.12 As part of the objective to extend the coverage of health services, the interest in decentralized management of local services grew. The Access Program began with pilots in eight departments. However, given the positive response from the community, the Minister proposed that the decentralized management models be extended nationwide. Thus, since 2003, the Program has been operating in all 20 regional health departments. Among the interventions introduced was the program of community clinics, which involved a team of

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198 Interview with Dr. Juan Ramón Pereira, Coordinator of the Access Program, March 26, 2006.
volunteers who provided preventive care to communities with less than 1000 inhabitants. The Program also trained health staff and local government representatives on participatory planning and management of health service provision.

5.13 In 2003, pilot programs were implemented for the Delivery of the Essential Health Package through the deployment of non-gubernmental organizations (NGO) mobile health teams (via the IBD PRIESS project). This undertaking covered 290,000 persons in three years, including 1,100 communities in 14 departments. After external funding stopped, these services did not continue because there was no strategy to integrate them into the regular MOH network.

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5.16 During this period, the MOH also supported the opening of health units – new or previously closed – in poor rural areas, under decentralized management. These models have received support from the HIPC debt relief funds from the Italian government, World Bank, and other partners. In 2006, the MOH established the Coverage Extension and Financing Unit (UECF) to supervise and monitor management agreements, as well as financial management and procurement aspects of the different strategies to extend health services.

5.17 At present there are 106 functioning decentralized health units in 57 municipalities in 13 regional departments, covering approximately 800,000 persons or about 11 percent of the total population (MOH UECF, 2008). About 50 percent of the facilities are managed by community based organizations (CBOs); 27 percent by an association of municipalities (mancomunidades) or a municipality; and 23 percent by NGOs. Table A.5.1 summarizes the characteristics of the decentralized or alternative management model for health service delivery at the local level.

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199 Interview with Dr. Juan Ramón Pereira, Coordinator of the Access Program, March 26, 2006.
Table A5.1. Decentralized management model

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Characteristics</th>
<th>General steps followed in establishing and monitoring services</th>
<th>Executors-providers</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Guarantee service delivery with public funding to meet the health needs of the population</td>
<td>- Publicly funded</td>
<td>- Health Regions decide where the model will be implemented based on situational assessments</td>
<td>- Legally-established local community organization</td>
</tr>
<tr>
<td>- Extend health service coverage prioritizing socially excluded groups</td>
<td>- Establishes a new relationship between the financing entity and the service delivery agent (executor)</td>
<td>- A specific project is prepared; it must include the assessment and the health care and financing model, which should specify the modality for community participation and executors</td>
<td>- Municipalities</td>
</tr>
<tr>
<td>- Establish a community family care model based on family self-care and environment</td>
<td>- Results-oriented management</td>
<td>- Management agreements are signed</td>
<td>- Association of municipalities (mancomunidades)</td>
</tr>
<tr>
<td>- Increase participation of the population and organized groups in management and decision-making for the timely, rational, and transparent use of resources</td>
<td>- Ensures mechanisms for controlling compliance with agreements, which specify service timeliness and quality</td>
<td>- Departmental Directorates supervise compliance with the agreements (monitoring, performance evaluation, user-satisfaction surveys, social audits)</td>
<td>- NGO with broad experience and presence in the region</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- MOH (provider)</td>
</tr>
</tbody>
</table>

Source: del Cid, 2008.

5.18 Table A.5.2 provides a general comparison of labor conditions between the traditional and decentralized models.200

5.19 Although there are differences across the alternative models there are also some commonalities. These models rely on organizational and management arrangements that differ from the traditional MOH health facility model. Their staff members are not civil servants and, as a result, management has more flexibility in recruiting and firing workers. They also have multiple sources of financing. Patients contribute to the financing of these arrangements either with co-payments or pre-payments according to level of income (Godoy, 2006)201.

Table A.5.2. Comparison between labor arrangements between traditional and decentralized models

<table>
<thead>
<tr>
<th>Traditional centres</th>
<th>Decentralized centres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor stability – difficult to fire personnel</td>
<td>Contracts</td>
</tr>
<tr>
<td>Work based on technical norms of the MOH</td>
<td>Work based on technical norms of the MOH</td>
</tr>
<tr>
<td>Weak process of accountability</td>
<td>Accountability established based on contract terms; payments based on performance</td>
</tr>
</tbody>
</table>

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200 Interview with Dr. Janethe Aguilar Montano, 2008.

201 MOH’s main source of financing for these models is the debt relief funds from the Italian government.
Salary for doctors and auxiliary nurses are higher. 

Management process is defined but generally weakly implemented

Salary is based on functions or tasks; base salary is generally lower than that of traditional models but there are incentives related to improved working conditions (facilities are better-stocked with drugs, generally have required equipment, cleaner bathrooms, etc.).

Management based on results

Sources: a mainly from R. del Cid, 2008; b Garcia-Prado and Peña, 2008; c PRSS site visits 2007 and 2008; and Garcia-Prado and Peña 2008.

5.20 The MOH-financed models have performance-based contracts that stipulate certain production and quality indicators, such as number of institutional deliveries, antenatal coverage, and vaccinations that are to be complied within a period of time. MOH payment is made quarterly, after checking that services have been provided. Full payment depends on reaching the goals and on operating in compliance with MOH norms. Per capita payment also depends on population dispersion and other geographical characteristics. The contracts are monitored by the MOH regional monitoring team every three months and by the MOH central level twice a year. However, supervision varies across centres (Garcia Prado and Peña, 2008).

Strengths and advantages of decentralized models

5.21 Decisions are taken locally and are based on agreements that define the ‘rules of the game’ and expected results. Political interference is reduced because of the use of technical criteria and defined rules.

5.22 A monitoring and evaluation system is in place. Financial statements are requested and verified every three months. It is easier for executors to administer funds to negotiate with, hire, and dismiss personnel.

5.23 A study by Garcia-Prado and Pena, 2008, that compares a sample of alternative and traditional models, notes that alternative models have shorter waiting times (61 percent of clients in traditional facilities had to wait for more than an hour, compared to less than 50 percent in alternative facilities), are better stocked with medicines (92 percent of patients directly received the medicines needed for their treatment in the alternative centres, compared to only 68 percent of patients in traditional facilities), are staffed based on guidelines, and have generally cleaner facilities. They also have more and better equipment and functioning vehicles, they are located closer to higher level facilities or hospitals for referrals, and they provide more personnel training (70 percent of total personnel at decentralized units have been trained on the job compared to only 40 percent of the total personnel of centralized ones).

202 All the alternative models need to meet the MOH licensing standards for staffing and equipment to be able to operate. In cases where a decentralized unit is unable to comply with standards immediately, it is given two months to work out a plan with the Regional Health Department and relevant community stakeholders to ensure compliance with the licensing standards within two months of the date of effectiveness of the management agreement.
5.24 Available reports show that health indicators are improving, although a more thorough impact assessment would be needed to confirm reported results\(^{203}\). For instance, these health centres achieve at least 95 percent immunization coverage, and the number of institutional births has increased, for example, reaching 96 percent in the municipality of Taulabe, 73 percent in the municipality of San Manuel de Colohete, and 47 percent (a significant increase from 14 percent) in Mancorsaric (PRSS evaluation reports, 2007).

5.25 While the demand from communities for these models has been high, the extent to which they can expand would realistically depend, on how well the following issues are addressed:

- Opposition from syndicates and unions who equate them with privatization of services, as well as possible loss of job security because employees are hired on a contractual basis;

- Availability of funds, because they rely mainly on MOH financing and, in some cases, from donors (for example, the World Bank) and *mancomunidades*;

- Availability of trained or experienced management staff at the local level. The majority of administrators lack sufficient management experience (administrative and technical). Through capacity-building activities, USAID is contributing to addressing this weakness. Nevertheless, the demand for these models is expected to increase to the extent that the possibility of also contracting experienced NGOs is currently under discussion; and

- The weak institutional capacity of the MOH to supervise and monitor technical standards and performance contracts. In particular, the UECF needs to be adequately staffed and perform its mandated functions.

\(^{203}\) An impact evaluation is being undertaken by USAID on a selected sample of these facilities. The results will be available at the end November 2008.
CHAPTER VI

ACCOUNTABILITY FRAMEWORK FOR MUNICIPAL GOVERNMENTS

INTRODUCTION

6.1 The updated PRSP underscores decentralization as one of the cross-cutting themes upon which poverty reduction policies should be built. One of the main arguments supporting the transfer of functions and resources to the municipal level is that, as policy formulation and execution are brought closer to citizens and their local context, it facilitates the prompt and effective response to the population’s needs as well as accountability to citizens.

6.2 These ideas are not new in Honduras, and decentralization has been an issue on the political agenda for decades. The 1981 Constitution set forth the foundation for the municipal regime. However, municipality functions were not defined until 1990, when the Law on Municipalities was approved. Over the years, there have been specific programs aimed at transferring resources and strengthening municipalities, such as the National Decentralization and Municipal Development Program (created in 1994) and the National Decentralization and Local Development Program (PRODDEL, approved in 2002).

6.3 Nevertheless, these initiatives have not yet been articulated into one integral state policy on decentralization. The National Pact for Decentralization and Local Development, ratified by political parties, presidential candidates and the Association of Municipalities of Honduras (AMHON) in 2005, and the Minimum Agenda on Decentralization prepared by the Secretariat of Governance and Justice, are key steps to achieving such policy.

6.4 Within this context, the management capacity of municipalities deserves special attention, as it limits the rate at which the decentralization process could advance, and determines whether the resources managed by municipalities are used in an effective manner. The updated PRSP guidelines incorporate this premise, as they conclude that:

“Thanks to the broad consensus that exists around the need to strengthen and extend the decentralization process, the challenge consists in guaranteeing that institutional capacity corresponds with the requirements of efficient and transparent management of new competencies, attributions, and transferred resources.” (pp. 114).

6.5 This institutional capacity is not only key to the effectiveness of poverty reduction programs at the local level, but also to raise the population’s support for the decentralization process. The survey conducted by the Latin American Public Opinion Project (LAPOP)205

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204 This chapter was prepared with inputs from the following team of consultants: Hernán Pfluecker (Financial Management Consultant, World Bank), and the collaboration of José Rezk (Financial Management Consultant, World Bank) and Roberto Martínez (Financial Management Consultant).

205 The 2006 LAPOP Survey on Honduras was performed by Vanderbilt University. The survey is statistically representative at the national level; the sample consists of 1,585 households.
shows that support for decentralization is limited in Honduras, reflecting a tendency that is present in most Latin American countries. In fact, Graph 6.1 reveals that the majority of Hondurans favor further centralization. This may be interpreted as an indication of the low level of confidence that the population has, that the additional transfer of resources will truly translate into better services.

6.6 Table 6.1 provides a detailed analysis of the relationship between transparency in municipal management, trust in the sound use of public funds, and the willingness of citizens to channel additional resources to the local government.

6.7 In this context, it is relevant to wonder about which mechanisms ensure transparency and accountability in the use of funds at the municipal level. This chapter analyzes the accountability framework for municipal financial management within which municipal finances are executed, including control mechanisms of the Central Government and municipal governments. The objective is to gain a better understanding of the process for securing the efficient use of resources at the municipal level, and to identify opportunities for improvement that may have a positive impact on municipal management.

Graph 6.1 Citizen support for decentralization

![Graph showing citizen support for decentralization](source: LAPOP (2007).

6.8 The methodology used in the analysis is based on the review of previous pieces of analytical research on the execution of municipal funds, interviews with Central Government authorities, and field visits to a sample of municipalities. This task was complemented with a specific survey conducted on a representative sample of municipalities and mancomunidades (associations of municipalities), with the purpose of validating general conclusions and obtaining general information to arrive at significant conclusions.

6.9 The chapter first presents an introduction to the existing control systems and provides a description of the different connections and interactions between the various municipal management control bodies. The chapter ends by presenting general conclusions and recommendations for improving control systems with respect to the execution of funds at the municipal level.

6.10 The analysis show that the control mechanisms currently in place, are neither attaining the best possible results nor exercising effective control on financial management in the
universe of municipalities. In addition, the system does not include incentives to reward those municipalities that comply with the established reporting requirements and procedures.

**Box 6.1 Transparency, trust in management and willingness to pay taxes to the municipality**

According to the survey performed by the Latin America Public Opinion Project (LAPOP), the perception of Hondurans of municipal management is characterized by a low level of confidence in the management of resources (60 percent of respondents declared to have little or no trust in the management of funds by municipalities) and little willingness to pay local taxes (79 percent believe that “it would not be worth it to pay more taxes to the municipality”). The survey also reveals that only a few citizens receive information on how resources are invested by municipalities. Seventy-six percent of people surveyed declared that the municipality does not provide that type of information. These figures seem to point at a possible vicious cycle, where the lack of transparency in the use of public funds provokes citizen distrust, and this distrust, in turn, negatively impacts citizen willingness to pay taxes to municipalities. A lower tax collection means that there are fewer resources available to strengthen municipal management.

The table below includes responses to the following questions: “How much confidence do you have that the municipality manages funds well?” and “Does the Mayor’s Office of the municipality where you live inform citizens about the manner in which municipal resources are invested?” Both answer categories concur in 65 percent, which means that citizens that receive information on the allocation of public resources tend to have more confidence in the municipalities’ management of funds.

<table>
<thead>
<tr>
<th>Transparency and trust in the management of funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trust</td>
</tr>
<tr>
<td>Little or none</td>
</tr>
<tr>
<td>----------------</td>
</tr>
<tr>
<td>Transparency</td>
</tr>
<tr>
<td>No</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

In order to investigate the manner in which these two variables – trust and transparency – affect the willingness to pay taxes to the municipality, a Logit regression analysis was performed. The model included control variables for the level of satisfaction with services provided by the municipality and socioeconomic characteristics (not reported). As can be observed below, information on the use of resources increases the probability to be willing to pay more taxes by nine percent. Citizens that responded to have a lot of confidence in the management of resources are 57 percent more likely to be willing to pay more taxes in comparison with those who have no confidence. Little or some confidence increases the probability by 14 percent.

<table>
<thead>
<tr>
<th>Results of the Logit regression – willingness to pay more taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td>The municipality provides information about the manner in which it invests resources</td>
</tr>
<tr>
<td>Little or some confidence in the management of resources</td>
</tr>
<tr>
<td>A lot of confidence in the management of resources</td>
</tr>
<tr>
<td>Observations</td>
</tr>
<tr>
<td>Pseudo R2</td>
</tr>
</tbody>
</table>

*Note:* (T-values in parentheses). Control variables and constant are not reported.

These results show that a sound management of resources by the municipality that inspires the confidence of citizens is key in convincing taxpayers to pay more taxes to invest in the municipality. In addition, results reveal that a higher degree of transparency in the management of resources contributes to building trust.

DECENTRALIZATION AND FINANCIAL MANAGEMENT AT THE MUNICIPAL LEVEL

6.11 Since 1990, and the passing of the Law of Municipalities, the Government of Honduras has been taking a series of steps first to promote and then strengthen the State decentralization process and the transfer of functions to the municipal level. In 1991, the Presidential Commission for the Modernization of the State (Decree 190-91) was created, and within the Program for the Modernization of the State (1991-1993), the first concepts of political and administrative decentralization and State modernization – that included, among other aspects, the strengthening of municipal governments and social service deconcentration – were developed. In 1993, with the approval of Regulations on the Law of Municipalities, democratic procedures for the election of municipal authorities and for the five percent transfer to municipalities were established, and mechanisms for citizen participation in the municipal system were made official. In 1994, the Executive Commission for State Decentralization was created to coordinate the National Program for Decentralization and Municipal Development, and the Decentralization Technical Unit was created within the Secretariat of Governance and Justice (SGJ), to be responsible for the implementation of the Program.

6.12 In Honduras, there are 298 municipalities distributed in 18 departments, each of specific operational characteristics, mostly defined by the level of local development and the availability of qualified human resources. The municipal categorization – a key element for the decentralization of functions and resources, as it identifies and groups municipalities with similar capacities, necessities, and potential – has also been a constant concern for the Government since 1990. Various categorization models were prepared until 1999 when the model that is currently used by the SGJ, which evaluates and weighs diverse demographic, socioeconomic, and institutional indicators, was completed. This mathematical classification model allows information to be updated and municipalities thus to be re-categorized according to their development. This model, the construction of which was funded by the Inter-American Development Bank (IDB) in 1999, proposes a classification of municipalities whose concepts remain valid today.

6.13 In 2001, the Government issued the Law on State Procurement that regulates procedures for purchasing and contracting with public funds. In 2004, the Government fully reorganized budget management with the issuance of the Organic Budget Law, which modernizes the financial management of the State, facilitating the decentralized management of public resources, and strengthens accountability and control procedures over management. In 2006 and 2008, the Decrees of approval of the Annual Budget 2007 and 2008, regulated, among others, aspects concerning the reporting and accountability of municipal funds. In 2002, the creation of the Superior Tribunal of Accounts (TSC) and the issuance of the Law of the TSC established a model for the supervision and control of public management that includes municipal management; the model was strengthened in 2006 (Decree 195-2006) when TSC was assigned financial resources equivalent to 2 percent of municipal transfers.

206 The Law of Municipalities mandates that the Central Government transfer five percent of its current income to the municipal sector; transfers should be made on a quarterly basis over the budgeted amount of current income, through a formula that includes a series of development indicators.
Before analyzing the control framework of municipalities, it is necessary first to clarify and categorize the different manners in which funds are executed at the municipal level. It is important to differentiate between municipal funds, and funds executed in the municipality. Municipal funds are those subject to the control and administration of municipal authorities (municipality), who are accountable for them; these can be on-budget or off-budget funds. On the other hand, municipalities may receive funding, goods or services in the municipal area or territory (municipalities) that municipalities may not be aware of.

Thus, for instance, neighborhood associations (patronatos) execute municipal works with funds provided by the municipality and community contributions, but municipal funding is delivered once the community provides its contribution; municipalities are responsible for work supervision. In this case, the municipality has control over both types of funding as they both constitute municipal funding. On one hand, if an NGO or any institution, be it public or private, carries out an investment through a direct school-assistance program, the municipality does not participate in these activities and, therefore, funds used cannot be considered to be under municipality control. A similar case may occur when the FHIS executes a project requested by the municipality in a centralized manner; the municipality does not participate in fund execution or control as FHIS is responsible for execution. This document focuses the analysis on funding under municipal control (municipality) and not on total funds that may be executed within a municipality. However, performing an analysis of “funds executed in municipalities” would allow for a better understanding of municipality participation in the development of the municipality, the quality of municipal management, and the provision of public services in the different regions.

The gathering of budget information of the municipal system is an initiative that is beginning to be systematized and regulated by the Organic Law of Budget (2004), and improved with respect to details and timeliness through Agreement 195-2006 of Approval of the Budget of the Republic 2007. This is why municipal statistics from previous years do not necessarily and adequately reflect the behavior of municipal finances. From the Central Government perspective, the identification of its contributions to the municipal system is not an easy task as the criteria for the identification of funds have been unsteady or have not been adequately specific to institutions. It has not been possible within the scope of this study to perform a detailed retrospective of public investment at the municipal level. However, it is worth highlighting that an analysis of these funds would allow for a better understanding of how government favors municipal development and the relevant tendencies.

In order to give an idea of the relative importance of the Municipal Budget in the last years, Table 6.1 presents comparative figures of the municipal expenditure budget and the National Government expenditure budget in the last years.

<table>
<thead>
<tr>
<th>Year</th>
<th>Overall budget of municipal governments* (Approved, MLps)</th>
<th>Central Government budget (Approved, MLps.)</th>
<th>Municipal budgets vs. Government (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>4,738</td>
<td>34,520</td>
<td>13.7%</td>
</tr>
<tr>
<td>2005</td>
<td>5,517</td>
<td>39,288</td>
<td>14.0%</td>
</tr>
<tr>
<td>2006</td>
<td>6,291</td>
<td>42,996</td>
<td>14.6%</td>
</tr>
<tr>
<td>2007</td>
<td>N/A</td>
<td>49,383</td>
<td></td>
</tr>
</tbody>
</table>

* Includes municipal taxes and transfers from the Central Government

Table 6.1. Municipal Budget vs. Central Government Budget

Sources: National Budget SEFIN, Municipal Budget SGJ-SINIMUN
6.18 The distribution of funds in the municipal sector is not uniform. According to information obtained from the SGJ for 2006 (information for 2007 was not available at the time of this analysis), the total municipal budget for that year was 5,517 MLp., being the municipalities of the two largest cities in the country (Tegucigalpa and San Pedro Sula) which concentrated close to 40 percent of expenditures. As shown in Graph 6.2, 80 percent of the sector’s budget is concentrated in only 18 percent of municipalities.

Graph 6.2 Municipal budget distribution, percentage of total Budget.

6.19 From the review of the 2006 budget execution declared by municipalities to SGJ and the Superior Tribunal of Accounts (TSC), it is possible to identify substantial differences in budget execution across the different municipalities. For instance, while Tegucigalpa executes 1,300 MLp., budget execution in smaller cities like San Jorge or Ocotepeque does not exceed three MLp. As illustrated by Graph 6.3, over 80 percent of municipal budgets do not exceed 10 MLp.

6.20 With respect to the origin of municipal funds, the information managed by SGJ for the year 2006 reveals that there are at least ten different sources of funding, including: funds originating from the collection of municipal taxes and services; funds provided by the Central Government; funds originating from diverse financial instruments; and funds from contributions and other communities.

Graph 6.3. Municipal budget distribution, MLps
6.21 Based on the information reported by the municipalities to the SGJ on budget execution in 2006, Graph 6.4 has been prepared to show the manner in which these funds are distributed in the municipal sector. The graph presents how sector funds are distributed among the 18 departments in the country, clearly showing that two departments (Francisco Morazán and Cortés) concentrate 57 percent of sector funds. The graph also shows how income composition in each department displays particular characteristics.

Graph 6.4. Municipal income as percentage of total income.

6.22 The composition of sector sources of financing varies substantially when the information is analyzed grouping municipalities by departments or categories. As illustrated by Graph 6.5 and Graph 6.6, for some departments such as “Islas de la Bahía”, the municipal tax is the main income (70 percent of total), while other types of funding are not relevant for the municipal budget. For other departments such as “Gracias a Dios” or “Lempira”, Central Government transfers constitute the main income (70 percent of total); the remaining sources are insignificant. There are also other departments, such as “Cortés”, where financial resources (usually destined to capital investments) represent over 40 percent of the municipal income. Also, the analysis of the composition of funds by municipal categories reveals that distribution substantially varies among categories.
6.23 Funds executed at the municipal level are sometimes difficult to track down. In addition to the funds executed from the municipal budget that are continuously reported to the SGJ, there are other funds and goods, generally provided by cooperation agencies or by public entities, that are not managed by municipalities, but impact the economies of the municipalities. These funds are normally not declared and, in some cases, municipalities are not aware of them. The NGO Registry of the Secretariat of Governance and Justice includes 281 entities operating in the country in 2007. Graph 6.7 shows how these entities are distributed across the country. It is clear that local governments are the most probable partner for these NGOs.
Municipal funds are not always directly executed by municipalities. They can be transferred to other entities (usually private and private law entities) that in many cases have the support of municipalities in the execution of diverse activities for the community. These entities may be supported by one or several municipalities with common objectives, as *mancomunidades* and other modalities of association of municipalities, or may be sponsored by one municipality as is the case of *patronatos* (neighborhood associations). These executing entities are not necessarily formally constituted and, in many cases, have a temporary status which makes it difficult to track down their operations in time. An additional feature of the execution process is that these executing entities in many cases contribute to self-funded investment processes, and therefore, the amount of funds invested does not coincide with the amount in the municipal budget. It was not possible to obtain an updated and validated list of these institutions, but a list prepared on October 2006 by the Association of Municipalities of Honduras (AMHON) suggests the number of entities included in Table 6.2

<table>
<thead>
<tr>
<th>Department/Entity</th>
<th>Mancomunidades</th>
<th>Inter-municipal council</th>
<th>Association of municipalities</th>
<th>Other modalities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Atlántida</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Colón</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Copán</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cortés</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Choluteca</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>El Paraíso</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Francisco Morazán</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gracias a Dios</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intíbucá</td>
<td>2</td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Islas de la Bahía</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>La Paz</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lempira</td>
<td>5</td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Ocotepeque</td>
<td>3</td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Olancho</td>
<td>2</td>
<td></td>
<td></td>
<td>1</td>
</tr>
</tbody>
</table>

Graph 6.7. Registered NGOs in 2007

Table 6.2 Number of mancomunidades by department

241
Legal framework

6.25 The legal framework for municipal financial management is composed of the following legislation:

- Constitution of the Republic, which establishes the municipal regime, recognizes municipal autonomy, and defines that municipalities will be governed by autonomous corporations elected by the people and independent from the powers of the State.


- Law of Municipalities, Decree 134-1990 of November 7, 1990 and Regulations of the Law of Municipalities, Agreement 18-1993 of February 1, 1993, which define the municipal organizational structure, scope and objectives of management, characteristics and authority over municipal income, and diverse aspects related to administrative management. This Law also defines the terms of coordination and exchange of information with the Tax Executive Directorate (DEI).

- Law of Transparency and Access to Public Information, Decree 170 – 2006 of December 30, 2006 and its Regulations, Agreement IAIP 1–2008 of March 3, 2008, which, among other aspects, define the content, procedures and periodicity for the publication of information on public administration (including the municipal sector) at own initiative or at the express request of citizens.


6.26 Even though the legal framework applicable to municipal operations is apparently simple and non-complex, due to the diversity of funds and the involvement of many participants providing and executing funds at the municipal level, the control systems become complex, ineffective and inefficient. An additional complication arises as some entities that provide or manage funds to/from the municipal sector may have their own fund management and accountability guidelines and norms; in other cases, the entities executing
municipal funds are private institutions or individuals that are excluded or omitted from the public control system.

6.27 According to the Law of Municipalities (chapter 46) and its Regulations (chapter 43), municipalities must submit budget execution reports that include information on the origin of funds to the SGJ on a quarterly basis. As these reports are not reviewed or verified in detail against other sources of information, they are not necessarily complete or accurate. However, as municipalities are required to submit these reports to receive the “five percent transfer” from Central Government, they agree to submit them in a timely manner. Such reports are currently the only recurring instrument for monitoring municipal funds.

6.28 The public budget system constituted by the Organic Law and the Annual Laws and their corresponding regulations include a number of general references for municipal financial management. Nevertheless, Decree 2-2005 of January 26, 2005 reformed Article 69 of the Organic Budget Law, removing the exception it provided municipalities with to contract loans from the national financial system. This decree compels municipalities to request prior authorization from the Secretariat of Finance, SEFIN, to contract debts. The 2007 Annual Budget Law also stipulated a prior authorization requirement for municipalities when contracting external debt. In both cases, SEFIN instrumentation of these regulations has not been efficient and thus, the application of the norms in municipalities is unfeasible.

6.29 The 1990 Law of Municipalities has lagged behind with respect to various aspects of current municipal management, creating normative vacuums in issues of increasing importance for municipal management. Thus, the concept of “municipal autonomy” is only defined by postulates and attributions, and there is no real definition of the concept or objectives; municipal associative modes (associations, mancomunidades, etc.) are mentioned briefly (Article 20), but there are no definitions, terms or conditions in their regard, that allow for their creation and operation, even though these associative modalities have grown remarkably. Citizen participation modes that are currently trying to be strengthened are either poorly defined or not defined at all by the Law, and thus, their objective and participation remain unclear and, in many cases, subject to the liberal interpretation of authorities, undermining their efficacy.

6.30 The Law of Transparency and Access to Public Information is recent and its implementation is still incipient within the municipal system. Its regulations were issued in March 2008. Even though the Law provides detailed descriptions of the contents and procedures to be followed by the public sector, the specifications for the municipal system may not be easy to comply with as, in many cases, municipalities are not prepared to meet the terms of the Law, and the community is usually not prepared to adequately demand compliance with the Law or to understand or criticize the content of the published information. Therefore, in many cases, authorities meet the information publication requirement (not necessarily quality information), but in general, the information does not have impact or provoke citizen reaction. Oral procedures (town council meetings and other modalities for outreach to the community by municipal authorities) seem to be more effective.

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207 Modified to monthly reports by Agreement 195-2006, Art. 89. Articles 120 to 123 of Decree 27-2008 added new yearly, quarterly and monthly reports as well as new regulations for transferring the funds to the municipalities.
than written ones, which could indicate good communication and/or coordination, but not necessarily transparency.

6.31 The State Procurement Law is regularly applied by the municipal system and seems to be one of the most broadly disseminated norms within the municipal system.

6.32 Regulations for the Law on Citizen Participation have not been prepared yet, thus its application remains unclear. The Law mainly mentions: participation bodies; participation mechanisms in the municipal system as plebiscites, referendums, town council meetings (cabildo abierto), neighborhood associations (patronatos), civil associations, unions, various commissions and commissioners operating within the municipal system; and, the functions, objectives and requirements pertaining to these mechanisms and bodies. The Law attempts to compensate for the shortcomings of the Law of Municipalities that only mentions these two elements and does not provide descriptions or further specifications. It is possible that an updated version of the Municipal Law would allow for the consolidation of both laws and would further clarify the concepts and thus, facilitate their application.

6.33 The approach of local authorities to “Municipal Autonomy” varies within a wide range of possibilities and thus, this concept is managed by some local authorities according to their particular perspective and convenience. Under the autonomy concept some authorities identify certain funds as “public funds” included in the public control system, whereas other funds are considered to be “municipal or local funds” that, in their opinion, do not need to be declared to national authorities or the government control system. Similarly, some authorities decide not to report their “Municipal Account” to the TSC, as required by the Law.

6.34 From a budgetary perspective, not all funds included in the municipality’s cash account are budgeted, as the municipality acts as a withholding agent for other entities. The Handbook on Municipal Accounts prepared by the SGJ and the TSC, which basically focuses on the accountability of the municipal budget, recognizes the existence of off-budget funds, which are described in “Form 5 Treasury Accounts”. These funds may be income or obtained from payments. Off-budget incomes are defined as funds collected or withheld from third parties (Income tax, IHSS, Impounds, Firemen, and Quality-related withholdings). Off-
budget payments refer to reimbursement/transfer of withholdings from third parties. Graph 6.8 summarizes statistical figures prepared by the TSC with respect to the submission of “Municipal Account” by the municipalities to the TSC.

**Institutional Framework**

6.35 This section describes the institutional framework of the municipal system, showing the interaction between the municipal system and the government system regarding financial management issues. It is clear that the municipal system interacts with diverse public entities, as well with respect to technical and administrative issues, which lie beyond the scope of this analysis.

6.36 In Honduras, there are 298 municipalities distributed between 18 departments, each with specific operational characteristics, mostly defined by the level of local development and the availability of qualified human resources. Municipality behavior, particularly regarding financial management aspects, is determined in most cases, by the commitment towards external control and accountability of the major.

6.37 The classification of municipalities is not an easy task, and at present, there are various classification systems in place according to diverse classification objectives. The most relevant classification for this study is the one administered by the “Secretariat for Governance and Justice” (SGJ), which considers various institutional and local aspects such as population, local development, social and poverty parameters, municipal operational capacity, income and budget management. This classification arranges municipalities under four categories, which range from category A, comprising municipalities that obtained the highest scores, to category D, encompassing those with the lowest scores.

6.38 As illustrated by Graph 6.9, the municipal sector interacts with various public institutions. The Central Government and National Congress follow a Poverty Reduction Strategy according to which both institutions allocate part of their funds to municipalities. These funds are delivered to the municipal sector making use of different modalities.

  i. Some funds, as the five percent transfer, enjoy a budgetary nature within the municipality; the Government distributes them through electronic transfers using a procedure administered by the SGJ that includes the periodic presentation of financial statements.

  ii. Other funds are delivered to the sector through sector or social development institutions such as the Secretariats for Education, Health, and Natural Resources, among others, as part of their sector decentralization programs. In these cases, funds may be included in the municipality’s budget, as long as the municipality plays a specific and previously-coordinated role in sector management, or may be delivered to the municipality as finished goods; in this case, the municipality does not receive funds but goods. It is also important to consider that the municipality may receive funds and then transfer them to an adequate executing entity (*patronato, mancomunidad, etc.*); in this case, the municipal budget only registers the receipt and transfer of these funds to the executing entity.

  iii. The FHIS executes investment programs in municipalities that, at the request of the municipalities, may be directly executed by the FHIS (centralized execution); in this
case, the municipality does not receive funds but goods. These funds may also be executed by the municipality (decentralized execution), and in this case, funds are executed within the municipal budget. As in the previous case, it is important to take into account that the municipality may receive funds to later transfer them to executing entities (patronato, mancomunidad, etc.), in which case the municipal budget only registers the receipt and transfer of funds. In addition, the FHIS may implement activities through mancomunidades; such investments are not registered within the municipal budget.

iv. The Presidential Commissioner for the Poverty Reduction Strategy (CPerp), within its PRS programs, distributes funds to municipalities for specific investment projects referred to social and production issues, as well as for governance and institutional strengthening programs. These funds are delivered to municipalities through bank transfers and are registered in the municipal budget, even though execution is carried out by the program’s beneficiary and not by the municipality.

v. In the case of National Congress, funds are delivered to the Mayor, not the municipality, therefore whether they are registered in the municipal budget or not depends on the Mayor. Congressional funds (close to 450 MLp. in 2008) are allocated to congressmen, who decide the manner in which they are to be distributed among the municipalities in the department they represent. No monitoring or control system has been identified in this case. Given the importance of congressional funds, the amount of which is comparable to the amount allocated by the Central Government for the implementation of the PRSP, it may prove convenient to perform an analysis of existing allocation, supervision, and control mechanisms of such funds in the future.

6.39 The Technical Secretariat for Cooperation, SETCO, develops municipal investment programs with the support of the international cooperation. This process does not involve resource transfers.

6.40 In addition, with regard to transparency, there are diverse initiatives, among which is the National Commissioner for Human Rights (CONADEH) that is implementing a social audit strengthening program aimed at promoting community participation in the supervision of municipal activities. To this end, the municipality recognizes the authority of certain members of the community (Municipal Commissioner, Commission on Transparency, etc.). There are no funds involved in this relationship, but CONADEH provides technical support and assistance to the community in aspects related to the supervision and transparency of municipal management.

6.41 According to the Organic Budget Law, prior to contracting credits or loans with the financial system, municipalities must present the terms and amounts of the financial operation to the Ministry of Finance (Public Debt and Budget Directorates) for evaluation and approval. This aspect of the law is not being applied at the municipal level. Past experiences show that review and approval processes took too long and, as a result, municipalities are bypassing this norm, although there are cases in which municipalities inform the Ministry in an ex-post manner.
Graph 6.9. Institutional framework for municipal financial management

**Public Institutions Interacting with the Municipal Sector**

- **SGJ Department Governor**
  - Monitors municipal budget management, coordinates 5% transfers and supports decentralization

- **Presidential Commissioner for Poverty Reduction (CPRP)**
  - Distributes PRS funds for social development projects included in municipal investment plans

- **National Congress**
  - Distributes PRS funds to municipalities

- **Tech. Secretariat for Cooperation SETCO**
  - Coordinates international aid for municipalities and executes investment projects

- **Secretariats and sector institutions**
  - Develops decentralized sector development programs with direct or indirect participation of the municipality

- **FHIS**
  - Executes social investment projects funded by Government or International Cooperation

- **CONADEH**
  - Fosters citizen participation in the supervision and control of municipal management

- **SEFIN – Public Credit Directorate**
  - Supervises and authorizes municipal debt

- **DEI**
  - Supervises tax retentions

**Government bodies interacting with the Municipal Sector**

- **National Congress**
  - Distributes PRS funds to municipalities

- **Public Ministry**
  - Sanctions criminal wrongdoing

- **Superior Tribunal of Accounts**
  - Audits the Municipal Sector and imposes administrative sanctions

**Public bodies controlling and sanctioning municipal management**

- **SGJ Department Governor**
- **Presidential Commissioner for Poverty Reduction (CPRP)**
- **National Congress**
- **Tech. Secretariat for Cooperation SETCO**
- **Secretariats and sector institutions**
- **FHIS**
- **CONADEH**
- **SEFIN – Public Credit Directorate**
- **DEI**
- **National Congress**
- **Public Ministry**

**Municipal Sector**
6.42 Finally, in compliance with the Law of Municipalities, municipalities act as tax collecting agents for the Executive Directorate of Incomes (DEI). Municipalities transfer and report tax collection to the DEI, and must also must submit periodic reports with taxpayer information as required by the Law.

Organization structure for municipalities and mancomunidades

Municipal governments

6.43 Even though the Municipal Law defines the basic municipal organizational structure, many of the smaller municipalities have not been able to fully implement such structure.

Graph 6.10 Organizational structure for municipal financial management

Source: Author’s elaboration

6.44 The typical organizational structure is based on five authorities: the Municipal Council, the Council Secretary, the Mayor, the Deputy Mayor, and the Treasurer, who acts as an accountant in many cases. This basic structure is common to “very small” municipalities. Graph 6.10 displays the typical organization as defined by the Law. The dark elements comprise the core organizational positions for acceptable organizations; the other elements are optional and depend on each municipality. Small, medium and larger municipalities may have a more complex organizational structure that may include a number of technical units such as an accounting department, a community development department, and other units according to the specific needs of municipalities.
Recently, under the leadership of the Commissioner for Human Rights (CONADEH), which is promoting the participation of the community in the supervision of municipal activities and management, additional municipal positions have been included such as the Municipal Commissioner and the Citizen Transparency Committee. These positions are held by volunteers nominated by the community, and are recognized as municipal authorities and officially ratified by the Municipal Council.

Control positions at the municipal level are frequently turned into core line activities. Even though they maintain their control position title, personnel operate within the operational framework of municipalities.

One of the conclusions of the survey conducted in 30 municipalities and five mancomunidades as part of this analysis, showed that in a significant proportion of cases (80 percent), main financial management functions (treasurer and accountant) were normally performed by commercial experts and not by accountants. Likewise, it was observed that only 57 percent of the municipalities surveyed had an internal auditor, whereas only 30 percent of category D municipalities had one. In general, it was observed that municipal management efficacy and efficiency were linked more to the attitude of the Mayor, than to the institutional organizational characteristics.

Mancomunidades (Association of Municipalities)

There are multiple associative modes in place for Honduran municipalities (Association of Municipalities, Inter-municipal Agreements, Regional Councils, etc.), but for simplicity this study groups them under “mancomunidades” as they share the objective of resolving specific or common municipal problems. As mancomunidades were created to address certain problems, they are not necessarily permanent organizations. Mancomunidades may become inactive; their members may resign membership or, as in some cases, the mancomunidad may grow into an independent entity and hold more power than its members.

This institutional flexibility, together with the lack of definition in the legal framework of municipalities, makes it difficult to follow up on municipal institutional and operational aspects. According to the Honduran Association of Municipalities, in 2006, there were 51 mancomunidades operating in the country. The analysis of the manner in which municipalities are participating in the system of mancomunidades (see Table 6.5) reveals that all category D municipalities are members of at least one mancomunidad; this shows that municipalities are making efforts to overcome their operational weaknesses by working in mancomunidades. Also, it is possible to see that 169 municipalities, over 50 percent of the 298 municipalities, are members of at least one mancomunidad.

The organizational structure of mancomunidades is primarily constructed around an Inter-municipal Technical Unit in charge of its management, and a Board of Directors, composed of all the mayors and several councilors of the participating municipalities. Graph 6.11 shows the typical organization chart of a mancomunidad. The Inter-municipal Technical Unit is usually the only permanent operational unit within the mancomunidad. The Board of Directors meets on a monthly basis.
Table 6.3. Percentage of municipalities affiliated to Mancomunidades

<table>
<thead>
<tr>
<th>Category</th>
<th>None</th>
<th>One</th>
<th>Two</th>
<th>Three</th>
<th>Four</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>8%</td>
<td>56%</td>
<td>32%</td>
<td>4%</td>
<td>0%</td>
</tr>
<tr>
<td>B</td>
<td>5%</td>
<td>51%</td>
<td>31%</td>
<td>12%</td>
<td>2%</td>
</tr>
<tr>
<td>C</td>
<td>1%</td>
<td>57%</td>
<td>40%</td>
<td>2%</td>
<td>0%</td>
</tr>
<tr>
<td>D</td>
<td>0%</td>
<td>61%</td>
<td>37%</td>
<td>2%</td>
<td>0%</td>
</tr>
<tr>
<td>Global (298 municipalities)</td>
<td>6</td>
<td>169</td>
<td>109</td>
<td>13</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: AMHON

Graph 6.11. Organizational Structure of Mancomunidades

Organizational Structure of Mancomunidades

CONTROL AND ACCOUNTABILITY FRAMEWORK FOR MUNICIPALITIES

Municipal capacity

6.51 Since 1992, several organizations have attempted to evaluate municipal operational capacity from various perspectives. There is currently a variety of classifications that allow for the prioritization of aid programs toward entities in most need. Perhaps the most accurate classification in terms of general considerations is the one of the SGJ, which makes use of a mathematical model to measure the community’s level of need, and municipal capacity to respond to it. Therefore the model awards scores to factors such as the level of human and urban development, internal earnings, budget capacity, per capita income, investment capacity and financial management. The model consists of four categories: high (A), intermediate (B), low (C), and very low (D). As information may be updated in the model,
municipal scores may vary with time. The advantages of the model are based on the fact that it makes use of objective information to reflect management quality, and that it may be improved by introducing other evaluating factors such as, for instance, the level of community participation in municipal issues (patronatos, town council meetings, etc.).

6.52 The quality of financial management activities relies on the quality of the participating personnel. In general, medium and large municipalities are able to find qualified human resources in their area, but for smaller municipalities this can be a problem, especially because salaries in smaller municipalities are not competitive in comparison with those of larger ones. In this regard, the positions of internal auditor, accountant and treasurer are key. Generally, municipalities have salary and job categories, thus key personnel may be promoted to higher categories within the institution. This analysis found that in many of the category A and B municipalities, key personnel remains in the municipality for many years (some of them over 15 years), but changing positions to obtain salary raises. This point may seem to contradict the general impression of the constant turnover of financial personnel at the municipal level with each change in administration. Even though the latter does take place, apparently it is not the general rule.

6.53 There is a variety of information systems that process municipal financial management operations. Many of these systems operate as integrated systems, providing computer tools for budget processing, accounting, tax administration, salaries, billing and collection and, in some cases, cadastre.

6.54 These systems, albeit functional and useful for municipalities, do not represent a municipal standard as each has unique particularities in the management of information and reports. The International Cooperation and other public institutions have carried out initiatives to implement other systems; the SIIM, SIGMA, and SAFT are the most widely used in the municipal sector.

6.55 A SEFIN-sponsored version of the SIAFI system will be available shortly. As these systems are not purchased from a formal provider or certified technical service, municipalities resolve maintenance problems with their own resources. Therefore, it is not clear whether all of these systems are currently operating with their original operational module or whether they are offering incomplete and uncertified services.

6.56 The social audit promoted by the CONADEH in 2007, which comprised 140 municipalities countrywide, found that many municipalities do not adequately report their finances as required by the Law. Reports indicate that only 35 percent of municipalities that participated in the survey presented complete budget information to the SGJ. Another part of the survey showed that some municipalities (over 10 percent) declared that they did not have the capacity to present budget execution information with the degree of detail requested by the TSC. On the other hand, they survey showed that in the Gracias a Dios department, which is one of the poorest underdeveloped departments in the country, all municipalities met all the TSC requirements regarding budget reporting.

**Control and accountability mechanisms**

6.57 The flow of municipal funds is depicted by Graph 6.12, which summarizes by whom, how, and when funds are executed and/or controlled, by the different sources of funding. The diagram illustrates the manner in which the government control system has influence over a
limited portion of funds (incomes), but little involvement in controlling budget execution (expenditures).

6.58 Graph 6.12 shows how the municipality receives and administers funds that – being included in the municipality’s cash account – are executed by private contractors through bidding processes and/or diverse contracts; by patronatos, through which the community directly executes investment works partially funded by the municipality; by mancomunidades, that receive municipal transfers to cover operational expenses and develop inter-municipal projects; and by the municipality, which uses funds for operational expenses and the provision of services to the community. The graph also shows additional funds that, although they do not go through the municipal management, they reach the municipality by financing goods and assets for the community.

6.59 Internally, municipal accountability may be subject to a series of factors, such as the professional capacity of the personnel, financial management systems and procedures in place, budget amount and availability and office infrastructure. However, the most important factor refers to the attitude of authorities, especially the attitude and management capacity of the Mayor. Each mayor uses its own management model for municipal operations.

6.60 The accountability and transparency model depends on the Mayor. This institutional frailty also explains how a deficient municipality under one mayor’s term may rapidly improve its operations and service delivery to the community under a new one. A case that is worth mentioning is the one of the Municipality of Comayagua, where the current mayor, under three consecutive management terms, has achieved substantial progress, attaining a twenty-fold increase in tax collection. On the other hand, there are mayors that left their municipalities in a crisis, in some cases without financial records or files.

6.61 There are three basic mechanisms that define the scope of municipal control and accountability, namely: a) local social audit mechanisms based on citizen participation; b) integral government control mechanisms implemented by the TSC; and c) specific control mechanisms of public funds transferred to municipalities through various modalities, the implementation of which lies in the hands of funding institutions.
Graph 6.12. Executing and control bodies for municipal financial management

Central Government Transfer (5%)
PRS Funds delivered by the CPRP
PRS Funds delivered by National Congress
FHS Funds under Decentralized management
International Cooperation Loans / Grants
Municipal Tax Revenues
Financing from banks obtained by Municipalities
Financing through Bonds issued by Municipalities
Legacies, Inheritances, Contributions, Sale of Assets and others
Funds and Assets received from the NGOs

TSC / SGJ
Municipality submits quarterly reports to SGJ on execution of 5% transfer funds and yearly reports to TSC on execution of total funds

Other Organizations
NGOs, political parties and various public institutions and/or unions analyze municipal management and prepare reports that are normally restricted

COMMUNITY
Participates in town council meetings (cabildos abiertos) and plebiscites where municipal matters, action plans, and budgets are briefly discussed in general terms.

Organized Civil Society
Specific commissioners and diverse participation modalities for citizens organized in Councils and Commissions supervise and control specific management related matters, including budget issues.

Legend
Bidding processes / Contracts
Disbursements subject to submission of financial reports
Disbursements that do not require financial reports

C O M M U N I T Y
Local social audit mechanisms: citizen participation

6.62 As mentioned in the above paragraphs, there are several State institutions that foster the participation of the community in the supervision of municipal activities and operations. The most important supervision tools are the Municipal Commissioner and the Citizen Thematic and Sector Committees due to their permanent presence in the municipal office. Graph 6.13 illustrates the manner in which citizens may participate in four different instances in the supervision of municipal operations: decision-making, advisory activities, execution, and supervision.

6.63 Major decisions affecting the community must be submitted for community approval in a plebiscite; such is the case for the creation, dissolution or merging of municipalities, among other aspects set forth in the Law of Municipalities, Articles 14 and 18.

6.64 Specific decisions concerning municipal operations that could affect municipal finances or its development, among other aspects, must be discussed with the community in town council meetings (cabildo abierto) or have been previously analyzed by the Council for Municipal Development (Law of Municipalities, Articles 16, 24, 33, 48, 59, 71, 72, 114 y 115).

Graph 6.13. Instruments for citizen participation

Instruments for Citizen Participation

6.65 Patronatos are probably the main instrument for measuring community participation in the resolution of basic community problems, such as road and street maintenance, and minor water provision and sewerage problems. Patronatos may be understood as a “joint venture” between communities and the municipality, where both parties provide part of the funding for investment projects. This operational modality contributes to bringing the municipality closer
to its citizens, and at the same time, promotes the participation of the community in municipal issues (Article 62 of the Law of Municipalities).

6.66 Even though there are several instruments for the supervision of municipal matters – such as, the Municipal Commissioner; Citizen’s Transparency Commissions (Comisiones de Transparencia Ciudadanaa); and other social monitoring mechanisms dedicated to a wide array of issues; political parties seeking to retain voting preferences through the publication of the successes of their affiliated Mayors; some NGOs that continuously analyze municipality behavior and results; and a series of community members that exercise their civil rights – the efficacy of these supervision processes generally depends on the Mayor’s attitude and willingness to share information with the community. There are windows of opportunity to strengthen this aspect concerning society’s demand for accountability at the municipal level, and there are some recent experiences carried out by the TSC regarding citizen participation that may serve as examples. A detailed analysis of these mechanisms, including the identification of good and bad practices in the municipal system and the identification of key factors for success, should be addressed in a specific study due to its wide scope and importance.

6.67 The participation of the community in municipal issues is something new that will require certain cultural changes within the community. In this regard, patronatos are currently an important instrument in fostering community participation in municipal matters, which constitutes a first step toward improving community control and supervision capacities. There is currently a number of control entities, mainly sponsored by CONADEH, such as the Municipal Commissioner, Citizen’s Transparency Commissions and other community committees. However, in order for these entities to be efficient and effective, they still need to align their control capacities with their objectives. Only then will community leaders be ready to understand control.

Control mechanisms at the national level: the TSC

6.68 The Tribunal Superior de Cuentas (TSC) is the main body and the Spreme Audit Institution in the Honduras public control system, which counts among its main functions the responsibility for auditing the municipal system. According the Organic Budget Law (2004), municipalities must submit financial statements and a series of forms describing budget execution on a yearly basis.208 This process has been implemented by municipalities since 2002, and even though not all municipalities fulfill this requirement at present, the number of municipalities that submit financial information to the TSC increases every year. The analysis of the statistical information provided by the SGJ with respect to compliance with this legal requirement, found that municipalities with fewer resources have the most difficulties in fulfilling this legal requirement. Graph 6.14 presents information on municipality compliance with this requirement in 2006.

208 TSC and SGJ designed and documented in 2004 a set of 12 forms standardizing the yearly municipal financial reports. Since 2006, a comprehensive municipal training program has been in place, trying to improve the quality and consistency of the financial information provided by municipalities in those reports. The report design was reviewed and improved on 2008.
6.69 The efficacy of control efforts carried out by the Superior Tribunal of Accounts is rather low. Even though the legal framework compels municipalities to submit their municipal account and other financial information annually, in practice, less than 60 percent of municipalities meet this legal requirement, and there are no incentives to promote better municipal behavior. Graph 6.16 illustrates how municipalities have been progressively improving their compliance with the norm to reach the current levels.

6.70 On the other hand, Graph 6.15 shows a similar behavior regarding the reporting of the municipal account to the TSC in all categories, which suggests that institutional capacity and development may not be determinants of accountability.

6.71 In 2006, the TSC launched the implementation of an audit plan to cover the whole municipal sector. Up until 2005, 30 municipalities were audited. At present, over 167 municipalities have been audited and their reports are available for review on the TSC website\(^\text{209}\). Even though these reports found some inconsistencies and weaknesses in

\(^{209}\) http://www.tsc.gob.hn/
municipal management, it is not clear whether these findings will give rise to future corrective measures or some kind of penalty for the authorities involved in those events.

**Specific control mechanisms: transfers**

6.72 Government funds reach the municipal system through different modalities and with different objectives, and accountability procedures vary according to each funding agency.

6.73 Currently, at least three institutions transfer cash funds from the Government’s Poverty Reduction Strategy to the municipal sector. These institutions are:

- The Presidential Commission for Poverty Reduction Strategy (CPERP), which provides funding to municipalities (close to 600 MLp. per year), supports a large number of social development projects included in the Municipal Investment Plan. The municipality establishes a revolving fund with the first disbursement, which may be replenished after the review and approval by the CPERP, of a detailed report prepared by the municipality justifying expenditures to be reimbursed. The procedure becomes more complex due to the large number of small projects that cannot necessarily present all the requested supporting documents. As a result, the disbursement program has not been able to meet annual goals.

- National Congress provides funding (approximately 400 MLp. per year) to municipalities. These funds are delivered by congressmen to mayors, apparently at their discretion and with no clear accountability conditions. No available information could be found concerning the allocation and execution of such funds.

- The Honduran Investment Fund (FHIS), through decentralization programs, delivers funding to municipalities for the development of social investment programs. With the first disbursement, the municipality creates an account that operates as a revolving fund. An FHIS inspector must authorize the disbursement to replenish funds after certifying investment progress.

6.74 According to Article 91 of the Municipal Law, the Government must transfer five percent of tax income to municipalities, from which up to 10 percent should be devoted: to cover operational expenses; and literally as stated in the Law: “...and, in addition, up to five percent (5%) to operation and maintenance of social infrastructure... The rest must be destined to investments...” (Infrastructure). The SGJ administers the transfer delivery process following the procedures established by the Law and prior verification of compliance with the requirements established to that end, which determine that each municipality must prepare and present to the SGJ a monthly summary report of its budget execution, showing the destination of the funds transferred according to a standard form designed by the SGJ. Municipalities must submit this report to the SGJ before this institution approves disbursements. The information provided in the report is accepted without verification against other sources, except for the verification of percentage of investments and consistency. This information is used for statistical purposes. A copy of the report must be submitted to the Superior Tribunal of Accounts (TSC) for information purposes. The report does not need to include supporting documents, explanations or descriptions. As the impact achieved by transfers varies according to the municipality’s economy, the municipal commitment to presenting such a report to the SGJ also varies and, even though the report submittal rate is
rather high, there is also a record of a municipality that turned in an overdue report after several years.

**CONTROL AND ACCOUNTABILITY FRAMEWORK FOR MANCOMUNIDADES**

6.75 Mancomunidades are organizations of a private nature created by municipalities with the intention of carrying out specific activities related to inter-municipal management. As part of financial agreements, municipalities generally channel a percentage of municipal funds to finance the functioning of mancomunidades. The percentage varies in each case, and it may even be defined as a fixed fee, but it usually ranges within one percent and 3.5 percent of the five percent Central Government transfer to municipalities. In addition, mancomunidades execute several projects in their area such as FHIS-funded projects or direct assistance projects funded by international donors. The financing of mancomunidades is not clearly separated in municipal budget reports.

6.76 In our field work, we find that the quantity of personnel working in mancomunidades is not normally significant – up to 10 or 15 people – depending on the mancomunidad. The personnel structure includes an accountant. In addition, some mancomunidades are being included in the recent TSC municipal audit programs. We came across some mancomunidades that presented annual financial statements to the TSC, even if they were not required by law. In other cases, we observed that when a municipality finds out that the mancomunidad is not providing adequate services, it could suspend its provision of funding, withdrawing its participation from it.

6.77 As the regulation of mancomunidades is governed by private law, their creation and functioning is dynamic and responds to the different needs of the municipalities. In some cases, they have taken actions that resulted in clear advantages for a group of municipalities such as, for instance, environmental or river basin protection mancomunidades. However, mancomunidades gradually expand their scope of functions, including investment projects with additional staff as engineers and technical staff. As a result, mancomunidades perform functions that municipalities perform as well, generating a parallel investment structure. These investments are not reported by municipalities to the Interior Ministry (Secretaría de Gobernación y Justicia, SGJ) or included in their annual financial statements.

6.78 Mancomunidades present accounts to the Council of Mayors but there are no clear standards or rules in this regard. No evidence has been found of municipality involvement in control functions (internal auditor or Municipal Commissioner) with respect to the control execution performed by mancomunidades. In some cases, mancomunidades have recently established a Citizen’s Transparency Commission in order to carry out social accountability initiatives.

6.79 Even though there is a clear need for further regulation of accountability and control standards in the management of mancomunidades, it is not evident that these entities should become public law institutions. By remaining within the private law field, flexibility regarding function and participation is maintained, facilitating its development in an opportune and efficient manner, in accordance with the necessities of the different groups within the participating municipalities.
6.80 Any initiative for the inclusion of mancomunidades as part of Municipal Law or the introduction of norms regarding their function, must incorporate minimal transparency and accountability standards, which should at least consider: minimal requirements for financial information to be presented to municipalities; geographical and physical execution information; identification of sources of financing and; participation in public control structures within the functioning of mancomunidades. The same initiative should prevent mancomunidades from becoming rigid public institutions with stiff financial structures – that are hard to dissolve or modify – and that could allow for the duplication of essential public functions pertaining to municipalities.

CONCLUSIONS AND GENERAL RECOMMENDATIONS

6.81 This section presents the conclusions and general recommendations for the enhancement of existing mechanisms, and strengthening of the control and accountability framework, as well as specific recommendations for the execution of municipal multilateral cooperation funds.

6.82 The general conclusion is that there is no effective control system in place for the municipal execution of public funds and that the existing system does not provide all the necessary information for effective control. The different parts of the control systems are not interrelated, and it is not possible to obtain a complete picture of what is happening with public finances at the municipal level. However, we have observed good initiatives regarding the control of municipal funds that, if well-implemented within an adequate institutional framework, could result in an increase in the level of efficiency of the control system for municipal execution.

6.83 The analysis of the data survey has not revealed the existence of a broad correlation between municipality categories and the conclusions and recommendations of the study, therefore the conclusions lay out in this sections apply to all categories. However, an important factor that has been observed is that a large part of municipal execution concentrates in a small number of municipalities. Five municipalities concentrate over 50 percent of executed municipal funds, and 18 percent of municipalities concentrate 80 percent of executed funds. Even though this study does not specifically focus on this segment of municipalities, any municipal financial management modernization or improvement program must take this factor into account, to benefit overall public financial management at the municipal level by considering larger municipalities as the primary objective.\(^{210}\)

\(^{210}\) In this regard, it is worth highlighting that the current analysis focuses on financial management (budget and municipal cash account management, control and accountability, etc.). Therefore, its conclusions regarding the efficacy of control over public funds refer more to expenditure volumes than municipal development, without excluding any much-needed municipal strengthening or development options. In addition, as mentioned in the analysis, the quality of municipal financial management appears to be more linked to the attitude of municipal authorities rather than to the administrative capacities of municipalities. Graph 6.16 shows that accountability apparently does not depend on institutional capacity or municipal category.
Short term priorities

6.84 The three key recommendations for the short-term are to provide incentives for the municipalities to comply with the legal framework and to strengthen nascent social accountability initiatives at the local level:

i. To reward municipalities that comply with reporting requirements, develop indicators on compliance with institutional and social control mechanisms at the municipal level together with other indicators about the quality of financial management, and publish them.

ii. To promote effective enforcement of the control framework at the local level, international cooperation agencies may agree on simple and effective rules to create incentives to ensure that the current accountability framework is enforced. For instance, requiring that their assistance they provide to the municipalities is appropriately incorporated in the municipal budget execution reports and the annual report presented to the TSC and Transparency Councils, and is conditioned to the timely submission of those reports.

iii. To strengthen control systems at the local level, promote the participation of community organizations in the audit process of the Tribunal Superior de Cuentas at the local level. As seen from the audit pilots, the collaboration between the TSC and the social monitoring mechanisms at the social level can strengthen the control framework for municipal financial management in the short term.

General recommendations

Incentives for Promoting Good Management

6.85 The current control system does not include incentives for those municipalities that comply with the norms, differentiating them from those that do not, nor rewards municipalities that consistently apply accountability mechanisms. A third of the municipalities have not presented annual public accounts to the TSC in the last three years, without any implication for non-compliance.

6.86 As mentioned in the above paragraphs, in management accountability and transparency issues, the attitude of the authorities, especially the attitude and managerial capacity of the Mayor is the key factor. Each mayor applies its own management model for budget execution, and has the final decision regarding the use of accountability and transparency mechanisms. As citizen participation mechanisms are in the process of being implemented, and given the weaknesses of the Government’s municipal management monitoring systems, there is no municipal management evaluation system in place that encourages authorities to improve their administration, and encourages citizens to demand more from municipal management. AMHON, with support from the PRIDEMUN II Project, has developed a system to evaluate the management of mancomunidades. Using a similar system to evaluate municipality performance would foster and facilitate citizen participation, and thus, increase citizens’ demands to municipal authorities.

6.87 The magnitude of international assistance at the municipal level is significant, both in terms of the number of initiatives and the amounts directed, which are not always adequately reflected in the municipalities’ budget execution reports. This is particularly true in the case of aid channeled through mancomunidades.
6.88 International cooperation agencies may establish and agree on simple and effective rules to create incentives to ensure that the system functions well, to strengthen the control framework, and to promote social accountability at the municipal level. For instance, if such agencies would agree to the requirement that their assistance be appropriately incorporated in municipal budget execution reports and the annual report presented to the TSC and Transparency Councils, they would assist in improving the system’s ability to function well and be more efficient.

6.89 In addition, the recognition of those municipalities that make an effort to be more transparent and achieve improved accountability, would provide the right incentives to promote systemic measures with the potential to bring forth transparency and improvements in effective accountability, so as to optimize impacts and enhance the quality of public services.

Accountability and Transparency

6.90 The Ministry of Interior (Secretaría de Gobernación y Justicia) keeps information presented by municipalities, but it only corroborates consistency and execution percentages; the information as a whole is not verified nor contrasted against other sources and thus, the opportunity to obtain an integral instrument for the evaluation of municipal financial execution is lost. There are opportunities for improving information integrity and quality, such as to effectively include and disclose public execution at the municipal level. The SGJ makes important efforts to collect municipal information, which may have the potential to turn into an effective tool for monitoring municipal execution.

6.91 The TSC has improved its external control function in recent years. From 40 audits per year prior to 2005, it currently performs close to 100 annual audits of municipalities and mancomunidades. This effort is important and if sustained in time, could result in a good tool for measuring quality of municipal financial management and its control framework, and thus, serve to curb fraud and corruption. This is a good initiative to ensure the coverage of municipalities as the target group of this audit program. In order to be effective, this effort requires the institutionalization of the TSC audit program as an integral part of its work program, with budget and personnel allocated, as well as the application of risk-approach techniques so as to include larger high-risk municipalities in the audit work plan every year.

6.92 The efforts to achieve effective control are undermined, as information systems for municipal execution do not guarantee information integrity. The system must offer incentives and a framework for an effective information system that captures the sum total of municipal execution.

6.93 The budget information framework should be revised so as to ensure the adequate disclosure of municipal execution. The different efforts to automate information systems, carried out by different actors at the different levels, have not contributed to consolidating or establishing a minimum set of standards for procedures and information at the municipal level.

6.94 In this regard, initiatives must coordinate the different initiatives at the municipal level and acknowledge the different levels and sizes of municipal structures in the country.
Social Accountability

6.95 One main feature of the citizen control framework at the local level is the existence of social control mechanisms of municipal execution. The interaction of Citizen Transparency Commissions (CCT) as valid mechanisms for citizens to express their concerns and points of view, has consolidated it as a valid instrument for social control of municipal execution, thus raising expectations with respect to the functioning of the Commissions. This study demonstrated that the composition of these Commissions represents social interest, as their members are primarily selected democratically by representatives of civil society organizations (CSO).

6.96 Even though representation is valid within CCTs, their members seldom have the capacity, necessary abilities, and defined roles so as to perform an effective control of public finances. This is due to the fact that members are elected based on community trust and not on their professional capacities. Thus, the functioning of the Commissions is not always effective in determining the focus, area or target group, and the type of control to perform over municipal execution. In some cases, CCTs participate in public bid openings and, in others, they perform inspection visits to service works.

6.97 Therefore, these Commissions are an excellent and effective control instrument with the potential to achieve improvements in its social accountability capacity at the municipal level and make social control mechanisms more effective. The work of CONADEH is important in this regard and the institutionalization and systematization of training in social control techniques would certainly benefit the system.

6.98 There is a social organization below the municipal level, the patronato, which turned out to be very important for this study in terms of municipal execution. Patronatos are associations of neighbors that represent the interest of their village or neighborhood regarding public municipal investments in these areas. The dynamics of patronatos vis-à-vis municipalities are important. The different municipalities put into effect several mechanisms to interact with patronatos, which should be analyzed in order to identify opportunities for improving social accountability. Currently, there is no system in place that provides information concerning the participation of patronatos and eventual fund execution.

Municipal Debt

6.99 There is a commercial credit market for municipalities, where commercial banks offer credit lines to municipalities that obtain financial resources in a rapid way, often in the same institutions where municipal accounts are located. The contracting of commercial debt does not follow regulations that require prior authorization of the Central Government (SEFIN). From a municipal perspective, this is due to the delays in approval that prevent municipalities from obtaining resources in a timely manner. Information on this matter is incomplete at the central level and the Government may become indebted when, for instance, Central Government has to assume payment obligations of municipalities.

6.100 Regulations must acknowledge the importance of the municipalities’ opportunity to obtain credit lines, and implement a system to gather information on municipal debt that does not prevent the timely access to financial resources within a solid municipal framework, and thus, promote compliance with regulations rather than pursuing regulations of difficult implementation that are usually not met.
### Table 6.5. Proposed Indicators for Municipalities

<table>
<thead>
<tr>
<th>#</th>
<th>Indicator</th>
<th>Definition</th>
<th>Instrument</th>
<th>Units</th>
<th>Benchmark</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Budget comprehensiveness and transparency</td>
<td>Budget should cover all budgetary and extra-budgetary activities to allow a complete picture of revenues, expenditures, and financing.</td>
<td>For the present year the municipal budget estimates and reports cover all budgetary and extra-budgetary activities</td>
<td>Yes or no</td>
<td>All budgetary and extra-budgetary activities were covered in the present year budget</td>
</tr>
<tr>
<td>2</td>
<td>Public Accountability</td>
<td>Municipalities accomplish the accountability requirements established by the official procedures and legal framework.</td>
<td>Financial statements and comprehensive financial reports of the municipality are submitted in a complete and timely manner to the TSC and the SGJ accomplishing the current official procedures</td>
<td>Yes or no</td>
<td>Full accomplishment of the official procedures and regulations</td>
</tr>
<tr>
<td>3</td>
<td>Transparency &amp; Community supervision</td>
<td>Community has access to municipal managerial information and decisions and is continually informed about municipal financial management and major expenditures, as well as about the status of municipal investments</td>
<td>Citizen Commission for Transparency, having open access to municipal management and decisions, prepare and published for the community periodic reports informing about the municipal management</td>
<td># of reports per year</td>
<td>Minimum of 4 reports per year</td>
</tr>
<tr>
<td>4</td>
<td>Municipal endebtment control</td>
<td>Municipalities accomplish with all legal requirement for obtaining credits from the banking system.</td>
<td>According to the Budget Law, municipalities must always request a prior approval from SEFIN before obtaining new credits from the banking system. For the current year prior approval was requested:</td>
<td>always, some or never</td>
<td>SEFIN is always informed by the municipalities about his municipal endebtment with the banking system</td>
</tr>
<tr>
<td>5</td>
<td>Community empowerment</td>
<td>The community, fostered and coordinated by the municipal authorities, participate actively developing his municipality</td>
<td>Patronatos executing municipal projects with municipal co-funding support, and technical and administrative leadership from his municipal authorities</td>
<td>Project’s amounts executed by patronatos in the year</td>
<td>Yearly amount co-financed by the municipality is similar or higher than previous years</td>
</tr>
<tr>
<td>6</td>
<td>Public participation in municipal issues</td>
<td>The community participates in municipal decisions affecting the community development or wellbeing.</td>
<td>Final and agreed recommendations of Town Councils called to discuss a previously published agenda of relevant community issues, implemented by the municipal authorities.</td>
<td># of Town Council recommendations implemented</td>
<td>All agreed recommendation of Town Councils are being implemented</td>
</tr>
<tr>
<td>7</td>
<td>Donor practices</td>
<td>Donors’ funds managed by municipalities are included in the municipal budget.</td>
<td>For the present year Donors’ funds when managed by the municipality are executed and reported using budgetary and transparent procedures.</td>
<td>Always, some or none</td>
<td>All Donors’ funds managed by municipalities were budgetary this year</td>
</tr>
</tbody>
</table>
**Municipal Internal Control**

6.101 The positions that should perform control functions at the municipal level are frequently turned into core line activities; even though they maintain their control position title, personnel operate within the operational framework of municipalities. This issue must be analyzed in order to identify the best manner to maintain control functions within municipal structures. One solution could be to link control functions to Citizen Transparency Commissions (CCTs) or redesign their roles to recognize the real activities carried out by internal auditors as well as other control staff at the municipal level.

**Other Recommendations**

6.102 There is no doubt that the operational environment of the municipal control and accountability framework is unclear, as it is still necessary to identify and quantify the different sources of financing that provide funding, goods, and services that are not registered in municipal accounts. This lack of definition weakens the control framework and promotes informality in accountability. In order to have a better understanding of management, it will be necessary to carry out a series of specific studies to:

- Identify and quantify funds that are not administered by the municipality, but generate contributions in financial resources, goods and services for the community or the municipality such as: international cooperation investment projects and technical assistance; public funding from projects executed by State institutions (FHIS, SETCO, Secretariats, etc.); and PRS funds delivered by Congress. Studies should also identify execution modalities, control and accountability processes, and procedures to include them as municipal assets, when necessary.

- Identify all control, supervision and accountability mechanisms that exist in the legal framework, either under the external control system or under the social participation law. In addition, studies should analyze the effectiveness of existing social audit mechanisms and accountability to the community, as well as good and bad municipal management practices, allowing for the adequate direction of institutional development and strengthening efforts and the referred mechanisms.

**Recommendations to be Prioritized**

6.103 This Section presents the recommendations that could be prioritized on the short term for strengthening the control and accountability framework

i. An integrated financial management system for municipalities (SAMI) is being developed by GOH in an effort to modernize and standardize financial management operations and reporting in the municipal sector. This new system could be a very important instrument for monitoring and reporting the reception and use of the 5% transference funds. It will be recommendable to include as a new SAMI’s design activity, the preparation of a managing / reporting module for these funds.

ii. Evaluating municipality performance would foster and facilitate citizen participation, and thus, increase citizens’ demands from municipal authorities. Actually, there is not in place such kind of systems for municipalities, although, as mentioned, AMHON with the
assistance of the PRIDEMUN II project developed a performance evaluating system for mancomunidades. Designing and implementing a municipal development system will reflect objectively the performance of municipal authorities.

iii. The international cooperation may establish and agree on simple and effective cooperation rules to create incentives for the well-functioning of the system, strengthen the control framework, and promote social accountability at the municipal level.

iv. The TSC effort auditing municipalities, in order to be effective, requires the institutionalization of the audit program as an integral part of its work program. As mentioned, the TSC must allocate adequate technical, financial and human resources as well as physical facilities for his Municipal Department.

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CHAPTER VII

CORPORATE GOVERNANCE OF HONDURAN PUBLIC ENTERPRISES

INTRODUCTION

7.1 Honduras has a relatively large State-owned enterprise sector that includes some of the most important entities in the country’s economy. In Honduras, as in a large number of countries in the world, certain economic sectors are controlled by the State through enterprises that enjoy institutional autonomy termed public (or state-owned) enterprises. In the case of Honduras, the sectors totally or partially controlled by the State include (i) the provision of potable water and basic sanitation services, (ii) electricity production, transmission, and distribution, (iii) port activities, and (iv) telecommunication services. The four public enterprises operating in these sectors – National Electric Power Company (ENEE), National Port Company (ENP), Empresa Hondureña de Telecomunicaciones HONDUTEL, and the Autonomous National Waterworks and Sewerage Company (SANAA) – are the largest in the country.

7.2 During the last decade, the three largest Honduran public enterprises ENEE, SANAA, and HONDUTEL have experienced serious operational and financial difficulties. ENEE’s financial losses currently amount to two percent of GDP, while HONDUTEL’s income went from covering 15.3 percent of public spending in 2005 to 7.4 percent in 2007. This situation entails a series of critical problems: (i) losses entail financial burdens for Honduran taxpayers and divert resources that could be used for other purposes; (ii) inefficiencies prevent citizens and local enterprises from receiving adequate basic services, which in the long run could affect human development and private sector growth; (iii) financial losses are of such magnitude that they jeopardize macroeconomic stability in the country and the sustainability of benefits obtained from the Heavily-Indebted Poor Countries Initiative (HIPC).

7.3 In general, managing state-owned enterprises faces a series of challenges that are inherent to the very nature of this type of enterprise. For instance, state-owned enterprises frequently have multiple objectives that are sometimes contradictory; the State is the owner, provider of goods and services, and regulator all at once, which creates conflicts of interest and opportunities to discriminate against private sector enterprises; and accountability is hampered as the principals (citizens, or government on their behalf) are dispersed and poorly organized, while agents are large in number (managers, Board of Directors, politicians, regulatory bodies, among others) with objectives that are frequently different. In addition, when state-owned enterprises enjoy a monopoly in the market, potential monopoly rents create incentives for using enterprises to generate visible rents for the State, jobs, and subsidies, rather than to provide efficient services to citizens and companies. These
characteristics do not imply that public enterprises are inherently poorly functioning, but rather that they pose particular challenges that need to be tackled with practical solutions, many of which lie in designing a set of appropriate corporate governance arrangements.

7.4 “Corporate governance” involves the array of relationships between a company’s (i) management, (ii) Board of Directors, (iii) shareholders (mainly the State on behalf of its citizens, in the case of public enterprises) and (iv) other stakeholders such as customers, employees, business partners, etc.). A good corporate governance framework results in a system of checks and balances regarding the rights and responsibilities of these four groups. The corporate governance framework also provides the structure through which a company’s objectives are set, the means of attaining these objectives, and mechanisms for monitoring performance and achievement of objectives. For example, a company’s Board of Directors should act as a check on management and be responsible for defining the objectives of a company, e.g. through a strategic plan. Management executes the plan and deals with day-to-day operations of the company. Shareholders, as owners of the company, have ultimate authority over the company, which they exercise particularly through the general meetings of shareholders, and act as a check on the Board. Finally, other stakeholders participate in several ways (e.g. employees may be able to appoint a representative to the Board of Directors). “Good corporate governance should provide proper incentives for the Board and management to pursue objectives that are in the interests of the company and its shareholders and should facilitate effective monitoring.”

7.5 Sound corporate governance practices in public enterprises promote greater productivity, leading to higher profitability, which is important for better allocation of resources, not only within the enterprises themselves, but for the public sector as a whole. As a result, this allows for greater investment in expanding and improving service delivery. In addition, increased transparency, which is an integral part of the corporate governance framework, empowers citizens as owners and stakeholders of public enterprises (suppliers, clients, and employees), allowing for the monitoring of management, the Board of Directors, and the State, in its exercise of the ownership role on behalf of citizens.

7.6 This chapter assesses the corporate governance framework of Honduran public enterprises, seeking ways to improve and strengthen it. The chapter adopts a broad approach in which corporate governance is analyzed in the context of the sector governance and institutional framework. It will focus on two of the most important, ENEE and HONDUTEL, and will reach conclusions that could serve as a reference for the remaining sectors. The first part of the chapter addresses the historical and institutional context of these enterprises, including the analysis of the evolution of electricity and telecommunications reform as of the 1980s. The second part analyzes the corporate governance framework of the two State-owned enterprises, including institutional and regulatory issues, provides a summary of main challenges and issues with recommendations that can illustrate the type of decisions the Hondurans need to take if these enterprises are going to continue playing a key role in those sectors.

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212 Adapted from the OECD’s Principles of Corporate Governance, 2004.
7.7 More than being prescriptive about specific policy recommendations, this chapter aims at initiating a debate on key corporate governance issues that have been overlooked until now in Honduras, despite being crucial for the performance of public enterprises. Two key areas are highlighted: i) the need to strengthen the division of policy making, regulation and service provision functions in order to provide the necessary checks and balances; and ii) the need to improve transparency and accountability of public enterprises and focus policy discussions on performance. The last section identifies priorities in the short term in both of these areas.

**HISTORICAL AND INSTITUTIONAL CONTEXT—ELECTRICITY SECTOR**

**Historical context**

7.8 Private sector participation in the generation of electric power was reinstated at the onset of the energy crisis and the subsequent approval of the Framework Law for the Electricity Sub-Sector in 1994. Until then, the structure of the electricity sector in Honduras was characterized by a state monopoly in the generation, transmission, and distribution of electricity—a structure that began in the 1950s, with the creation of ENEE in 1957 as an autonomous entity responsible for power generation, transmission, distribution and service-provision in the electricity sector. In 1994, ENEE suffered a serious crisis when an El Niño-related drought coincided with an insufficient generation reserve capacity. As a result of ENEE’s incapacity to secure the provision of electricity, the installation of private thermal plants was authorized. These plants sold their installed capacity and energy produced to ENEE under long-term contracts.

7.9 The installation of thermal plants and the abandonment of renewable energy-generating projects, due to the low cost of petroleum fuels at that moment, led the country to move from an energy matrix, based on renewable energy, to one based on petroleum fuels. Only 20 years ago, ENEE generated 95 percent of electricity demand with renewable resources. At present, energy generation based on renewable resources accounts for only 37.2 percent, while thermal generation reaches 62.8 percent. The prices of the first thermal generator contracts were relatively expensive, reflecting the high rates of return required by investors to compensate for the perceived risks in Honduras, as well as the not-so-competitive contracting processes. However, most of all, the variable prices of contracts are naturally indexed to the variation of international petroleum fuel prices and, therefore, the high oil prices in recent years have significantly increased the cost of electricity in Honduras.

7.10 The 1994 energy crisis also fostered a new legal and institutional framework for the energy sector with the approval of the Framework Law for the Electricity Sub-Sector. The new legislation was inspired by the electricity sector reform in Peru, which at the time was seen as a model. Among the most relevant provisions, the following are included:

- The separation of functions concerning policy-making, electricity sector regulation, and the provision of electricity within the State;

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214 Decree 48-57, ENEE’s organic law.
The creation of an Energy Cabinet, chaired by the President and coordinated by the Ministry for National Resources and Environment (SERNA) after its creation in 1997. This body would be responsible for policy-making in the sector;  

The creation of a National Energy Commission (CNE) in charge of sector regulation;  

Vertical unbundling in generation, transmission, and distribution business units;  

The creation of a competitive market in the generation stage, to supply distributors and large users, which would allow for the participation of public and private agents as well as joint public-private ventures; and  

Application of tariffs for regulated services based on cost recovery related to efficient cost-management and a cross-subsidies regime.

7.11 With the intention of fostering the electrification of rural and poor urban areas, the Framework Law also created the Social Electrification Fund (FOSODE), administered by ENEE. The Framework Law requires that this Fund be capitalized with annual contributions of no less than 15 MLp. from the Government and ENEE.

7.12 Nevertheless, many of the reforms have not been implemented or have only been partially implemented. The analysis of the institutional framework presented in Section III will show that many of the weaknesses that the Law aimed to tackle still persist. Box 7.1 below explains some of the reasons for the partial implementation of the Law.

7.13 In 1998, the management of most commercial functions was delegated to a private company. National Congress outsourced meter-reading (consumption measurement), billing, client support (billing complaints), commercial database cleansing, arrears reduction, disconnecting and reconnecting service, gathering information on illegal connections, and fraud detection to the Honduran Electricity Measurement Company (SEMEH) through a non-competitive contract. ENEE retained functions in relation to the updating and maintenance of the billing database based on the information provided by SEMEH, handling of complaints and claims, and the reduction of electricity losses. SEMH’s contract with ENEE is effective until June 2012.

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216 SERNA was created within the public administration reform carried out in 1997 through Decree No. 218-1996 of December 17, 1996, approved by Congress through Decree No. 52-97 (Diario Oficial La Gaceta of May 22, 1997).

217 CNE was established by Decree No. 131-98 that amended articles 6 and 7 of the General Law, to replace the original regulatory body (CNEE). CNE operates as a deconcentrated entity from SERNA


7.14 In 2007, the Government decided to assume direct control over ENEE’s Management by appointing a “Board of Interventors” (Junta Interventora), with powers that replaced those of the Board of Directors as well as the management of ENEE. The Ministers of Defense and Finance took control over the direction of the company’s operations, assuming general management and direct administration of financial matters. In January 2008, the new General Manager was appointed to take office once the intervention was completed. However, it is uncertain to what extent the intervention is still considered as a temporary measure by the authorities, as no decision has been taken on its end date

Box 7.1. The limited implementation of the 1994 Framework Law

The Framework Law of 1994 was approved relatively quickly in Congress under pressure created by the energy crisis and the desire to transform the infrastructure sector. However, its implementation was partial in many respects.

The privatization or municipalization of distribution did not go forward as expected, because of the lack of political support as the political cycle changed. Many stakeholders, including the National Association of Industrials (ANDI), feared that the Law would allow a small number of investors to turn distribution into a private monopoly business at the expense of consumers. Also the lack of political support during the Carlos Roberto Reina government (1994-1998) for the privatization effort contributed to the stagnation of the reform.

An effective body for policy-making was never developed. The Energy Cabinet rarely met and SERNA was expected to set the agenda and supply technical background for decisions, but suffered from low technical and institutional capacity due to high staff turnover and limited budgets. In addition, SERNA faced a conflict of interest due to its dual functions in planning the expansion of energy production and distribution, and regulating the environmental impact of such actions. As a consequence of SERNA’s weaknesses, the Government ended up relying on ENEE for energy expertise, thus giving it a role in policy-making rather than just acting as a commercial enterprise in the sector.

The first regulatory commission created by the reform (CNE) exhibited some independence from the Central Government in setting tariffs, but the resulting tensions from this assertiveness led to its substitution by a National Energy Commission (through an administrative reform in 1997), which was a dependency of SERNA and more susceptible to control by the executive. It was typically composed of commissioners with close ties to the Government, partly as a result of the fact that the President was responsible for appointing the commissioners for a term of office that overlapped with his own (WB, 2003; p. 50). Due to its lack of autonomy and the lack of political commitment to implement the regulations and effectively oversee ENEE, it did not perform the roles expected of it (World Bank, 2007; p. v). The methods and procedures established in the law to set tariffs were not applied and tariff calculations were not carried out (WB, 2007; p. 29)\textsuperscript{221}.

A common denominator of these problems with the implementation of the 1994 Framework Law was the inability to insulate the management of the sector and ENEE from the pursuit of political objectives. In a context in which politicians do not compete on the basis of credible programs that generate broad benefits for citizens and consumers, politicians have strong incentives to control the setting of tariffs and subsidies, using public employment to reward supporters and avoiding the creation of strong independent regulatory bodies.

\textsuperscript{220} According to the provisions of Executive Decree No. 007 of March 30, 2007 and published in Diario Oficial La Gaceta of June 9, 2007, the President of the Republic declared a state of emergency in the electricity sector and a national security issue, and proceeded to appoint a Board of Interventors composed of, among others, the Minister of Defense (chairperson) and the Minister of Finance, replacing the General Manager. The original operational timeframe for the Board of Interventors, 90 days, was extended through Decree No. 011-2007 issued on September 4, 2007, by 120 days subject to further extension. Decree No. 005-2008 extends the timeframe by 120 additional days.

\textsuperscript{221} ENEE’s base tariff rates date from February 2000 and no longer reflect the economic costs of supply.
agencies that curtail these powers. This was evident in the appointment of politically connected persons as ENEE’s General Manager and as chiefs of distribution regions and districts, as well as in the lack of political commitment to implement the regulations and effectively oversee ENEE (WB, 2007; pp. 27-28).

Current Situation

7.15 Tariffs have not followed the provisions of the Law. The Framework Law establishes the tariff system\(^{222}\) for the electricity sector, but for a sector that should have been vertically unbundled and with many distribution operators. ENEE remains vertically integrated, and distribution and transmission services were never privatized or outsourced to other bodies or municipalities. In addition, the lack of political commitment to apply official formulas to recalculate or adjust tariffs according to the frequency stipulated by the Law, is due to the perception that it is not politically viable to increase electricity service costs to include the full cost of the imported oil used to generate part of the energy in the country, due to high and volatile generation prices.

7.16 ENEE’s electricity tariffs, effective until the beginning of 2008, are outdated, which contributes to the company’s financial losses. Current tariffs were calculated at the end of 1999 based on marginal cost projections for 2000-2004. Even though the prices published in 2000 have been adjusted with time, adjustments have lagged with respect to cost increases. In the beginning of 2008, the average tariff (between residential and commercial consumers) covered only 81 percent of the economic cost of service provision; for residential users, the tariff covered only 60 percent of the cost.

<table>
<thead>
<tr>
<th>Table 7.1. Incidence of electricity subsidies</th>
</tr>
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<tbody>
<tr>
<td>Number of households with subsidy coverage</td>
</tr>
<tr>
<td>- electricity</td>
</tr>
<tr>
<td>Q 1 Poorest</td>
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<tr>
<td>Q 2</td>
</tr>
<tr>
<td>Q3</td>
</tr>
<tr>
<td>Q4</td>
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<tr>
<td>Q 5 Wealthiest</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

Note: a/ Estimates are based on ENCOVI, and the subsidy structure on the “Honduras Poverty Assessment”, World Bank, 2006. This takes into account that the subsidy rate markedly decreases for Q5 but that the average subsidy increases with income/consumption. b/ Distribution of households with electricity multiplied by the subsidy rate multiplied by the average subsidy divided by the total.


7.17 In addition to the “implicit subsidy” of non-cost-recovery tariffs, there is a direct subsidy scheme for residential users. In 2006, the Government spent L$ 4.7 billion in direct subsidies (825 MLp.) and L$ 3.9 billion in implicit subsidies in the electricity sector, equivalent to 2.7 percent of GDP. Implicit subsidies do not target the poor, whereas direct

\(^{222}\) According to the Framework Law, distributors should buy energy at a “bar tariff”, a regulated tariff that reflects generation and transmission costs. This tariff would be calculated on an annual basis by ENEE and approved by CNE. Distributors, in turn, would submit their retail tariffs and indexing formulas for CNE approval.
subsidies only partially target individuals with low consumption levels, who are supposedly poor. Table 7.1 shows the incidence of the direct subsidy provided to residential users with consumption levels below 300 Kwh per month. The two poorest quintiles only receive 15 percent of the subsidy’s total value (275 MLP.) whereas the wealthiest quintile obtains 26 percent of the subsidy.

7.18 There are 470,085 households in Honduras that do not have electricity. Not only are these groups unable to benefit from electricity subsidies, but they do not have the possibility to access electricity, as these subsidies utilize resources that could otherwise be used to expand system coverage.

7.19 The combination of low tariffs and subsidies has promoted the excessive consumption of electricity, as reflected in the fact that average residential consumption in Honduras is almost double that in El Salvador, even though the latter’s income per capita is more than double that of Honduras. Excessive consumption increases financial losses since much of this consumption is at highly subsidized rates and the greater the overall consumption the higher the marginal costs of the electricity that is generated.

7.20 ENEE is characterized by high technical losses and theft as well as losses related to low billing rates and low collection of invoiced services. Between 20 and 25 percent of energy in the distribution networks is not billed, and thus not paid for, because of theft or technical losses. This problem turned out to be particularly difficult to resolve since ENEE does not have reliable corporate information (it lacks correlation between circuits and delivery points; there is no measurement equipment installed in medium-voltage circuits and the commercial history of clients is not accurately known).

7.21 In this context, SEMEH is responsible for billing ENEE clients. In addition to the contract modalities that have been harshly criticized by different sectors, the root problem is that ENEE lacks the required information to verify compliance, as it is not aware of the real situation of clients. As a result, ENEE has no control over the commercial management of clients. This reflects a tradition in which the priority assigned to customer service, both in terms of technical aspects (quality in the delivery of electricity) and commercial aspects, is low (particularly with regard to the latter). ENEE does not have a Commercial Management Department, but an organizational unit in charge of billing processes; the only activity deemed indispensable for guaranteeing that the company receives income from the provision of electricity to users.

7.22 Due to commercial losses and tariffs that cover only 80 percent of costs, ENEE’s annual financial losses amount to approximately L$ 2.5 billion, representing almost two percent of GDP, or the equivalent of the annual savings in interest payments since 1997 as a result of the HIPC initiative.

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224 A recent study estimated that technical losses are about 10 percent, implying that current commercial losses are about 15 percent, of which about 39 percent corresponds to fraud, 29 percent to illegal settlements, and 29 percent to billing errors. (“Honduras: Issues and Options in the Energy Sector,” World Bank, 2007.)
Strategic challenges and reforms in place

7.23 The Government of Honduras must meet its main objective of ensuring a dependable, efficient, and sustainable energy supply under difficult circumstances. The electricity sector is in crisis, reflected in high electricity losses, lack of cost-recovery tariffs, negative cash-flow, ENEE’s decapitalization, high dependency on imported liquid fuels for power generation, narrow margin between supply and demand, and backlog of transmission investments.

7.24 ENEE needs to be more transparent in respect to financial and procurement information toward the general public, who are the ultimate owner of the firm and the beneficiaries of its services. ENEE has signed contracts at excessive prices when it failed to follow competitive and transparent processes in its business, such as PPA energy contracts and the meter-reading contract with SEMEH. Recently, as a result of a private emergency bidding, two coal-based electricity generating enterprises were awarded contracts, which were
audited by the Superior Tribunal of Accounts (TSC) under the Executive’s Anti-Corruption Plan. Audits found evidence of an excess payment of $620 million, and recommended that the process be rectified or repeated\(^2\). ENEE’s website www.enee.hn does not include transcriptions of financial statements, salaries, or resolutions of the Board of Directors or the Board of Interventors, for that matter.

7.25 The crisis will deepen in the short run if substantial and immediate corrective measures are not taken. It is estimated that the demand for electricity will grow at an annual rate of over seven percent and close to 250 MW in new generation capacity will be required by 2010. It is likely that high international oil prices will persist and generation costs may continue to be high and volatile, and there is no fiscal space to finance the electricity sector or increase subsidies for electricity consumption.

7.26 In the short term (2007-10), the main challenge is to improve ENEE’s critical financial situation and to avoid the emerging energy crisis. Keeping the lights on is essential for the political survival of any government. For the medium and long term, the major challenges consist of: (i) ensuring the financial sustainability of the sector; (ii) mobilizing private funding to ensure a sustainable and reliable electricity supply; (iii) diversifying energy sources; and (iv) increasing access to electricity services for the poor.

7.27 The Government and ENEE are already taking measures to reverse the company’s crisis – efforts that should not only be designed for the short run, but be permanent:

- Partial targeting of subsidies and tariff adjustment, even though non-poor households continue to receive such subsidies.
- ENEE is currently implementing a loss-reduction program as a key element of a financial recovery plan.
- The restructuring of ENEE into independent business units is under way, aimed at separating distribution, transmission and system control, and distribution functions. Each unit should be accountable for the performance of its functions, under the direction, and with the support, of the central unit. The objective is to promote better performance through greater operational autonomy and responsibility of different business divisions with distinct characteristics.

7.28 In order to achieve substantial and sustainable improvements in the performance of ENEE, it is necessary to strengthen its corporate governance and the accountability relationships between the different actors in the sector (see Figure 7.1). Good performance is a necessary condition to ensure ENEE’s financial sustainability, because passing ENEE’s inefficiencies on to tariffs, or providing fiscal support, are not feasible options. The second half of the chapter is dedicated to analyzing the strengths and weaknesses of the corporate governance framework of public enterprises and providing recommendations on how to strengthen it.

\(^2\)See Audit Section at [www.tsc.gob.hn](http://www.tsc.gob.hn).
**HISTORICAL AND INSTITUTIONAL CONTEXT – TELECOMMUNICATIONS**

**Historical context**

7.29 The current structure of the telecommunications sector in Honduras is characterized by public and private participation. State participation has taken place through the participation of the Honduran Telecommunications Enterprise (HONDUTEL), in the provision of fixed telephones, mobile telephones, carrier services, public telephones, telex and telegraphy. Originally, HONDUTEL was granted exclusivity over international long-distance services, which expired in December 2005 and was consolidated through additional legal reforms like free trade agreements, concessions for mobile telephones and the issuance of the Telephony for All Program. On the other hand, there are over a thousand private operators in Honduras, covering all services, from radio and television to fixed and mobile telephones. Also, there are national and international operators, as well as large enterprises operating nationwide and small enterprises operating locally or regionally.
7.30 Until 1995, HONDUTEL was the sole provider of services in the sector. The enterprise was created in 1976 as a decentralized state entity in charge of regulation and operation of telecommunications in the country. In 1995, with the approval of the Framework Law for the Telecommunications Sector, policy-making was transferred to the executive branch, and the National Telecommunications Commission (CONATEL) was created to assume regulatory and supervision functions, so as to ensure that operators have the proper authorization and stay within the assigned technical parameters. Even though the Law includes a formal provision to apply competitive principles in the telecommunications sector, it also granted HONDUTEL a 10-year exclusivity period for domestic and international fixed telephone services. HONDUTEL holds a concession starting in 2005 and ending in 2020, for the provision of carrier services\textsuperscript{226} and basic telephones, public telephones, telex and telegraphy.

7.31 The National Telecommunications Commission (CONATEL) acts as the regulatory agency in the sector. CONATEL was created by virtue of the Framework Law for the Telecommunications Sector as a collegiate body composed of commissioners who would remain in office for a four-year period, that did not coincide with the presidential term of office, but political pressure at the time resulted in their term of office overlapping with that of the President. Even though its commissioners are appointed by the President, CONATEL emerged as a highly technical and independent body that implemented significant reforms, such as the opening of the market for complementary and value-added services, the implementation of the “Caller Pays” Program, radio and television broadcasting, and cable television, which fostered private investments of domestic and international operators, in an inclusive manner. However, it is evident that technical experience is not a decisive factor in the appointment of commissioners. CONATEL’s historical performance has been subject to high public exposure due to resolutions against the State, which resulted in legal actions by the State (as operator) against the State (as regulator). It is important to provide this regulatory agency with more independence and secure equal competition so as to guarantee the best prices and choices for consumers.

7.32 HONDUTEL’s corporate governance is based on the Board of Directors, in accordance with Decree 431 of 1976. HONDUTEL’s Board of Directors is chaired by the Minister of Finance, accompanied by the Ministers of Industry and Trade and of Governance and Justice, and two executive directors elected by the President. The General Manager acts as Secretary to the Board of Directors, with voice but no vote in decision-making. All decisions are made a simple majority, but in practice they are usually made by a unanimous vote. Even though it is an autonomous body, its decisions are highly centralized, aligned with investment policies of the government in office.

7.33 The privatization of HONDUTEL has been considered on several occasions, but the attempts have not been successful and, at present, HONDUTEL remains a State-owned enterprise. Reforms carried out in the mid-1990s envisaged the partial privatization of HONDUTEL through the sale of 47 percent of its capital, with the State retaining a majority

\textsuperscript{226}According to the General Regulations on the Framework Law for the Telecommunications Sector, Article 21, Carrier Services are defined as those that offer capacity exclusively for the transport of telecommunications signals between two or more defined points within the telecommunications network.
stake in the company. However, the project did not move forward in a context of strong employee opposition. In 2000, the process was reinitiated with an attempt to transfer 51 percent of the shares, but no private operator made an offer compatible with the benchmark price established by the Government. Since the failed last attempt to privatize HONDUTEL in 2002, the Government has not attempted such an action again. The current policy establishes that HONDUTEL continue operating as a State-owned enterprise, competing against private enterprises in the provision of services. Box 7.2 analyzes the failed attempts to privatize HONDUTEL in more detail.

In 2003, a program aimed at expanding and modernizing telecommunications called “Telephony for All – Modernity for Honduras” was approved, creating the so-called “sub-operators,” which received an extension of HONDUTEL’s exploitation rights to enable them to directly provide public telecommunications services (except for international calls which were exclusively exploited by HONDUTEL until December 25, 2005). The incorporation of sub-operators allowed for a significant expansion of fixed telephone services, as shown in Table 7.2.

<table>
<thead>
<tr>
<th></th>
<th>HONDUTEL</th>
<th>Sub-operators</th>
<th>Total</th>
<th>Telephone density</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dec-01</td>
<td>310,617</td>
<td>0</td>
<td>310,617</td>
<td>4.67</td>
</tr>
<tr>
<td>Dec-02</td>
<td>322,497</td>
<td>0</td>
<td>322,497</td>
<td>4.73</td>
</tr>
<tr>
<td>Dec-03</td>
<td>335,434</td>
<td>0</td>
<td>335,434</td>
<td>4.81</td>
</tr>
<tr>
<td>Dec-04</td>
<td>368,465</td>
<td>18,849</td>
<td>387,314</td>
<td>5.50</td>
</tr>
<tr>
<td>Dec-05</td>
<td>395,316</td>
<td>98,364</td>
<td>493,680</td>
<td>6.94</td>
</tr>
<tr>
<td>Dec-06</td>
<td>475,005</td>
<td>238,592</td>
<td>713,597</td>
<td>9.75</td>
</tr>
<tr>
<td>Dec-07</td>
<td>533,022</td>
<td>288,223</td>
<td>821,357</td>
<td>10.9</td>
</tr>
</tbody>
</table>

Source: CONATEL

As in a great majority of countries in the world, the emergence of mobile telephone networks, operated by private and international business groups, has resulted in significant progress in the development of telecommunications services in Honduras. In 1995, at the same time as HONDUTEL was granted a monopoly over fixed telephones and international communications, a five-year exclusive concession contract was awarded to Celtel S.A. for cellular mobile telephones. Through the same decree, high initial tariffs were set for mobile telephones (US$ 300 per subscription; US$ 30 per month as basic tariff, and US$ 0.35 per minute).

In 2003, Congress awarded a second license to HONDUTEL for mobile telephones, making use of PCS Band “C” (1900 MHz) and another to an enterprise called MEGATEL. HONDUTEL was granted a concession, as mandated by the Framework Law, including

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227 Privatization, industrial restructuring and regulatory practices in the telecommunications sector, CEPAL, 2005.
229 Subsidiary of Millicom Group. The concession granted Celtel S.A. the right to use Band “A”, within the 800MHz frequency range, to initiate operations as of June 1996.
mobile telephones, in order to contribute to the promotion of universal services and access in rural areas, border zones, and other zones of social interest\(^\text{230}\). That same year, the license of the second mobile telephone operator, MEGATEL, was authorized (after it became a subsidiary of the América Móvil Group, under the Claro name). As can be observed in Table 7.3, the entry of the new operator resulted in significant increases in the number of lines.

| Table 7.3. Mobile telephone lines |
|-------------------------------|-----------------|-----------------|-----------------|-----------------|
|                               | Post-payment    | Pre-payment     | Total           | Telephone       |
|                               | (credit)        | (card)          |                 | density         |
| Dec-01                        | 74,535          | 163,094         | 237,629         | 3.57            |
| Dec-02                        | 67,352          | 259,156         | 326,508         | 4.79            |
| Dec-03                        | 65,972          | 313,390         | 379,362         | 5.43            |
| Dec-04                        | 78,913          | 628,288         | 707,201         | 10.04           |
| Dec-05                        | 96,789          | 1,184,673       | 1,281,462       | 18.01           |
| Dec-06                        | 126,214         | 2,114,542       | 2,240,756       | 30.61           |
| Dec-07                        | 175,671         | 4,009,163       | 4,184,834       | 55.52           |

Source: CONATEL

7.37 In 2007, HONDUTEL entered the mobile telephone market comprising two competitive operators and international experience, thus, the market remains predominantly private. That same year, HONDUTEL launched a new mobile telephone service in the three main cities of the country, Tegucigalpa, San Pedro Sula and La Ceiba, with cellular-type technology (personal handyphone services), which has a less flexible use than cellular technology employed by existing operators; namely, it cover a smaller geographic area. This service has not been successful to date, given that it has low subscription levels, and is in no condition to compete against the two established operators.

7.38 In 2008, the National Congress ratified the entry of a fourth mobile telephone operator: Irish-based Digicel. The corresponding concession contract was ratified by National Congress through Decree 44-2008 of June 19, 2008, and it is expected that the company will begin operating at the end of 2008. The company has a record of competence in the Caribbean region and El Salvador, and it is expected that the competition in the mobile telephone market will intensify, resulting in better prices and choices for consumers.

Box 7.2. The failed attempt to privatize HONDUTEL

As a part of the effort to demilitarize the State, and responding to the program envisaged by President Reina to reestablish a program with the International Monetary Fund, the Government established a commission to privatize HONDUTEL in May 1994, and obtained authorization from Congress to restructure HONDUTEL in April 1995. In this proposal, the new HONDUTEL would be patly owned by

the State, with two strategic partners: a private partner would have administration rights with 47 percent of the shares, and the State through HONDUTEL would retain 51 percent.  

The Framework Law in 1995 gave HONDUTEL (and therefore its future subsidiary) a concession to operate telephone services for 25 years, with a period of exclusivity of ten years on national and international fixed-line telephone services, in order to attract foreign investors to the sector, raise HONDUTEL’s value, and compensate for investment requirements placed on the new company. This provision also likely served the purpose of attracting political support from those who opposed privatizing HONDUTEL.

In October 1998, congress approved a modified version of a law that had been rejected in 1995, establishing the process for the capitalization of HONDUTEL. The passage of the legislation was facilitated by granting HONDUTEL workers generous terms in the event that the sale went through. In order to raise the interest of potential investors, the subsidiary, COHDETEL, was promised the concession to operate a PCS band once the capitalization process was finished.

However, the capitalization process was short-circuited by the devastation wrought by Hurricane Mitch in November 1998. By May 1999, when the Government was in a position to focus again on the privatization of HONDUTEL, it sent a new proposal to Congress with the aim of making the deal more attractive, by increasing the percentage of stocks to be sold to the strategic partner to 51 percent, and increasing the rights of exclusivity to also include signal transmission services. At the same time, a significant part of the proceeds of the sale of stocks were now to be devoted to the National Reconstruction Project.

Though the new Law was approved quickly, the beginning of the bidding process was delayed by negotiations with HONDUTEL’s union, requests for postponement from a few potential buyers, and pressures from CELTEL. Finally the process ended in failure in October 2000, with only one bid from TELMEX for barely one third of the Government’s reserve price of $300 million.

This result reflected unrealistic expectations of the Government in respect to the purchase price of HONDUTEL, given the required investments (estimated at US$ 500 million), the allowed tariff levels, the obligations to the workers, and the now more rapidly approaching elimination of HONDUTEL’s monopoly on international phone service. Distrust of potential investors in the transparency of the bidding process and the broader regulatory framework may have limited the number and diversity of companies making bids and lowered the value of the offer received. In refusing to lower the price in line with the recommendations of the investment bank, the Government was prioritizing the goals of maximizing revenue generation for financing social programs and expanding coverage, over that of addressing consumers’ need for efficient, high-quality telecommunication services.

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231 Two years after this sale, HONDUCOM would be able to sell 41 percent of its shares to private investors through local and international stock markets. Two percent of the shares would be sold to individual HONDUTEL workers working for HONDUCOM. HONDUTEL workers who would be laid off would receive the full set of labor benefits (Revista Envío, July 1995).

232 Two percent of the stocks in the company, 100 percent of the benefits they were entitled to while HONDUTEL was State-owned, and an annual bonus of 7000 Lempira for at least 20 years.

233 Decree No. 244-98. October 1998.


235 CELTEL was interested in a delay since the licensing of the B band was contingent on the capitalization process being completed.

236 The reserve price was not known until the offer of TELMEX was revealed.
**Current Situation**

7.39 The level of penetration of telecommunications services remains low, particularly in rural areas. The degree of development of the telecommunications sector has traditionally been measured by the penetration rate of basic services with respect to the country’s population. In Honduras, penetration of telephone services is among the lowest in Latin America with only 9.5 telephones per 100 inhabitants in 2006, whereas the average in Central America was 11.6 per 100 inhabitants. Even though the explosive growth of mobile telephones in the world is also reflected in Honduras, its level of penetration in the country in 2006 was the lowest in Central America, as revealed by Table 7.4.

<table>
<thead>
<tr>
<th>Country</th>
<th>Population</th>
<th>Fixed-line telephones</th>
<th>Fixed-line density</th>
<th>Mobile telephones</th>
<th>Mobile density</th>
</tr>
</thead>
<tbody>
<tr>
<td>Guatemala</td>
<td>13,275,000</td>
<td>1,354,926</td>
<td>10.20%</td>
<td>7,178,745</td>
<td>54.10%</td>
</tr>
<tr>
<td>El Salvador</td>
<td>6,993,000</td>
<td>1,035,777</td>
<td>14.80%</td>
<td>3,851,611</td>
<td>55.10%</td>
</tr>
<tr>
<td>Honduras</td>
<td>7,520,000</td>
<td>713,597</td>
<td>9.50%</td>
<td>2,240,756</td>
<td>29.80%</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>5,946,000</td>
<td>247,862</td>
<td>4.20%</td>
<td>1,988,183</td>
<td>33.40%</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>4,536,000</td>
<td>1,047,999</td>
<td>23.10%</td>
<td>1,465,293</td>
<td>32.30%</td>
</tr>
<tr>
<td>Panama</td>
<td>3,108,000</td>
<td>432,934</td>
<td>13.90%</td>
<td>1,923,555</td>
<td>61.90%</td>
</tr>
<tr>
<td>Total</td>
<td>41,661,000</td>
<td>4,833,095</td>
<td>11.60%</td>
<td>18,648,143</td>
<td>44.80%</td>
</tr>
</tbody>
</table>

*Source:* Comisión Técnica Regional de Telecomunicaciones en Centroamérica.

7.40 One of the main challenges currently facing HONDUTEL is the rapid deterioration of its financial performance, as illustrated by the decline in income and annual profits (before transfers to Government), by 36 percent and 71 percent between 2005 and 2007, respectively (see also Graph 7.3 and 7.4). As a result, HONDUTEL’s revenues for services provided, as a share of total public expenditures, has dropped from 15.3 percent in 2005 to 7.4 percent in 2007. The main reasons behind this fall are the unilateral reduction of the termination rate of HONDUTEL, unbilled traffic and the competition from mobile phone companies for international traffic. Given its former monopoly, HONDUTEL was able to charge higher fees than those in other countries, with a tariff of $0.17 per minute for incoming calls. As HONDUTEL reduced its termination charges, most countries that had such fees, eliminated them altogether (Table 7.5). While HONDUTEL has applied artificially high tariffs for international calls, those applied to local telephones (US$0.03 per minute) do not reflect the real costs of the services.

<table>
<thead>
<tr>
<th>Country</th>
<th>International rate from the US</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colombia</td>
<td>0.06</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>0.05</td>
</tr>
<tr>
<td>Chile</td>
<td>0.04</td>
</tr>
<tr>
<td>Ecuador</td>
<td>0.09</td>
</tr>
<tr>
<td>Guatemala</td>
<td>0.07</td>
</tr>
<tr>
<td>Honduras</td>
<td>0.17</td>
</tr>
</tbody>
</table>

*Source:* Comisión Técnica Regional de Telecomunicaciones en Centroamérica.
7.41 The second reason for the reduction of international revenues has to do with the so-called “Gray Traffic” or unbilled traffic. Traffic that is not billed by HONDUTEL is categorized as fraud, where incoming international calls enter through unauthorized means to HONDUTEL networks as if they were local calls. This operation is profitable given the difference between artificially high tariffs for international incoming traffic (US$0.17 per minute) and those for local traffic (US$0.03 per minute). The lack of reliable accounting systems hampers the monitoring and supervision required to avoid this type of loss.

7.42 In 2005, as HONDUTEL maintained a legal monopoly over international traffic, it was possible to estimate – comparing international traffic from the US to Honduras reported by the FCC\(^{237}\) with incoming international traffic registered by HONDUTEL – that gray traffic had reached close to 144 million minutes, representing a loss of US$28.8 million (538 MLp.) equivalent to 13 percent of revenues earned that year. There is no available information to estimate gray traffic volume for subsequent years.

**Box 7.3. Gray traffic – how it operates**

There are four possible ways in which “Gray Traffic” operates:

*Possible gray route 1 through mobile operator:* In which incoming international traffic, making use of carriers such as own international links, data channels or the internet to reach their own switching exchange (authorized segments), enters the telephone operator’s network through interconnections (gray segment), to terminate the call in HONDUTEL terminals, as local or domestic calls.

*Possible gray route 2 through sub-operator:* In which incoming international traffic, making use of carriers such as data channels or the internet to reach their own switching exchange (authorized segments), enters the telephone operator’s network through interconnections (gray segment) to terminate the call in HONDUTEL terminals, as local or domestic calls.

*Possible gray route 3 through subscriber lines:* In which incoming international traffic, making use of carriers such as data channels or, especially, the internet to reach their own terminal, computer or PABX-type private branch exchange (authorized segments), enters the telephone operator’s network through lines contracted from HONDUTEL or a sub-operator (gray segment) to terminate the call in the terminals of HONDUTEL or a sub-operator, as local or domestic calls.

*Possible gray route 4 through third country:* In which incoming international traffic, making use of carriers such as international routes from a third country (member of COMTELCA with existing Sender Keeps All – SKP agreements), enters the Honduran telephone operator’s network, through international routes from the third country (gray segment) to terminate the call in the terminals of HONDUTEL or sub-operator, as if calls originated in the third country, which is exempted from paying termination fees.

There is no available information to determine the relative importance of each of the alternative routes for gray traffic. However, review processes carried out by HONDUTEL have found evidence of the four routes described above.

7.43 Losses reflect an increase in competition with mobile telephones and a reduction of termination fees. As of 2006, after the expiration of HONDUTEL’s exclusivity rights to handle international traffic, mobile telephone companies were legally authorized to bring in international calls to their subscribers by using their own means. The competition of such companies in respect to incoming international traffic generated a loss in income for HONDUTEL estimated at around US$11.5 million. Also, the reduction in international

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\(^{237}\) Federal Communications Commission, telecommunications regulatory body in USA.
termination rates from US$0.20 per minute in 2005 to US$0.17 per minute in 2006 implied a US$25.8 million reduction in HONDUTEL’s revenues. There were US$21.2 million in additional losses due to the possible increase in gray traffic (which could not be estimated based on available information) and failures (or possible fraud) in internal billing and liquidation processes. From all of these sources, HONDUTEL’s revenues dropped by US$58.5 million (1,001 MLp.) in 2006.


Sources: a HONDUTEL website; b Audited financial statements 2005-06. Before transfers to Government

Graph 7.4. HONDUTEL’s revenues: domestic v. international, 2005-2007, MLps.

Source: Audited financial statements 2005-06; 2007, not available.

7.44 The current financial situation reflected in HONDUTEL’s official balance seems relatively favorable, with 6,000 MLp. in equity, representing 60 percent of total assets. However, in order to sustain this situation, the Honduran State has had to forgo HONDUTEL transfers (Graph 7.5), and plummeting profits may jeopardize its current financial equilibrium. Also, it is important to mention that the last auditor’s certificate included a series of reservations, which means that the real accounting situation may not be that favorable.
**Graph 7.5. Evolution of the financial situation, 2003-2007, ML-ps.**


**Main challenges and reforms under implementation**

7.45 HONDUTEL faces the difficult challenge of transforming itself into an efficient, dynamic, and competitive enterprise, in a sector characterized by rapid technological changes that transcend national borders and within which HONDUTEL must compete. The opening up to competition of the international traffic market, as well as the technological progress that facilitates handling international traffic through alternative routes, makes it impossible to continue subsidizing tariffs for domestic services with high international termination rates. It is therefore urgent to carry out a tariff-rebalancing that allows HONDUTEL and other operators to be self-sustainable in financial terms. Even if it is necessary to maintain telecommunications sector contributions to the fiscal budget, it is more effective to obtain them from taxes or rates that do not favor particular services or enterprises, or from the awarding of new concessions. Thus, the sector’s own growth dynamics could generate new sources of income for the State.

7.46 The telecommunications sector faces the challenge to keep growing in an inclusive and agile manner in accordance with technological progress. The sector’s strategic challenge is to adjust regulations and their effective implementation, in order to comply with competition-promoting principles defined by the current legal framework. Several steps that could be considered include: eliminating barriers to market entry of new telephone operators; granting concessionary status to sub-operators; and authorizing other network operators (e.g. subscription TV operators) to provide technically-feasible telecommunications services making use of their own networks. After significant effort during the last two presidential terms, two draft laws have been submitted to the National Congress:238

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238 At the time the present study was completed, both draft laws were still being reported for ensuing discussion by the congress.
• **Law on Telecommunications and Information Technologies.** Among its more substantial contributions to the telecommunications sector are: i) the orderly opening of the market for telephone services; ii) the creation of a telecommunications fund for social use; iii) the application of new tax rates, as well as the modification of current ones; and iv) the introduction of a new permit scheme.

• **“HONDUTEL Strengthening” Law,** which addresses improvements in the company’s administrative procedures so as to make it more efficient.

**CORPORATE GOVERNANCE FRAMEWORK OF PUBLIC ENTERPRISES: STRENGTHS AND WEAKNESSES**

7.47 As mentioned in the introduction, it is difficult to manage public enterprises and the sectors in which they operate, in a manner that is efficient and in the best interest of citizens. A sound corporate governance framework is key to improving the efficiency and performance of State-owned enterprises and the quality of services offered, and entails significant benefits for public financial management and for the economy as a whole.

7.48 The success of service delivery depends to a great extent on whether the service providers are accountable to citizens. In the case of state-owned enterprises, as we saw, the ownership structure is not straightforward, as Government performs the ownership role on behalf of citizens. In addition, most public enterprises operate in sectors where there are natural monopolies, and therefore it is difficult to introduce competition and provide basic services that should be accessible to all citizens. Therefore, the State needs to play a role as policy-maker and regulator – ensuring public goods and services are properly delivered and accessible to all, protecting citizens and consumers, while providing a level playing field for competition whenever possible, and providing incentives for the company to be as efficient as possible. In this context, the separation of the functions of policy-making, regulation and service provision is key for the existence of the necessary checks and balances for achieving all those objectives.

7.49 A sound corporate governance framework for state-owned enterprises is based on four pillars: (i) an adequate legal framework; (ii) efficient government bodies; (iii) a robust and high quality financial management system, based on sound accounting principles and reliable internal controls; and (iv) a rigorous accountability framework.

- **Legal framework:** The legal framework applicable to public enterprises must be clear and consistent, and must guarantee a level playing field for public and private enterprises. Namely, state-owned enterprises must be subject to the same laws and regulations applicable to private enterprises (commercial, tax, bankruptcy laws, etc.), in order to prevent state-owned enterprises from enjoying undue privileges, which could create market distortions. In addition, the legal framework must guarantee the separation of policy-making, and regulatory and service-delivery functions.

- **Governance institutions:** The institutions responsible for securing the good governance of public enterprises (management and Board of Directors, regulatory agencies, ownership body, Supreme Audit Institutions, etc.) must have clearly-defined roles and effectively fulfill their responsibilities in practice. They also should receive adequate training and possess the necessary resources to that end.
- **Rigorous and high quality financial management:** It is necessary to have a system that provides reliable information regarding enterprise performance (e.g., high quality accounting standards, information systems and internal controls) and trained personnel. This information is important so that both management and the Board can make informed decisions and for ensuring proper accountability.

- **Accountability:** The accountability framework must create a clear line of accountability from the enterprise to the State, as well as to the citizens of the country, who are the ultimate owners and beneficiaries of the services provided. The framework includes provision related to transparency, control, and auditing. In addition, State-owned enterprises must have clear, specific and measurable strategic objectives so that their performance can be evaluated.

**Box 7.4. OECD guidelines on corporate governance**

<table>
<thead>
<tr>
<th>The legal and regulatory framework for State-owned enterprises should ensure a level playing field in markets where State-owned enterprises and private sector companies compete in order to avoid market distortions. The framework should be fully compatible with the OECD Principles of Corporate Governance.</th>
</tr>
</thead>
<tbody>
<tr>
<td>i. There should be a clear separation between the State’s ownership function and other State functions that may influence the conditions for State-owned enterprises, particularly with regard to market regulation.</td>
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<tr>
<td>ii. Governments should strive to simplify and streamline the operational practices and the legal form under which State-owned enterprises operate. Their legal form should allow creditors to press their claims and to initiate insolvency procedures.</td>
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<tr>
<td>iii. Any obligations and responsibilities that a State-owned enterprise is required to undertake in terms of public services beyond the generally accepted norm, should be clearly mandated by laws or regulations. Such obligations and responsibilities should also be disclosed to the general public and related costs should be covered in a transparent manner.</td>
</tr>
<tr>
<td>iv. State-owned enterprises should not be exempt from the application of general laws and regulations. Stakeholders, including competitors, should have access to efficient redress and an even-handed ruling when they consider that their rights have been violated.</td>
</tr>
<tr>
<td>v. The legal and regulatory framework should allow sufficient flexibility for adjustments in the capital structure of State-owned enterprises when this is necessary for achieving company objectives.</td>
</tr>
<tr>
<td>vi. State-owned enterprises should face competitive conditions regarding access to finance. Their relations with State-owned banks, State-owned financial institutions and other State-owned companies should be based on purely commercial grounds.</td>
</tr>
</tbody>
</table>

7.50 The following sections will analyze each of these pillars that directly affect public finances as well as the provision of services offered by these enterprises.
**Legal and institutional framework of the different sectors where public enterprises operate**

7.51 In Honduras, the legal framework applicable to state-owned enterprises is highly fragmented, which negatively affects its effectiveness. There is no framework law applicable to the whole State-owned enterprise sector; rather, each enterprise is governed by its independent organic law and legislation applicable to the specific sector in which it operates (e.g., Electricity, Telecommunications, etc.). The following table presents the key legislation and institutions that govern ENEE and HONDUTEL.

<table>
<thead>
<tr>
<th>Table 7.6 Legal and institutional framework for ENEE and HONDUTEL</th>
</tr>
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<tbody>
<tr>
<td><strong>Key legislation</strong></td>
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<tr>
<td>ENEE</td>
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<td>HONDUTEL</td>
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<td>Both</td>
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</tbody>
</table>

7.52 Public enterprises do not necessarily have to be structured as private companies (corporation), nor are they necessarily subject to regulations applicable to private corporations (e.g., commercial and insolvency laws). Therefore, since each public enterprise is governed by a separate set of rules, the responsibilities and powers applicable to each company may vary. In addition, there may be an uneven playing field between state-owned enterprises and private enterprises. That is, state-owned enterprises have their own regulatory framework, which can result in advantages for state-owned enterprises when competing against private enterprises in the provision of services.

7.53 The fragmentation and lack of clarity regarding the legal framework applicable in each case, makes its enforcement difficult. For instance, in the electricity sector, legal provisions have not actually been implemented, as is the case in the “vertical unbundling” of the sector. As a result, some portions of the legal framework do not make sense in the context of a vertically-integrated market. Also, it is difficult to access the set of rules that govern public enterprises, and in general, it is difficult to find complete and updated versions of the norms. That is, the main laws have been modified on several occasions after their passing, and it is not easy to distinguish the changes, since it is rarely possible to access a consolidated version
(including all amendments) of the norms. The following paragraphs describe legal framework weaknesses in detail.

7.54 The separation of functions regarding policy-making, regulation, and provision of services in the telecommunications and electricity sectors has not been completed. The executive branch plays multiple roles, as it is at once responsible for: providing basic services (through State-owned enterprises); regulating the sectors (responsible ensuring compliance with regulations); defining policies (responsible for sector policy-making); and protecting its ownership interest (safeguarding the equity value of the companies and limiting their contingent liabilities). In order to minimize market distortions, avoid conflicts of interest, and guarantee the efficiency of public enterprises, policy-making, regulatory, and service-delivery functions must be separated The separation of functions regarding policy-making, regulation, and provision of services in the telecommunications and electricity sectors has not been completed. The executive branch plays multiple roles, as it is at once responsible for: providing basic services (through State-owned enterprises); regulating the sectors (responsible ensuring compliance with regulations); defining policies (responsible for sector policy-making); and protecting its ownership interest (safeguarding the equity value of the companies and limiting their contingent liabilities). In order to minimize market distortions, avoid conflicts of interest, and guarantee the efficiency of public enterprises, policy-making, regulatory, and service-delivery functions must be separated. A clear separation of functions would enable the Government to focus on formulating public and industrial policies to benefit society, operators (private and public) on providing services, and regulators on mediating the relationship between the Government, the enterprises and the users of public services. Regulators are part of the public sector, but must possess a high level of technical knowledge about the sector and act independently, balancing the interests of citizens who consume the services and operators who provide them. This basic principle was established by the Framework Law, which have governed the electricity and telecommunications sectors since the mid 1990s. However, as will be explained in the following sections, these principles have never been put into practice.

Policy-making

7.55 The lack of dedicated bodies, technically capable of planning, formulating public policies, monitoring its implementation and evaluating them, has resulted in a lack of coordinated investment and expansion policies in these two strategic sectors: electricity and telecommunications.

7.56 Under the Framework Law for the Electricity Sector, the policy-making function in the electricity sector was assigned to different bodies, but in reality ENEE remains involved in this function. There are two bodies in the electricity sector that, by law, have the power to design sector policies – the Energy Cabinet and SERNA – but in reality neither of the two fulfills this role effectively. The Energy Cabinet comprises the President, who chairs it, and Secretaries of State in various fields, including SERNA, and a Secretary who coordinates the work of the cabinet. In effect, the Energy Cabinet has only met a few times since its creation and has not performed a significant role. SERNA has not been proactive in its role in defining the agenda and providing basic technical support to the Energy Cabinet to guide decision-making, due to the lack of budget resources and the low capacity of human resources. SERNA does not have permanent technical staff; generally, staff changes every time a new government takes office, even if the incoming and outgoing governments are affiliated with the same political party. Also, SERNA is responsible for energy production and distribution.

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241 Currently, SERNA is contracting consultants for the “Preparation of the National Energy Policy and Energy Plan” (until 2025). The competition ended on April 5, 2008 and was published on La Tribuna of March 11, 2008.
expansion policies (through the Ministry for Natural Resources and Energy) as well as the preservation of the environment, and these two objectives may occasionally contradict each other. Given these weaknesses, ENEE is the “knowledge institution” with regard to energy issues to which the Government resorts for policy-making matters, which potentially represents a conflict of interest and jeopardizes the ability of the Government to enter into an open policy discussion about the different energy options available to Honduras\textsuperscript{242}.

7.57 Within the telecommunications sector, there is no technically-specialized body in charge of policy-making. Until 1995, the Ministry for Communications, Public Works and Transport (SECOPT) held that responsibility. The restructuring of the sector eliminated SECOPT, and SOPTRAVI was created to replace it, but it was not assigned any responsibility over the telecommunications sector. Thus, the executive delegated policy-making to CONATEL, and finally created a Telecommunications Cabinet. In reality, CONATEL, the sector’s regulator, and HONDUTEL, the enterprise responsible for the provision of services, assume the policy-making function in the sector. This weak separation of the roles of service-provision and policy-making hampers the formulation and adoption of policies that could benefit consumers.

**Regulation of sectors**

7.58 The National Energy Commission (CNE), responsible for regulating the electricity sector, and CONATEL, for the telecommunications sector, are autonomous bodies, similarly structured under the Law, but operating in distinct manners. Both commissions comprise three commissioners and two substitutes. Commissioners are appointed by the President at the suggestion of SERNA and SEFIN, respectively, but with no legislative branch participation. In the case of CONATEL, the Law requires commissioners to have recognized professional qualifications, and forbids their involvement in political parties or on Boards of Directors of sector enterprises. There are no similar provisions for CNE.

7.59 To date, CNE has not been able to fulfill its responsibilities, partly due to a lack of financial resources and technical capacity. CNE’s powers include supervising and controlling sector guidelines, approving tariffs, proposing energy expansion programs, and preventing anticompetitive practices. However, it lacks the power to issue regulations directly; CNE must submit proposals to the Government, who issues them. In addition, despite its administrative autonomy, its real independence from the executive is limited, especially because a large part of its budget comes from the national budget (see Table 7.7) and commissioners are appointed for four-year tenures that coincide with the President’s term of office. Commissioners’ tenures are equal in length. Therefore, the entire commission may be renewed at once, which makes the commission vulnerable and jeopardizes its institutional character. Finally, there is no permanent technical staff working for CNE, as the budget is insufficient to pay qualified technical staff on a permanent basis. The roles of the regulator and the policy-making bodies should be reviewed jointly in search of appropriate solutions that can provide ENEE with suitable controls and incentives.

### Table 7.7. CNE and CONATEL executed budget, 2004-2007, MLps.

<table>
<thead>
<tr>
<th></th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>CNE</td>
<td>4.2</td>
<td>5.1</td>
<td>4.7</td>
</tr>
<tr>
<td>CONATEL</td>
<td>n/a</td>
<td>38.4</td>
<td>40.6</td>
</tr>
</tbody>
</table>

*Source: CNE and SEFIN*

7.60 CONATEL, in contrast, enjoys a high degree of autonomy and performs a rather active role. CONATEL is responsible for awarding licenses and concessions for fixed and cellular telephones, data transmission, and internet services. It also administers broadcasting frequencies (radio and television) and regulates tariffs. Even though it operates under SEFIN, CONATEL is technically and administratively independent from it. CONATEL decisions are not subject to executive approval. Its budget (larger than that of any other regulator) is raised through a 0.5 percent fee charged to the companies it supervises, and revenues earned for granting cellular and broadcasting licenses. In addition, CONATEL has qualified technical staff, trained with the support of the IADB, the World Bank, and the International Telecommunication Union (ITU). However, the tenures of commissioners coincide with the presidential term in office, which increases the commission’s risk of becoming politicized. Also, since all commissioners are changed simultaneously, the continuity of management and the accumulation of technical knowledge are hampered. In order to actually perform as an independent body, commissioner tenures should not overlap with that of the President, and commissioners should be appointed for non-concurring mandates. CONATEL receives quarterly reports from HONDUTEL on quality standards in the provision of services. It also receives monthly revenue reports for tariff calculation, and on the third month of the subsequent year, financial reports audited by an external auditor, in order to adjust rates paid by HONDUTEL.

7.61 A possible explanation for the relative weakness of CNE, in comparison to CONATEL, is the lack of private companies operating in the electricity sector (ENEE holds a monopoly over transmission and distribution) and the development, albeit limited, of a private sector in telecommunications. The absence of private enterprises in the sector restrains the effective development of the regulatory agency. Another significant difference between CNE and CONATEL is with respect to their degree of administrative independence, given that in the case of CNE decisions, these are subject to the appeal of the Ministry for Natural Resources and Environment, while in the case of CONATEL, it has the final word on administrative procedures. However, *de facto*, the President’s Office plays a very important decision-making role in the electricity sector, sometimes by-passing SERNA.

**State as an active shareholder**

7.62 Even though the Ministry of Finance is responsible for supervising public enterprises, the current system does not allow for sufficient centralization of the array of functions pertaining to the “owner state” (or “shareholder state”). These functions are not aimed at defining sector policies or supervising compliance with the Law, but preserving the equity (net asset) value – and at the same time, limiting contingent liabilities – that public enterprises represent for the State. In practical terms, mechanisms should be developed for the “owner” to (i) set goals, (ii) appoint directors and (iii) monitor performance. In a context of weak regulatory bodies, the exercise of the “ownership” function can complement the regulatory function, adding an additional oversight layer.
7.63 Within SEFIN, the General Directorate for Decentralized Institution’s (Dirección General de Instituciones Descentralizadas, DGID) main obligation is to “oversee the execution of public policies (…)” in the decentralized sector, as well as the implementation of relevant measures in accordance with the approved macroeconomic framework.” Also, the Accountant General’s Office (CGR) is responsible for centralizing accounting information of all public institutions, including State-owned enterprises. However, CGR does not have the sufficient resources or structure, to effectively perform support and coordination functions in accounting matters for enterprises like ENEE and HONDUTEL. In fact, its role is limited to issues concerning the use of SIAFI – the public sector financial management information system implemented in state-owned enterprises in 2007 so as to allow for automated reporting to SEFIN.

**The Board of Directors**

7.64 The Board of Directors of a public enterprise should serve as the maximum management authority, responsible for protecting the interest of the company (and hence, the interest of the ultimate owners: tax payers). Thus, its powers should be clearly defined and distinguished from those of management. In general, the Board of Directors should be responsible for: (i) defining economic and financial short-, medium-, and long-term goals; (ii) monitoring the implementation of the company’s strategies and policies; (iii) adopting good accounting and financial management practices, and resolving problems identified by internal or external audits; (iv) strategic decision-making (approving key documents proposed by management such as budget, strategic plan, financial statements, compensation policies, investments, etc.); and (v) holding the General Manager accountable for the performance of the company. Given the decisive role of the Board of Directors, it is very important that directors with adequate experience, independence, and technical capacity be appointed. For its part, management is responsible for managing the enterprise in an effective manner; following the guidelines approved by the Board of Directors. In Honduras, the Boards of Directors of State-owned enterprises suffer from a series of weaknesses; some due to vacuums in regulation requirements, and others due to the lack of real application of existing regulations. The separation of functions performed by the Boards and management is sometimes ambiguous.

7.65 The composition and powers of the Board of Directors of ENEE and HONDUTEL are determined by organic laws and general regulations of each enterprise. In both cases, the Board of Directors is mainly composed of Ministers, who can only dedicate a very small part of their time to the companies. Ministers often send alternates in their place, meaning that there is no continuity from Board meeting to Board meeting. In addition, this model weakens accountability of Board members themselves (if a Minister is a bad Board member, he or she cannot be fired) and results in an explicit politicization of Board deliberations, making it difficult for the Board to focus exclusively on the best interest of the company. For instance, the Minister of Finance chairs HONDUTEL’s Board of Directors and also participates in ENEE’s Board of Directors. Thus, on the one hand, the Ministry of Finance exercises its political function (which includes designing public and industrial sector policies) and, on the other, is responsible for managing a State-owned enterprise (frequently in the same sector where he or she acts as Secretary). In the case of ENEE, the decisions of the Board of Directors require unanimous agreement. The table below describes the composition of ENEE’s and HONDUTEL’s Boards of Directors.
Table 7.8. Board of Directors, ENEE and HONDUTEL.

<table>
<thead>
<tr>
<th>ENEE – Board of Interventors (2007-2008)</th>
<th>HONDUTEL – Board of Directors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Defense – President</td>
<td>Ministry of Finance – President</td>
</tr>
<tr>
<td>Ministry of Finance</td>
<td>Ministry of Governance and Justice</td>
</tr>
<tr>
<td>ENEE – Board of Directors (suspended)</td>
<td>Ministry of Industry and Trade</td>
</tr>
<tr>
<td>Ministry of Finance</td>
<td>Resident directors (2)</td>
</tr>
<tr>
<td>Ministry of SERNA</td>
<td>General Manager (acts as Minister to the Board)</td>
</tr>
<tr>
<td>Ministry of SOPTRAVI</td>
<td>Representative of COHEP</td>
</tr>
<tr>
<td>Representative of COHEP</td>
<td>General Manager (acts as Secretary to the Board)</td>
</tr>
</tbody>
</table>

7.66 Secretaries of State are members of the Board of Directors for as long as they remain in office. Also, Boards of Directors include some directors who are not ministers. In the case of HONDUTEL, the Board of Directors comprises two directors that are appointed by the President for a four-year term. In the case of ENEE, the Board includes a representative of the Honduran Private Enterprise Council (COHEP). The presence and active role of independent directors with adequate experience on State-owned enterprises is very important not only to guarantee that decisions and enterprise-performance consider the interests of all stakeholders but also because it increases the Board’s capacity to assume its management control role.

7.67 Board Directors are not obliged to meet specific professional requirements. The composition of the Boards of Directors is determined by the organic laws of each State-owned enterprise. According to international best practices, the Law should stipulate a transparent process for the election of directors – not direct appointment – with the necessary experience and technical knowledge to fulfill duties in an efficient manner. In many countries, many skilled directors are recruited from the private sector; this would probably also be the case in Honduras. Therefore, in order to attract them, it is necessary to offer adequate compensation, both pecuniary and non-pecuniary (in terms of benefits, etc.) that corresponds with their experience and technical capacities and their contribution to the company’s good performance during their mandates. Compensation policies for directors (and managers) should be disclosed to the public.

7.68 Even though the Law defines the Board of Directors as the ultimate administrative authority for the enterprise, in reality, it is the General Manager who fulfills this function. Part of the problem lies in the fact that these Boards of Directors comprise Ministers, who do not have the sufficient time available to devote to their duties as Board members while fulfilling their political duties. In addition, there is no effective separation between management and the Board of Directors: for instance, the General Manager serves as secretary to the Board of Directors.

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243 Board of Directors of the National Port Enterprise includes representatives from unions and the Chamber of Industry and Commerce.

Management

7.69 The organic laws of ENEE and HONDUTEL stipulate that the General Managers of both companies should be appointed by their corresponding Board of Directors; however, in practice, it is the President who tends to appoint the General Manager. The General Manager position has not traditionally been selected on the basis of appropriate criteria, and in the case of ENEE on more than one occasion, the President granted it ministerial status, creating conflict between the Board of Directors and the General Manager. When ENEE’s Board of Interventors was established, it took over direction and management functions within the State-owned enterprise. However, in 2008 (the intervention’s completion year) a new General Manager was appointed, who also serves as the Minister of Energy.

7.70 Given the economic importance of State-owned enterprises in Honduras, there should be mechanisms to ensure the accountability of the Board of Directors to their shareholders, namely, the Government representing Honduran citizens. Even though, by law, the Boards of Directors have the power to approve budgets and financial statements of State-owned enterprises, they are not accountable to Government for their financial or operational performance. Furthermore, the Boards of Directors are not required to prepare periodic reports on their performance, which limits transparency and makes their work difficult to monitor. In theory, SEFIN is responsible for monitoring the supervisory role of the Board of Directors within the State-owned enterprises, but it does not fulfill this function effectively in practice.

7.71 The need to strengthen the Boards of Directors of public enterprises is being acknowledged in various developing countries such as Bangladesh, Chile, India, Indonesia, and South Africa, which issued guidelines emphasizing the necessity to grant real and substantial authority to the Boards.

7.72 The lack of managerial stability in ENEE has undermined its performance and the electricity sector as a whole. The Constitution establishes a four-year mandate (at most) for ENEE’s General Manager. In fact, in both enterprises, every time a new government takes office, a new General Manager – who does not necessarily know the sector – is appointed without following the requirements set forth by the Law. This undermines the managerial stability within enterprises. ENEE’s most recent case is extreme since, during the 2006-2008 period, the General Manager was replaced six times. Key positions of Regional Distribution Sub-manager and System Chief (in charge of supervising distribution and commercial operations in main cities) have also become subject to political appointments. Top management turnover makes it difficult to sustain a long-term strategy. To ensure continuity and strengthen accountability of management for the performance of the company, the Board of Directors should be responsible for appointing the General Manager.\(^{245}\)

7.73 The existing legal framework and institutional arrangements within public enterprises lack certain key incentives, especially in terms of compensation and stability of staff, so as to facilitate the best possible performance of these enterprises. The fact that these enterprises are controlled by the State does not mean they should operate as public sector institutions. In fact, as they compete against private companies for contracts in the labor market or other areas,

public enterprises should, to a large extent, adjust their operating mode according to private sector practices. A key aspect refers to manager compensation. In the private sector, an important tactic for creating proper conditions for good performance is to structure the compensation of managers in such a way that success is rewarded and, in contrast, bad performance and/or lack of fulfillment of objectives defined by the Board of Directors, has a negative consequence for managers. This should be part of the much-needed system of incentives linked to good corporate governance. This type of mechanism must include clearly-defined modalities and be controlled by the Board of Directors, if possible, through a specialized committee. However, a system of this kind could not function properly if the enterprise does not have an efficient and reliable information system in place.

**Financial management and accountability**

7.74 Accountability regarding the performance of public enterprises to citizens – the ultimate owners and users – crucially depends on reliable information being made available to the general public, and State bodies being responsible for control and supervision. This section analyzes one of the basic elements of transparency and accountability of HONDUTEL and ENEE – accounting and internal controls, transparency and external control.

**Structure and accounting and internal control processes**

7.75 State-owned enterprises do not currently have in place the adequate information systems required for modern, effective and transparent financial management. ENEE’s situation is the most serious, with a large share of accounting records maintained manually. In 2006, the implementation of the Integrated Financial Management System (SIAFI) was launched to be used for maintaining accounting records in the Government sector, including State-owned enterprises, in order to facilitate reporting to SEFIN. However, SIAFI is a system designed for Government institutions that operate under an annual budget system. These enterprises need to have in place a financial management business system tailored to their commercial and billing processes. The design and implementation of such internal financial management systems with interfaces with the SIAFI, is currently being considered.

7.76 It is the Board’s responsibility to establish and monitor the implementation of high quality accounting and financial reporting, and internal controls. As such, there should be at least one Board member who is a financial expert. And it should be the Government’s responsibility to request the information it needs to monitor performance.

7.77 While the 2004 Law on Accounting and Auditing Standards requires that all Honduran enterprises apply International Financial Reporting Standards (IFRS), State-owned enterprises are not prepared to meet this requirement. The Law will come into effect in fiscal year 2008, and the adoption of IFRS standards represents a major challenge for enterprises, even for those with relatively well-developed accounting processes. The three enterprises have undertaken limited efforts to prepare their personnel due to lack of resources and the need to focus efforts on the implementation of SIAFI.

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246 ROSC Report on Accounting and Auditing in Honduras, World Bank, May 2007. Initially, the Law was to come into force in 2007, but an amendment to the Law in the beginning of 2008 postponed it until 2008.
With respect to internal auditing, there have been valuable efforts in recent years aimed at strengthening this function within the main public enterprises; however, there is still a lot to do in order for this function to comply fully with the role assigned by law. The corresponding laws mandate that the Board of Directors (or council) appoint the enterprises’ Internal Auditor. Internal auditors should have at least dotted line reporting to the Board. Internal audit departments within public enterprises have numerically-sufficient staff, with 36 to 46 officers in ENEE and HONDUTEL, respectively. However, requirements for auditors are not high and an analysis of measures to strengthen them should be carried out in order to improve the quality of their job. During the current term, TSC has played an active role in reviewing the work and conclusions of these departments.

Transparency and accountability

Historically, Honduran State-owned enterprises have been characterized by limited transparency. Nevertheless, the situation has improved as a result of the coming into force of the Law of Transparency and Access to Information in 2007. The Law on Transparency mandates that all “Obliged Institutions” – including State-owned enterprises as “autonomous institutions” – “disclose information related to their management or, when necessary, provide all information concerning the execution of public funds under their administration or provided by the State” (Art. 4), which includes information on organizational structure, legal framework, activities, plans, etc. (Art. 13). In economic and financial areas, institutions are required to disclose: (i) “financial statements” with no further explanation of this definition; (ii) “quarterly budget balances of programs”; and (iii) “budget –, quarterly and annual budget execution reports that include detailed information on transfers, expenditures, and physical and financial investments, debt, and arrears” (Art. 13.3 and 13.8).

However, there are some weaknesses in this Law. It does not specify the number of periods financial reports should be submitted for – traditionally, in order to make an effective use of information, complete data for at least two years and summarized data for five years should be published – and the term “financial statements” with no further clarification is subject to interpretation which may strongly limit the content of the disclosed information, especially if no explanatory notes are included.

Even with the coming into force of the Law of Transparency, both enterprises publish very incomplete information, including only two out of the four basic financial statements – balance and income statement – with some partial details, omitting cash flow and changes in equity statements. In addition, no State-owned enterprise publishes explanatory notes with the summary of accounting methods, details on significant categories and significant contingencies and commitments, as required by IFRS. For instance, in the case of HONDUTEL, the enterprise does not distinguish domestic revenues from international ones, which would be key to understanding the enterprise’s financial performance. Also, none of the three largest public enterprises disclose “management comments and analysis” on the financial statements.

Requirements for Internal Auditors, according to the Law on Public Administration, Art. 91, are: (i) be Honduran in the exercise of rights; (i) be a Commercial Expert, holding a university degree in Public Accounting and Auditing; a university degree in Business Administration, or any other professional that also holds the Commercial Expert and Public Accountant degree duly certified; and (iii) not be involved in circumstances referred to by Art.58 of this Law.
financial situation and economic performance, providing details on the main trends affecting the enterprise’s financial situation and performance. Table 7.9 below provides a summary of the information disclosed by the enterprises. On the SEFIN’s DGID website only a “Report on financial investments executed by the decentralized public sector” has been posted.

7.82 Another limiting factor is that State-owned enterprises are not required to disclose the independent auditor’s opinion, which means that the general public does not have access to a key element for evaluating the reliability of the financial information presented by the enterprise.

<table>
<thead>
<tr>
<th>Table 7.9. Financial information posted on public enterprises websites (as of July 31, 2008)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENEE</td>
</tr>
<tr>
<td>Complete financial statements with notes</td>
</tr>
<tr>
<td>Minutes of shareholder meetings</td>
</tr>
<tr>
<td>Auditor report</td>
</tr>
<tr>
<td>Management comments and analysis on the financial situation and economic performance</td>
</tr>
<tr>
<td>Published information (period covered)</td>
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**External Audit**

7.83 Even though the Law does not systematically require it, both State-owned enterprises contract accounting firms to perform independent audits of their financial statements. In the case of ENEE and HONDUTEL, this practice responds to their obligations to international financial institutions or foreign governments that provide funding for capital investments.

7.84 However, the selection process for external auditors follows State procurement regulations, which are not necessarily adapted to the circumstances. Various aspects of the process through which the auditor is selected, need to be strengthened. First, an annual bidding process is carried out, which not only represents additional administrative costs for the enterprise, but also tends to increase the frequency that the auditing firm changes (the firm is awarded an annual contract). Second, the selection process is not as formal as it should be, given the importance of audits as a mechanism for controlling the reliability of financial statements. There is no transparency regarding the amount of fees paid to auditing firms, and whether they are sufficient or not, in relation to the tasks needed to carry out an audit in accordance with international auditing standards, which are in effect in Honduras. The quality of services provided by auditing firms is not evaluated to improve the auditing process and the value added to the institution, the State and/or other stakeholders.

7.85 Reports on audits performed for ENEE and HONDUTEL include opinions with a large number of reservations; that is, disagreements regarding the manner in which
information or the valuation of equity is presented, or unfinished audit tasks due to lack of information, or the possibility of physical verification. These reservations refer to problems from previous years which are still pending resolution. Their persistence is an indication of insufficient monitoring and attention by enterprises and the State. The main problems identified by audit reports that are not disclosed to the public include: (i) lack of, or insufficient, supporting documents of certain significant balance categories, or documentation that has not been updated in two years (these problems affect financial or labor liabilities, fixed assets, and contingent liabilities related to claims by third parties); (ii) lack of minutes of the meetings of the Board of Interventors; (iii) uncollectable accounts receivable not written-off; and (iv) inconsistencies in the presentation of certain operations, which prevent the comparison of outcomes from one year to the next.

7.86 The Superior Tribunal of Accounts (Tribunal Superior de Cuentas, TSC), as the control body of the public sector in Honduras, is responsible for controlling the financial management and accountability of State-owned enterprises, and making recommendations. However, the TSC has not had a leading role with regard to these entities in the last few years. As shown on the TSC website, no financial audits have been performed (that is, of financial statements) for either ENEE or HONDUTEL since 2003. In the case of ENP, the Tribunal issued a report that included an opinion on the financial statements from September 30, 2004 onwards, and another opinion about internal controls. In the case of HONDUTEL, the TSC carried out an “audit of the publicity and advertising category” during the first semester of 2005. In the case of ENEE, (i) a special audit of a regional commercial department and (ii) a “special investigation of the evaluation of the single-source contracting process for the supply of 250 MW of electricity” were carried out in 2008. This last report identified serious shortcomings in the analyzed bidding process.

7.87 There has been no interaction between the TSC and external auditors in the past few years, despite the fact that they share similar functions and an exchange of information would have been mutually beneficial.

RECOMMENDATIONS FOR THE MEDIUM TERM

7.88 In spite of the efforts of Honduran governments over many years, a clear commitment is still needed to improve the corporate governance framework of public enterprises. This section tries to issue recommendations to address the weaknesses identified in this chapter. However, given the complexity of the problems related to improving the governance of state-owned enterprises and the sectors in which they operate, many of the recommendations below require a detailed action plan to be developed by authorities, through a participatory process involving enterprises, various government institutions, the private sector, and civil society.

7.89 The suggested measures are consistent with the reforms implemented in Honduras and internationally in the last years, with the objective of strengthening governance of various sectors in which state-owned enterprises operate, and aim at the following goals:

- Provide a legal framework tailored to public-interest, profit-making institutions, which represent part of the equity of the Honduran people as a whole, by modifying the legal

248Constitution of Honduras, Art. 222.
frameworks of each State-owned enterprise or creating a general framework for all State-owned enterprises;

- **Strengthen the institutional character of key stakeholders in the system**, in functions related to (i) policy-making, (ii) regulation and control, and (iii) the provision of services to the general public;

- **Upgrade administrative and**, to a great extent, **operational procedures** within these entities; and

- **Achieve adequate accountability and financial transparency levels**, in accordance with the Law of Transparency, so as to foster improvements in the financial management of these entities.

Provide an adequate legal framework

7.90 Clearly define, on the one hand, matters pertaining to the “service-provider” role within a context of either monopoly or competition and, on the other hand, matters related to public policies defined by national authorities. An example of a public policy function that may be assigned to a State-owned enterprise is to support rural areas and/or the poorest areas in the country. The cost of such policies should be funded through the national budget, and not charged to consumers through cross-subsidies. The FOSODE fund is a type of mechanism that allows for the definition and distinction of normal enterprise activities, from those corresponding to public policies.

7.91 Adopt a framework law that determines the minimum legal requirements applicable to all public enterprises. The law could consider OECD Guidelines on Corporate Governance of State-owned Enterprises and should include provisions aimed at securing the separation between sector policy-making, sector regulation, and enterprise operation. Other important aspects that the framework law should clarify are the mechanisms for appointing General Managers and the attributions of the Board of Directors, on one hand, and general management, on the other.

7.92 Include commercial law provisions or legal forms of organization similar to the private sector (e.g. corporations). There are various legal means to organize activities related to the provision of public services, ranging from “autonomous entities” or “deconcentrated public-law entities”, to private companies listed on the stock market. Many countries that have attempted to improve the performance of State-owned enterprises, have adjusted their legal form of organization to include certain commercial law provisions. The resulting advantages are various and include: (i) clarity, as provisions are applied by all private sector companies; (ii) equity – real and perceived, with respect to private stakeholders within an open-market context; and (iii) the possibility of compensating managers in a sufficiently attractive manner. A possible option for Honduras would be to adopt the legal form of a corporation (limited or incorporated company) for all State-owned enterprises, with possible adjustments made through additional requirements related to public policy objectives, and the representation of interested parties in the Board of Directors. Also, it would be important to amend organic laws of public enterprises to ensure that efficient operation and profit-making be mentioned explicitly among the enterprises’ objectives.
Strengthen the capabilities of policy-makers and regulators in each sector

7.93 Accurately define and periodically quantify public policy objectives conferred to State-owned enterprises, make these public, and allocate sufficient funding to cover the sum total of corresponding costs to remove the burden from the enterprises.

7.94 Designate the institution responsible for policy-making in each sector, with adequate professional staff to this end. The remaining stakeholders could play a supporting and/or advisory role, but final responsibility for sector policies would rest with the institution.

7.95 Guarantee that CNE and CONATEL have adequate independence and technical capacity to fulfill their functions properly. To this end, commissioners, in addition to being appointed by National Congress, would need to hold mandates that do not overlap with the presidential term, and that are distributed in time, in order to guarantee continuity and stability in the commission. Moreover, in order to gain real independence, CNE should have its own income source (for instance, a fee paid by regulated enterprises). In addition, it needs permanent, qualified technical staff. Finally, it needs to follow transparent processes in defining regulations.

7.96 At the Government level, establish a specialized unit for State-owned enterprise management to perform the “ownership” role of State-owned enterprises. An option would be to strengthen the DGID, within the Ministry of Finance, to be able to fulfill this function or the Comision Presidencial de Modernizacion del Estado (CPME) within the Presidency. Another option would be to establish – as was done in Chile – an independent, superior commission responsible for supervising the performance of State-owned enterprises and appointing members to the Board of Directors. This directorate or superior commission would, in turn, be accountable to the National Congress.

7.97 Establish new requirements for the Board of Directors of state-owned enterprises aimed at ensuring that they effectively perform their function of preserving public interest. Existing Boards of Directors would need to be restructured, so as to guarantee that they are composed of directors with sufficient availability and adequate professional profile (professional experience and technical capacity) for these positions, and who are not holding any position in Government. Consequently, the Law need to stipulate that the new “ownership” body should appoint directors who meet the above-mentioned criteria, and in turn, the Board of Directors should appoint the General Manager. Considering extending the terms of Board member and ensure they are not concurrent with the political cycle, would assist in strengthening its independence.

7.98 Require that the Board of Directors in each enterprise comprise high quality members who are held accountable for the performance of the company. Currently, the Board of Directors of HONDUTEL is almost exclusively composed of public sector members with no proven technical capacity in the sector. Given that both the private sector and civil society have high interest in the good performance of State-owned enterprises dedicated to the provision of basic services, the inclusion of high quality representatives from both sectors in the Board of Directors would seem natural. At least one financial expert is also needed to monitor implementation of financial reporting and internal controls.

7.99 Identify within each public enterprise, priority areas that require the creation of specialized committees at the level of the Board of Directors (e.g. Audit Committee). In the
medium to long term, this point should be considered together with efforts to improve the performance of the Board of Directors. Establish a process to define performance goals and annual evaluations within each Board of Directors.

**Modernize administrative processes and improve information management systems**

7.100 Continue and intensify efforts to improve financial management and accounting procedures, through the implementation of a modern and efficient financial management and accounting system in all entities. For the specific case of ENEE, this will require a new internal integrated information system, with interfaces with the financial-accounting module of SIAFI, to be designed and implemented as part of the project on autonomous management units. Likewise, HONDUTEL, SANAA, ENP, among others, require modern automated systems to minimize manipulation of sensitive information, in order to provide opportune and timely information on these enterprises to the general public.

7.101 As part of these efforts, financial accounting staff within each enterprise should receive training on corporate financial management. The type and scope of such training should be assessed on a case-by-case basis.

**Achieve adequate levels of accountability and financial transparency levels**

7.102 Harmonize transparency practices in all State-owned enterprises, and define a framework for the minimum information to be published. Disclosed information should at least include:

- **An annual detailed report on general management**, including activities and performance indicators. The information included in this report should be subject to independent control;

- **Annual budget**, presenting the main principles used for its preparation and necessary explanations for its correct understanding;

- **Complete, audited annual financial statements, including the independent auditor’s opinion**; and

- **A half-yearly summary report**, with a limited review report prepared by an independent auditor.

- A report on public policy execution and use of funds allocated from the national budget to this end could also be required.

7.103 Improve the process for selecting auditors. Even though the decision to appoint the auditor should remain within the enterprise, as is currently the case, the entity responsible for coordinating the “ownership” role (currently SEFIN) as the main recipient of the auditor’s report, should participate in the bidding process to contract external audit services. TSC should also be invited to participate in the process as this institution, given its functions, has an interest in the results of the external audit. In view of the complexity and size of public enterprise, as well as the serious difficulties they face concerning financial management matters, the possibility of designating an independent auditor for periods of over a year (e.g. up to three years) should be considered, as that would allow for greater continuity in the auditor’s work and the time and efforts invested would yield higher returns.
7.104 Establish a plan for resolving problems identified by external auditors in their respective annual reports. The lack of follow-up and definition of an action plan to resolve reservations detected by auditors explain, to a large extent, the persistence of these reservations throughout the years.

CONCLUSIONS AND SHORT-TERM PRIORITIES

7.105 The institutional framework of State-owned enterprises suffers from serious weaknesses that are affecting the performance of State-owned enterprises. Most of these weaknesses arise from: i) the lack of observance of the fundamental principle of separating functions related to policy-making, regulation, and provision of services, which undermines the effectiveness of the counterbalance system; and ii) the lack of transparency and available information about the management and performance of these companies that undermines accountability.

7.106 The lack of empowerment of consumers and citizens as stakeholders, interested in the improved management of these enterprises, further weakens the accountability framework. Even though this chapter has not addressed the relationship between enterprises and these two stakeholders (consumers and citizens), both are key to the accountability Framework. More attention should be paid to strengthening the role of these two actors in the medium term. In addition, improving the corporate governance framework of State-owned enterprises requires a broad series of legal actions related to institutional strengthening, and clear commitment at the highest level.

7.107 The previous section has explained in detail the areas that need further strengthening. However, without undermining the importance of these medium-term changes, it would also be important to initiate concrete actions to strengthen the above-mentioned division of functions, and improve performance accountability of these companies, making use of the instruments that are already available. These instruments include the incorporation of performance indicators of these enterprises in the Results-Based Management System, the implementation of Transparency Law requirements, or the design of information management systems with interfaces with the SIAFI. In this sense, we recommend that the following reforms be considered as priorities in the short-term:

i. **Strengthening the division of policy, regulatory and service provision functions by:**

   - Establishing a specialized oversight entity to fulfill the “ownership” function (i.e. setting up goals, appointing Board Directors and monitoring performance). An option would be to strengthen DGID within SEFIN, or to establish an independent commission that reports to Congress;
   
   - Strengthening the role of the Board and improving the quality of Board deliberations: the above-mentioned commission would be in charge of appointing Board members according to pre-established technical requirements, to ensure that members have the necessary technical capabilities, independence and time to perform their Board duties.
   
   - Improving accountability of the General Manager to the Board and reducing political interference in the management of the companies, by enforcing the provisions in the
organic laws of ENEE and HONDUTEL that require the General Manager to be appointed by the Board of Directors.

- Strengthening the policy and planning function, designating the institution within the executive branch responsible for the formulation of policies and sectoral plans in each sector, and ensuring it has the necessary technical capacity to undertake its obligations.

ii. **Improving public enterprises’ transparency and accountability** by using the two instruments developed recently by the Government of Honduras: the Transparency Law and the SGPR managed by UNAT and:

- Introduce modern financial management and accounting systems within State-owned enterprises to make reliable and timely information available for decision-making and accountability;
- Set up performance targets for public enterprises to be monitored periodically by the *Sistema de Gerencia por Resultados*; and
- Ensure these companies publish their complete financial statements, external audit reports and performance indicators as required by the Transparency Law.

**Box 7.5. Suggested indicators for the Results-Based Management System**

The lack of reliable financial and operating data for State-owned enterprises poses a challenge to developing indicators for the Results-Based Management System, which could then track progress on the impact of some of the proposed reforms on the performance of these enterprises. Hence, the following suggestions should be adopted according to the availability of data and the possibilities of establishing baselines.

The main categories where indicators need to be developed are:

1. **User/Client Satisfaction**, given that citizens are ultimately the shareholders: service standards need to be set up and user satisfaction monitored through surveys or other tools;
2. **Financial Sustainability**: economic-financial performance, operational break-even, minimum profitability and cross-subsidies.
3. **Cost-Efficiency**: benchmarking against lowest-cost producers in developing countries i.e., costs per fixed line or per Kwh generated or consumed. While implicit in costs, you can explicitly track energy losses; and
4. **Administrative Efficiency**: depending on the sector, could be employees per fixed line, or per installed capacity and/or end-consumer.