Chapter 10

Employment Protection Legislation in Haiti: An Overview

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ABSTRACT

The merit of employment regulations in a market economy is often measured by their effectiveness in facilitating job creation without jeopardizing the notion of “decent work,” as defined by the International Labor Organization (ILO). Consequently, the recent literature on employment legislation has extensively focused on the flexibility of the labor market, as a fair middle ground is always necessary to avoid undue distortions that can negatively impact the economy and worker’s wellbeing. This chapter analyzes the provisions of the labor law in Haiti and how it affects job security and flexibility to observe a flexible structure that rather benefits employers. Notably, labor law in Haiti may have in fact rendered workers more vulnerable because these labor legislations were enacted on the assumption that employers and workers are on the same footing when it comes to industrial relations, while historic facts do not support such an assumption.

INTRODUCTION

According to the World Bank, Employment Protection Legislation (EPL) is designed to “create conditions that are more conducive to job creation, protecting employment and improving working conditions” (World Bank, 2007a). However, in emerging and developing economies, EPL requirements often remain merely statements of desirable goals as their enforcement is generally challenged by rampant corruption and a lack of manpower (see, for example, Dollar et al., 2002; Li, 2008 and D’Souza, 2010). In Haiti, there are additional challenges in transforming EPL into a useful socioeconomic tool as the labor legislations are, by any standard, far too complicated for its relatively inchoate economic system. Labor relations in Haiti are governed by the general provisions in the Haitian Civil Code (Code civil Haïtien), as well as the special provisions enshrined in the Haitian Labor Code (HLC) (Code du travail Haïtien) such as those relating to labor standards and unionization. Framed to protect and regulate wage-earning industrial and agricultural workers, many of the provisions of the HLC are modeled on the 22 ILO conventions on labor standard ratified by Haiti. This Labor Code, which was inspired by international standard, has given rise to a very sophisticated administrative structure designed for its enforcement, and is enacted on the assumption that employers and workers are on the same footing in industrial relations. Although in theory the provisions of the Code cover every aspect of the notion of decent work, as promoted by the ILO, they are by no means the result of a long empirical evolution of the Haitian labor law. This paper analyzes the provisions of the Haitian labor law in relation to job security, that is, those governing the hiring and firing of workers and their treatment on the job, so as to understand the role of EPL in the Haitian labor market.

The rest of the paper is organized as follows: Section 2 provides a brief overview of the current economic and legal context of Haiti; Section 3 analyzes the provisions for the hiring and firing of workers; Section 4 looks at the treatment of workers on the job; and Section 5 concludes.

ECONOMIC AND LEGAL CONTEXT

For the past decades, the Haitian economy has been in a tailspin. As domestic political unrests raged and per capita income stagnated, unemployment rates have skyrocketed and the general social welfare has significantly deteriorated. For example, the unemployment increased sharply from 7.2% in 1998 to reach a historic high of 16.8% in 2007, before gradually decreasing to 13.2% in 2016, a level that is almost twice that of 1999 (see Figure 1 below: Solid line). As for the GDP per Capita, it started plummeting from 2000 to reach a trough of USD 1,502 in 2010 before it
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