

Risk Analysis of Labor Violations Among Farmworkers in the Guatemalan Sugar Sector

A Report on Findings from
Rapid Appraisal Research

JULY 2017



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A summary of this report can be found here: <https://goo.gl/S2onvw>

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Introduction and Summary

Guatemala plays a major role in the global sugar trade, as the world's fourth largest sugar exporter and the third leading exporter of sugar to the United States in 2015.¹ Verité chose to carry out rapid appraisal research on labor conditions on Guatemalan sugarcane plantations due to Guatemala's important role in the global sugar trade and indications that workers employed on sugarcane plantations were vulnerable to exploitation. Past studies on labor conditions among Guatemalan and Central American agricultural workers,² as well as Verité's past research in the Guatemalan coffee and palm oil sectors, indicated a high risk of labor violations.³

Rapid appraisal research was carried out by Verité and REACH (Research-Education-Action-Change) on labor conditions in Guatemalan sugarcane production in late 2016. Researchers conducted a literature review, expert consultations, unstructured life story interviews with three workers, and in-depth survey interviews with 38 workers who performed a range of tasks on sugar plantations, including harvesting sugarcane. Verité's research builds from several earlier reports examining working conditions in the Guatemalan sugar industry and uses it to contextualize Verité's more recent findings.

Researchers did not scientifically sample respondents, and thus the results of the study are not statistically representative and are not meant to be interpreted as such. However, using qualitative research methods, the researchers have been able to portray a rich description of the experiences of a group of Guatemalan sugarcane workers, some of whom endured highly concerning labor abuses. Verité's triangulation of these findings through review of relevant literature and interviews with local experts suggests that the experiences of workers interviewed were not isolated or unusual, but reflective of systemic issues within the industry. Additional in-depth research would be required to document the prevalence of the labor abuses found here in a more precise and conclusive manner.

Verité found indicators of labor trafficking and evidence of recruitment abuses, child labor, restrictions on workers' right to freedom of association, gender-based discrimination, wage and hour violations, threats to workers' health and safety, inhumane living conditions, and negative impacts on communities surrounding sugar plantations. Issues uncovered by Verité that were especially concerning and had not been specifically analyzed by prior research included exploitative recruitment and hiring practices, indicators of labor trafficking, and severe health and safety violations.

Verité research has consistently found that being hired through labor brokers increases workers' vulnerability to a range of labor abuses. Most of the workers interviewed by Verité for this study had been hired by labor brokers, none of whom showed their recruits a power of attorney letter, as required by law. Verité research found that workers hired through brokers were often charged recruitment fees and



wage deductions, potentially heightening their vulnerability to debt bondage, and were deceived both about their terms of employment, in some cases even about the sector in which they would be working. Furthermore, researchers found that workers were not provided with written contracts or other documents detailing the terms of their employment, making them vulnerable to deception and changes in their conditions of work.

Research on human trafficking was guided by the International Labor Organization's (ILO's) operational indicators of trafficking for labor exploitation, which are broken down into indicators of deceptive recruitment, coercive recruitment, recruitment by abuse of vulnerability, exploitation, and coercion at destination. Verité found evidence of the existence of many indicators of forced labor including the recruitment-related issues mentioned above, many of which are also indicators of trafficking. Other major trafficking-related risks identified by Verité included forced overtime, due in large part to quotas and a productivity-based payment system; restrictions on workers' freedom of movement, including through the retention of identity documents; indebtedness to labor brokers and company stores; and evidence of induced addiction to drugs, including opioids.

Sugarcane production, by its nature, puts workers at risk, often requiring physically demanding labor with machetes and long hours of exposure to high temperatures, agrochemicals, and smoke from burning cane fields. Workers are vulnerable to heat exhaustion and dehydration, as well as workplace injuries and chronic kidney disease (CKD), an often fatal and poorly understood illness common among cane cutters. Findings that are of specific concern were serious injuries and pesticide exposure; a lack of access to potable water, breaks, and shade, which, combined with other factors are believed to cause CKD; and a lack of access to health care.

Many workers interviewed reported that children worked on sugar plantations and often carried out hazardous tasks, such as applying pesticides and using machetes to harvest sugarcane. Workers reported that payment violations are common, including payments far below the minimum wage and gender-based wage discrimination. Researchers found that many workers lacked access to sufficient food and potable water in employer provided housing. Workers also lacked access to grievance mechanisms allowing them to report labor abuses and seek redress.

Verité has developed actionable recommendations for companies seeking to improve working conditions in the sugar sector, as well as recommendations for the Guatemalan government. Given that Verité's rapid appraisal research is not statistically representative at a sectoral or country level, Verité recommends that all stakeholders, including government agencies, foundations, international organizations, and brands should seek to support more in-depth research to clarify the prevalence of labor abuses, including labor trafficking and CKD, in the Guatemalan sugar sector.

Verité recommends that the Guatemalan government take measures to increase the capacity of the labor inspectorate to enforce labor law, take measures to register and monitor labor brokers, improve efforts to combat human trafficking for labor exploitation, and take actions to protect workers from labor violations detected on sugar plantations. Furthermore, Verité recommends that multinational companies, commodity traders, and the Guatemalan sugar mills that supply them take the following actions: address known causes of CKD; mandate that every worker receive the minimum wage independent of production; improve workers' access to food and take measures to ensure that workers do not become indebted to company stores; increase access to affordable childcare and education to reduce child labor on sugar plantations; undertake measures to improve workers' understanding of their terms of employment and how their compensation is calculated; and provide workers with adequate grievance mechanisms allowing them to confidentially report labor abuses.

This rapid appraisal uncovered a wide range of very serious labor conditions on Guatemalan sugarcane plantations, including indicators of human trafficking, many of which can be linked back to structural conditions in Guatemala generally and in its agricultural sector in particular. However, it should be noted that these labor vulnerabilities in sugarcane production are not isolated to Guatemala. Sugar production worldwide is characterized by difficult, dangerous work processes often carried out by vulnerable or marginalized populations. Sugarcane producers often use recruiters to find workers for this grueling work, which can exacerbate vulnerability to labor abuses.⁴



List of Terms

Acronyms

ASAZGUA	“Asociación de Azucareros de Guatemala”—a non-profit Guatemalan Sugar Association
ASIES	Association of Social Science Research
CAFTA-DR	Dominican Republic-Central America-United States Free Trade Agreement
CIDH	Center for International Human Rights Research
CKD	chronic kidney disease
CODECA	“Comité de Desarrollo Campesino”—the Committee on Rural Development
COVERCO	Commission for the Verification of Codes of Conduct—a Guatemalan civil society organization
DPI	Guatemalan National Identity Document
ENEI	National Survey of Employment and Earnings
GTQ	Guatemalan Quetzal
IGSS	Guatemalan Social Security Institute
ILO	International Labor Organization
ILRF	International Labor Rights Forum
ITUC	International Trade Union Confederation
OISS	“Organización Iberoamericana de Seguridad Social”—Iberian American Social Security Organization
PDH	“Procurador de los Derechos Humanos”—Human Rights Ombudsman
PPE	Personal Protective Equipment
SVET	Office of the Secretary against Sexual Violence, Exploitation, and Human Trafficking
USDA	U.S. Department of Agriculture

Common Spanish Terms

Campesino – peasant worker

Canasta Basica de Alimentos – a basic basket of food containing 26 products needed to meet a family of five's basic nutritional needs

Canasta Basica Vital – the Canasta Basica de Alimentos with the addition of water, electricity, housing, health services, transport, recreation, and education

Capataz – supervisor

Caporal – overseer or labor broker in charge of recruiting and overseeing workers

Carta poder – power of attorney letter giving a labor broker authorization to carry out recruitment activities on behalf of an employer

Chamorreros – vendors who work with labor brokers

Constancia – written proof of a worker's terms of employment

Contratistas – labor brokers

Cortadores de caña – workers who cut the cane after it is burnt, largely sub-contracted temporary laborers

Cuadrillas – crews who are supervised by a caporal

Fumigadores de caña – workers who spray the cane with pesticides and herbicides

Galeras – employer-provided housing, generally large open structures that lack walls and bathrooms

Ladinos – the Guatemalan term for mestizo

Limpiadores y regadores de la caña – workers who clear weeds and water the cane

Montoncito – literal translation is a "little mound," a unit of sugarcane harvested

Organizaciones Solidaristas – solidarity organizations

Paso – a measurement of the amount of cane cut, according to the distance between each step

Pastillas sin sueño – literal translation is "no sleep pills," workers take them to be able to put up with the physical rigors of their jobs

Pilotos/jaladores de jaulas de caña – workers who transport cane from the farms to the mills

Preparadores de terreno – workers who prepare the land for planting

Sembradores de caña – workers who plant the sugarcane

Sueros – liquids containing unknown substances, workers drink them to be able to put up with the physical rigors of their jobs

Tarjeta – a card documenting the terms of employment

Voluntarios – self-employed workers who are paid piece rates directly by plantation owners

Departments Under Study



Research Methodology

In the United States, initial desk research and report writing were carried out by Verité researchers with regional expertise. Research in Guatemala was carried out by Verité’s longtime local partner organization, REACH (Research-Education-Action-Change) and included researchers with both Spanish and indigenous language capability (K’iche, Mam, and Tz’utujil).

Verité and REACH carried out rapid appraisal research in late 2016. Desk research was conducted, including a review of relevant local and international publications and any available reports on labor conditions in the sugar sector. The Guatemalan sugar sector supply chain was mapped, including key production areas.

Field research was then conducted. Field research began with expert consultations in Guatemala City, in which interviews were carried out with relevant national-level experts to gain a better understanding of the major issues present in the sugar sector, the supply chain, and the areas in which labor abuses were most likely present. This helped the researchers to focus on the main areas of sugar production with the highest risks of worker exploitation. Subsequently, interviews with local experts and with workers themselves was carried out in a set of primary communities of origin for migrant workers in sugarcane production, as well as in key areas in which sugar is produced. The sugar producing departments visited included Retalhuleu, Suchitepéquez, and Escuintla. The departments in which researchers visited workers’ communities of origin included Quetzaltenango, Quiché, Retalhuleu, San Marcos, Sololá, and Suchitepéquez.

Sampling

Researchers conducted interviews with experts from 16 institutions, including national and local-level government offices; labor unions and workers' organizations; international, national, and local-level civil society organizations; and an individual who transports workers from their communities to sugarcane plantations.

Summary of Expert Consultations	
Number of Institutions Consulted	Category of Institution Consulted
7	Government
3	Union/Workers' Organization
5	Civil Society Organizations
1	Worker Transporter

The collection of testimonies directly from workers themselves is a key element of Verité's research. Researchers interviewed 41 workers, carrying out survey interviews with 38 workers using a structured questionnaire containing 70 questions. Three workers were selected for unstructured life stories interviews for in-depth case studies. Verité sought to interview a diverse group of workers from various communities of origin who worked in various departments and plantations in Guatemala. Due to the small number of worker interviews and the lack of a scientific sampling strategy, this sample cannot be taken to be representative at a national or sector level. This rapid appraisal research was not intended to determine prevalence of labor violations, but rather to uncover risks that should be further explored by in-depth research and company assessments. The goal of the appraisal was to investigate risks that are prominent across the sector rather than single out specific companies or workplaces.

Verité researchers generally focused on interviewing workers in their communities of origin, either after workers had migrated home following a harvest season or in the communities surrounding plantations where they live. Often, in the agricultural sector, only a small portion of the workforce is comprised of permanent, salaried workers, while a large majority of workers are seasonal workers who, in many cases, are unregistered and absent from payroll records. On-site interviews risk missing this more vulnerable population. Furthermore, workers who are interviewed in their places of work are more vulnerable to surveillance or reprisal. Verité has found that research focused in communities of origin can uncover and better illuminate evidence of labor abuse that may have gone undetected by workplace-based investigations.

Researchers obtained informed consent from workers at the beginning of each interview and confirmed consent at several key points during the interview interaction. Researchers took precautions to protect the identities of workers and experts interviewed, such as by using codes rather than names on questionnaire instruments. This report does not contain any names or identifying characteristics of workers or experts interviewed. Any names contained in this report are aliases.

Demographics of Respondent Population

Of the 38 workers interviewed, 21 (55 percent) were migrant workers who moved from their communities to live on or near the farm for seasonal work, and 17 (45 percent) commuted daily from their homes to their place of work. Thirteen of the workers interviewed (34 percent) were employed in Escuintla, another 13 (34 percent) were employed in Suchitepéquez, seven (18 percent) were employed in Santa Rosa, and five (13 percent) were employed in Retalhuleu. Of the 38 workers interviewed, 23 (61 percent) reported that they considered themselves indigenous. Ten workers (26 percent) reported that they were not indigenous and five (13 percent) reported that they were “Ladinos,” the Guatemalan term for mestizo. Of the workers interviewed, 24 (63 percent) spoke an indigenous language as their first language and 14 (37 percent) spoke Spanish as their first language.

All 38 workers interviewed performed a range of tasks on sugar plantations, and many had multiple responsibilities. Thirty-six workers (95 percent) reported cutting cane, 16 (42 percent) reported clearing cane, eight (21 percent) reported fumigating cane, and three (eight percent) reported fertilizing cane fields. Individual workers performed other tasks, including reseeding cane, carrying cane to trucks, and burning trash. Researchers also interviewed a “capataz” or supervisor who cut sugarcane alongside the crew of workers that he supervised.

Summary of Worker Interviews	
Number of Interviewees	Location of Interviews
10	Quiché
10	Retalhuleu
10	Sololá
8	Suchitepéquez
3	In-depth Interviews

Analytical Framework

For this report, Verité researchers collected and cross-analyzed data from desk research, expert consultations, and worker interviews to triangulate data points.

Verité’s assessment of the existence of labor violations is based primarily upon Guatemalan law and international standards, namely the International Labor Organization’s (ILO’s) Fundamental Conventions and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), also known as the Palermo Protocol.⁵ A summary of Guatemalan law is contained at the beginning of each major section of the report. Verité sought to determine whether workers employed in the sugar sector worked under conditions that were in violation of these laws. The ILO’s eight fundamental or core conventions establish international standards for treatment of workers and cover four areas of labor practice, with two conventions each addressing freedom of association and collective bargaining, forced labor, child labor, and equality/discrimination. The table below lists the titles of the eight Fundamental Conventions.⁶ The Palermo Protocol also establishes an internationally accepted definition of human trafficking, which serves as the basis for our analysis of the existence of indicators of labor trafficking.

Fundamental Conventions of the International Labour Organization
<u>Freedom of Association and Collective Bargaining</u> Freedom of Association and Protection of the Right to Organize Convention, 1948 (Convention 87) Right to Organize and Collective Bargaining Convention, 1949 (Convention 98)
<u>The Abolition of Forced Labor</u> Forced Labor Convention, 1930 (Convention 29) Abolition of Forced Labor Convention, 1957 (Convention 105)
<u>The Elimination of Child Labor</u> Minimum Age Convention, 1973 (Convention 138) Worst Forms of Child Labor Convention, 1999 (Convention 182)
<u>Equality/Discrimination</u> Discrimination (Employment and Occupation) Convention, 1958 (Convention 111) Equal Remuneration Convention, 1951 (Convention 100)



Building on Verité’s extensive experience researching indicators of forced labor in Guatemala and elsewhere, researchers carried out a rapid analysis on the existence of indicators of human trafficking for labor exploitation in Guatemala. Verité chose to research indicators of human trafficking, as opposed to forced labor, given that while Guatemalan law explicitly prohibits human trafficking, it lacks an explicit prohibition of forced labor.

The Indicators of Trafficking of Adults for Labor Exploitation used in this analysis and in the table below were derived from the ILO’s Operational Indicators of Trafficking of Human Beings which were developed as part of the Delphi Methodology, which sought to generate a consensus on human trafficking indicators through input from experts from 27 European Union (EU) Member States. These indicators were developed in accordance with the Palermo Protocol which defines human trafficking as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”⁷

In the Human Trafficking and Forced Labor section of this report, Verité provides information about specific indicators mentioned by workers. For each indicator, Verité offers detailed guidance, developed by the ILO, on the nature of each indicator.⁸ Below is a list of strong and medium “indicators of trafficking of adults for labor exploitation” developed by the ILO.⁹ Many indicators of human trafficking encompass one or more aspects of labor abuse that can also be examined through other lenses and frameworks. For example, the existence of chronic kidney disease among Guatemalan sugarcane workers can be considered as part of an evaluation of the human trafficking indicator “Hazardous Work”, as well as within a broader discussion of health and safety risks in the sugar sector. In cases where there is overlap of this nature, Verité has pulled in all aspects of labor abuse that are relevant to the ILO’s human trafficking indicators, and explored these abuses in more depth in separate sections of the report.

It should be noted that although the existence of indicators of labor trafficking¹⁰ indicates that there is a risk of trafficking in the sector, it is necessary to examine the interplay of indicators in the case of each individual worker to determine the existence or prevalence of trafficking. For this rapid appraisal research, Verité did not seek to determine the existence or scale of human trafficking or forced labor, but rather to highlight the risk of labor violations, including labor trafficking. This report does not make claims to the existence or scale of labor trafficking in the country or the sector.

INDICATORS OF TRAFFICKING OF ADULTS FOR LABOR EXPLOITATION	
INDICATORS OF DECEPTIVE RECRUITMENT	
Strong Indicator	Medium Indicators
Deceived about the nature of the job, location or employer	<ul style="list-style-type: none"> Deceived about conditions of work Deceived about content or legality of work contract Deceived about family reunification Deceived about housing and living conditions Deceived about legal documentation or obtaining legal migration status Deceived about travel and recruitment conditions Deceived about wages/earnings Deceived through promises of marriage or adoption

INDICATORS OF COERCION AT DESTINATION	
Strong Indicators	Medium Indicators
<ul style="list-style-type: none"> Confiscation of documents Debt bondage Isolation, confinement or surveillance Violence on victims 	<ul style="list-style-type: none"> Forced into illicit/criminal activities Forced tasks or clients Forced to act against peers Forced to lie to authorities, family, etc. Threat of denunciation to authorities Threat to impose even worse working conditions Threats of violence against victim Under strong influence Violence on family (threats or effective) Withholding of wages

INDICATORS OF COERCIVE RECRUITMENT	
Strong Indicator	Medium Indicators
Violence on victims	Abduction, forced marriage, forced adoption or selling of victim Confiscation of documents Debt bondage Isolation, confinement or surveillance Threat of denunciation to authorities Threats of violence against victim Threats to inform family, community or public Violence on family (threats or effective) Withholding of money

INDICATORS OF EXPLOITATION	
Strong Indicator	Medium Indicators
Excessive working days or hours	Bad living conditions Hazardous work Low or no salary No respect of labour laws or contract signed No social protection (contract, social insurance, etc.) Very bad working conditions Wage manipulation

INDICATORS OF RECRUITMENT BY ABUSE OF VULNERABILITY	
Strong Indicator	Medium Indicators
N/A	Abuse of difficult family situation Abuse of illegal status Abuse of lack of education (language) Abuse of lack of information Control of exploiters Economic reasons False information about law, attitude of authorities False information about successful migration Family situation Personal situation Psychological and emotional dependency Relationship with authorities/legal status

INDICATORS OF ABUSE OF VULNERABILITY AT DESTINATION	
Strong Indicators	Medium Indicators
N/A	<ul style="list-style-type: none"> Dependency on exploiters Difficulty to live in an unknown area Economic reasons Family situation Relationship with authorities/legal status

Limitations

This rapid appraisal research was qualitative in nature and sought to uncover information about the presence of labor and human rights risks. While workers from a variety of regions and employed in a range of locales were interviewed, the sample was not statistically representative and no claims are made regarding national- or sector-wide prevalence.

The level of insecurity in Guatemala cannot be overemphasized as a research challenge. Due to rampant violence and crime, a climate of fear reigns in the country, causing individuals to become extremely cautious about airing grievances or talking with outsiders. Guatemala has one of the highest homicide rates of any country in the world, including many murders of high profile figures, labor unionists, and NGO activists and vigilante killings. Suspicion of outsiders is high, particularly related to fears of trafficking of indigenous children for illegal adoption. The research team was therefore careful to form partnerships with trusted and respected local NGOs, as well as community and religious leaders to obtain permission to operate in particular regions and to ensure the security of the interview respondents and researchers.

Due to human subject considerations, Verité did not interview any children directly. This research reflects only the perceptions of adult workers about child labor, not



those of children. No determinations have been made about actual cases of child trafficking.

Background on Sugar Production

The Background section examines the structure of the sugar industry and its labor force, both globally and in Guatemala in particular. Socio-economic factors are also important considerations in the exploration of labor abuse. Guatemala has high levels of poverty and inequality and low levels of human development. Economic desperation, coupled with pervasive societal violence, have led to waves of migration, both internal and external. The growth of youth gangs and organized criminal groups has fueled a further acceleration in violence to levels rivaling those seen during the 36-year long civil war. The predominantly indigenous agricultural labor force is especially vulnerable to exploitation, and the lack of effective enforcement of labor law has increased these workers' vulnerability. These factors are discussed in further detail in an appendix to this report.

Sugar Production Worldwide

Sugar is one of the most important agricultural products in the global economy. Sugar is used in a wide range of confectionary products and beverages, including soft drinks and alcoholic drinks. Sugarcane goes into animal feed and industrial products, such as glue, and is an important source of biofuel, accounting for over half of the ethanol produced globally.¹¹

Sugar can be derived from two different sources: sugar beets, predominantly grown in temperate regions, and sugarcane, grown in tropical and sub-tropical regions. About 70 percent of sugar produced worldwide comes from sugarcane,¹² which resembles bamboo and can grow to be 20 feet tall.¹³ Worldwide, sugarcane cultivation takes up roughly 30 million hectares, about the size of the state of Nevada.¹⁴

Demand for sugar has been rising,¹⁵ with sugar consumption growing by 2.7 percent annually, on average, over the last 50 years. Its global export value more than quadrupled between 2000 and 2011, rising from USD 10 billion to USD 47 billion.¹⁶ Sugar production has nearly doubled, over the past two decades, to keep up with rising demand.¹⁷

Over 120 countries grow sugar and the top producers are Brazil, India, the EU, Thailand, China, the United States, and Mexico. Brazil is the world's largest exporter of sugar by a significant margin, followed by Thailand, Australia, and Guatemala.¹⁸ Only 30 percent of sugar produced worldwide is sold on the international market, while 70 percent is consumed in the country where it was produced.¹⁹ The biggest consumers include many of the major producers, with India, the EU, China, the US,

and Brazil topping the list.²⁰ The United States was the fifth largest producer and consumer of sugar in the world²¹ and it imported most sugar from Mexico, Brazil, and Guatemala.²²

Sugar Production by Country						
May	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17
Brazil	36,150	38,600	37,800	35,950	34,650	37,070
India	28,620	27,337	26,605	30,460	27,700	25,500
European Union	18,320	16,655	16,020	18,449	14,000	16,500
Thailand	10,235	10,024	11,333	10,793	9,740	10,100
China	12,341	14,001	14,263	11,000	8,430	8,230
United States	7,700	8,148	7,676	7,853	8,104	7,902
Mexico	5,351	7,393	6,382	6,344	6,555	6,466
Pakistan	4,520	5,000	5,630	5,164	5,085	5,365
Russia	5,545	5,000	4,400	4,350	5,200	5,320
Australia	3,683	4,250	4,380	4,700	5,000	5,000
Guatemala	2,499	2,778	2,862	2,975	2,975	3,050
Turkey	2,262	2,130	2,300	2,055	2,000	2,500
Colombia	2,270	1,950	2,300	2,350	2,250	2,320
Indonesia	1,830	2,300	2,300	2,100	2,025	2,200
Philippines	2,400	2,400	2,500	2,150	2,100	2,200
Egypt	1,980	2,000	2,013	2,067	2,125	2,185
Argentina	2,150	2,300	1,780	2,150	2,060	2,100
Cuba	1,400	1,600	1,650	1,850	1,625	1,800
Ukraine	2,300	2,400	1,196	1,728	1,550	1,680
South Africa	1,897	2,020	2,435	2,192	1,684	1,660
Vietnam	1,400	1,650	1,725	1,545	1,650	1,650
Peru	1,072	1,080	1,150	1,480	1,350	1,500
Iran	1,370	1,300	1,300	1,350	1,350	1,350
Japan	750	760	750	800	800	800
Nicaragua	615	712	745	695	662	760
Other	13,689	14,170	14,606	14,674	14,253	14,123
Total	172,349	177,958	176,101	177,224	164,923	169,331

- 1,000 Metric Tons, Raw Value

Exporters for cane or beet sugar and chemically pure sucrose, in solid form in 2015, by export value²³

Exporters	Value exported in 2015 (USD thousand)	Annual growth in value between 2011-2015 (%)	Share in world exports (%)
World	22,290,127	-11	100
Brazil	7,641,481	-15	34.3
Thailand	2,627,922	-10	11.8
India	1,186,417	-14	5.3
France	1,100,540	-12	4.9
Guatemala	850,579	8	3.8
Mexico	806,584	-6	3.6
Germany	471,163	-12	2.1
Cuba	418,915	-3	1.9
Belgium	352,256	-9	1.6

Exporters for cane or beet sugar and chemically pure sucrose, in solid form in 2015, by quantity (in tons)²⁴

Exporters	Quantity exported in 2015	Quantity Unit	Annual growth in quantity between 2011-2015 (%)
World	59,050,067	Tons	2
Brazil	24,012,276	Tons	-1
Thailand	7,591,328	Tons	2
India	3,068,247	Tons	-1
France	2,287,082	Tons	-1
Guatemala	2,137,513	Tons	14
Pakistan	1,583,608	Tons	238
Mexico	1,528,458	Tons	9
Cuba	1,118,673	Tons	13
Germany	886,751	Tons	-2

List of supplying markets for cane or beet sugar and chemically pure sucrose, in solid form imported by the United States in 2015²⁵

Exporters	Share in U.S. imports (%)	Quantity imported in 2015 (in tons)	Quantity unit	Growth in imported quantity between 2011-2015 (% p.a.)	Ranking of partner countries in world exports	Share of partner countries in world exports (%)	Total exports growth in value of partner countries between 2011-2015 (% p.a.)	Average tariff (estimated) applied by United States of America (%)
Mexico	44.7	1399451	Tons	4	6	3.6	-6	0
Brazil	9.6	305352	Tons	-11	1	34.3	-15	28.9
Guatemala	6.8	261084	Tons	8	5	3.8	8	12
Dominican Republic	5.6	176534	Tons	-8	38	0.4	-10	12
El Salvador	4.1	142670	Tons	-4	19	0.9	43	12
Costa Rica	3.5	135145	Tons	10	40	0.4	6	12
Australia	3.2	112283	Tons	-2	53	0.3	-22	14.5
Colombia	2.8	69560	Tons	13	10	1.6	-12	12
Honduras	1.7	65337	Tons	22	51	0.3	8	12
Paraguay	2.8	64115	Tons	9	48	0.3	-6	12

Factors That Affect Sugar Prices

Sugar Quotas and Subsidies

Global sugar prices are extremely volatile and often fall below the cost of production. Major sugar producing countries, including the United States, Thailand, Mexico, Brazil, and the EU subsidize sugar production, distorting world market prices.²⁶ For example, the U.S. sugar program, which includes loan guarantees, price supports, and import quotas, costs between USD 3-4 billion each year.²⁷ EU farmers will receive, by some estimates, USD 665 million annually following agricultural policy reforms that came into effect in 2017.²⁸ Sugar producers in developing countries, such as Guatemala, are left in the difficult position of competing directly with richer countries that subsidize sugar production. Additionally, the costs of inputs such as fertilizer have been rising, exacerbating this problem.²⁹

The United States has protected its sugar market through tariffs and quotas since its founding and currently uses tariff rate quotas. A tariff rate quota allows imports

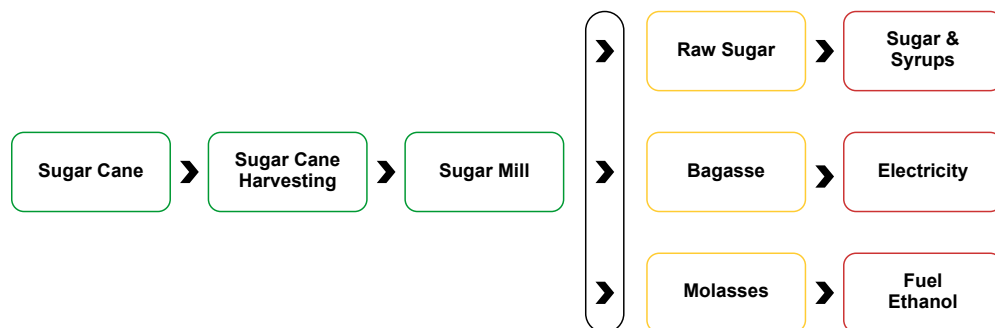
up to a certain quantity at a negligible or zero duty. Imports above the quota are permitted but subject to a prohibitively high import duty of 15 cents per pound of raw sugar that in effect makes such imports impossible.³⁰ Countries with regional free trade agreements, including Guatemala under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), can export sugar to the United States with minimal or no duties until the quota is met.³¹ U.S. prices generally exceed the prices countries can secure on the world market.

Sugar Supply Chain and Production Process

The various levels of the sugar supply chain include producers, mills, exporters, importers, refiners, and retailers. Sugar gains most of its value through processing, which requires expensive technologies which small producers are rarely able to access. Mills are typically located near sugarcane farms to facilitate rapid delivery of harvested cane to mills, ideally within 48 hours, since sucrose content begins to fall after cane is cut, lessening its value.³²

Sugar production is a long and labor-intensive process that requires several steps. The first is planting, which involves weeding and in some cases irrigation and application of fertilizer and herbicides.³³ Harvesting is commonly done by hand with machetes, which limits damage to the plants compared to machine harvesting and requires less capital and technological investment.³⁴ Machine harvesting, in which machines sever sugarcane stalks near the ground and remove leaves from the tops of the plants, can be more cost-efficient in the long-term but is capital intensive in

The Sugar Cane Refining Process



the short-term and is thus typically employed only on larger-scale plantations.³⁵ Prior to harvesting, cane fields are often burned, which reduces the amount of manual labor required during the harvest. Burning removes the roughly 25 percent of a cane plant comprised of leaves and other matter not containing sugar.³⁶ Once harvested, the cane is weighed, sorted according to quality, and transported to mills.³⁷

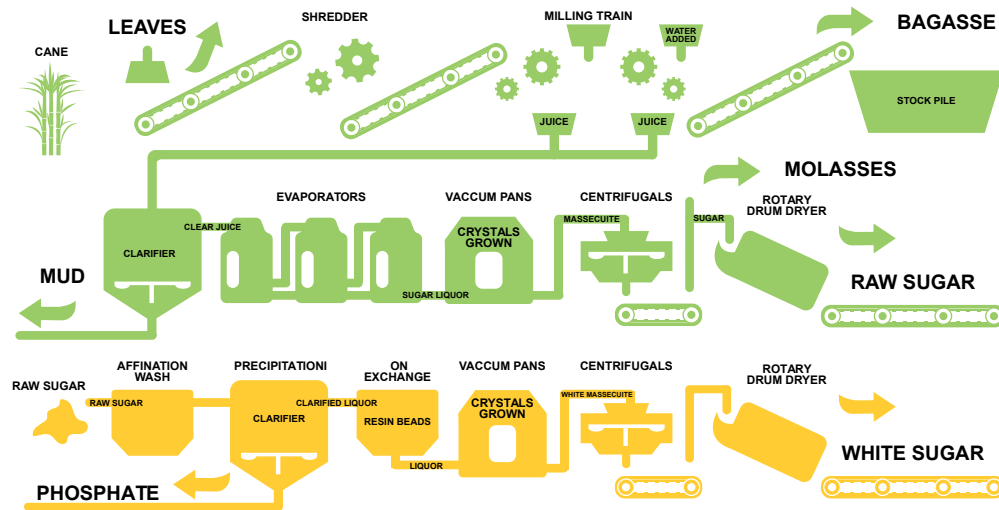
At the mills, the process of extracting sugar from the sugarcane plant begins. Sugarcane stalks are cut into segments and fed into shredders that crush and grind the cane stalks, separating the juice from the cane fiber. The juice is then purified, concentrated, and crystallized until raw sugar is produced.³⁸ This process produces yellow-brown unrefined sugar and molasses.³⁹ Other products generated at mills include bagasse, a fibrous byproduct from sugar that can be used to generate electricity; molasses, formed by repeated crystallization of sugar; animal feed; and ethanol or other biofuels.⁴⁰

Raw sugar is less perishable and can be transported abroad, allowing refiners in consumer countries to source sugar from distant countries.⁴¹ Trading companies often act as middlemen, purchasing sugar from countries where it is produced and selling it to refiners in consumer countries. Six European and American sugar traders control about two-thirds of the global sugar trade.⁴² Refiners further purify raw sugar into the granulated, refined, or brown sugar typically used by consumers.⁴³ The refined sugar is purchased by companies and sold as table sugar or incorporated into foods and beverages.⁴⁴

The labor-intensive nature of sugarcane production provides employment and livelihoods for many workers. Production takes place on both large commercial plantations as well as smallholder farms, usually under contract arrangements, which can provide farmers with inputs, technology, access to markets, and the potential for reduced financial risk. These schemes can also lead to unequal power relationships between smallholder farms and sugar companies, particularly if they create debt cycles when farmers have to borrow money to invest in their production and that investment does not pay off in earnings from sales.⁴⁵ Previous research has noted that the expansion of smallholder schemes can result in land grabs.⁴⁶



The Sugar Cane Refining Process



Sugar Production in Guatemala

The sugar industry plays a vital role in Guatemala's economy, bringing in needed foreign exchange earnings, accounting for three percent of the country's gross domestic product (GDP), and providing 385,000 direct and indirect jobs.⁴⁷ Raw sugar is currently Guatemala's second largest export, making up 8.5 percent of total exports in 2015, at a value of roughly USD 999 million.⁴⁸ In some cases, municipal authorities have reportedly borrowed money from sugar mills to cover public salary expenses, demonstrating the government's reliance on the sugar sector.⁴⁹

Sugar production in Guatemala has been expanding rapidly since the 1960s, driven by growing international demand for sugar as well as biofuels derived from sugarcane.⁵⁰ Over the past two decades, sugar production has more than doubled due to the expansion of plantations, combined with increased efficiency.⁵¹ The area of land used for sugar cultivation has grown dramatically, more than quadrupling between 1980 and 2008.⁵² By the 2015-2016 harvest, sugarcane was being grown on 270,000 hectares,⁵³ covering 12 percent of the country's arable land, according to one estimate.⁵⁴

Guatemala is a major player in the global sugar trade. In 2015-2016, it was the 11th largest sugar producer in the world, generating 2,975,000 tons, roughly 1.8 percent of global production.⁵⁵ Guatemala exported 73 percent of that harvest, or 2,255,000 metric tons of sugar, making it the fourth largest sugar exporter in the world.⁵⁶

Guatemala's population is less than an eighth the size of Mexico's or Brazil's, the other leading exporters in Latin America, leading to lower domestic consumption and higher exports.⁵⁷

On average, sugarcane production generally increases by five to six percent annually in Guatemala. However, the El Niño/La Niña phenomenon significantly influences outputs on an annual basis.⁵⁹⁸ Exports have been rising as well, with the annual growth in export value increasing by eight percent between 2011 and 2015.⁵⁹ The U.S. Department of Agriculture (USDA) has forecast that Guatemala will continue to be the world's fourth largest sugar exporter in 2016-2017.⁶⁰ Guatemala's sugar exports may be even higher than reported, as large amounts of sugar are smuggled out of the country to take advantage of higher sugar prices in neighboring countries. Guatemala's Economy Ministry has reported that roughly 40,000 tons of sugar are illegally smuggled over the border into Mexico each year.⁶¹

In 2015, Guatemala exported sugar to 56 countries.⁶² Major importers included China, Ghana, Chile, Malaysia, South Korea, and Tunisia.⁶³ The United States is consistently one of the largest importers of Guatemalan sugar,⁶⁴ and in 2014, Guatemala was the third largest supplier of raw sugar to the United States, providing 8.4 percent of U.S. sugar imports, at a value of USD 135 million.⁶⁵ Major multinational food and beverage companies source directly from Guatemala.⁶⁶

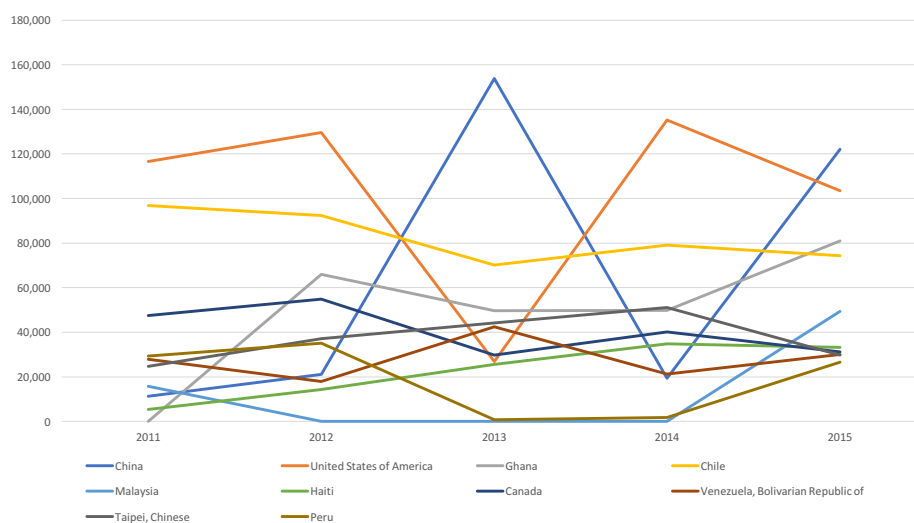
List of importing markets for cane or beet sugar and chemically pure sucrose, in solid form						
Importers	Value exported in 2015 (USD thousand)	Share in Guatemala's exports (%)	Quantity exported in 2015 (tons)	Growth in exported value between 2011-2015 (% p.a.)	Growth in exported quantity between 2011-2015 (% p.a.)	Ranking of partner countries in world imports
World	850,579	100	2,137,513	8	14	
China	122,133	14.4	324,283	60	65	2
United States of America	103,488	12.2	251,894	-2	4	1
Ghana	80,975	9.5	193,542		20	42
Chile	74,261	8.7	177,259	-7	0	31
Malaysia	49,336	5.8	133,850	26	34	5
Haiti	33,233	3.9	84,383	57	73	71
Canada	31,254	3.7	83,841	-11	-10	21
Venezuela	30,088	3.5	85,000	3	13	29
Taipei, Chinese	29,756	3.5	70,691	7	12	30
Peru	26,558	3.1	67,458	-27	-21	43

Guatemala is also the largest producer of alcohol derived from sugar in Central America.⁶⁷ In 2015, it ranked ninth globally in terms of production of rum and spirits made from distilled sugarcane, providing 3.5 percent of the world's total.⁶⁸ Production stands at about 269 million liters per year, much of it bound for the United States and Europe.⁶⁹

Exports of "rum and other spirits obtained by distilling fermented sugar-cane products"

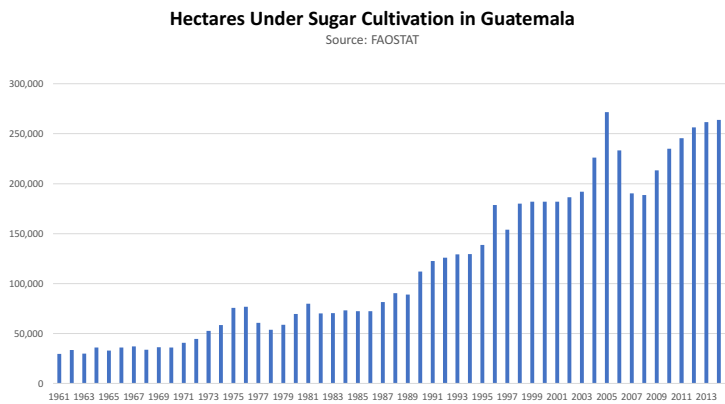
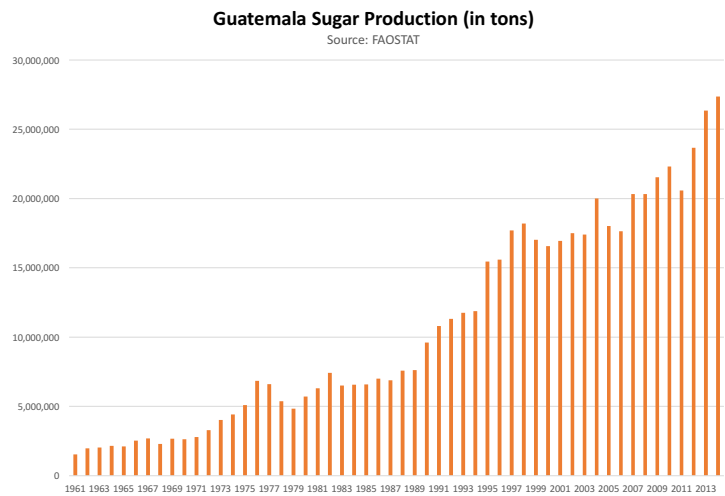
Exporters	Value exported in 2015 (USD thousand)	Quantity exported in 2015 (in tons)	Annual growth in value between 2011-2015 (%)	Annual growth in quantity between 2011-2015 (%)	Share in world exports (%)
World	1,215,314	0	0		100
1. Germany	165,409	25,585	-5	-4	13.6
2. United States of America	135,244	39,671	1	-5	11.1
3. Spain	114,725	23,569	-2	-3	9.4
4. Cuba	97,653	0	-5		8
5. Dominican Republic	76,173	29,896	12	-6	6.3
6. United Kingdom	50,175	6,558	4	1	4.1
7. France	45,040	8,913	5	-4	3.7
8. Netherlands	43,017	22,626	-3	6	3.5
9. Guatemala	42,695	18,734	16	13	3.5
10. Panama	41,664	14,770	7	3	3.4

Top 10 importers of Guatemalan sugar (by export value in thousands USD)
Source: trademap.org



Guatemala’s exports of ethanol derived from sugarcane and palm oil have also been climbing,⁷⁰ and the country is poised to become Central America’s largest producer of biofuels due to its high yields for these two crops.⁷¹ Five Guatemalan sugar mills currently produce ethanol, although not all of it is used for biofuel.⁷² In 2013, the USDA reported that Guatemala produced roughly 70 million liters of dehydrated ethanol, most of which was exported to the EU.⁷³

Guatemala is among the most efficient sugar producers in the world. According to the USDA, Guatemala’s yields doubled between the 1960s and 2015.⁷⁴ Guatemala was found to produce the third most sugar per hectare in the world during the 2013-2014 harvest,⁷⁵ and Guatemala has registered the highest yields and most competitive prices among all Latin American countries.⁷⁶ While an earlier study has attributed the high degree of efficiency to improved agricultural practices, including better irrigation techniques, pest management, and crop genetics; it should also be noted that these efficiency gains were realized in the context of very high production targets set for workers.⁷⁷



Primary Sugar Production



Geography of Production

Sugarcane is cultivated on approximately 270,000 hectares of land in Guatemala, roughly three percent of the country's overall landmass and 10 percent of all agricultural land.⁷⁸ With its tropical temperatures and high levels of rainfall, Guatemala is ideally suited for growing sugarcane. However, the Guatemalan Sugar Producers' Association (ASAZGUA) has claimed that a lack of land into which sugar cultivation can be expanded has limited the industry's growth.⁷⁹ Sugar production primarily occurs in four departments lying along the southern coast, which have rich volcanic soil: Retalhuleu, Suchitepéquez, Escuintla, and Santa Rosa.⁸⁰ Sugarcane was previously cultivated in northeastern Guatemala in the Polochic valley, where expansion of sugarcane incited conflicts and displaced local indigenous people from their land.⁸¹

Development of the Industry and Actors Involved

Control over the sugar industry has been concentrated in the hands of a small number of families since the 1500s, when colonizers began producing the crop using



the labor of the indigenous population and African slaves.⁸² A small group of families has consolidated control over all stages of sugar production,⁸³ leading the industry to become highly vertically integrated, with large companies managing cultivation, milling, and refining.⁸⁴

Eleven companies control Guatemala's 13 sugar mills, which dominate the sugar industry. The mills have invested in other areas, such as energy and transportation, increasing their economic and political power.⁸⁵ The country's major sugar producers participate in non-profit ASAZGUA, which was founded in 1957.⁸⁶ It oversees sugar exports,⁸⁷ and sets sugar prices.⁸⁸ It also apportions the U.S. sugar quota to the country's mills based on past performance, the capacity of mills, and previous quotas.⁸⁹

Mills control much of the farmland used to grow sugarcane, and the proportion of farming land that they control has been rising sharply in recent decades. Prior to 1980, mills controlled 20 percent of the land used for sugarcane cultivation,⁹⁰ but by 2008, mills owned 50-60 percent of land used for growing sugarcane.⁹¹ Even on land they do not own, the mills sometimes oversee the planting, cutting, and transport of sugarcane.⁹² Independent sugar growers, who are often large landowners,⁹³ only generate approximately 20 percent of the country's sugar supply.⁹⁴ Smallholder producers are extremely rare and contribute a negligible amount of sugar to mills.⁹⁵

Ten of Guatemala's 13 mills control the majority of cane cultivation, and are located within 65 km Expogranel,⁹⁶ the country's sole terminal for sugar exports. The remaining three mills occupy comparatively small areas.⁹⁷ With the capacity to load 48,000 metric tons of sugar each day,⁹⁸ Expogranel is the world's most efficient sugar loading terminal.⁹⁹ Some of the mills have the capacity to refine raw sugar. For the most part, however, the mills export raw sugar, via Expogranel, through exporters who sell it to multinational companies.¹⁰⁰

In recent years, mills have increasingly been generating their own electricity from bagasse, a byproduct of sugar production. Mills use this energy to run their own operations and may sell additional energy on the market, even outside of the harvest period.¹⁰¹

Guatemalan Sugar Mills ¹⁰²

	Mill	Department	Direct jobs
1.	Ingenio Pantaleón	Escuintla	Harvest: over 25,000 Non-harvest: over 12,000
2.	Ingenio Concepción	Escuintla	N/A
3.	Ingenio Palo Gordo	Suchitepéquez	Harvest: over 6,181 Non-harvest: over 1,715
4.	Ingenio La Sonrisa	Santa Rosa	N/A
5.	Ingenio La Unión	Escuintla	Harvest: over 9,325 Non-harvest: over 3,825
6.	Ingenio Magdalena	Escuintla	Harvest: over 9,325 Non-harvest: over 3,825
7.	Ingenio El Pilar	Retalhuleu	Harvest: over 4,500 direct employees Non-harvest: over 1,000 direct employees
8.	Ingenio Santa Ana	Escuintla	Harvest: over 6,132 Non-harvest: over 2,568
9.	Ingenio Trinidad	Escuintla	Harvest: over 3,700 Non-harvest: over 2,550
10.	Ingenio Madre Tierra	Escuintla	Harvest: over 6,700 Non-harvest: over 4,622
11.	Ingenio Tzulá	Suchitepéquez	Harvest: over 3,200 Non-harvest: over 1,700
12.	Ingenio Santa Teresa	Guatemala	Harvest: over 290 Non-harvest: over 84
13.	Ingenio Chabil Utzaj	Alta Verapaz	Harvest: over 3,200 Non-harvest: over 890

Guatemala's Sugar Plantation Labor Force

In Guatemala, 26 percent of agricultural laborers worked in sugarcane production, more than in any other crop, according to the Committee on Rural Development (CODECA).¹⁰³ The sugar industry provides employment to some 385,000 people in Guatemala, including both direct and indirect jobs. Of these, nearly 30,000 were sugarcane cutters,¹⁰⁴ as the clear majority (89 percent) of Guatemala's sugarcane was harvested manually during the 2010-2011 harvest.¹⁰⁵

During the harvest season, both local workers and migrant laborers from the western highlands work in the sugarcane fields of Guatemala's southern coast.¹⁰⁶ Some local workers travel by public bus or plantation-provided transportation to the farms, while others walk. Many wake up extremely early to travel to the plantations and avoid working during the hottest hours of the day. Plantations generally provide migrant workers with transportation, housing, and food.¹⁰⁷ Migrant workers live in employer-provided housing called "galeras," usually large open structures that lack walls and bathrooms.¹⁰⁸ Some migrant workers bring their children to the fields with them rather than leaving them alone in communal housing.

In 2005, the Guatemalan civil society organization, the Commission for the Verification of Codes of Conduct (COVERCO) found that about half of cane cutters were migrant workers.¹⁰⁹ By another estimate, 50 to 70 percent of cane harvesters migrate from other departments, while the remainder are locals.¹¹⁰ Workers primarily migrate from the departments of Quiché, Baja and Alta Verapaz, Quetzaltenango, Guatemala, and Chiquimula to harvest sugarcane in the departments of Retalhuleu, Escuintla, Suchitepéquez, and Santa Rosa, according to the U.S. Agency for International Development.¹¹¹ Workers interviewed reported that plantations preferred to hire migrant workers because they were less likely to complain, as they had very little leverage and lacked social networks. One expert interviewed reported that about 95 percent of cane cutters migrate to sugarcane plantations from the predominantly indigenous highlands.

According to the CODECA study, 69 percent of agricultural day laborers self-identified as Mayan, and six percent identified as Ladinos. Women comprised approximately 25 percent of the labor force, and children comprised 11 percent of the workforce.¹¹² The 2005 COVERCO study found that 20 percent of farmworkers in the sugar sector had received no schooling, while nearly 70 percent had not completed primary school. Many were supporting spouses and children, with 40 percent having five or more dependents.¹¹³

Sugar production requires labor throughout the year. "Preparadores de terreno" prepare the land for planting; "sembradores de caña" plant the sugarcane; "limpiadores y regadores de la caña" clear weeds and water the cane; and "fumigadores de caña" spray the cane with pesticides and herbicides, either manually or by plane. "Cortadores de caña," who are largely sub-contracted

temporary laborers, cut the cane once it has been burnt, during a harvest period that occurs during the dry season between November and May.¹¹⁴ “Pilotos/jaladores de jaulas de caña” transport cane from the farms to the mills. Workers are often hired for several of these tasks. Others involved in sugar production include foremen and contractors, bus drivers who transport workers, owners of stores on the farms, cooks who prepare meals for migrant workers, and labor brokers and crew leaders.

According to experts and workers interviewed by Verité, workers on sugarcane plantations labor under a variety of employment relationships. A small percentage of workers (less than five percent by most accounts) are employed as permanent, salaried workers. Other, predominantly local workers, known as “voluntarios” or volunteers, are considered self-employed workers, and are paid piece rates directly by plantation owners. These workers receive a flat rate per ton of cane they cut and load onto trucks bound for mills. Some workers are employed as members of “cuadrillas” or crews, who are supervised by a “caporal,” an overseer or labor broker in charge of recruiting and supervising workers.

Caporales may require upfront fees or payroll deductions and exert workers to be more productive. Like voluntarios, these workers are most often paid per ton of cane harvested. However, working directly for caporales offers workers an important advantage. Trucks that deliver cut sugarcane to mills reportedly pick up cane cut by cuadrillas first. Delays in transporting sugarcane to the mills can lead to lower pay for workers, since they are paid based on the weight of the cane they have harvested, and sugarcane loses weight as it dries after being cut.

Previous studies have found that the majority of workers are employed on a seasonal basis. In many cases, they are let go at the end of the harvest season and rehired at the beginning of the next harvest season for years or even decades on end, resulting in a lack of job security and benefits. According to the COVERCO study, over 95 percent of field workers were hired as temporary workers, most commonly for between three and six months during the harvest season. The CODECA study found that while only four percent of agricultural day laborers reported that they were permanent workers, 30 percent reported that they had worked on the same plantation for multiple years, indicating that their temporary work contracts were terminated and renewed year after year.¹¹⁵

The 2015 Fairfood International study found that, on average, the cane cutters surveyed had worked as temporary workers who were repeatedly laid off and rehired by the same plantations for the previous eight years. Many workers were unemployed for half of the year, with 68 percent reporting that they hoped to find a job during this time and 32 percent reporting that they had no prospects whatsoever of finding a job outside of the sugarcane harvest season.¹¹⁶ Some local cane cutters work during the offseason planting cane, preparing the land, operating tractors and other machinery, and watering the cane.¹¹⁷ Many of the workers employed on Guatemalan sugarcane plantations are recruited by labor brokers, often locally referred to as “contratistas” or labor contractors.



Findings

This section of the report examines and discusses findings from both desk and field research. It begins at the starting point of the job life cycle, with an exploration of recruitment and contracting and the relationship to labor vulnerability. Specific types of labor abuses are then discussed, including those related to labor trafficking, child labor, freedom of association, gender-based discrimination, wages and hours, health and safety, and living conditions. The findings section concludes with a look at other impacts on communities, such as environmental damage and land tenure issues.

It is important to note that Verité’s research builds upon several earlier reports examining working conditions in the Guatemalan sugar industry, some of which have only been published in Spanish. This report synthesizes and analyzes research by other organizations and uses it to contextualize Verité’s more recent findings. Some key reports include:

1. In 2005, COVERCO and the International Labor Rights Forum (ILRF) released a comprehensive report based on interviews of a range of experts and 157 field workers, 137 refinery workers, and 114 transport workers employed in the Guatemalan sugar sector. “Labor Conditions in the Guatemalan Sugar Industry” includes findings on wages, hours, health and safety, living conditions, discrimination, freedom of association, harassment and abuse, and child labor.¹¹⁸
2. Fairfood International published a report in 2015 on social and labor conditions in the sugar industry in Guatemala, after interviewing 60 cane cutters and 15 transport workers. The report covers various labor issues, including freedom of association, wages, health and safety, child labor, and discrimination.¹¹⁹
3. In 2015, the Coca-Cola Company and the consulting company UL issued a report examining risks of child labor, forced labor, and land rights issues in the Guatemalan sugar industry. UL carried out assessments of five mills

and 50 farms in the Coca-Cola supply chain. During site visits, researchers reviewed documents, including payroll records and policies related to labor issues, toured farms, and interviewed an unspecified number of management personnel and workers.¹²⁰

4. The Guatemalan civil society organization, CODECA, carried out a large-scale study on labor conditions in agriculture more broadly, surveying 1,026 farmworkers across 14 departments in Guatemala, holding focus groups with current and former workers, and collecting narrative testimonies. This survey collected demographic and socio-economic information on farm workers and assessed violations of their labor rights. The report, which was released in Spanish in 2013, discusses the experiences of day laborers' children and reveals the extent of labor rights violations regarding wages and hours, job security, and freedom of association, among other issues.¹²¹

Recruitment

Background and Legal Framework

Article 4 of the Guatemalan Labor Code establishes that labor recruiters are considered employer representatives, meaning that there is a legally binding labor relationship between the end employers and workers hired by labor brokers. Employers are thus legally obligated to ensure that the labor rights of workers hired through labor brokers are respected to the same extent as workers they hire directly. Article 5 of the Labor Code establishes that employers and labor brokers share joint responsibility for any labor law violations related to workers hired by labor brokers. Similarly, Article 81 establishes that if one business subcontracts workers out to another business, both businesses will be held legally accountable for any legal infractions.¹²²

Article 141 of the Labor Code establishes that “employer representatives” who recruit peasant workers must have legal authorization from the Labor Inspectorate to carry out recruitment activities. Labor brokers must also obtain a “carta poder” or power of attorney letter each year from the employer for whom they are recruiting workers, authorizing them to recruit workers on the employer’s behalf. A copy of the letter should be sent to the Department of Labor and another copy should be kept by the labor broker. Article 143 of the Labor Code states that the Labor Inspectorate is responsible for informing peasant workers that they have a right to demand to see the carta poder before using the services of a recruiter.

Employers are required to pay recruiters a fixed salary, as opposed to paying per worker recruited, and the Labor Code prohibits the payment of bonuses to recruiters. However, in practice, employers often hire recruiters informally and pay

them per each worker recruited, which incentivizes labor brokers to recruit as many workers as possible, sometimes by making false promises about conditions of work. Recruiters are prohibited from charging workers recruitment fees, either up front or by making deductions from workers' wages.

The ILO has reported that while some Guatemalan labor brokers operating in the agricultural sector are "professionals, working in compliance with the law. Others are illegal, recruiting workers through a form of bonded labor. The 'enganche' or 'habilitación' is the advance payment made to the workers to indebted them to the employer, and is used to maintain them on farms in the tropical and coastal areas."¹²³ The CODECA study found that 55 percent of agricultural day laborers in Guatemala did not know the name of the person that they worked for, mainly because they were recruited by labor brokers and never knew the identity of their actual employers. As these workers were not aware of who their employers were, they were unable to file legal complaints when their labor rights were violated. The study further found that labor brokers committed a number of abuses, and went unmonitored by the government, allowing them to violate workers' rights with impunity.¹²⁴

Verité's research in the Guatemalan agricultural sector determined that workers recruited by labor brokers were more vulnerable to labor exploitation than those directly recruited by employers. Verité's research in the Guatemalan coffee sector found that 44 percent of 372 workers interviewed were recruited by labor brokers. These workers reported higher incidences of labor violations, including indicators of forced labor and wage violations, and earned 25 percent less than those directly recruited by coffee estates.¹²⁵ Verité's research in the Guatemalan palm oil sector found that many workers in the sector were employed under short-term verbal contracts by labor brokers, who were their official employers. By hiring through labor contractors, palm companies attempted to avoid liability for labor and other violations, although legally they are accountable for labor violations committed by their labor brokers.¹²⁶

In the Central American sugar sector, the Ibero-American Organization for Social Security (OISS) reported that labor brokers were commonly hired by mills to both recruit and supervise cane cutters, which put workers at risk of recruitment and labor abuses. The OISS further reported that Central America cane cutters were transported to plantations in trucks designed to carry cattle, which sometimes lacked adequate shade or ventilation, posing a danger of heat stroke to workers.¹²⁷

COVERCO's 2005 study found that while Guatemalan sugarcane harvesters recruited by labor brokers earned at least the same per ton of sugarcane harvested as workers directly hired by plantations, they did not receive legally mandated benefits, such as social security (IGSS) or bonuses, due to the fact that workers did not receive payslips.¹²⁸ An International Center for Human Rights Research (CIDH) report indicated that in the Guatemalan sugar sector, labor brokers were responsible for recruiting workers in the workers' communities of origin. The CIDH reported that plantations purposely used labor brokers to avoid a direct employment relationship with workers and to avoid providing them with working conditions and benefits

that comply with labor law.¹²⁹ A worker interviewed by Guatemala's preeminent investigative journalism outlet, Plaza Publica, reported, "The labor broker charges GTQ 25 per ton, and he leaves us GTQ 20 per ton. We pay him GTQ 15 per day for two meals of beans and one meal of meat. So that we can return home with money, you have to harvest at least two tons per day."¹³⁰

A representative of the United Committee of Peasant Workers reported that field managers at plantations often hired cane cutters themselves. Employers pay these managers for each worker they bring in. Managers receive a bonus for every worker who can cut at least five tons of sugarcane each day, reportedly leading them to threaten workers with dismissal if they do not meet this production goal.¹³¹

According to interviews with local experts and workers, labor brokers recruit both local and migrant workers to work on sugar plantations. In the southern coast, workers are recruited to harvest cane from October through January in the departments of Suchitepéquez, Retalhuleu, and Escuintla by labor brokers who live in and recruit workers from municipalities surrounding the plantations. In many cases, labor brokers recruited local workers on Sundays in the town square. Workers are either paid directly by the plantation or mill, or by the labor broker, depending upon the employment relationship. Many migrant workers must hand over their identification documents to their labor broker. Labor brokers become the official employers of these workers, who are hired for short-term work. Local experts and workers interviewed by Verité reported that mayors of sending communities sometimes worked as labor brokers.

Findings

Verité research found that labor brokers transported workers from their homes to plantations under crowded, inhumane, and unsafe conditions. Workers and experts interviewed reported that migrant workers were often transported long distances to plantations in old decommissioned school buses from the United States. In some cases, buses designed to carry 60 passengers carried up to 150 or even 200 workers, meaning that workers had to stand pressed together for the long, winding journeys. In the case of local workers, labor brokers often arrange daily transportation from the workers' homes to the plantations under similar conditions. Local workers interviewed reported that they chose to pay for public buses or walk an hour or more in the intense heat each day because their labor brokers either overcharged for transportation or only offered transportation to the plantation early in the morning and back home at night, meaning that they either had to work excessive hours or wait for long periods for the bus back home.

In some mills, when workers arrive, they are given physical examinations to ensure that they are healthy enough to work. Some plantations give workers bracelets with registration numbers and separate them into *cuadrillas* of 50 workers each, which are responsible for certain tasks or harvesting a certain area of cane. *Caporales*

supervise each group and are themselves supervised by a plantation engineer or manager. However, some workers are supervised directly by their labor brokers.

According to experts and workers interviewed, in some cases, plantation owners hire a labor broker, who is responsible for overseeing a crew of migrant or local workers to complete a specific task, such as clearing or preparing the land, planting cane, or harvesting sugarcane in a specific area. These labor brokers are paid a lump sum or an amount per ton of cane harvested and are responsible for recruiting, supervising, and paying workers. Many labor brokers are also responsible for setting and explaining the terms of employment to workers and resolving grievances. Plantations may prefer this model because they wrongly believe that it relieves them from legal accountability for labor violations.

Workers and experts interviewed reported that plantations sometimes leased out land to labor brokers, who used crews of workers to try to turn a profit from sugarcane cultivation. In such cases, brokers have an incentive to extract as much work possible out of workers for as little pay as possible, because their earnings depend on worker productivity. Some of these labor brokers pay their workers a fixed hourly or piece rate, while others deduct the cost of supplies, food, and other costs and split profits between the members of a crew.

Verité research found that while labor contractors are legally required to be registered, there was no indication that a labor broker registry existed. When unregistered labor contractors serve as workers' official employers, workers have difficulty filing legal complaints against them in cases of labor violations and tracking them down to seek redress. Experts interviewed reported that labor brokers did not obtain authorization from the Ministry of Labor to carry out recruitment activities, and workers were generally not shown a *carta poder*, as required by law. Researchers' conversations with Labor Inspectorate officials at both a national and regional level indicated that government officials were unaware of the existence of a registry of labor brokers.

According to workers and experts interviewed, many labor brokers deceived workers about their housing and working conditions, including payment, working hours, and tasks, and in some cases even deceived workers about the sector in which they



would be employed. Some labor brokers also deceived employers, telling them that they had hired more workers than they actually did, since they were paid per worker. To avoid this problem, employers often demand a national identity document (DPI) certification from each worker, which costs GTQ 85 (USD 11.58). In other cases, the plantations retain workers' original DPIs. Some mills request a copy of the DPI and maintain a registry of all workers employed directly and through labor brokers on the plantation, which helps to ensure that minors are not working on the plantations.

Labor brokers frequently charged recruitment fees and commissions. While the plantations pay the labor brokers per day, per worker, or per task, many labor brokers double charged workers in contravention with the law. While many workers do not pay fees before starting work, some labor brokers charge a certain amount to workers or employers, most commonly GTQ 5 (USD 0.68), per ton of sugarcane harvested by the workers they recruit. Verité research has shown that this practice drives down wages for workers, both when labor brokers make these deductions directly from the wages owed to workers, or when employers pay this fee and thus pay workers recruited by labor brokers less per ton of cane harvested to recoup losses. As the going rate per ton of cane harvested ranged from GTQ 23-40 (USD 3-5), this constituted a significant percentage of workers' earnings.

There were also reports that some labor brokers owned stores that sold products to workers at above-market prices. A worker interviewed reported that his labor broker had set up a business in the plantation selling lunches to hungry workers for GTQ 15 (USD 2.04). In addition to selling lunches and other foodstuffs, to supplement the meager rations provided to workers, some labor brokers also sold pills so that workers could make it through long workdays. Workers and experts interviewed reported that labor brokers sold "pastillas sin sueño," literally translated as "no-sleep pills," for double the price outside of the plantations. They also reported that labor brokers sold Tramadol, a highly addictive prescription opioid painkiller, for GTQ 8 per pill, while the price at pharmacies was as little as GTQ 5 for a whole box.

Thirty-five of the workers interviewed (92 percent) reported that they found their job through a labor broker, while the remaining three workers (eight percent) secured their jobs directly through the plantation. None of the workers hired by labor brokers reported that their broker showed them a carta poder, as is required by law. Twenty-four of the workers interviewed (63 percent) reported that their actual conditions of work were worse than those promised to them at the time of recruitment. Five workers (14 percent) reported that in addition to recruiting them, their labor broker also directly supervised them on the plantation, which Verité has found increases the risk of labor abuses. While three of the workers interviewed (eight percent) reported that they paid up-front fees to labor brokers, many reported that labor brokers made deductions from their pay. Ten workers (26 percent) reported that their identity documents were retained, often during the recruitment process. Furthermore, the workers hired by labor brokers reported earning GTQ 955 (USD 127) per month on average, 26 percent less than the GTQ 1,300 (USD 173) earned by workers who secured their jobs directly through the plantations.



Case Study: Labor Brokers

Workers interviewed reported that they obtained their jobs through a labor broker named “Miguel Lopez,”* who deceived them about the nature and conditions of work. They reported that Mr. Lopez came to their community offering employment on a coffee estate to men, women, and children, showing them a branch of ripe coffee to demonstrate that the coffee was ready for picking. He never showed them a carta poder, which would have documented the employer for whom he was authorized to hire the workers. They reported that workers preferred to migrate to coffee estates because the work was lighter and they were closer to their communities, making it easier to return home.

The workers boarded a bus they thought was bound for a coffee estate and were surprised when they were told to get off at a sugar mill and realized the labor broker had lied to them. They reported that they were angry and wanted to leave because the conditions of work were worse on sugar plantations, but they could not do so because the return bus fare cost more than GTQ 100 (USD 13.61), and they did not have enough money. Therefore, they had to continue working on the plantation even though they did not like the work, which they considered much heavier.

Mr. Lopez was also the owner of a store that was located on the plantation to which he brought workers. He reportedly sold sodas, cookies, crackers, and juice to complement the meager rations provided by the plantation. He was responsible for paying the workers, and made deductions to cover workers’ debts to him before paying them. The workers interviewed spoke of another broker, “Domingo,” who they considered to be much better because, “he only lied about housing and wages and didn’t bring women or children to the plantations.”

*Any names included in this report are aliases used to protect the identities of respondents.

Contracts

Background and Legal Framework

Article 18 of the Constitution establishes that individual work contracts can only be made with the consent and will of both parties. Article 22 of the Labor Code states that work contracts must include, at a minimum, the guarantees and rights authorized by the Constitution, the Labor Code, and other laws on working conditions and benefits. It is important to note that written contracts are not required for agricultural workers by Guatemalan law, as Article 27 of the Labor Code allows for verbal contracts for agricultural work lasting no more than 60 days. However, employers are required at a minimum to provide agricultural workers with a “constancia,” meaning written proof or “tarjeta,” a card documenting at the minimum the beginning date of the employment relationship, the wages and pay period, the number of days or shifts to be worked, the number of pieces to be produced, or the number of tasks carried out. Article 139 of the Labor Code states that all women and children who work in the agricultural sector shall be considered as having an employment relationship with the employer, even if they are considered helpers of the head of the household. Article 20 of the Labor Code establishes that employers must adhere to the conditions of work promised to workers in both written and verbal contracts, and that employers are prohibited from altering those terms unless both parties agree and these modifications do not negatively affect workers.

A 2012 CODECA study found that 63 percent of unsalaried workers in Guatemala lacked a contract. Nationally, 73 percent of Ladinos had contracts, compared to 57 percent of indigenous workers, who were concentrated in the agricultural sector.¹³² An ILO study found that in Guatemala, employers often hired groups of agricultural workers for periods of less than two months in order to avoid having to provide them with written contracts. When this time expired, they were often rehired, told to use someone else’s identification document, or told to work for another affiliated farm.¹³³

According to the CODECA study, just 24 percent of the over 1,000 agricultural workers surveyed reported that they had a contract. Furthermore, the study found that 96 percent of workers reported that they were temporary workers, many of whom were hired by the same farms year after year on a series of short-term verbal contracts lasting less than 60 days, so that they did not accrue the right to a contract or permanent status and the corresponding benefits. In some cases, workers were hired under short-term contracts to do specific tasks like preparing the soil, planting, clearing, or maintenance, and then were hired under a new contract to carry out another task on the same plantation. The prevalence of verbal contracts also makes it easier for labor brokers and employers to break promises made during recruitment, with little possibility of repercussion, as there is no documentation of the terms of

employment. This relegates workers to a permanent temporary status. The lack of contracts and job stability makes them less likely to complain if they are forced to work excessive hours for much less than they were promised, as employers can simply decide not to renew their contracts, resulting in job loss with no severance pay or benefits, even if they have been employed on an estate for years.¹³⁴

In the sugar sector, CIDH reported that the majority of workers lacked written contracts and often only had verbal contracts, which included a stipulation that workers must stay at plantations for the entire harvest. Organizations representing peasant workers have demanded written contracts in recent years.¹³⁵ However, widespread illiteracy among the migrant worker population could prevent this measure from improving labor protections.¹³⁶

Findings

Twenty of the workers interviewed (55 percent) reported that their last job on a sugar plantation lasted more than two months, indicating that they had a right to a written contract. Even the workers who worked less than two months had a right to a written constancia or tarjeta at the very least. However, just one of the workers interviewed reported that he signed a written contract, and even this worker reported that he did not receive a copy of the contract, and was denied the right to read the contract. Thirty-four of the workers interviewed (89 percent) reported that they were only provided with a verbal explanation of their terms of employment and did not receive a written contract, constancia, or tarjeta spelling out those terms. The remaining three workers (eight percent) reported that they received no information whatsoever about the terms of their employment.



Human Trafficking and Forced Labor

Background and Legal Framework

Although Guatemala has robust laws against trafficking in persons and some protections against forced labor, Guatemala's legal framework fails to explicitly prohibit forced labor. The Constitution establishes workers' right to freely chosen work, prohibits "servitude," and states that workers' labor rights must be respected even if they consent to working under conditions that do not meet legal requirements. Article 202 of the Labor Code, Decree 17-73, defines and prohibits human trafficking, including for the purpose of forced labor. People found guilty of trafficking are subject to prison sentences of eight to 18 years and fines of GTQ 300,000-500,000 (USD 39,900-66,500). In 2009, the Guatemalan Congress approved the Law Against Sexual Violence, Exploitation and Human Trafficking through Decree 9-2009. This law, which brings Guatemala into compliance with the Palermo Protocol, explicitly defines and prohibits human trafficking, including for forced labor.

The U.S. Department of State's 2017 Trafficking in Persons Report indicates that men, women, and children are trafficked for forced labor, and that vulnerability to trafficking is especially high among Guatemala's large indigenous population and agricultural workers. For 2017, Guatemala was downgraded to the Tier 2 Watch List for trafficking in persons by the U.S. Department of State.¹³⁷

The ILO found that forced labor was widespread in Guatemala, especially in the agricultural sector. A 2012-2014 ILO study found that approximately one-quarter of the 35,800 Guatemalan households surveyed in four departments had one adult in forced labor, while about 60 percent of households registered at least one child in forced labor. Many seasonal agricultural workers were trafficked from their communities of origin in the western highlands to work on farms in coastal areas, according to the ILO. In many cases, workers, were recruited either individually or in small groups by labor brokers, who sometimes provided them with payment advances which lead to indebtedness. Additionally, male heads of household often migrated to farms with their wives and children, who worked alongside them for no pay.¹³⁸

Verité previously carried out research on indicators of forced labor in agriculture in Guatemala in the coffee and palm oil sectors. In 2012, Verité published a report on indicators of forced labor in the coffee supply chain in Guatemala for the U.S. Department of Labor, based on a three-year study that included desk research, expert consultations, and 372 in-depth worker interviews. Verité detected evidence of the presence of the following ILO indicators of forced labor: physical confinement in the work location, psychological compulsion, induced indebtedness, deception or false promises about terms of work, withholding and non-payment of wages, retention

of identity documents, physical violence against workers, physical confinement, financial penalties, denunciation to authorities, dismissal from current employment, exclusion from future employment, and deprivation of food and shelter. Research found that women, indigenous workers, temporary workers, workers who had obtained employment through labor brokers, and workers employed on larger estates as well as in the Departments of Huehuetenango, Retalhuleu, San Marcos, Santa Rosa, and Suchitepéquez were especially vulnerable to forced labor.¹³⁹

Verité research also found indicators of forced labor in Guatemala's palm oil sector, with a higher level of risk in Sayaxché, Petén. There were numerous reports of displacement and land grabs related to palm companies in Sayaxché. The loss of land for subsistence agriculture, coupled with a lack of other employment opportunities, created a captive local labor force that was forced to choose between working on palm plantations under poor conditions or moving out of the area to search for other work. Labor contractors hired migrant workers brought in from rural impoverished areas and deceived some of them about conditions of work, charged some workers up-front recruitment fees, and took deductions of up to 20 percent of workers' pay. Additionally, migrant workers were generally hired on one to three-month contracts, and reportedly were not paid if they failed to work for the duration of their contracts. Many of these migrant workers' identity documents were retained, which prevented them from filing legal complaints against their employers. Indicators of forced labor detected during research included induced indebtedness, deception or false promises about types and terms of work, withholding and non-payment of wages, retention of identity documents or other valuables, physical violence against workers or family or close associates, sexual violence, physical confinement, dismissal from current employment, exclusion from future employment, exclusion from community and social life, shifts to even worse working conditions, and deprivation of food, shelter or other necessities.¹⁴⁰

While no in-depth studies have focused specifically on indicators of trafficking in persons or forced labor in the sugar sector, some reports contain limited information on indicators of forced labor, such as forced overtime and dismissal and blacklisting for failure to meet quotas or complaining about their working conditions. A leaked U.S. diplomatic cable indicated that forced labor in the Guatemalan sugar sector was caused by "rigorous daily quotas which, according to a credible source, are humanly impossible to meet under legal work conditions."¹⁴¹ Workers reportedly had to work for 12 hours a day, consume drugs to meet quotas, and were threatened with dismissal if they failed to do so or complained about their conditions of work.¹⁴² UL found cases of forced overtime, with sugarcane harvesters working 13 hours per day, seven days per week, with no days off. There were also reports that management verbally abused and blacklisted workers who refused to work overtime.¹⁴³ According to CIDH, workers who advocated for their rights to be respected were placed on blacklists, which were reportedly circulated to other plantations, leaving these workers unable to secure jobs on sugar plantations in the future.¹⁴⁴

While Guatemala's 2009 anti-trafficking law has led to increased attention to trafficking, efforts have not generally focused on combating forced labor. With recent advances achieved in the justice sector—due in large part to the efforts of the International Commission against Impunity in Guatemala—the Guatemalan Attorney General's office, judges, and police now have an increased mandate to investigate and prosecute organized crime and sex trafficking. However, they lack the training and concrete tools needed to detect, investigate, and prosecute cases of labor trafficking in the agricultural sector. While Verité researchers have noticed a substantial increase in government efforts to combat trafficking in recent years, enforcement was notably absent on sugar plantations and in workers' communities of origin.

The SVET is responsible for coordinating government agency efforts to combat trafficking, including by facilitating inter-agency cooperation and drafting and promoting actions plans.¹⁴⁵ Due to its mandate, the majority of SVET action and prosecutions have been focused on sex trafficking and sexual exploitation. However, reports of human trafficking can be made to other government institutions, including the Human Rights Ombudsman (PDH), the Attorney General's Office, and the Secretary of Social Wellbeing, and for cases involving international migration, the Ministry of Foreign Relations and the General Migration Directorate.¹⁴⁶

According to the U.S. Department of State, the number of trafficking victims identified by the Guatemalan government increased sharply from 287 in 2014 to 673 in 2015. The number of male victims of forced labor, increased even more dramatically from 26 in 2014 to 174 in 2015, while still representing a relatively small percentage of the total trafficking victims identified and a very small percentage of the actual victims of labor trafficking in the country. The majority of child victims of trafficking were identified in Guatemala City, and the government reportedly had difficulty identifying cases of trafficking not linked to organized crime.

Anti-trafficking operations and prosecutions have primarily focused on sex trafficking, and enforcement actions focused on labor trafficking were generally concentrated in small restaurants, shops, and markets in urban areas. There were no reports of trafficking operations or prosecutions in the agricultural sector, although the International Organization for Migration has listed agriculture along with domestic service as the two sectors with the highest rates of labor trafficking in Guatemala.¹⁴⁷ While the U.S. Department of State reported an overall increase in the number of prosecutions for human trafficking, the number of prosecutions for labor trafficking decreased substantially from four in 2014 to just one in 2015.¹⁴⁸ According to a representative of the PDH, while the government secured 42 convictions for human trafficking between 2004 and 2014, none of these convictions were for labor trafficking of children or teenagers.¹⁴⁹

Findings: Indicators of Trafficking of Adults for Labor Exploitation in the Sugar Sector

As mentioned in the methodology section of this report, Verité chose to analyze the existence of indicators of trafficking, rather than indicators of forced labor. This decision is due in large part to recommendations by government and international organization representatives, who have stated that trafficking is much more relevant to Guatemala's legal framework. Thus the government is more likely to take steps to combat trafficking than forced labor, which is not explicitly prohibited under Guatemalan law. It is important to note that while this report covers indicators of trafficking in persons, there is substantial overlap between the ILO's indicators of trafficking in persons and forced labor.

Verité finds the indicators approach to research on forced labor and human trafficking useful for several reasons. First, the indicators were developed by the ILO through consultations with stakeholders and represent the only internationally accepted method for identifying victims. Secondly, they provide researchers, as well as law enforcement, with a practical, objective method for identifying victims, based on the existence and interaction of specific, tangible elements. This method helps to do away with common misperceptions that victims of trafficking must necessarily be kidnapped, chained, or physically impeded from leaving their place of work and can help law enforcement to gather evidence and build cases. Third, this approach allows researchers to determine the major root causes of trafficking in each context, which allows for the development of recommendations for interventions that target these root causes, such as recruitment fees, document retention, and indebtedness to company stores, rather than developing amorphous programs to target trafficking more broadly.

In this section, Verité provides information from field research about specific Indicators of Trafficking of Adults for Labor Exploitation, contained in the ILO's Operational Indicators of Trafficking of Human Beings. For an adult to be considered a victim of trafficking for labor exploitation he or she must experience deception, coercion, and exploitation. Each of these "dimensions" of trafficking is considered to be present if one of the following conditions applies: there are two strong indicators; one strong indicator and one medium or weak indicator; three medium indicators; or two medium indicators and one weak indicator. It is necessary to examine the interplay of indicators in the case of each individual worker to determine the existence of trafficking. As this section merely analyzes whether researchers detected the existence of individual indicators at the sectoral level and does not analyze the interplay of indicators in the case of each individual worker, these findings cannot be taken as evidence of the existence or prevalence of trafficking in the sugar sector, but should rather be taken as an indication that risks of trafficking are present. However, it should be noted that many indicators of trafficking are labor or human rights violations in and of themselves, and should be addressed by stakeholder interventions.

For this report, Verité has analyzed the ILO's Indicators of Trafficking of Adults for Labour Exploitation, which are broken down into six categories: indicators of deceptive recruitment, indicators of coercive recruitment, indicators of recruitment by abuse of vulnerability, indicators of exploitation, indicators of coercion at destination, and indicators of abuse of vulnerability at destination. The ILO has also developed detailed guidance on the characteristics of each indicator of trafficking, which Verité has included in italics below the heading for each indicator.¹⁵⁰

Indicators of Deceptive Recruitment

STRONG INDICATOR

Deceived about the nature of the job, location or employer

This indicator reveals the deception about the nature of the job, location, or employer that the individual was promised. It includes cases where the legality of the job promised is compromised; for example, in such cases where the job instead turns out to be illegal, or the individual is instead forced to undertake illicit activities. It also includes situations where the individual is forced to provide sexual services.¹⁵¹

Verité research in the sugar sector indicated that most workers lacked written contracts and were not shown a power of attorney letter by their labor brokers indicating who would be their end employer. Only one of the 38 workers interviewed reported that he signed a contract, but said that he was denied the right to read the contract and was not provided with a copy. Furthermore, none of the 35 workers interviewed who were recruited by labor brokers reported that they were shown a power of attorney letter by their labor broker. The lack of any written documentation regarding who the end employer is or the nature or location of employment creates vulnerability to deception.

While workers interviewed reported that deception regarding conditions of work was common, some workers interviewed, who were recruited by one specific broker, reported that they were deceived about the nature and location of employment. They reported that this labor broker came to their community, purportedly to recruit workers for a coffee estate, showing them a branch of ripe coffee to demonstrate that the coffee was ready for the picking. He never showed them a carta poder, which would have documented the employer for whom he was authorized to hire the workers. Instead of being transported to a coffee estate close to their communities, they were bussed to a faraway sugar mill, from which they were unable to leave because they did not have enough money for a return ticket. They therefore had to work on the sugar plantation, a job for which they did not give their consent to work and where the work was much heavier than in the coffee sector.

MEDIUM INDICATORS

Deceived about conditions of work

This indicator conveys false promises about the hours and/or number of days to be worked and/or the working environment.¹⁵²

Twenty-four of the workers interviewed (63 percent) reported that their conditions of work were worse than those initially described to them, while the remaining 14 workers (37 percent) reported that the conditions were equal or better. Workers specifically mentioned being deceived about working hours, payment, the difficulty of work, and living conditions. However, in some cases, workers interviewed reported that while their jobs were extremely demanding and did not meet legal requirements, they were not deceived by their labor broker, as they knew what they were getting into and took the job due to a lack of alternatives.

Deceived about content or legality of work contract

Recruitment through deception about the content or legality of the work contract includes either the offering of an unlawful contract which fails to respect national labour laws, or that the contract is not signed/issued/respected in the destination place/country.¹⁵³

Although the Guatemalan Labor Code allows agricultural workers employed for periods not exceeding 60 days to be provided with verbal, rather than written contracts, employers are required, at a minimum, to provide these workers with a constancia or card documenting the term of employment, the amount that they will earn, the pay period, and the number of days, shifts, or tasks that they will work. Employers must adhere to the conditions of work promised to workers in both written and verbal contracts, and employers are prohibited from altering those terms unless both parties agree, and these modifications do not negatively affect workers.

Workers in the sugar sector were often hired on a series of short-term verbal contracts lasting less than 60 days, so that they would not be eligible for written contracts or benefits. As workers lacked written or permanent contracts, it was easy for labor brokers and employers to break promises made during recruitment, with little possibility of repercussion, as there was no documentation. They could also simply fail to renew contracts if workers complained about their working conditions or failed to meet quotas. None of the workers interviewed reported that they were provided with a written contract, constancia, or card. Thirty-four workers (89 percent) reported that they were only provided with a verbal contract, three (eight percent) were provided with no information at all, and one worker signed a contract but was not allowed to read it and was not provided with a copy.

Deceived about housing and living conditions

This indicator reveals the nature of deception about housing and living conditions. It includes that the individual was deceived about his/her freedom to choose the location, type of lodgings or deceived to the quality of the lodgings, in particular the lack of privacy. It also includes deception as to freedom of movement, or restrictions on freedom of movement. It also includes deception regarding the right to access health care.¹⁵⁴

Some workers interviewed reported that they were specifically deceived about housing and living conditions on the plantations. One worker interviewed reported that his labor broker told him that the living conditions would be “comfortable,” but he found that was not the case when he arrived at the plantation. Another worker reported that he found the housing conditions to be worse than those described to him during the time of recruitment. Of the workers interviewed, 28 (74 percent) reported their housing lacked sufficient space, 26 (68 percent) reported that their living conditions were uncomfortable, 21 (55 percent) reported that they did not have a safe place to store their belongings, 18 (47 percent) reported that they lacked potable water, 16 (42 percent) reported that their living conditions were unsafe, 13 (34 percent) reported that their housing lacked a kitchen, and 10 (26 percent) reported that they lacked sufficient privacy.

Deceived about wages/earnings

This indicator reveals the nature of deception concerning the right to keep to wages and/or the amount that the individual is paid. It also includes excessive deductions of wages for food or lodgings, or monetary penalties for fraudulent reasons.¹⁵⁵

Of the workers interviewed, 16 (42 percent) reported that they earned less than promised when they were recruited, and 17 of workers (45 percent) reported that they were not paid the total amount owed by the plantation. This was facilitated, in part, by the facts that 34 workers interviewed (90 percent) were not provided with payslips or other forms of documentation detailing their earnings and deductions, and 31 workers (82 percent) did not understand how their pay was calculated. One worker interviewed who was paid a piece rate reported that his pay was significantly lower than originally promised, as the cane was extremely dense, making it hard to cut.

Indicators of Coercive Recruitment

MEDIUM INDICATORS

Confiscation of documents

Coercion at the point of recruitment, transfer, or transportation through the means of confiscation of documents relating to both identity and/or travel documents (visa, tickets).¹⁵⁶

Under Guatemalan law, personal identity documents are considered government property, and their retention is explicitly prohibited and subject to sanctions. While Verité has often found widespread withholding of identity documents among international migrants, which can restrict their ability to travel home or transit freely in their country of employment, the retention of internal migrants' identity documents is usually relatively rare. In Guatemala, however, previous Verité research has found the retention of identity documents to be relatively common in the agricultural sector, specifically among domestic workers in the coffee and palm oil sectors,¹⁵⁷ and this research revealed this practice to be a problem in the sugar industry as well.

Ten of the 38 workers interviewed (26 percent), all of whom had been hired by labor brokers, reported that their personal identity documents (DPIs) were retained. Some workers interviewed reported that labor brokers retained the documents of all workers as they were being transported to the plantations. In Guatemala, the retention of DPIs is especially problematic because workers cannot secure jobs, make bank transactions, or file legal complaints against their employers if they do not possess DPIs. Replacement of DPIs involves long processing times, and government corruption can result in increased costs and even longer delays. Due to the awarding of a contract for printing DPIs to a politically connected company that did not have the capacity to meet the contract, approximately 500,000 Guatemalans (almost one in every 30 people in Guatemala) were awaiting their documents as of February 2017.¹⁵⁸ While the official cost of a replacement DPI was GTQ 85 (USD 11), which in and of itself represents more than double the amount sugarcane workers earned per day on average, the actual cost in time and money was generally many times higher. Experts and workers interviewed reported that sugarcane workers, who were almost exclusively from rural areas, had to travel long distances to government offices to request and collect their DPIs. In many cases, workers were told to come back multiple times, as their DPIs were not ready when promised. Furthermore, government officials often demanded bribes to issue DPIs or to expedite the process, meaning that refusal or inability to pay bribes could result in even longer processing times, or in some cases the inability to recover retained identity documents. Workers seeking to replace their DPIs had to file a legal document stating how their DPIs were lost.



Debt bondage

Debts during recruitment, transfer, or transportation relate to the concept of forced recruitment as a form of debt reduction; debts accrued for recruitment and transportation resulting in debt bondage at destination; debts claimed to have been accrued by relatives; debts from previous trafficking experience of the victim or of one relative. Debts can also be compounded as a result of debt manipulation, including through the enforcement of excessive interest rate or through an unlawful agreement where a debt is reduced/deducted in exchange for work.¹⁵⁹

Three of the 38 workers interviewed (eight percent) reported that they paid up-front fees to their labor brokers, and two workers (five percent) reported that they owed their labor brokers money. In total, 24 workers interviewed (63 percent) reported that they were indebted during their employment, and 33 (88 percent) reported that they would not be permitted to leave the plantation on which they were working before paying off their debt. Workers who paid up-front fees to their brokers reported paying an average of GTQ 50 (USD 7), which constituted almost two days of workers' average wages. Workers also incurred other debts linked to transportation. Some workers interviewed reported that they had to pay GTQ 100 (USD 13) for transportation to the plantation, with some having to borrow money to cover the expense. Additionally, one worker reported that the cost of transportation was deducted from his pay after arriving at the plantation. There were also reports that labor brokers ran their own stores or informally sold food, pills, and other products to workers on credit. Workers interviewed reported that brokers deducted money owed to them before making any payments to the workers.

Case Study: The Story of Esperanza

An indigenous woman, “Esperanza” who speaks K’iche and grew up in the Department of Quiche, the area hardest hit by massacres targeting the indigenous population during Guatemala’s 36-year-long civil war, tells her story.

“I worked on many sugar plantations and coffee estates throughout my life. It was hard working on the plantations because there was no childcare and I was paid very poorly. However, I had to keep going back year after year because I needed money.

Contratistas or labor brokers came to my community to find workers and bring them to the plantations. 'Miguel Lopez' is one of those brokers. He does not show us a carta poder or a contract. He simply explains to all the workers what their terms of employment will be, but on many occasions, he lies to people and the conditions are worse when they arrive at the plantation.

One time Don Miguel Lopez told me that it was time for the coffee harvest. He even brought a coffee branch that had ripe coffee beans on it so that people would accept his offer to go to the coffee estate. When we arrived, we were surprised to find out that it was a lie: we had been taken to a sugar plantation. Everyone got angry because he put us to work on a sugar plantation and the working conditions are worse than coffee.

Also, the transportation to the plantation was very crowded, as he put 150 people in a bus meant for 60 people. Sometimes he just takes a cargo truck and packs it with up to 200 people. That is how the contractors put people’s lives at risk when they transport them to the plantations.

When we get to the plantation, they put a bracelet with a number on each worker’s wrist so that they can identify them. They split the workers into crews of 50, called cuadrillas. Each cuadrilla is assigned a name or number, which they use to assign tasks and payments. The women are responsible for weeding and the men are responsible for fumigating, but during the harvest, both men and women cut sugarcane.

We usually wake up at 2 a.m. so that we can eat, because if we wake up later they don’t give us food. Every day they just give us bean soup. The menu rarely changes, and they don’t cook the beans enough. They don’t give us three meals a day. If we don’t work the number of hours that they tell us to, usually 10 to 12 hours, they usually don’t give us dinner. That is why I go to the plantation store to buy food on credit. They deduct what I spend from my salary every 15 days, and sometimes we don’t have much money left over because they sell everything for more than the normal price.

I start working at 5 in the morning so that I can get ahead, especially when I am

cutting cane because at that time I am as strong as the men who work with me. At 10, the sun starts to get too hot and because there is no shade, my body gets weak. We bring our own water, but it is not enough. That is when the capataz or supervisor comes to scold us saying that we must work faster, but even so, because we are so tired already, we can't work at the same pace as the beginning of the day.

When I finish working each day, I return to the galera, a large open shelter where we sleep. It is very uncomfortable because the beds are made of boards, 30 people sleep in each galera, and it is very hot and loud. Many times, I do not sleep because it is simply impossible to sleep under these conditions.

When my co-workers or I get sick, they don't give us medical attention. We have to see what we can do to get healthy. It is the same with workplace accidents – they don't attend to us. They tell us that we should decide what to take, so we go to the store and self-medicate to feel better again.

One day my son got gravely ill, and I went to talk to the capataz, but he didn't pay it any mind. He even said that the plantation didn't take responsibility for children and if something happened to them it was the responsibility of the parents. I didn't know what to do with my son, and the weather was making the situation worse for him. None of the medications that they sold in the store worked anymore. My co-workers told us that it was best if we went home and took him to a doctor, because beforehand some children had died due to a lack of medical attention. I had to return home even though the transportation was very expensive.

Necessity forces me to accept this job. It offers me almost nothing, not stability or good pay. Even though I want to make a complaint, I can't because the labor inspectors' office is far away and they don't pay any attention to us anyway because they don't understand our language. I am also scared that instead of improving my conditions, they will fire me. Despite all the things that happen on the plantations, I keep working to try to support my family and feed my children."



Indicators of Recruitment by Abuse of Vulnerability

MEDIUM INDICATORS

Abuse of lack of education (language)

Recruitment by abuse of lack of education (language) refers to instances when the individual doesn't speak the language, or has a limited education, rendering him/her vulnerable.¹⁶⁰

Twenty-four workers interviewed (63 percent) reported that they spoke an indigenous language as their first language. While a significant majority of workers could not fully understand spoken Spanish, many of those who did speak Spanish were also illiterate. Thus, a large portion of workers could not fully comprehend the terms of verbal or written contracts or written or spoken breakdowns of payments and deductions. Additionally, it was often impossible for workers who did not speak Spanish to report grievances involving their labor brokers to plantation personnel, who rarely spoke indigenous languages. Labor brokers, who were often involved in the workers' exploitation, were often their only channel for their grievances and communication with management.

Abuse of lack of information

Recruitment by abuse of lack of information in addition refers to instances where the individual is not fully aware of the situation due to a lack of information. Exploiters prey on such vulnerabilities by providing false information, particularly in relation to living and working conditions at destination, preventing individuals from making informed decisions.¹⁶¹

None of the workers interviewed were provided written documentation of their terms of employment, as required by law. Thirty-four workers (90 percent) reported that they had a "verbal contract," meaning that their terms of employment were verbally explained to them. However, when asked to describe the conditions of work promised to them during the recruitment process, many workers reported that they were not given any information about the tasks that they would be required to do, their working hours, wages, or living conditions, but instead were only told that they would have to work for a certain period before they could leave the plantation. Additionally, three (eight percent) reported that they were provided with no information whatsoever about their terms of employment. While one worker interviewed reported that he signed a written contract, he said the labor broker did not allow him to review the contract before signing and that he was not provided with a copy of the contract.

Indicators of Exploitation

STRONG INDICATOR

Excessive working days or hours

This indicator reveals the nature of the exploitation through being forced to work excessive hours and/or days. This includes the concept of forced overtime, being denied breaks, being denied free time, having to take over the shifts/working hours of colleagues, or being on call 24 hours a day, 7 days a week. It also includes heavy/excessive workloads or excessive quotas of productivity vis-à-vis the working hours.¹⁶²

Twenty-six of the 38 workers interviewed (68 percent) reported that they had to meet a quota. Twenty-three workers (61 percent) reported that they worked more than the eight-hour legal limit on regular daily working hours, and 37 workers (97 percent) reported working more than the 44 hour per week limit on regular working hours. Eighteen workers interviewed (47 percent) reported that they were not able to refuse to work overtime. Twenty workers interviewed (53 percent) reported that there were penalties for failing to meet quotas or refusing to work overtime, including punitive deductions from workers' pay and withholding of meals. Furthermore, 13 (34 percent) reported that they were provided with 15 minutes or less of breaks during work days that often lasted eight to 12 hours. Eleven (29 percent) reported that they were provided with 15-30 minutes of breaks per day, eight percent reported that they received a total of 30-45 minutes of breaks per day, and seven (18 percent) reported that they were provided with a total of 45 minutes to one hour of breaks per day.

MEDIUM INDICATORS

Bad living conditions

Exploitation can include exploitation through bad living conditions. This includes being denied freedom of choice as to the location or living conditions, or being forced to live in overcrowded conditions, in unhealthy or unsanitary conditions, or being forced to live in conditions where there is limited or no right to privacy. This can also include exploitation through being rendered homeless and being forced to live on the street.¹⁶³

Twenty-two of the workers interviewed (58 percent) reported that they lived in housing provided by their labor broker or employer. Thirty-four (89 percent) reported that their housing did not meet their basic needs. Specifically, 28 (74 percent) reported that their housing lacked sufficient space, 26 (68 percent) reported that their living conditions were uncomfortable, 21 (55 percent) reported that they did

not have a safe place to store their belongings, 18 (47 percent) reported that they lacked potable water, 16 (42 percent) reported that their living conditions were unsafe, 13 (34 percent) reported that their housing lacked a kitchen, and 10 (26 percent) reported that they lacked sufficient privacy.

Hazardous work

Being forced to undertake hazardous work is also an indicator of exploitation. Hazardous work relates to either the nature of the task to be performed (working in hazardous conditions without protection, being forced to provide sexual services without condoms, work too difficult for the person to undertake, work too difficult for a minor to undertake); a hazardous working environment (extreme heat, extreme cold); or hazardous travel to the pace of work. This can also include degrading work which is humiliating or dirty.¹⁶⁴

Three-quarters of workers interviewed reported that they or someone close to them experienced a workplace-related illness or injury during their last job on a sugar plantation, and 33 (87 percent) reported that they did not receive the personal protective equipment (PPE) necessary to do their jobs. Thirty-three of the workers interviewed (87 percent) reported that they had been exposed to pesticides, and one worker reported seeing pregnant women applying pesticides. Half of the workers interviewed reported that they saw children applying pesticides, and 21 (55 percent) reported that they saw children using sharp tools, both of which are considered among the worst forms of child labor.

An expert interviewed by Verité estimated that a quarter of workers suffered from chronic kidney disease (CKD), which leads to major health complications and death, and has been linked to work in sugarcane plantations across Central America. Twenty-six of the workers interviewed (68 percent) reported that they or someone close to them suffered from CKD. Studies have linked CKD to conditions prevalent in the sugarcane sector, including exposure to extreme heat, lack of shade and drinking water, and drug use, all health and safety risks on their own right. Over two-thirds of workers reported that they had a half an hour or less of breaks per eight to 12-hour workday. Furthermore, 32 workers (84 percent) reported having no access to a shady place to rest and 20 (53 percent) reported not being provided with drinking water. Some workers reported that they had to drink water from ditches during their short and infrequent breaks. Sixteen workers (42 percent) reported that they took pills or other substances to cope with the long working hours under brutal conditions, including pills containing unknown substances and Tramadol, a prescription opioid. In addition to potentially increasing the risk of CKD and accidents, opioid use also carries the risk of addiction.

Low or no salary

Low or no salary is an indicator of a form of exploitation. No salary relates to cases where the individual is completely denied of his/her salary. This also includes cases where the individual instead receives payment in “goods”/“in-kind” payment. Low salary refers to cases where the individual received less than the agreed upon salary (i.e. deceived about wages) or where s/he is paid less than the minimum wage.¹⁶⁵

Thirty-six workers interviewed (95 percent) reported that they earned less than the monthly minimum wage of GTQ 2,747.04 (USD 365). On average, workers reported earning GTQ 981 (USD 130) per month (36 percent of the minimum wage) after deductions. Furthermore, two-thirds of workers reported that they worked alongside family members, and workers and experts interviewed reported that the male heads of household frequently received payment for the work of all their family members, meaning that these extremely low wages were earned by multiple people. Seven workers (18 percent) reported that they were paid less often than once every 15 days, in violation of Guatemalan law, and some workers reported that they would not be paid what they were owed if they left the plantation without permission. Seventeen workers interviewed (45 percent) reported that they believed that they were paid less than they were owed, and 16 workers (42 percent) reported that they were paid less than what they were promised at the time of recruitment.

No respect of labour laws or contract signed

No respect of/non-compliance to labour laws or of the contract signed is also an indicator of exploitation. This includes cases where the individual was forced to work without a contract, where there was no respect to the contract signed, where the contract provided was unlawful, or where the recruitment of the individual was illegal. It also refers to the nature and conditions of the work such as deception about the nature of the job; deception about the employer; deception about the possibility to work; deception about the number of working hours (whether excessive or restrictive); deception about the working conditions; or exploitative, precarious or illegal working conditions. Exploitation through no respect of/non-compliance to labour laws or of the contract signed also refers to payment issues for example in cases where the individual is paid less than regular employees, or where the payments are in cash only when other workers are paid in cheques/bank transfer.¹⁶⁶

Verité research found rampant non-compliance with labor laws, including wage and hour violations; the failure to provide workers with contracts; and the use of labor brokers who failed to register or show workers power of attorney letters. Thirty-six workers interviewed (95 percent) reported earning less than the minimum wage, with workers earning on average just over a third of the minimum wage. The majority of workers worked in excess of daily and weekly limits on regular working hours, with 23 (61 percent) reporting that they worked over eight hours per day and 37 (97

percent) reporting that they worked over 44 hours per week. None of the workers interviewed reported that they were provided with a written contract, constancia, or tarjeta, as required by law, and 16 workers interviewed (42 percent) reported that they were paid less than promised at the time of recruitment. Furthermore, there was no evidence that labor brokers recruiting workers in the sugar sector were legally registered, and none of the workers interviewed who were recruited by brokers reported that they were shown a legally required power of attorney letter authorizing the broker to carry out recruitment on behalf of the employer.

Wage manipulation

Exploitation through wage manipulation includes the payment of wages to a middleman, the payment of wages to a family member, the issuance of fines, or excessive deductions for food and lodgings. It also includes manipulation of wages in the sense that the individual is not able to exercise control and free disposition of his/her wages.¹⁶⁷

Five workers interviewed (13 percent) reported that their labor broker was their supervisor on the plantation, meaning that they were paid by a middleman rather than their end employer, and various workers reported that their labor brokers would not pay them until they paid off their debt to stores controlled by the labor broker or plantation.

Workers interviewed reported that the environment was rife for wage manipulation, due to the lack of verbal or written explanations of their pay, deductions, and debts, as well as the fact that 30 workers (79 percent) were paid piece rates, mainly by ton of sugarcane harvested. The sugarcane was often not weighed in the presence of workers, many of whom reported that they believed that the plantation or labor broker paid them less than they were owed based on the amount of cane harvested. Ninety percent of workers reported that they did not receive a pay slip or other documentation detailing their earnings and deductions, and many workers reported that they were simply provided with a cash payment, with no explanation of how their wages were calculated. Thirty-one workers (82 percent) reported that they did not understand how their wages were calculated, and 17 (45 percent) reported that they were paid less than what they believed that they were owed.

Thirty workers (79 percent) interviewed reported that deductions were made from their wages. These deductions were generally for transportation, health care, PPE, purchases from stores controlled by the plantations and labor brokers, and social security. Twenty workers interviewed (53 percent) reported that deductions were made from their wages to cover debts to stores. Eight (23 percent) reported deductions for health care and 18 (47 percent) reported deductions for Guatemalan social security or IGSS benefits, such as access to IGSS-run hospitals and social security benefits. However, multiple workers interviewed reported that in practice they were not provided with IGSS social security cards and were not registered in

the IGSS system. One worker interviewed reported that despite IGSS social security deductions from his pay, after he was injured, an IGSS-run hospital turned him away since he did not have an IGSS card and was not registered in the system. One worker interviewed reported that deductions were made from his pay to cover transportation to the plantation, and some workers interviewed reported that deductions were made from their wages to cover labor brokers' commissions or the cost of protective suits used for the application of pesticides.

Indicators of Coercion at Destination

STRONG INDICATORS

Confiscation of documents

Confiscation of documents is an indicator of coercion at destination. This includes the confiscation of any or all of the individual's identity and travel documents (for example, passport, identity card etc.). Individuals who have their identity and/or travel documents forcibly removed from their person are rendered highly vulnerable.¹⁶⁸

Ten the 38 workers interviewed (26 percent) reported that their DPIs were retained, which is illegal under Guatemalan law. Workers interviewed reported that while some plantations simply requested a copy of workers' DPIs, others retained their original documents and would not return them until the end of the harvest season or until they were given permission to leave. The retention of DPIs is especially problematic in the Guatemalan context, as DPIs are required to secure jobs, make bank transactions, and file legal complaints; and the cost and time required to secure replacement documents is excessive, given government inefficiency and corruption, as mentioned previously. This can result in a significant impediment of the ability of workers whose documents are retained to leave the plantations, as they would not be able to secure another job, cash checks, or file a legal suit against their employer until they secured a replacement document many months later.

Debt bondage

Debt bondage at destination includes debts accrued during recruitment, transfer or transportation; debts from previous trafficking experience; or any additional debts incurred at destination. Debts can also be compounded as a result of debt manipulation, including through the enforcement of excessive interest rate or through an unlawful agreement where a debt is reduced/deducted in exchange for work.¹⁶⁹

Twenty-four of the 38 workers interviewed (63 percent) reported that they were indebted during their employment, and 33 of these workers (88 percent) reported that they could not leave the plantation before paying off the debt. Of the workers who were indebted, two-thirds reported that they owed money to a store located on the plantation, five (14 percent) reported that they owed money to the plantation or farm owner, and three (eight percent) reported that they owed money to their labor broker, either for recruitment fees or transportation, with one worker reporting that the cost of transportation was retroactively deducted from his pay. One worker interviewed reported that he owed GTQ 500 (USD 66). Thirty-eight percent of the workers who were indebted reported that they owed GTQ 200-300 (USD 26-40), another 38 percent reported that they owed GTQ 100-200 (USD 13-26), and eight percent reported that they owed less than GTQ 100 (USD 13). While none of the workers interviewed reported that interest was charged on the debts, workers could become stuck in cycles of debt due to their extremely low wages (workers reported earning an average of GTQ 981 per month after deductions) and the fact that workers continuously must buy products from company stores on credit to compensate for meager rations.

According to workers interviewed, in some cases workers were only given beans twice per day, only the male head of household was provided with food, or workers were not provided with food or medicine when they got sick and could not work. Therefore, they had to buy food, medicine, and other supplies from company stores, labor brokers, or independent vendors who were often the friends or family members of supervisors or permanent workers who lived on the plantations year-round. As most workers were paid biweekly or monthly, they had to buy food and other supplies on credit, leading to a cycle of indebtedness. One worker interviewed reported that his labor broker had set up a business in the plantation selling lunches to hungry workers for GTQ 15 (USD 2) each, which could be up to half of what workers earned per day. There were also reports that labor brokers and stores sold pills, including the highly addictive opioid Tramadol, at highly inflated prices to workers to help them get through their long, hard workdays.

Twenty-eight workers interviewed (74 percent) reported that there was a store on the plantation or that a supervisor or labor broker sold food and other products on the plantation, and 100 percent of these workers reported that the prices charged for these products exceeded the market price. As workers often bought products on credit, 20 workers interviewed (53 percent) reported that deductions were made from their wages to cover debts to the company stores. One worker interviewed reported that after working for a month and paying off his debts, he was left with only GTQ 200-300 (USD 26-40), meaning that his family went hungry, as he did not earn enough to provide food for his children.

Isolation, confinement or surveillance

Isolation, confinement or surveillance of the individual are indicators of coercive means used to control the individual at destination. Isolation includes partial or restricted freedom to communicate with others (for example through restricted or denied access to telephones), separation from one's family or friends, and/ or being forced to work or reside in a location with limited public access. Confinement includes the holding a person against his/her will (i.e., held in a locked environment either at work, whilst being transported to work, or at his/her place of residence), or limited freedom of movement. In addition, the individual may also be under constant or partial surveillance.¹⁷⁰

Twenty-seven workers interviewed (71 percent) reported that they were unable to leave the plantation without the permission of management or their labor broker. Twelve workers (32 percent) reported that they were not permitted to leave the plantation before working the whole harvest or the amount of time that they agreed to work when they were recruited. All of these workers reported that they could not leave because they were barred from doing so by guards or their identity documents were retained. Additionally, three-quarters of workers interviewed reported that workers were unable to leave their employment on the plantation before paying off their debt. The reasons they gave for not being able to leave included that they were uncomfortable walking out on a debt; their debts would be deducted from the pay of other workers in their crew; their DPIs would not be returned; they would not be paid what they were owed if they did not first pay their debts; they did not have enough money to pay their return trips home; and they were under constant surveillance.

Violence on victims

Exploitation at destination often includes violence against the individual: including sexual violence, physical violence, psychological violence (forced to witness a group rape or punishment of others), forced abortion, denial of food and/or drink, denial of right to access health care, forced intake of drugs and/or alcohol, torture, and forced provision of sexual services to either the recruiter or forced prostitution to third persons.¹⁷¹

While 12 workers interviewed (32 percent) reported verbal abuse on the plantations, there were no reports of physical or sexual abuse or violence. However, there was evidence of other ILO indicators of violence on victims, such as denial of food and access to health care and forced intake of drugs. Some workers interviewed reported that workers were denied food if they failed to meet quotas or if they became sick and were unable to work. Furthermore, 19 of the workers interviewed (50 percent) reported that the plantation failed to provide workers who were injured or became ill with free health care. There were also reports that workers who paid for IGSS

benefits, including health care, through deductions from their pay, were not in fact registered with the social security system and were thus unable to access IGSS hospitals.

Experts and workers interviewed reported that sugarcane harvesters, who were forced to work long hours under extremely physically demanding conditions, turned to pills and “sueros” which are liquids containing unknown substances to be able to put up with the physical rigors of their jobs. Sixteen workers (42 percent) reported that they took pills or other substances to cope with the long working hours. When asked about the specific drugs that they were given, some workers said that they did not know, while some said that they were given pills or injections that they believed contained vitamins, and others mentioned sueros, pastillas sin sueño, and the highly-addictive prescription opioid painkiller Tramadol. One worker interviewed reported that workers took Tramadol to get through their excessive shifts and that labor brokers sold Tramadol for GTQ 8 (USD 1) per pill and pastillas sin sueño for GTQ 2 (USD 0.26) per pill through “chamorreros” who are vendors who work with the labor brokers. In some cases, there was evidence that employers and labor brokers actively offered workers drugs, and sometimes even gave them to workers for free, only to charge them once they became dependent on the drugs. Some workers reported that after taking the drugs, they felt as if they could not stop and/or were unable to meet the rigors of their jobs without the drugs. One worker said, “when I am tired, I take the pills so that I will not faint.”

MEDIUM INDICATORS

Withholding of wages

Exploitation through withholding of wages refers to the complete withholding of all wages, or the retention of wages as a means to force the individual to remain working under the same conditions until the exploiter accepts to give the due wages. Wherein payments are instead paid to a family member/relative this refers to the nonpayment of all wages to the respective family member/relative.¹⁷²

Eighteen workers interviewed (45 percent) reported that they were not paid the full amount they were owed. Seven workers (18 percent) reported that they were paid less frequently than every 15 days, as required by law, indicating that employers temporarily retained wages legally due to workers. Some workers reported that they would not be paid what they were owed if they tried to leave without permission, before paying off their debts, or without working until the end of the harvest or the duration that they initially agreed to at the time of recruitment. Some workers interviewed reported that because they did not have enough money to return to their communities of origin, they could not leave their employment on the plantations, even if they were recruited to work in another sector, were deceived about their conditions of work, or were working or living under intolerable conditions.

Twenty-five workers interviewed (two-thirds) migrated with their family members and 30 (79 percent) were paid a piece rate. In many cases, men's wives and children contributed to the family earnings by helping to pick cane or complete other tasks. However, according to workers and experts interviewed, men were often paid for the work of their whole families. This means that women and children never had control over the money that they earned on the plantations.

Child Labor

Background and Legal Framework

In 1990, Guatemala ratified ILO Convention 138, which establishes the age for compulsory education and that the minimum age for child labor must be higher than 15. However, it also states that in cases where member countries' economies or educational systems are not sufficiently developed, the minimum age may be set at 14 through consultations between employer and worker organizations, if such organizations exist. Adhering to this exception, Guatemalan labor law has set the minimum age for child labor at 14. The Labor Code establishes that children assisting their parents on agricultural estates are considered employees of the estates, and these estates thus have contractual and legal obligations to these children. The Law on Sexual Violence, Exploitation, and Trafficking in Persons defines subjecting minors to child labor as a severe crime and establishes penalties of two to three years' imprisonment for perpetrators.¹⁷³

The Labor Code establishes a "Special Work Regime" for minors under the age of 18. This Regime regulates the minimum age for employment, conditions of work, and activities that may damage minors' physical, mental, or moral development. Article 148 of the Labor Code prohibits minors from working in unsafe or unhealthy workplaces, or night or overtime work. Furthermore, juvenile laborers between the ages of 14 and 17 may not work more than seven hours per day.¹⁷⁴ Guatemala's Labor Code prohibits the employment of minors in work that involves hazardous conditions, including carrying heavy loads, working with dangerous tools, and exposure to agrochemicals,¹⁷⁵ all of which are common in the sugar sector. While Guatemalan law prohibits the employment of minors in hazardous work, one of the worst forms of child labor, it fails to define the word "minor."

The Labor Code prohibits children under the age of 14 from working, except in special circumstances. Article 150 of the Labor Code sets requirements for child laborers under the age of 14. The Labor Inspectorate may issue, in cases of qualified exemptions, authorizations for minors under the age of 14 to work for up to six hours per day during normal daytime working hours, as established by the Labor

Code. To obtain authorization to work, minors must be working as an apprentice or contributing to their family's economic wellbeing due to extreme poverty; they must be carrying out light work (both in terms of working hours and type of work) that does not affect their physical, mental, or moral wellbeing; and they must continue to comply with mandatory education requirements. Beginning in 2008, the Ministry of Labor made a commitment that it would not authorize the employment of children under 14 under any circumstances,¹⁷⁶ and there were no reports of authorizations being issued as of 2015.¹⁷⁷

The Ministry of Labor and the Labor Inspectorate are the primary government entities responsible for combatting child labor. The U.S. Department of Labor reported that the government made important advancements in the fight against child labor in 2015, increasing penalties for the trafficking of children, developing an Action Plan on child labor for 2016-2018, creating a protocol for labor inspectors, and increasing the number of trainings for labor inspectors and other government agencies. Despite these advancements, the U.S. Department of Labor noted that efforts were impeded by a lack of resources, enforcement of judicial rulings, and social services for victims of child labor, especially in the agricultural sector.¹⁷⁸ In 2014, a representative of the PDH reported that the government's budget for children's services was inadequate, at GTQ 5 (USD 0.67) per child per day.¹⁷⁹

The government's 2014 National Survey of Employment and Earnings (ENEI) found that 311,940 children aged seven to 14 were working in Guatemala, representing 10.6 percent of children in this age group.¹⁸⁰ While this number remains high by international standards, it represents a significant decrease from the 528,000 child laborers detected in a government survey on living conditions carried out in 2006, during which 13 percent of children worked, giving Guatemala the highest rate of child labor in the Americas.¹⁸¹ The UN Development Program (UNDP) reported that a much larger number of a wider and younger age group was engaged in child labor, estimating that 26 percent of children between the ages of five and 14 were engaged in child labor between 2009 and 2015.¹⁸²

The 2014 ENEI found that 71 percent of child laborers were boys, 58 percent were indigenous, and 64 percent of child labor was concentrated in the agricultural sector.¹⁸³ CODECA reported that 11 percent of the labor force in the agricultural sector was comprised of children, who often worked as unpaid helpers, assisting their parents in meeting arbitrarily set quotas. In some estates, while children were allowed to work, they were not recognized as official workers and were thus not provided with any labor rights or benefits.¹⁸⁴

The U.S. Department of Labor asserted that child labor was especially prevalent in the agricultural sector,¹⁸⁵ and in 2016 noted that child labor had been documented in the production of broccoli, coffee, corn, fireworks, gravel, and sugarcane.¹⁸⁶ The U.S. Department of Labor further reported that children were engaged in the worst forms of child labor in beans, broccoli, coffee, corn, and sugarcane. Children employed in the production of these goods were exposed to extreme temperatures



and weather, carried heavy loads, and used dangerous tools and substances. The U.S. Department of Labor also reported the existence of forced child labor in the agricultural sector.¹⁸⁷ A PDH representative stated that child labor was especially concentrated in the harvesting of coffee and sugarcane.¹⁸⁸ A previous Verité study found that 98.9 percent of the 372 coffee sector workers interviewed reported that minors were employed on the last coffee estate on which they worked.¹⁸⁹

In the sugar sector, COVERCO research found that the employment of juvenile laborers between the ages of 14 and 18 was a common occurrence in 2005. Six percent of the workers interviewed by COVERCO were juvenile laborers, and researchers identified children appearing to be as young as 10 years of age working up to 12 hours per day. COVERCO found that children employed in the sector were often allowed by plantations to work alongside the male head of household, who received payment for the labor of the entire family.¹⁹⁰ A leaked 2008 U.S. diplomatic cable asserted that child labor was widespread in the sugar sector, and could be attributed to excessive quotas established by employers, which were “humanly impossible to meet under legal conditions.”¹⁹¹

A 2012 report by Guatemala’s foremost independent investigative journalism outfit, Plaza Publica, found that child labor was widespread in the Guatemalan sugar sector, including on a farm owned by the ex-director of the Chamber of Agriculture. Reporters found that children as young as 10 were employed in the sector, in many cases working alongside their parents. There were cases in which whole families collectively earned less than one minimum wage. In some cases, children were found to be engaged in hazardous work, such as carrying heavy loads or working with dangerous tools.¹⁹²

Only two percent of sugarcane workers surveyed by Fairfood International reported the presence of child labor on the plantations where they worked. However, the organization noted that, due to the difficulties of carrying out field research, an international organization should verify the scale of child labor in the sugar sector.¹⁹³ UL reported that during the course of its investigation, which involved visits to plantations, researchers saw one 16-year-old harvesting sugarcane with a machete, as well as another young person who was being taken out of a farm when the researcher arrived.¹⁹⁴

The CIDH study found that boys and girls commonly worked in the sugar sector. Boys generally helped their fathers to meet production targets, in the majority of cases for no pay. However, in some cases, plantations hired unaccompanied boys. The study found that although mills had policies prohibiting child labor, many children worked on sugar plantations, with children as young as 13 working independently of their families. In some cases, children reportedly used the identity documents of other people to secure their jobs.¹⁹⁵

According to the ILO, “Poverty emerges as the compelling reason why children work.” Worldwide, children generate approximately 20 to 25 percent of their families’ income and are essential to keeping their families afloat. In fact, a recent UNICEF study carried out in nine countries in Latin America found that poverty rates would rise between 10 and 20 percent without the income generated by juvenile laborers between the ages of 13 and 17.¹⁹⁶

A lack of access to education, both among children and their parents, also contributes to child labor. Studies have shown that lower levels of education contribute to lower salaries, including among Guatemalan agricultural workers. This means that parents who earn far less than the minimum wage may have to utilize the labor of their children in order to survive.¹⁹⁷ In 2015, Guatemalans had an average of 6.3 years of schooling, compared to an average of 8.3 in Latin American countries, according to the UNDP.¹⁹⁸ A 2009 report found that indigenous Guatemalans averaged 2.5 years of schooling, less than half of that of non-indigenous children, who went to school for an average of 5.7 years. Children who do not attend school are more likely to be involved in child labor. While at a national level, the 2014 ENEI found that 88 percent of children between the ages of seven and 14 were enrolled in school,¹⁹⁹ just 39 percent of the children of agricultural day laborers were enrolled in school in 2013, according to the CODECA report.²⁰⁰

Findings

Verité research found child labor and its worst forms to be an issue of concern in the sugar sector. Twenty-one of workers interviewed by Verité (55 percent) reported seeing children under 14 years of age working on the last sugarcane plantation where they worked. Three workers (8 percent) reported that child laborers comprised one to 10 percent of the labor force, while 12 (32 percent) reported that children made up 11 to 25 percent of the labor force, and six (16 percent) reported that 26 to 50 percent of all workers employed were children. Additionally, all of the workers who reported seeing children under 14 working on the plantation said that the children used sharp tools, such as machetes, indicating that children were involved in cane cutting. Thirty-five (91 percent) reported that they saw children applying pesticides. Both of these tasks are considered to be among the worst forms of child labor, under international standards and Guatemalan law.

Case Study: Family Migration

Researchers met with a mother and father who had migrated to a sugar plantation with their four children: two sons, a ten-year-old girl, and a one-year-old baby. The mother explained that the whole family migrates to the plantation because their two sons cannot find employment in their village, and they needed the extra income in order to survive. She also reported that a labor broker who operates in the villages takes children to work in the plantations. While the mother, father, and boys work in the fields, the ten-year-old girl took care of the baby alone in communal housing where dozens of strangers live, making her vulnerable to sexual abuse. The mother said that the family suffered, because they had to live under very poor conditions on the plantation.

Nine of the workers interviewed by Verité (24 percent) reported that they saw children working on plantations between February and September, months that fall squarely within the schoolyear, indicating that work on sugar plantations interfered with children's education, potentially perpetuating low levels of education, poverty, and child labor.

Verité research found that several factors coalesced to increase the risk of child labor on sugar plantations: family migration, a lack of childcare on sugarcane plantations, and the prevalence of piece rates. Of the workers interviewed, 30 (79 percent) reported that they were paid a piece rate based on productivity (i.e., the amount of sugarcane harvested, the area cleared or planted). In many cases, heads of households, usually males, are the only registered employees and must harvest large amounts of sugarcane in order to meet quotas and to earn enough money to buy food and other basic necessities. Given the lack of child care on many plantations, parents often make the rational decision to have their children accompany them rather than leaving them alone with unfamiliar men in communal housing. Twenty-six percent of workers reported that they were migrants who brought their children with them to the plantations, indicating they likely knew few people in the area. When the children are in the fields, parents ask them to assist with tasks, since their earnings depend on production, and they need money to supplement the rations plantations provide, which are inadequate to meet families' nutritional needs. Without addressing these root causes, it will be almost impossible to eradicate child labor from the sugar sector.

Freedom of Association

Background and Legal Framework

Guatemalan labor law and Article 34 of the Constitution protect workers' right to freedom of association. Guatemalan law generally complies with ILO Conventions 87 and 98 on freedom of association and collective bargaining, both of which Guatemala has ratified. Workers have the right to unionize without being subject to discrimination and without prior authorization. The dismissal of workers for union organizing is prohibited once union members have advised the Labor Inspectorate of their intention to unionize. Article 104 of the Constitution protects workers' right to strike.

Despite these legal protections, Verité research has found that workers' right to freedom of association was seldom respected in practice, especially in the agricultural sector. In 2014, the International Trade Union Confederation (ITUC) reported that Guatemala was the most dangerous country for trade unionists in the world, with the highest per capita rate of trade unionist assassinations. From 2007 to 2014, 53 trade union members and leaders were murdered.²⁰¹

Other forms of reprisals against unionists have also occurred, including dismissal, harassment, and blacklisting of union members; failure to renew union members' contracts; refusal to hire unionized temporary workers as permanent workers; and threats to close workplaces due to unionization efforts. Furthermore, businesses reportedly failed to recognize unions and collective bargaining agreements and refused to comply with judicial orders.²⁰² Violent and non-violent repression of unions, along with the government's failure to enforce laws on freedom of association, has resulted in an extremely low rate of unionization in Guatemala. Just 1.4 percent of the workforce was unionized, according to a 2013 study done by the Association of Social Science Research (ASIES) for the EU.²⁰³

The rate of unionization in the agricultural sector was even lower. According to the most recent government data available, there was a 0.79 percent unionization rate among rural workers in 2010, less than half of the overall unionization rate of 1.6 percent during the same year. In, 2013, unions were only present in banana plantations in the department of Izabal, a few coffee estates, and one sugar mill, according to the CODECA report.²⁰⁴ According to the ASIES study, just one percent of agricultural day laborers interviewed reported that there was a union in their place of work, and 88 percent of workers reported that they were scared to unionize. Specifically, 84 percent of workers reported they would be fired and blacklisted for attempting to unionize.²⁰⁵

In the sugar sector, the systematic destruction of unions began in the 1980s, the height of Guatemala's civil war and genocide. Union leaders, who were labeled as leftist guerrillas or sympathizers, were fired, disappeared, and killed. Alternate

“organizaciones solidaristas” meaning solidarity organizations, which provided workers with a limited venue for expressing their right to freedom of association, were also destroyed.²⁰⁶ Between 1980 and 1984, 23 unionized sugar workers were disappeared. In 1980, approximately half of all cane cutters in one of Guatemala’s most important mills were unionized. However, in 1983, three union leaders were reported kidnapped, and the following year all unionized workers were dismissed from the mill.²⁰⁷

The prevalence of temporary workers in the sugar sector further hinders efforts to organize. A large proportion of the workforce is comprised of temporary migrant cane cutters who are only onsite during the harvest and are generally excluded from unions that do exist.²⁰⁸ Furthermore, Verité field research found that in addition to a divide between permanent and temporary workers, the temporary workforce itself is comprised of migrant workers from a large variety of regions and ethnicities, who in many cases speak different languages.

In 2005, COVERCO published a report detailing repression of unions in the sector.²⁰⁹ Only a few solidarity organizations existed in the sector, which were mistrusted by workers, who felt they represented the interests of management instead of the workforce. The only organizations representing the interests of workers were “campesino” or peasant worker organizations, which provided workers with training and helped some workers to advocate for their land rights.²¹⁰ In 2008, CIDH reported that there was one union representing 400 unionized workers at one mill in Suchitepéquez. However, the union only represented workers employed in industrial functions in the mill, meaning sugarcane harvesters, the most vulnerable workers, were not represented by the union.²¹¹ By 2012, there were reportedly no unions in the Guatemalan sugar sector, according to a Plaza Publica investigative report.²¹² The absence of unions, coupled with an almost complete lack of government enforcement in the agricultural sector, reportedly leaves workers without recourse when they experience labor rights violations.²¹³

Findings

None of the workers interviewed for this research reported that they could freely organize, in large part because the sugar mills reportedly circulated blacklists of workers who organized or complained about their conditions of work.²¹⁴ All of the cane cutters and transporters surveyed reported that there was no union in their workplace. Furthermore, 49 percent of cane cutters and 87 percent of cane transporters reported that they were aware of blacklists. Workers interviewed further reported that at the time of hire, they were warned not to talk about unions.

Expert consultations carried out by Verité researchers indicated that there was one active union in a sugar mill, which represented approximately 150 workers employed at the mill. Experts interviewed reported that this union had faced many obstacles,

making its existence precarious, including restrictions on union leaders' ability to conduct meetings. All of the workers interviewed by researchers in Guatemala reported that they were not permitted to freely form and join unions, and none of the workers interviewed reported being a member of a union. Union representatives interviewed reported that they had attempted to organize workers employed in sugar mills and plantations on various occasions and had been told by workers that there was an express prohibition on unionizing in the sector. Some workers interviewed reported that they would be blacklisted if they attempted to unionize or complain about their conditions of work.

Gender-Based Discrimination

Background and Legal Framework

Article 202 of Guatemala's Penal Code prohibits gender-based discrimination, defined as any distinction, exclusion, restriction, or preference based on gender. Article 102 of Guatemala's constitution requires employers to pay workers equally for equal work under equal conditions, levels of efficiency, and seniority.²¹⁵

Individuals, who engage in discrimination, as defined in the Penal Code, are subject to one to three years in prison and fines of GTQ 500-3,000 (USD 63.86 -383.16). Article 151 of the Labor Code prohibits employers from including requirements on gender, ethnicity, or marriage status in their job advertisements, unless the nature of the job necessitates certain characteristics.

The law includes specific protections for female workers, including prohibitions of differential treatment between married and single female workers. The law also establishes protections for pregnant and breastfeeding workers. Employers are not allowed to require pregnant women to carry out physically demanding jobs for three months prior to the expected date of delivery. Pregnant workers are also entitled to 30 days of paid rest time prior to delivery and 45 days following delivery. This rest time may be extended according to the physical wellbeing of the worker or by doctors' orders. Breastfeeding women must be provided with two extra breaks during each shift. Further, employers are prohibited from dismissing pregnant or breastfeeding women.

The UN ranked Guatemala 113 out of 159 in gender equality, with a score of .494.²¹⁶ This score indicates a high level of loss in potential human development due to gender-based disparities.²¹⁷ A 2013 study CODECA found that 25 percent of Guatemalan agricultural day laborers were women, who predominantly worked on sugarcane, coffee, and banana farms.²¹⁸ The report also found that women who worked in agriculture were paid very poorly. Of the female day laborers surveyed,



14 percent received less than GTQ 25 (USD 3.30) per day, and 73 percent were paid between GTQ 26 (USD 3.40) and GTQ 50 (USD 6.60) a day. Guatemala's minimum agricultural wage at the time was GTQ 68.00 (USD 9) per day. Ninety-seven percent of female agricultural workers surveyed were paid below the minimum wage, compared to 90 percent of agricultural workers overall.²¹⁹ According to the IGSS, in 2010, the average monthly wage for a male agricultural worker was GTQ 1,864 (USD 248), while the average monthly wage for a female agricultural worker was only GTQ 1,499 (USD 199).²²⁰

Verité has found evidence of systemic gender-based discrimination in the agricultural sector in Guatemala through previous research focused on the coffee and palm oil industries. Women were consistently paid less than men and reported being less satisfied with their jobs. Female workers employed in the coffee sector earn about three-quarters of men's wages. Women in the palm oil sector also reported sexual harassment of female workers by supervisors.²²¹ CODECA found that many female agricultural workers reported experiencing sexual harassment at work.²²²

Findings

Research on the sugar industry found that women were often assigned different tasks than men, and were paid less overall, often justified as being a result of the piece rate system.²²³ The women interviewed for this study reported earning 44 percent of the wages of the men interviewed, on average. Women interviewed earned an average of GTQ 528.75 (USD 70) per month while men earned GTQ 1,191 (USD 158) per month. While 15 workers interviewed (39 percent) reported that there were no female workers where they worked, six (16 percent) reported that the majority (50 to 75 percent) of the workers were female. Eleven (29 percent) reported that 10 to 25 percent of the workers were female, while six (16 percent) reported that 25 to 50 percent of the plantation workers were female.

Wages

Background and Legal Framework

Guatemala's Constitution establishes a process for setting minimum wages and mandates that employers pay workers the minimum wage. Article 103 of the Labor Code establishes that every worker has a right to a minimum wage that covers his material, moral, and cultural needs and those of his family. During 2016, when field research was carried out, the monthly minimum wage, including a legally mandated bonus of GTQ 250 (USD 33) per month, was GTQ 2,747.04 (USD 365) for both agricultural and non-agricultural work (excluding work in the "maquila" export sector). The minimum hourly wage was GTQ 10.23 (USD 1.4) for daytime work, GTQ 13.65 (USD 1.8) for nighttime work, and GTQ 11.70 (USD 1.5) for mixed shifts. For a regular working day, the minimum wage was GTQ 81.87 (USD 10.8).²²⁴ The Labor Code requires that time worked in excess of eight hours per day or 44 hours per week be remunerated at a 50 percent premium.

Article 91 of the Labor Code establishes that agreements on workers' salaries may be reached by workers and employers, but may not be set at less than the minimum wage. Article 88 of the Labor Code establishes that workers may be paid on a piece rate basis, meaning workers are remunerated by unit of work completed, rather than unit of time worked. However, workers paid under a piece rate system must receive at least the minimum wage, regardless of their productivity. Article 92 of the Labor Code states that workers and employers may come to an agreement on the frequency of salary payments, if wages are paid at least every 15 days for manual workers, including agricultural workers, and at least once per month for professional and domestic workers. Under Article 102 of the Labor Code, each employer with at least 10 workers must maintain a book of payroll records, authorized and stamped by the Ministry of Labor.

Article 90 of the Labor Code establishes that wages must be paid in legal currency and may not be paid in merchandise or coupons. On the other hand, the Constitution establishes that peasant agricultural workers may receive up to 30 percent of their wages in the form of food and other goods destined for immediate consumption by the worker or his or her family members if these goods are provided to the worker at or below cost and the worker consents to this arrangement. However, it is important to note that Guatemala's legal framework contains two provisions that favor workers, the Principio de Irrenunciabilidad and the Principio Mínimum de Garantías, which establish that workers cannot voluntarily renounce their labor rights and that the laws that have the strongest protections for workers shall prevail. Therefore, employers should adhere to Article 90 of the Labor Code and ensure that workers are paid at least the minimum wage, in addition to any food or housing provided.

The ENEI of 2010 found that 96 percent of agricultural day laborers earned less than the minimum wage at the time, and the 2011 ENEI found that workers in rural areas earned 20 percent less than workers in urban areas. In 2013, CODECA found that 90 percent of the over 1,000 agricultural workers surveyed earned less than the minimum wage, with 97 percent of female agricultural workers earning less than the minimum wage. CODECA further reported that 42 percent of the workers surveyed were not paid for their work on Sundays. The level of minimum wage violations is especially troubling because, at the time, the minimum wage covered less than 60 percent of the cost of the “Canasta Basica de Alimentos” which is 26 products needed to meet a family of five’s basic nutritional needs. Because they do not make even the minimum wage, agricultural workers and their families were condemned to poverty and malnutrition, undermining development efforts and increasing inequality, according to CODECA.²²⁵

In 2015, the Fairfood International study found that sugarcane cutters interviewed earned an average of GTQ 805 (USD 107) per month, less than a third of the 2015 monthly minimum wage of GTQ 2,644.40 (USD 352). Meanwhile, sugarcane transporters fared much better, earning GTQ 2,475 (USD 329) per month, but still less than the minimum wage. Furthermore, the study found that workers earned far less than necessary to cover the basic needs of their families, leading 96 percent of cane cutters and 100 percent of sugarcane transported interviewed to become indebted.²²⁶ According to the National Institute of Statistics, in February 2017, the cost of a Canasta Basica de Alimentos was GTQ 4,098.60 (USD 559) per month, and the cost of a “Canasta Basica Vital,” which also included water, electricity, housing, health services, transport, recreation, and education, was GTQ 7,479.20 (USD 1,020) per month.²²⁷

Findings

Thirty-six of the 38 workers interviewed by Verité researchers (95 percent) reported that they earned less than the monthly minimum wage of GTQ 2,747.04 (USD 365). On average, the workers interviewed earned GTQ 981 (USD 130) per month, 36 percent of the minimum wage, about a quarter of the amount needed to cover a family of five’s nutritional needs, and 14 percent of the amount need to cover a family’s total cost of living.

There were large discrepancies between the wages of different groups of workers. Women earned just GTQ 538.75 (USD 72) on average, 44 percent of the GTQ 1,191 (USD 158) earned by men. On average, indigenous workers also earned less, receiving GTQ 1,015 (USD 135) per month, compared to GTQ 1,163 (USD 155) per month for non-indigenous workers. Local workers earned less than half of the wages earned by migrant workers, GTQ 631 (USD 84) versus GTQ 1,415 (USD 188). Furthermore, workers hired by labor brokers earned GTQ 955 (USD 127) per month, 26 percent

less than the GTQ 1,300 (USD 173) per month that workers directly hired by the plantations earned.

Thirty of the 38 workers interviewed (79 percent) reported that deductions were made from their wages. Twenty workers interviewed (53 percent) reported that money was deducted from their wages to cover debts to stores on the plantations. Eighteen workers interviewed (47 percent) reported IGSS deductions from their pay, many of whom reported that they were not actually enrolled in the social security system and were thus unable to access benefits, such as health care and retirement. Nine workers (23 percent) reported that other health care costs were deducted from their pay, and one worker reported that the cost of transportation was deducted from his pay. Experts and workers interviewed also reported deductions for tools and PPE needed to carry out their jobs, such as canteens, gloves, shoes, and machetes, for which they were charged GTQ 40 (USD 5). Some workers reported that GTQ 5 (USD 0.67) was deducted from their pay for each ton of sugarcane harvested as a commission to their labor brokers.

There were a number of other violations related to payments. Seven workers (18 percent) were paid monthly, whereas labor law requires that agricultural workers be paid at least every 15 days. Thirty-four (89 percent) of the workers interviewed reported that they did not receive a pay slip or any other documentation detailing their earnings and deductions, and 31 workers (82 percent) reported they did not understand how their payments were calculated. Additionally, 16 workers (42 percent) reported that they were paid less than they were promised at the time of recruitment, and 17 workers (45 percent) reported that they thought that they were paid less than they were owed, based on their calculations of their earnings.

Piece Rate Payment System

The system for paying seasonal farmworkers in the sugar sector is primarily a piece rate system,²²⁸ in which workers are remunerated by unit of work completed, rather than unit of time worked. While workers may legally be paid on a piece rate basis, it can create vulnerability among Guatemalan farmworkers. Piece rate systems can be used to extract the maximum amount of work for the least amount of pay possible and is conducive to minimum wage violations, forced unpaid overtime, quotas, and child labor, as men bring their wives and children with them to the fields to help increase their production.²²⁹

CODECA reported that in 2013, three-quarters of agricultural workers were paid according to production. In the sugarcane sector the going piece rates were GTQ 1 (USD 0.13) for planting each 25 meter-long row of cane, GTQ 4 (USD 0.53) per each backpack full of pesticides applied, and GTQ 40 (USD 5.3) per ton of sugarcane harvested.²³⁰ CIDH reported that some workers were paid by “montoncito” or



“little mound” of sugarcane harvested, which is problematic because there is no standard measurement for a montoncito, making the environment rife for wage manipulation.²³¹ Fairfood International found that 54 percent of cane cutters and 93 percent of sugarcane transporters interviewed reported that they would prefer to be paid by the hour.²³²

Thirty of the 38 workers interviewed by Verité researchers (79 percent) reported that they were paid a piece rate, while the remaining eight workers interviewed reported that they were paid a daily wage. Workers who were paid a piece rate earned GTQ 1,049.50 (USD 140) per month on average, compared to GTQ 728.13 (USD 97) for workers paid by the day. In general, the workers who were paid a daily rate earned a flat rate of GTQ 30-40 (USD 4-5) per day for tasks such as clearing growth around sugarcane, clearing the land after the harvest, and fumigating.

While young male workers typically benefited from being paid a piece rate, children, older workers, and women are often disadvantaged because they are unable to compete in carrying out heavy tasks and are therefore unable to earn close to the minimum wage. Older workers and women interviewed by Verité researchers complained that they were unable to keep up with young men in sugarcane harvesting or other tasks requiring strength.

According to workers and experts interviewed, each mill has its own form of payment. At some plantations, workers are paid GTQ 5 (USD .66) for each montoncito of cane harvested, which very roughly corresponds to the amount of cane that backhoes can lift or around 500 pounds. In some cases, workers were paid by “paso” which is a measurement of the amount of cane cut, according to the distance between each step. Generally, the payment is about GTQ 1.50 (USD 0.20) per paso. Both of these measurements are inexact and subject to manipulation.

Workers and experts interviewed reported that piece rates for cutting cane ranged from GTQ 15 (USD 2) to GTQ 40 (USD 5) per ton of cane harvested. In some cases, the piece rates depend upon the amount of work required to harvest the cane, with workers at the lower end of the pay scale only being responsible for cutting the cane, while workers earning a mid-range piece rate were responsible for cutting the cane and gathering it in a specific spot, and the workers earning on the higher end also

being responsible for loading the trucks with sugarcane. In general, workers were reportedly able to harvest an average of three to six tons of sugarcane per day.

Some cane cutters interviewed reported that the cane was weighed when they were not present; therefore, they never found out how much they had cut and what they were owed. Some workers and experts interviewed reported that they believed that the scales used to weigh the sugarcane harvested by workers were altered so that it appeared that workers cut less cane than they actually had, resulting in lower payments. Workers interviewed reported that due to extreme temperatures, the moisture in the sugarcane evaporated quickly once it was cut. Because workers were paid by ton of sugarcane harvested, the greater the delay in weighing the cane, the less they earned. Some workers interviewed reported that workers hired and supervised by a labor broker were at an advantage, since their cane was weighed first.

Hours of Work

Background and Legal Framework

Guatemalan law states that the normal workday cannot exceed eight hours per day or 44 hours per week for daytime work; six hours per day, or 36 hours per week for nighttime work; or seven hours per day, or 42 hours per week for mixed shifts. The law allows for a maximum of four hours of overtime per day. All work carried out outside of the normal workday constitutes overtime and must be remunerated at a level of 50 percent above the normal wage.

Guatemala has ratified ILO Convention 14 on Weekly Rest (Industry) and ILO Convention 106 on Weekly Rest (Commerce and Offices). Every worker has the legal right to one paid day of rest each normal workweek or for each six consecutive days of work. The Labor Code also establishes workers' right to paid holidays.

According to the CODECA report, 86 percent of the more than 1,000 agricultural workers surveyed reported working over eight hours per day, with 38 percent working nine to 10 hours per day and 32 percent working 11 to 12 hours per day. Furthermore, 88 percent of workers reporting receiving no pay whatsoever for the overtime hours worked.²³³ Additionally, many workers commuted three to four hours per day to get to their jobs, which reportedly strained family relationships, as many workers had to leave their homes as early as 3 a.m. and did not return home until as late as 9 or 10 p.m.

The CIDH study also found that shifts of 12 to 14 hours were common in the sugar sector, and many workers began their shifts at 4 or 5 a.m.²³⁴ Fairfood International reported that many Guatemalan cane cutters interviewed worked over 10 hours per day, with half working seven days per week during the harvest. Cane cutters

reported being provided with an average of one hour of breaks per day. Meanwhile, transport workers reported working 24 hour shifts, with the subsequent 24 hours off during the entire harvest. Eighty-six percent of cane cutters and 53 percent of transporters interviewed reported that their breaks were too short.²³⁵

Findings

Twenty-three of the 38 workers interviewed by Verité researchers (60 percent) reported working more than the legal limit of eight hours per day, and 37 (97 percent) reported working more than the 44 hour weekly limit on working hours. Twenty-six of the workers interviewed (68 percent) reported that they had to meet a quota. Eighteen workers (47 percent) reported that they were completely unable to refuse overtime, and 20 workers (52 percent) reported that they would be punished for refusal to work overtime, including through deductions from their wages, withholding of meals, and threats of dismissal. In addition, 13 workers (34 percent) reported that they had 15 minutes or less of rest per day, 11 (29 percent) had 30 to 45 minutes of rest per day, three (seven percent) had 45 minutes to an hour, and seven (18 percent) had an hour or more of rest per day. All workers interviewed worked at least six days per week, and 12 workers (32 percent) interviewed reported that they were not provided with a weekly day of rest.

Workers and experts interviewed reported that sugarcane cutters worked eight to 16 hours per day, with many transporters working 24-hour shifts. Many migrant cane cutters who lived on the plantations during the harvest season reportedly worked eight to 12 hours per day, while workers who traveled from their homes to work on the plantations each day reportedly had to add as many as four hours a day onto their workday to commute back and forth to the plantations.

According to experts interviewed, piece rates, quotas, and threats of penalties to workers for refusing to work extra hours contributed to forced overtime. Workers who are not guaranteed a living wage and are paid by the piece are incentivized to work as many hours of overtime as possible to try to earn enough to survive. Additionally, in many cases, employers and labor brokers set daily quotas and threaten workers with penalties such as fines, loss of food, and dismissal for failing to meet these quotas or refusing to work overtime. It is often impossible for workers to meet these quotas while only working eight hours per day, resulting in forced overtime.

Health and Safety

Background and Legal Framework

Several laws in Guatemala cover workplace health and safety issues, notably the General Regulation on Occupational Health and Safety. The Guatemalan Labor Code also requires that employers protect the physical and mental integrity of their workers. Article 198 obligates employers to comply with measures laid out by the IGSS to prevent occupational accidents and illnesses. A 1990 Government Accord addresses worker health and safety, covering pesticide use, worker training, and equipment maintenance.²³⁶ However, Guatemala has not yet ratified the ILO's Safety and Health in Agriculture Convention (Convention 184) or the Promotional Framework for Safety and Health Convention (Convention 187).

Despite this legal framework, occupational health and safety hazards are widespread in Guatemala. A 2013 survey of over 1,000 respondents carried out by CODECA found that only one percent of day laborers in Guatemala reported feeling completely safe at work. Among the 96 percent of workers surveyed who reported that they experienced at least some risk to their health and safety, 38 percent feared encountering dangerous animals, 33 percent were concerned about being poisoned by industrial chemicals, and 11 percent were worried about being injured by tools used on the job.²³⁷

Sugarcane production, by its nature, puts workers across the world at risk, requiring physically demanding labor with machetes and long hours of exposure to high temperatures, agrochemicals, and smoke from burning cane fields leaving workers vulnerable to heat exhaustion and dehydration, respiratory problems, and skin conditions, as well as workplace CKD, a poorly understood and fatal illness.²³⁸ In Guatemala, weak enforcement of health and safety laws, an absence of PPE, and limited access to healthcare heighten risks to workers.

Article 100 of the Constitution states that all employers and workers covered by social security (except for those exempted under Article 88) are required to contribute to and have the right to participate in the social security system. Article 27 of the Law on the Guatemalan Social Security Institute states that all workers have the right to social security benefits for themselves and family members who are economically dependent upon them. The Labor Code establishes employer responsibilities in cases of workplace sicknesses or accidents and in cases of pre- and post-natal rest periods. If workers are covered by social security, the employer must pay the amount required by the IGSS's rules. Employers are required to provide workers not covered by social security with paid sick leave. If workers have worked continuously for more than two months but less than six months, the employer must pay them half of their regular salary for one month. For workers who have worked for more than six months, but less than nine months, the employer must pay them half of their normal

pay for two months. For workers who have worked continuously for more than three months, the employer must pay them half of their normal pay for three months.

The harvest season sees a spike in occupational accidents due to the physical intensity of cane cutting.²³⁹ A 2015 study by Fairfood International found that, among 60 cane cutters interviewed, about half reported that workplace accidents occurred frequently, at a rate of about two per month.²⁴⁰

Workers often suffer wounds from machetes when the blades slip and cut their hands. On these occasions, they may not stop working but instead simply cover their wounds with makeshift bandages, take painkillers, and continue working. Researchers from CODECA observed workers using scraps of cloth from their own clothing to cover their wounds in order to finish their tasks for the day.²⁴¹ Workers routinely sustained bites from snakes and other animals.²⁴² Experts interviewed reported that workers become injured after being hit by tractors. Additionally, workers experience repetitive motion injuries; 97 percent of the cane cutters interviewed by Fairfood International reported muscle pains.²⁴³

Findings

Among the 38 workers interviewed by Verité, 30 (79 percent) reported that they or someone close to them experienced a workplace-related illness or injury during their last job on a sugar plantation. In addition, 21 workers (55 percent) reported that they saw children using sharp tools, including machetes.

Lack of Personal Protective Equipment

Though Article 197 of the Labor Code requires companies to provide appropriate PPE to workers,²⁴⁴ the majority of workers lacked necessary protective equipment, according to experts interviewed by Verité. The 2005 COVERCO study found that only one percent of day laborers reported being provided with the PPE necessary for their work. COVERCO found that fumigators did not receive the PPE needed, such as masks and rubber aprons, to protect them from exposure to dangerous chemicals.²⁴⁵ Among workers interviewed by Verité, 33 (87 percent) reported that they did not receive the necessary PPE.

Exposure to Pesticides and Herbicides

Sugar cultivation in Guatemala typically involves the use herbicides, maturing agents, and fertilizers, which workers often apply manually, spraying the chemicals from tanks worn on their backs. In 2005, COVERCO documented the use of several different agrochemicals, including Paraquat, 2-4D, Gramoxone, Duro, Turbostrin, Lyphosite, and

Emazapir. Fumigators often worked long shifts of up to 24 hours without necessary PPE or adequate training. In addition, some workers reported being present in the fields during aerial spraying.²⁴⁶ Although many of the agrochemicals workers come into contact with are of low toxicity, prolonged exposure can cause health problems such as drowsiness, nausea, vomiting, and convulsions.²⁴⁷

Experts interviewed by Verité reported that workers frequently suffered from respiratory problems stemming from pesticide exposure. They also expressed concern over cane cutters' exposure to the residue of burned herbicides and pesticides. Among the 38 workers interviewed by Verité, 18 (47 percent) reported that they had been exposed to pesticides. Verité researchers spoke with one worker who had previously worked as a fumigator and believed that his CKD could be attributed to pesticide exposure. Since the application of pesticides is less physically strenuous than cutting cane, this work often falls to women and children. One worker reported seeing a pregnant woman applying pesticides, and 19 (half of all workers interviewed) reported that they had seen children performing this task.

Exposure to Particulates and Smoke

Cane cutters work amidst the ash to harvest cane soon after it is burnt, sometimes while smoke is still rising from the fields. Burning the fields typically produces an unpleasant odor of burnt pesticides and chemicals, according to experts interviewed by Verité. Key informants reported that workers typically cut cane on one side of a field while the other side was being burnt, covering their faces to protect themselves from smoke. Immediately after the fire subsides, they harvest the scorched and smoldering cane stalks.

The practice of burning cane fields prior to the harvest leads to skin diseases and respiratory problems for many workers.²⁴⁸ Studies at mills in Costa Rica and Nicaragua have found that exposure to bagasse, the fibrous remains of sugarcane stalks after extraction of their juice, also irritates the respiratory track. Workers reported wheezing and feeling short of breath during the harvest season, the period when they came into contact with bagasse.²⁴⁹ Of the 60 cane cutters interviewed by Fairfood International, 95 percent reported experiencing respiratory problems.²⁵⁰

Chronic Kidney Disease

Over the past 20 years, a poorly understood disease has been claiming thousands of lives in Central America. In El Salvador, Nicaragua, and Guatemala, CKD of unknown etiology has decimated populations of young men without typical risk factors for the illness. Usually, obesity, diabetes, and hypertension leave people at higher risk of CKD, but the agricultural laborers affected by CKD of unknown etiology rarely have these conditions. CKD attacks tubules in the kidney that filter urine, preventing

the body from eliminating waste. By one estimate, over 20,000 people in Central America have died of CKD in the past 20 years, frequently working-age men involved in sugarcane production.²⁵¹ More recently, researchers have documented this form of CKD in Egypt, India, and Sri Lanka, mainly among male agricultural laborers.²⁵²

CKD has devastated communities in sugar growing areas in recent years, and the threat appears to be growing. In 2011, CKD became the second-leading cause of deaths among men in El Salvador.²⁵³ In one municipality in Nicaragua, CKD reportedly caused 75 percent of deaths among men ages 35 to 55.²⁵⁴ A study in one province in Costa Rica found that the death rate from CKD rose from 4.4 per 100,000 men in the early 1970s to 38.5 per 100,000 in the period between 2008 and 2012. The spike in the death rate coincided with the growth of industrial sugarcane farms.²⁵⁵ Although the disease has been around since as early as the 1970s, lack of screening and medical professionals able to diagnose the disease in rural areas may have concealed its rise. CKD also remains asymptomatic until its most severe final stages, preventing people from seeking treatment until it is too late.²⁵⁶

Strenuous agricultural labor in hot temperatures, especially harvesting sugarcane, is clearly linked to the disease.²⁵⁷ In El Salvador and western Nicaragua, CKD prevalence has been found to be higher in sugarcane growing areas.²⁵⁸ A 2015 analysis of dialysis enrollment patterns in Guatemala found the highest prevalence of CKD among men in hot, low-lying areas along the Pacific coast, where sugar cultivation is concentrated.²⁵⁹

Both workers and experts interviewed by Verité reported that kidney failure was a common problem and accepted as normal by many working in the sugar industry. One expert interviewed by Verité estimated that 25 percent of workers suffered from CKD, while another reported that the condition afflicted the majority of workers. Many suffer in silence for fear of losing their jobs. Among the 38 workers interviewed by Verité, 26 reported that they or someone close to them suffered from CKD.

Scientists have put forth several theories to explain the causes of CKD of unknown etiology. The highly contaminated environments in which cane cutters work coupled with a lack of drinking water and shade and the use of painkillers, likely contribute to the disease. Recurring dehydration and occupational heat stress contribute to the disease. Day laborers cutting sugarcane frequently experience such conditions.²⁶⁰ Inadequate hydration and consumption of sugary drinks and even sugarcane itself may also increase the risk of the illness.²⁶¹ One 2013 study demonstrated that delayed access to water appeared to increase the risk of kidney damage in mice subjected to heat-induced dehydration.²⁶²

Scientists have hypothesized that exposure to pesticides and heavy metals,²⁶³ as well as use of painkillers,²⁶⁴ may increase the risk of the disease. In the following sections, Verité will examine the effects of exposure to heat, lack of shade and drinking water, and drug use, which are health and safety risks on their own and may also contribute to CKD.

Exposure to Heat and Lack of Breaks and Shade

Exposure to extreme heat constitutes one of the greatest dangers to sugarcane cutters. Performing arduous physical labor in high temperatures with little rest can lead to dehydration, heat stroke, and even death.²⁶⁵ Working in smoldering cane fields can also increase workers' exposure to heat. Among the 60 workers interviewed by Fairfood International, 98 percent reported experiencing sunstroke. Workers often labor at temperatures well above the U.S. Occupational Safety and Health Administration's permissible heat exposure threshold. Under these conditions, both OSHA and the U.S. Environmental Protection Agency recommend that supervisors provide workers with sufficient drinking water and frequent prolonged breaks in the shade, so that workers can lower their body temperatures.²⁶⁶ Specifically, the EPA recommends that workers in these conditions receive a break at least every half hour.²⁶⁷

However, experts and workers interviewed reported that such breaks rarely occur in practice in the Guatemalan sugar sector. According to one study, in large sugarcane plantations in Guatemala, workers reported that they only received one break, lasting 30 minutes or less, each day, sometimes without a place to sit in the shade.²⁶⁸ Studies have found that sugarcane workers in Costa Rica, Nicaragua, and Guatemala were not provided with sufficient breaks. In Nicaragua and Guatemala, in most cases workers were reportedly provided with one to two short breaks per day, and were not always provided with a shaded place to take their breaks.²⁶⁹

Of the 38 workers interviewed by Verité, 13 (34 percent) reported that they only had 15 minutes or less of breaks per day, 11 (29 percent) reported that they had 15-30 minutes per day, three (eight percent) reported that they received a total of 30-45 minutes of break per day, and seven (18 percent) reported that they were provided with a total of 45 minutes to one hour of breaks per day. According to key informants and workers interviewed by Verité, the majority of cane cutters lacked access to shade. Of the 38 workers interviewed by Verité, 32 (84 percent) reported having no access to a shady place to rest.

Case Study: Adverse Working Conditions

"During the shift, they don't give us water so that we can stay hydrated. They don't give us shade either. They only give the majority of workers 35 minutes of break so that they can rest for a moment. Under the weight of the excessive shift, people get weak at about 10 a.m. in the morning, due to the strong heat, as they usually work from 5 in the morning until 5 in the evening."

Lack of Drinking Water

According to the EPA, in severe environments where heat-related illnesses are a risk, workers can produce 1.9 liters of sweat per hour. Under normal conditions, workers require between 5.7 and 9.5 liters per day to stay hydrated, but in Guatemala's extreme temperatures, mills typically give workers only four liters per day, according to a study by Fairfood International. Among 60 cane cutters interviewed for the study, the majority reported bringing their own water, and 97 percent reported experiencing dehydration.²⁷⁰

According to key informants and workers interviewed by Verité, the majority of cane cutters lacked sufficient drinking water. Of the 38 workers interviewed by Verité, 20 (53 percent) reported not being provided with drinking water. Some reported not being able to carry enough water to satisfy their thirst. Some workers only had access to river water, which trucks delivered to the fields in tanks. Workers further reported that they typically only drank water during their short and infrequent breaks.

Drug Use

Several workers interviewed by Verité reported using prescription painkillers and other illicit or prescription drugs, such as opioids, while working. Drug use, whether induced by employers or utilized by workers to meet the strenuous demands of jobs, poses a severe threat to workers' health and safety. In addition to potentially increasing the risk of CKD, these drugs pose threats to workers' physical and mental health in and of themselves, and increase the risk of occupational accidents and injuries. Pain relievers, such as Tramadol, which cane cutters interviewed by Verité reported using, can cause side effects including dizziness, lightheadedness, and drowsiness.²⁷¹ Amphetamine use can lead to vertigo and impact the body's reactions to stimuli.²⁷² Such side effects likely increase the risk of accidents among cane cutters using sharp tools.

Guatemalan sugarcane transport workers interviewed for a study by Fairfood International reported using drugs in order to enable themselves to work longer hours, and some indicated that this led to an increase in road accidents.²⁷³ The 2015 study found that 53 percent of Guatemalan sugarcane transport workers reported using drugs to get through their long shifts, and according to 27 percent of these workers, this practice occurred frequently. Some workers reported that drug use contributed to a significant percentage of accidents involving trucks transporting sugarcane.²⁷⁴

A U.S. diplomatic cable indicated that sugarcane harvesters were forced to work shifts of at least 12 hours per day in order to meet excessive quotas, and turned to drugs to enable themselves to do so. One worker interviewed by Plaza Publica, Guatemala's

leading investigative reporting outlet, stated, “the body gets accustomed and asks for more, but you can only harvest four tons [of cane] drugged.”²⁷⁵

Experts and workers interviewed reported that sugarcane harvesters, who worked long hours under extremely physically demanding conditions, turned to prescription opioid painkillers such as Tramadol, pastillas sin sueño, and sueros to be able to endure the physical rigors of their jobs. In some cases, workers and experts interviewed reported that employers and labor brokers actively offered workers drugs, and sometimes even gave them to workers for free, only to charge them once they became dependent on the drugs.

Of the 38 workers interviewed, 16 (42 percent) reported that they took some type of drug to maintain their energy levels. One worker interviewed reported that workers took pills to get through their excessive shifts. He stated that labor brokers sold Tramadol for GTQ 8 (USD 1) per pill and pastillas sin sueño for GTQ 2 (USD 0.26) per pill through chamorreros. Many workers reported that after taking the drugs, they felt as if they were unable to meet the rigors of their jobs without the drugs and could not stop taking them.

Lack of Access to Health Care

Article 197 of the Labor Code mandates that companies must maintain a first aid kit. A 1957 Government Accord establishes businesses’ responsibility to maintain a first aid kit, as well as an infirmary.²⁷⁶ However, only three percent of workers interviewed in the CODECA study indicated that their farm provided a first aid kit. Some workers reported that when a first aid kit was available, workers had to pay for the medicines. Nearly 80 percent reported that workers injured on farms were not transported to an IGSS hospital or other healthcare center.²⁷⁷

Experts interviewed by Verité reported that the majority of farms and mills did not provide medical services to temporary farmworkers. Workers and experts interviewed reported that only one mill provided a clinic for workers. Among the 38 workers interviewed, 19 (50 percent) reported that their plantation provided no medical care. Workers interviewed largely reported paying for their own medical expenses. Only when serious accidents occurred were workers sent to the hospital. Some respondents reported that workers on the payroll received medical care through the mills, while those not on the payroll were excluded from this benefit.

Interviewees who had worked at several mills reported that not only did injured workers not receive medicine, they also stopped receiving food, which the foremen told them was only for those actively working. One interviewee described how his brother cut a tendon while working, which required three months of recovery before he could walk again and continue working. His employer did not cover his medical expenses. Lack of access to health care for CKD was another problem often described by workers interviewed.

Living Conditions - Housing

Background and Legal Framework

Article 105 of the Constitution mandates that employers provide workers with adequate housing, and stipulates that the government should support the design and construction of worker housing. Article 61 of the Labor Code states that agricultural estates must provide peasant workers living on the estates with firewood for domestic consumption as long as these estates produce more firewood than is needed for the business. Under Article 145 of the Labor Code, agricultural workers have the right to hygienic living conditions that meet health requirements.

A 2011 OISS study found that migrant workers employed in the sugarcane sector in Central America generally lived in labor camps. The study found that while conditions vary by labor broker and employer, they were generally poor.²⁷⁸

Another study on working and living conditions in the Guatemalan sugar sector found that workers directly hired by the mills, as opposed to through labor brokers, experienced better living conditions. While directly-hired workers' living conditions were generally judged to be decent, these workers still reportedly lacked fans, mosquito netting, and mattresses. Meanwhile, workers hired by labor brokers were found to experience much worse living conditions. Some reportedly had to build their own shelters in the fields, and those who were provided with housing reportedly lacked access to electricity and potable water.²⁷⁹ Verité research found that local workers who lived off of the plantations in their own houses and commuted to work daily often lived under slightly better conditions, although in many cases they lived well below the poverty line, due to their low wages, which were further reduced by having to pay for daily transport to the plantations. Some of these workers reported that they had electricity and potable water.

Findings

Verité research found that migrant workers generally lived in employer-provided galeras, large open living spaces that often have only a roof, dirt floor, and no walls or beds. Multiple workers interviewed reported that they slept directly on a dirt, concrete, or wood floor, and had to cover themselves with plastic sheeting at night when it rained, since the galeras lacked walls. When workers were provided with beds, they were often simply wooden structures lacking mattresses. Workers reported that housing was often crowded and lacking in privacy, as up to 30 people were housed in a single room. These crowded conditions also contributed to high levels of heat in worker housing. Furthermore, many workers interviewed reported that their housing lacked kitchens, showers, and toilets, or that the number of toilets

was inadequate for the number of inhabitants. On the other hand, some workers interviewed reported that they were housed in galeras with kitchens, bathrooms, showers, and even televisions.

Twenty-two of the workers interviewed by Verité researchers (58 percent) reported that they lived in housing provided by their labor broker or employer, while the other 16 (42 percent) lived independently. Only four of the workers interviewed (11 percent) reported that their housing met their basic needs. Specifically, 28 (74 percent) reported their housing lacked sufficient space, 26 (68 percent) reported that their living conditions were uncomfortable, 21 (55 percent) reported that they did not have a safe place to store their belongings, 18 (47 percent) reported that they lacked potable water, 16 (42 percent) reported that their living conditions were unsafe, 13 (34 percent) reported that their housing lacked a kitchen, and 10 (26 percent) reported that they lacked sufficient privacy.

Living Conditions - Food

Background and Legal Framework

There are no laws requiring employers to provide workers with food. However, it is customary for employers to provide food to migrant agricultural workers, and in some cases to make deductions from their salaries for this food. Article 197 of the Labor Code establishes that employers who do provide food must give workers an adequate amount of food and potable water that meet hygiene standards. Article 61 also establishes that peasant workers have the right to consume crops that they plant on small parcels of land within plantations.

The CODECA study found that 95 percent of the over 1,000 agricultural workers surveyed reported that the estates on which they worked did not provide them with adequate places to consume their food, with 91 percent of workers reporting that they ate at their worksite. While migrant workers who were housed onsite were often provided with lunch and dinner by the estates, local workers, who commuted daily to their place of work, often had to bring their food with them. CODECA observed workers having to consume their food in the fields, while their supervisors monitored them and urged them to finish quickly.²⁸⁰

The CIDH study found that in the sugar sector, workers were often only provided with rice, beans, and tortillas, and were seldom given meat. Workers were reportedly sometimes charged for dinner.²⁸¹ Plaza Publica reported that one plantation provided workers with meat daily, but charged them for it.²⁸² In some cases, plantations reportedly prepared food with river water that was also used for bathing and was contaminated with human waste.

Findings

Workers interviewed by Verité researchers reported that while the small number of permanent workers who were on payroll received adequate food, temporary migrant workers were provided with meager amounts of poor quality food. Twenty-one of the workers interviewed (55 percent) reported that their plantations provided them with food, but only 11 (29 percent) said they had enough to eat. Workers interviewed reported that they were provided with beans seven days a week, which were often undercooked, and beef or chicken once or twice per week. One person interviewed reported that it was a “wonder” when workers were provided with chicken on the plantation on which he worked. While some workers interviewed reported that the quality of food had recently improved for migrant workers from the highlands, they were still not provided with enough food, leading them to kill and eat snakes, iguanas, and opossums. Some workers reported that the plantations did not provide food if they were unable to work due to an illness or injury.

Some workers told researchers that since the amount and quality of the food provided by the plantations was lacking, they had to purchase additional food from company stores or labor brokers, which could cause them to become indebted. One worker reported that his labor broker had set up a business on the plantation selling lunches to hungry workers for GTQ 15 (USD 2) each, which could be up to half of what workers earned per day. Additionally, there were reports that some of the plantations manufactured these sueros, which they sold to workers at a relatively low cost. Workers interviewed reported that these suero contained vitamin B, as well as drugs, which were included to ensure that workers could keep up with the pace of work.

Impacts on Communities

Environmental damage and land grabs can increase workers’ vulnerability to human trafficking by causing displacement and negatively affecting livelihood opportunities.²⁸³ Verité’s research in Guatemala found that sugar cultivation was closely linked to both conflicts over land tenure and damage to the environmental. Water pollution, air pollution, water shortages, and changes in land use linked to sugar cultivation and processing have severely impacted communities in Guatemala, increasing vulnerability to trafficking and other forms of exploitation. A lack of comprehensive legislation covering water rights and land rights in the country, as well as government inaction and violent reprisals against environmental and land rights activists, has exacerbated these problems and limited communities’ means for seeking redress.

Environmental Damage

Sugar cultivation impacts the environment in multiple ways, including through contamination of water sources, intensive water use, aerial spraying of pesticides and herbicides, and burning of sugarcane. Some communities in Guatemala have organized to protest harmful practices linked to sugar production. In November 2016, residents from 18 communities in the Department of Retalhuleu met with local authorities and representatives of sugar mills to announce they would no longer permit sugar cultivation in the region, complaining of water scarcity and health problems connected to pollution. One community leader declared residents would block trucks during the next harvest season.²⁸⁴

Contamination of Water Sources

Runoff from fields and effluent from mills contribute to water pollution. No laws exist in Guatemala to penalize companies for contaminating water sources, and thus, mills often dump waste into waterways.²⁸⁵ Monoculture systems, in general, frequently require high use of pesticide and fertilizer, and the production of sugarcane is no exception.²⁸⁶

Farmers in Guatemala, and elsewhere, often use vinasse, a byproduct generated during sugar processing, as a fertilizer to improve sugarcane yields, although the substance is toxic. In Guatemala, rain washes vinasse into rivers where it kills fish and other types of aquatic life. Using river water contaminated with vinasse for drinking, cooking, bathing, or washing clothes, has caused gastrointestinal ailments and skin irritation, particularly among children.²⁸⁷ A coalition of 68 communities in Retalhuleu released a statement in 2013 describing how runoff from fields had contaminated at least 15 rivers in the area.²⁸⁸ An aquaculture association in San Andrés Villa Seca has claimed that effluent containing vinasse polluted ponds where tilapia were being raised, killing the fish and leading to some GTQ 400,000 (USD 54,500) in losses.²⁸⁹ In the same municipality, in 2005, a containment tank flooded the community with contaminated water, killing crops. Some people reportedly had to relocate after the polluted water rendered the soil in the area less fertile.²⁹⁰

Water Use

Sugarcane cultivation demands enormous amounts of water, requiring around 1,200 cubic meters of water for every ton of cane sugar produced,²⁹¹ eight times as much water per ton as wheat.²⁹² The diversion of rivers to irrigate plantations has caused water shortages during the dry season and flooding during the rainy season in

Guatemala.²⁹³ The Guatemalan Network of Disasters has connected these problems to activities by sugarcane farms in Escuintla.²⁹⁴ In February 2016, community members confronted several sugar mills and a palm oil company over their diversion of the river Madre Vieja, which had left several communities without water.²⁹⁵ Communities have complained that the wells they rely on for drinking water have dried up due to heavy water use by plantations, which irrigate the fields by using river water and drilling their own wells.²⁹⁶ Furthermore, an absence of legislation regulating water divergence restricts communities' ability to file legal complaints.²⁹⁷

Aerial Spraying

Communities in sugar-growing areas have also complained that the use of agrochemicals on sugar fields, particularly through aerial fumigation, has hurt their food crops. The wind can cause herbicides to drift far from the sites of application, and in some cases planes have also sprayed the herbicide directly onto homes according to residents.²⁹⁸ Communities have reported that a variety of food crops have produced lower yields due to fumigation occurring over nearby sugarcane fields.²⁹⁹

Burning of Cane

Smoke from burning sugarcane fields also leads to respiratory problems for both workers and people living near the fields.³⁰⁰ Ash can fly through the air and rain down on communities many kilometers away from the plantations.³⁰¹ Research in Brazil has linked burning sugarcane fields to raised levels of ozone and carbon monoxide in the surrounding area,³⁰² and other research has found an association between sugarcane burning and increased rates of acute respiratory illness.³⁰³ Ash also washes into waterways, contributing to contamination of water sources.³⁰⁴

Land Tenure

Severe disparities in land ownership have contributed to inequality in Guatemala for centuries and continue to stymie economic development. According to USAID, land ownership in Guatemala is more highly concentrated and more unequal than in any other country in Central America.³⁰⁵ Less than three percent of the biggest plantations and farms take up roughly two-thirds of arable land, while 90 percent of smaller farms lie on just one-sixth of the arable land.³⁰⁶ Insecure land tenure also plays a key role in perpetuating poverty among Guatemalans, particularly indigenous Guatemalans. The absence of a comprehensive legislative framework governing land

tenure contributes to this insecurity. Gender disparities in land ownership are also pronounced. Women own less than seven percent of agricultural land.³⁰⁷

Land conflicts played a major role in bringing about Guatemala's 36 year-long civil war.³⁰⁸ While the 1996 Peace Accords addressed land reform, unequal access to land remains a pervasive problem,³⁰⁹ and peasants and indigenous Guatemalans continue to be systematically excluded from opportunities for land ownership.³¹⁰ In 1999, the Fondo de Tierras (or Fontierras) program came into effect, to implement market-led agrarian reforms. The program facilitated land titling and provided low-interest loans to improve access to land for small farmers.³¹¹ Fontierras is widely regarded as having been unsuccessful in leading to more equitable land distribution. Guatemala continues to face a high number of land disputes, registering 1,288 disputes in 2011 alone.³¹²

Land Grabs

While many sugar plantations were established long ago, the recent expansion of sugar cultivation has raised concerns over land grabs,³¹³ due to the country's history of land disputes and the fact that many of the mills lack land rights policies.³¹⁴ According to interviews with experts, mills have continued to increase sugarcane cultivation by leasing and purchasing land from peasants. Verité research in the Guatemalan palm oil sector has documented the ways in which land grabs contribute to worker vulnerability to exploitation, as local inhabitants lose their small subsistence plots on agricultural land, forcing them to accept sub-standard conditions of work due to a lack of alternative livelihood options.³¹⁵

An analysis of census data has revealed that between 2003 and 2013, the portion of land used to grow annual-planted crops, which mostly include food crops such as corn and vegetables, fell by about 35 percent. Meanwhile, the area of land used for permanent crops, which include industrial agricultural crops such as sugarcane, palm



oil, and coffee, rose sharply by 40 percent to reach roughly one million hectares.³¹⁶ Rural farmers who lose access to land may face limited employment opportunities, since monoculture plantations of permanent crops require low amounts of labor. One hectare of sugarcane needs only 36 days of labor per year, compared to 112 days for maize and 184 days for chili peppers.³¹⁷

Case Study: Polochic

The expansion of sugar plantations has led to many land conflicts in Guatemala,³¹⁸ most notably in the Polochic Valley, where forcible evictions of Q'eqchi' communities have drawn international condemnation. Longstanding tensions over land ownership in the valley erupted violently in March 2011, when hundreds of state security forces and private security personnel forcibly evicted 769 families from the valley,³¹⁹ burning down their houses and crops, using tear gas, and attacking residents, resulting in one death.³²⁰ While large-scale sugar production is no longer taking place in Polochic, this case serves as a cautionary tale of the negative impacts that land grabs and displacement can have for both workers and sugar producers.

The Polochic Valley has a long history of land conflicts. Beginning in the 1870s, German settlers and elite Guatemalan families took over much of the fertile land in the valley, displacing local Q'eqchi' families or allowing them to live on the land as tenants in exchange for supplying labor to plantations.³²¹ Many lived on land they rented from plantations for generations. Beginning in the early 2000s, most had begun working with Fontierras, Guatemala's land titling agency, to purchase their plots. In 2005, negotiations abruptly ended when a sugar company relocated to the area and purchased the land from plantation owners at a higher price than the Q'eqchi' families could pay.³²² By 2008, the mill had cultivated sugar on over 5,000 hectares, displacing communities to make way for the expansion. By 2010, the mill faced financial difficulties, and its land was opened for public auction. At this point, families that had left their land earlier returned, only to be evicted months later.³²³

The communities forced from their land faced extreme poverty and food insecurity. Chronic malnutrition in the region, in general, is extremely high affecting between 65 and 85 percent of children under five years of age.³²⁴ With nowhere to go, some displaced families lived in makeshift shelters along roadsides.³²⁵ Suppression of the communities has continued. Community members and human rights defenders have continued to experience threats in connection to their work advocating for displaced families,³²⁶ and three have been assassinated since the 2011 evictions.³²⁷

The incident has drawn international attention. In 2011, the Inter-American Human Rights Commission asked Guatemala to address the needs of the displaced residents. Oxfam also mobilized a global campaign that collected over 100,000

signatures in protest of the land grab and organized a march of over 10,000 people on the anniversary of the eviction, in coordination with the Guatemala Farmers' Unity Committee.³²⁸ In 2013, the President of Guatemala distributed 140 land titles in Polochic to the former inhabitants and committed to assisting the remaining families.³²⁹ According to the UN High Commissioner for Human Rights, the government had resettled 221 of the evicted families as of January 2017. However, the hundreds of families that still needed to be resettled "continue to lack access to lands necessary for their survival." The Commissioner has repeatedly called on the government to extend needed social services to the displaced families.³³⁰

Conclusions and Recommendations

Verité's rapid appraisal research found that farmworkers employed in Guatemala's sugar sector experience a range of labor violations. Verité found evidence of recruitment abuses, indicators of labor trafficking, child labor, restrictions on workers' right to freedom of association, gender-based discrimination, wage and hour violations, threats to workers' health and safety, inhumane living conditions, and negative impacts on communities surrounding sugar plantations. These issues create legal and reputational risks for multinational brands and Guatemalan mills alike.

Labor and human rights violations, including human trafficking, often occur deep in the supply chain where they are all-too-often hidden from social compliance and government enforcement programs. This situation requires new and strategic ways of thinking about supply chain due diligence and government enforcement of labor law. It is essential that the government and companies involved in the production, marketing, and purchasing of sugar act to reduce workers' vulnerability to exploitation.



Although this rapid appraisal research affirmed the existence of risks documented by past studies, and information from workers interviewed was triangulated with reports from key informants, Verité did not interview a statistically representative sample of workers for the entire Guatemalan sugar sector. Therefore, further in-depth research is needed to document the prevalence of violations and better understand their root causes. Government agencies, foundations, international organizations, civil society organizations, and companies should support and seek to implement research to measure the prevalence of labor abuses, labor trafficking, and CKD in the Guatemalan sugar sector; to better understand how to protect workers from CKD; and to identify the drugs consumed by workers and their adverse effects, among other issues. In the meantime, Verité has developed recommendations for companies and the Guatemalan government to reduce the risk of violations uncovered during rapid appraisal research.

Recommendations to the Government of Guatemala

The Guatemalan government has been criticized by both the U.S. government and the ILO for failing to enforce labor law and is at risk of facing severe sanctions if it fails to take immediate action to address these deficits. Therefore, the Guatemalan government should take steps to protect agricultural workers, especially those employed on sugarcane plantations, whom this research has found to be especially vulnerable to abuse.

Increase the capacity of the labor inspectorate to enforce labor law

Verité research has found that the labor inspectorate is severely under-resourced, leading to a lack of effective inspections, especially in the agricultural sector, in which inspections are more challenging due to the remoteness of agricultural estates and impediments on inspectors' access. Therefore, it is important to take measures to improve the capacity of the labor inspectorate by:

- ensuring that labor inspectors receive adequate compensation;
- paying for labor inspectors' travel expenses;
- providing incentives to carry out inspections in the agricultural sector and in remote locations;
- hiring additional inspectors to ensure that the number of active labor inspectorate staff engaged in inspections in each department is adequate for the number of inhabitants;
- establishing standardized timetables for inspections in the agricultural sector;

- providing inspectors with police assistance whenever requested;
- issuing sanctions against employers who fail to grant inspectors full, unimpeded access to all areas of worksites; and
- implementing a system to ensure compliance with judicial orders, as well as a system to promote communication, referrals, and cooperation between the labor inspectorate and other government agencies.

Take measures to register and monitor labor brokers

Verité did not find any evidence that labor brokers in the sugarcane sector were registered, as required by law, indicating that they operated illegally. Due to a lack of government monitoring, labor brokers were able to engage in exploitative and illegal practices with impunity. Verité recommends that the government better regulate recruitment practices in the sugar sector by:

- establishing a centralized registry of labor brokers and a system for collecting and distributing lists of labor brokers to local labor inspectorate offices;
- verifying that labor brokers operating in Guatemala are legally registered and have a carta poder or power of attorney letter authorizing them to carry out recruitment activities on behalf of an employer, and raise workers' awareness regarding their right to see the carta poder;
- increasing awareness among employers, labor brokers, and workers that it is illegal for workers to be charged recruitment fees;
- monitoring and enforcing laws prohibiting the charging of recruitment fees;
- improving systems to ensure that labor brokers are complying with legal requirements and are not engaging in deceitful or coercive recruitment practices, including through inspections and an independent complaint mechanism appropriate for agricultural workers; and
- holding both labor brokers and the end employers of recruited workers accountable for labor law violations.

Improve efforts to combat human trafficking for labor exploitation

Verité research found that government officials and police have a low level of awareness about labor trafficking and its indicators, especially as they pertain to the agricultural sector. It is important that the government improve measures to detect, report, refer, and prosecute cases of labor trafficking in the agricultural sector by:

- training the Ministry of Labor, labor inspectorate, police, NGOs, service providers, and health workers on identifying labor trafficking in practice;
- raising awareness among government officials, service providers, and workers of the most prevalent indicators of trafficking in the sugar sector;
- training police, prosecutors, and judges on trafficking laws that can be used to convict and censure employers and labor brokers in the agricultural sector;
- training police and prosecutors on interviewing victims, collecting evidence, and building successful cases against employers, labor brokers, and complicit public officials; and
- establishing a system to refer suspected cases of labor trafficking to appropriate authorities to ensure prosecution of offenders and protection of victims.

Take actions to protect workers from labor violations detected on sugar plantations

Verité found that contract, wage and hour, health and safety, and child labor violations were common on sugarcane plantations. Therefore, the government should take action to address these specific issues by:

- verifying that all workers are provided with a copy of a signed contract, or at a very minimum a tarjeta or constancia stipulating workers' terms of employment, as required by law.
- setting up a system to verify compliance with minimum wage requirements, including among workers who are paid a piece rate;
- inspecting plantations to ensure that children are not engaged in the worst forms of child labor;
- ensuring that the children of plantation workers are provided with access to free education and daycare programs;
- prosecuting individuals who engage in the illegal practice of retaining workers' DPIs and decreasing processing times and costs for the issuance of replacement DPIs;
- monitoring the practices of stores located on plantations or controlled by employers or labor brokers to ensure that they are not subjecting workers to debt bondage or providing them with drugs that are illegal or for which workers do not have prescriptions;
- setting up a system to ensure that workers are not forced to work more than legal limits on working hours;

- explicitly prohibiting the implementation of production quotas and carrying out inspections to ensure that quotas are not being implemented in practice;
- ensuring that workers' right to a safe and healthy workplace is respected by reviewing plantation practices on breaks, access to potable water, shade, pesticides, and provision of PPE;
- investigating the causes and prevalence of CKD in the sugar sector, and providing sugarcane workers affected by CKD with access to adequate healthcare;
- censuring employers who make social security deductions from workers' paychecks without registering them in the social security system; and
- providing workers in the sugar sector with a grievance mechanism that is adequate to their needs and is effective at identifying and remediating labor abuses.

Recommendations to Brands, Commodity Traders, and Guatemalan Sugar Mills

Brands and commodity traders sourcing sugar from Guatemala, as well as the Guatemalan sugar mills that supply them, have the power to drastically improve the quality of life for workers on sugarcane plantations. Brands and mills can use their sourcing policies and practices to motivate plantations to take actions to improve working conditions, reduce child labor, combat CKD, and reduce vulnerability to human trafficking.

Address known causes of chronic kidney disease

Repeated exposure to heat, coupled with a lack of breaks, shade, and water lead to severe dehydration and contribute to CKD, one of the greatest threats facing farmworkers in the sugar industry. Many deaths and chronic lifelong debilitating illnesses could be avoided through the following improvements in working conditions, many of which require relatively small investments. Therefore, Verité recommends that companies:

- ensure that sugar plantations provide workers with adequate quantities of potable water while they are working in the fields;
- provide workers with access to shaded areas to rest in the sugarcane fields; and
- require that workers receive breaks in the shade at least once every half hour when working in high temperatures;

- provide workers the necessary PPE to protect them from exposure to hazardous agrochemicals, which may contribute to CKD;
- conduct outreach to raise workers' awareness about CKD and measures they can take to protect themselves; and
- provide workers with access to medical care for CKD, including through programs to help workers with CKD receive affordable dialysis treatment.

Mandate that every worker receives the minimum wage required by Guatemalan law, independent of production, and eliminate quotas

Often, the piece rates set by employers make it impossible for workers to earn the minimum wage, especially without working overtime. In some cases, only the male head of household receives payment, when in fact all members of the family work. Quotas result in forced overtime and the use of unpaid family labor, including child labor, to increase production. To address these issues, companies and mills should:

- ensure that workers receive at least the minimum wage and discourage payments based on piece rates;
- enforce policies to ensure that each individual worker is paid the minimum wage by explicitly banning the practice of paying only heads of household for the work of their entire families; and
- explicitly prohibit the imposition of quotas and communicate this policy to all suppliers.

Improve workers' access to food and take measures to ensure that workers do not become indebted to company stores

Workers faced inadequate rations and were subject to price gouging when they bought food at company stores, often resulting in a cycle of indebtedness that prevented workers from leaving plantations. To address this pressing issue, companies and mills should:

- mandate that plantations provide sufficient quantities of varied and nutritious food;
- require that farms provide food to each worker, as well as the family members of workers who migrate to the plantations;
- expressly prohibit the withholding of food from workers who cannot work due to injuries or illnesses;

- require that any food or supplies sold at stores located on plantations or controlled by employers or labor brokers are provided to workers at or below market price;
- ensure that workers are paid at least the minimum wage, in a timely manner, so that they do not need to buy food or supplies on credit;
- require that stores keep accurate records of sales and debts when workers request credit; and
- incorporate the points listed above into protocols for farm audits.

Increase access to affordable childcare and education to reduce child labor on sugar plantations

For many farmworkers on Guatemalan sugarcane plantations, especially those who migrate to plantations during the harvest, bringing their children to work in the fields with them is a rational choice, given that the alternative is often leaving them unsupervised in open-air communal housing with strangers. Therefore, brands and mills should:

- provide free childcare or schooling to the children of farmworkers near migrant worker housing and the communities in which local workers live, to enable parents to leave young children behind safely while working in the fields;
- provide transportation from the plantations and local workers' communities to the nearest schools when they are in session; and
- support the provision of incentives for parents to send their children to school and childcare centers, in the form of free meals, conditional cash transfers, or the cost of uniforms and school supplies.

Undertake measures to improve workers' understanding of their terms of employment and how their compensation is calculated

The absence of written contracts and lack of transparency around wage calculations leaves workers vulnerable to exploitation. This is compounded by language barriers for indigenous workers, which often prevent them from fully understanding their terms of employment and communicating with management. Companies and mills should require that:

- workers receive written copies of employment contracts, or at the least written constancias or tarjetas detailing their conditions of work in their native languages;

- workers are provided with detailed verbal descriptions of the contents of their contracts in languages they can understand; and
- workers receive payslips that itemize earnings and deductions and, where necessary, have these payslips verbally explained to them in a language they can understand.

[Provide workers with confidential grievance mechanisms to allow them to report labor abuses and obtain information and referrals](#)

Rural farmworkers lack safe, anonymous, accessible avenues to report labor abuses. Indigenous workers who do not speak Spanish face additional barriers. To address this problem companies and mills should:

- ensure that internal grievance mechanisms allow for workers to report grievances to individuals other than their labor brokers and supervisors;
- launch a sector-wide confidential grievance system available in indigenous languages spoken by workers and appropriate to the level of literacy and technology access of the workforce that allows workers to report grievances, receive information on their legal rights, and obtain referrals to local service providers who can assist them;
- develop systems to address both individual grievances and root causes; and
- support the development of workers' organizations and committees, including unions, to facilitate workers' communication with management on plantations.



Appendix: Background on Guatemala

Socio-economic Indicators

Guatemala's number one trading partner is the United States, which imports 36.4 percent of Guatemala's exports, followed by El Salvador (12.1 percent), Honduras (8.8 percent), Nicaragua (5.4 percent), and Mexico (4.2 percent).³³¹ Guatemala is one of the world's top exporters of agricultural goods, including the fourth largest exporter of sugar, the sixth largest exporter of palm oil, the fifth largest exporter of bananas, the seventh largest exporter of coffee, and the eighth largest exporter of natural rubber.³³²

Guatemala's economy is heavily dependent on agriculture. Agricultural exports generate 13.5 percent of Guatemala's GDP, with raw sugar, Guatemala's second largest export,³³³ constituting 8.5 percent of all exports in 2015.³³⁴ According to estimates from 2011, 41.2 percent of Guatemalan land is used for agriculture,³³⁵ and in 2016, 30.5 percent of the labor force was concentrated in the agricultural sector.³³⁶

Guatemala ranked 125th out of 188 countries worldwide on the 2016 Human Development Index.³³⁷ Roughly 60 percent of the population lives below the poverty line.³³⁸ In rural areas, the poverty rate reaches 80 percent.³³⁹ Income distribution is extremely unequal, with the wealthiest 10 percent of the population earning nearly half of the country's total income, while the poorest 10 percent earn just one percent.³⁴⁰

The lack of equitable development contributes to severe social problems, such as malnutrition and illiteracy. Applying the Gini coefficient, a measurement of equality where a score of zero means complete equality and 100 means complete inequality, Guatemala had a score of 55.9 in 2013, making it the country with the third highest rate of inequality in Latin America.³⁴¹ Guatemala's rate of child malnourishment, approximately half of all children, is the sixth worst in the world and the highest in Latin America. Health indicators are worse among the largely rural indigenous population, where rates of child malnourishment rise to 70 percent.³⁴² The growth of roughly 48 percent of children in Guatemala is stunted due to malnutrition, according to UNICEF.³⁴³ Guatemala mandates school attendance until age 15, and although men and women average 11 years of school, the country has one of the lowest literacy rates in Central America, at 75.9 percent.³⁴⁴

Roughly 60 percent of the population is of European descent or Ladino, while the remaining 40 percent is indigenous, mostly K'iche, Kaqchikel, Mam, and Q'eqchi.³⁴⁵ Mirroring these demographics, 60 percent of the population speaks Spanish, and 40 percent speaks one of 23 indigenous Amerindian languages.³⁴⁶ Guatemala's

population has the second highest proportion of indigenous people in Latin America, after Bolivia.³⁴⁷ Indigenous Guatemalans comprise a solid majority of the agricultural workforce and are especially vulnerable to labor exploitation.³⁴⁸

Violence

Killings among agricultural workers are common and often met with impunity, leading to an increased sense of fear and mistrust amongst workers. In 2011, 27 temporary farm laborers were brutally murdered by Mexico's bloodiest cartel, the Zetas, in Los Cocos, La Libertad, Petén for unknowingly working on a rival drug trafficker's farm.³⁴⁹ High levels of violence, lack of repercussions, and inequality in Guatemala have created a system in which agricultural workers, including those in the sugar sector, know they may be killed with impunity for organizing or complaining.

The ITUC has consistently described Guatemala as the most dangerous country in the world for workers. Workers face the threat of violence for advocating for their rights and calling for better wages and working conditions.³⁵⁰ At least 62 trade unionists were murdered in Guatemala between 2008 and 2016.³⁵¹ In 2016 alone, at least 16 human rights defenders, including unionists, were killed, up from 13 in 2015.³⁵²

Guatemala has a long history of violence. The Historical Clarification Commission, backed by the U.N., found that over 200,000 people were killed and more than one million were displaced during Guatemala's civil war, which ran from 1960-1996. The Commission determined that while guerrilla groups were responsible for numerous kidnappings and killings, the military and government-backed paramilitary groups carried out 91 percent of the forced disappearances and 92 percent of the arbitrary executions that occurred during the war.³⁵³ During the civil war, indigenous Guatemalans were targeted for extermination and 83 percent of the victims were indigenous Mayans.³⁵⁴ The Commission has labeled the campaign of massacres targeted at rural indigenous communities an ethnic genocide.³⁵⁵ This campaign of targeted violence created what has been called a "survival strategy of silence" in which many Guatemalans are afraid to raise their voices about abuses committed against them.³⁵⁶

The violence of the civil war, combined with an economic downturn, caused the forced displacement of over a million Guatemalans, many of whom migrated to the United States.³⁵⁷ One outgrowth of mass migration to the United States has been the spread of U.S. gang culture to Guatemala. Immigrant Guatemalans often found themselves in poor neighborhoods in the United States, where some joined gangs such as Mara Salvatrucha (MS-13) and the Eighteenth Street Gang (Mara 18 or M-18) to defend themselves. Many of these gangs became extremely violent and engaged in criminal activities. Members were subsequently deported from the United States to Guatemala, which was ill-equipped to deal with their reintegration.³⁵⁸ In

Guatemala, some gangs formed links with the country's growing organized crime and drug trafficking organizations (DTOs).³⁵⁹

Guatemala has one of the world's highest homicide rates, largely due to gang activity, infighting between drug cartels, and an increase in common crime. In 2015, the homicide rate was 29.5 per 100,000 people, seven times higher than the rate in the United States. One local human rights group reported that, between January and July 2014, over 700 people were murdered for refusing to pay extortion fees.³⁶⁰ Drugs produced in South America often transit through Guatemala, exacerbating crime and violence. Mexico's crackdown against DTOs has increasingly pushed these organizations into Guatemalan territory. According to some estimates, drug traffickers may control as much as 60 percent of the country's territory.³⁶¹ Organized crime continues to fuel waves of migration, pushing poor people out of their communities. In 2016, there were 257,000 internally displaced people and refugees in Guatemala,³⁶² who were especially vulnerable to exploitation. Given Guatemala's large population of impoverished, vulnerable workers who have historically been repressed and exploited, it is important that Guatemala's government take action to protect them from labor abuses.

Government Enforcement of Labor Law

Under Guatemala's Labor Code, the General Labor Inspectorate is responsible for ensuring that employers respect laws and collective bargaining agreements covering conditions of work and benefits.³⁶³ However, loopholes in Guatemalan labor law increase agricultural workers' vulnerability to labor exploitation. Guatemala's Labor Code fails to explicitly prohibit forced labor and omits agricultural workers from important legal protections. For example, agricultural workers are provided with less vacation time than workers in other sectors; the Labor Code does not require written employment contracts for workers in the agricultural sector; and labor law allows for up to 30 percent of agricultural workers' wages to be paid in the form of food and supplies.³⁶⁴

Reports suggest that Guatemala's labor laws do not provide for sufficiently dissuasive fines. According to a regional representative of the Labor Inspectorate interviewed by Verité during previous research, employers must submit a report on their compliance with labor law, including payment records, to the Ministry of Labor each year. An employer can be brought to court and fined for failing to submit the documents. However, according to the representative of the Labor Inspectorate, in many cases, the fines are lower than the amount that employers would be required to pay for unpaid wages or benefits. Therefore, employers choose to pay the fines rather than submit the required documents or pay the wages or benefits.

Labor brokers are supposed to submit a power of attorney letter from their end employer to the Labor Inspectorate, which should issue a permit allowing the labor

broker to engage in recruitment activities. When Verité researchers asked the regional Ministry of Labor offices whether they maintained labor broker registries, they stated that they were maintained in the central office. However, when researchers inquired in the central office in Guatemala City, they were told that the registries were maintained in regional offices. Verité research found no evidence of the existence of a labor broker registry or government actions to monitor or hold accountable labor brokers or their end employers for recruitment abuses.

Inspections

The government's deficient labor inspections system significantly impedes its ability to protect workers from exploitation. High-level representatives of the U.S. Embassy in Guatemala, the PDH, the Ministry of Labor, and the Labor Inspectorate interviewed by Verité have attested to the inability of the Labor Inspectorate to adequately enforce labor law, especially in the agricultural sector.³⁶⁵ CODECA has echoed these findings, reporting that Guatemalan labor inspectors lacked adequate training, knowledge, tools, and resources, such as vehicles, gasoline, and per diems in 2013.³⁶⁶ The U.S. Department of Labor reported that the budget for labor inspections constituted just four percent of the Ministry of Labor's budget in 2015, leading to a lack of transportation and computers with internet connections. Between 2014 and 2015, funding for the Labor Inspectorate decreased from USD 3.7 million to USD 3.4 million.³⁶⁷

In-country experts interviewed by Verité during previous research indicated that Ministry of Labor personnel were poorly paid, and the payments and benefits provided to them sometimes violated legal minimum wage requirements. Experts further reported that Ministry of Labor employees were not reimbursed for expenses incurred during inspections and that their wage payments were sometimes delayed. The fact that inspectors sometimes had to pay for their own gas disincentivized visits to remote locations.³⁶⁸

The high level of violence in Guatemala also hindered labor inspections, as some inspectors were reluctant to carry out inspections on agricultural plantations for fear they would be threatened, hurt, or killed. Many plantations employ private armed guards, who can impede access to plantations and directly or indirectly intimidate inspectors. While it is often necessary that police officers accompany labor inspectors to facilitate access to workplaces, this did not take place in practice.³⁶⁹

In January 2013, the U.N. noted that there had been several advances, including the hiring of 100 new labor inspectors, a 15 percent increase in the Ministry of Labor's budget, and the expansion of the Labor Inspectorate's functions. However, it noted that there was still a need for increased action in the informal sector, in which approximately three-quarters of workers were employed. It also noted that the Labor Inspectorate continued to be deficient in monitoring worker rights violations,

especially in the agricultural sector, where only six percent of workers were paid the minimum wage.³⁷⁰ Just one percent of the over 1,000 agricultural workers surveyed by CODECA in 2013 reported that labor inspectors had visited the agricultural estates on which they worked.³⁷¹ Workers and government officials interviewed by Verité researchers reported that they were not aware of Ministry of Labor or Labor Inspectorate visits or inspections on sugar plantations.

This progress was short lived however as the capacity of the Labor Inspectorate decreased from 299 in 2013 to only 267 labor inspectors in 2015,³⁷² one for every 23,847 workers.³⁷³ The U.S. Department of Labor reported that, to meet the ILO threshold of one inspector per every 15,000 workers, Guatemala would need to have at least 313 labor inspectors. The number of inspections also fell sharply from 30,552 in 2014 to 18,268 in 2015.³⁷⁴

A leaked U.S. diplomatic cable relating to an interagency delegation's visit to Guatemala to judge the country's compliance with labor provisions contained in CAFTA-DR found that, "The most frequent accusation about labor inspectors that the delegation heard...had to do with corruption."³⁷⁵ An in-country labor expert interviewed by Verité reported that inspectors' low wages made them susceptible to corruption. Eighty-two percent of the over 1,000 agricultural workers surveyed by CODECA reported that they believed that labor inspectors were bribed by employers, resulting in worker mistrust of inspectors.³⁷⁶ The leaked U.S. diplomatic cable indicated that the delegation received reports that inspectors had connections with employers, who they sometimes warned in advance about inspections. Inspectors who were suspended for corrupt practices were reportedly later reinstated.³⁷⁷

Grievance Mechanisms

The ILO has reported that Guatemala's labor court proceedings are exceedingly slow and that the judiciary lacks independence, which it claims has created a "grave situation of practically total impunity."³⁷⁸ According to CODECA, in 2010 there were just 11 courts that dealt exclusively with labor issues and 18 that dealt with multiple issues, including labor. Due to a lack of personnel, training, and resources, it took an average of five years for labor courts to reach a resolution in cases regarding freedom of association.³⁷⁹ In 2012, the PDH's Defender of Workers' Rights reported that many labor violations were never investigated or never made it to trial because of "parallel power structures" in the judiciary that pressure judges to act in favor of companies.³⁸⁰ Furthermore, CODECA and a U.S. diplomatic delegation reported that corruption existed within labor courts.³⁸¹

A leaked 2009 U.S. diplomatic cable indicated that agricultural workers were reluctant to file cases against their employers in labor courts since doing so required significant expenditures in time and money. There were reports that employers

used delay tactics to increase the costs for workers so that they would give up on their complaints. Workers also reportedly feared reprisals and blacklisting.³⁸² One worker interviewed by Verité researchers reported that she had decided not to file a complaint when her rights were violated because the Labor Inspectorate office was too far away; she felt that they would not pay attention to her complaint because she did not speak fluent Spanish; and she was fearful that, instead of resulting in improvements in her conditions of work, the complaint would result in her dismissal.

Most agricultural workers interviewed by Verité researchers reported that they did not know where they could file a complaint. While the Ministry of Labor had a hotline through which workers can ostensibly report labor violations, it was not functional in practice. When researchers called the hotline during normal business hours, their calls went unanswered on multiple occasions. When a call was answered, the operator answered in a discourteous fashion and abruptly hung up as the researcher. Given that the researcher making the call was an educated labor lawyer who spoke Spanish as his first language, an uneducated indigenous farmworker who speaks little to no Spanish would likely fare even worse.

International Actions

In April 2008, the AFL-CIO and six Guatemalan unions filed a complaint under the CAFTA-DR trade agreement, alleging that the Guatemalan government was failing to effectively enforce labor laws regarding freedom of association, the right to bargain collectively, and acceptable conditions of work. The U.S. Department of Labor conducted a review of the submission and issued a public report in 2009 citing significant weaknesses in Guatemala's ability to enforce its labor laws and making specific recommendations on steps that Guatemala should take to address these matters. The specific failures included Ministry of Labor's failure to conduct investigations and carry out enforcement actions and the judiciary's failure to enforce labor court orders.³⁸³

In April 2013, Guatemala signed an Enforcement Plan that laid out 18 steps that the government would take in order to better enforce labor law within the next six months. In October 2013, the U.S Trade Representative stated that while the government still needed to come into full compliance, it had taken some important steps to comply with the Enforcement Plan. However, Guatemala failed to fully adhere to the Enforcement Plan, and the U.S. Trade Representative announced that it would be proceeding with the suit against Guatemala.³⁸⁴

Recently, the ILO has announced that it was considering launching a commission of inquiry which could result in economic sanctions if the commission validates reports of labor violations. This is a severe step that has only been taken 11 times in the ILO's nearly 100-year history. As a result, government action has increased, including meetings between President Jimmy Morales and key business associations, such as the

Guatemalan Chamber of Commerce and the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations, Guatemala's most powerful industry association, which includes major sugar producers, where the groups were encouraged to address labor issues.³⁸⁵

Because of recent advances, the ILO delayed the decision on the establishment of a commission of inquiry.³⁸⁶ In March 2017, the Guatemalan congress approved Decree 7-2017 in order to avoid the establishment of the commission. The law includes provisions that meet demands made by both the U.S. Trade Representative under the DR-CAFTA lawsuit, and the ILO. Now labor inspectors and regional Ministry of Labor offices, with which Verité has experienced a higher level of cooperation, will have the authority to issue sanctions, in accordance with ILO Convention 87, instead of having to go through the notoriously slow labor courts. Additionally, the law gives inspectors the right to conduct unannounced inspections, establishes a registry of labor violations, and increases fines for perpetrators from GTQ 2,643.21 (USD 351.5) to GTQ 23,788.89 (USD 3,163.9); from the amount of two minimum wages to 18 minimum wages.³⁸⁷ While this resulted in the suspension of the ILO's decision on the establishment of a commission of inquiry, not all issues have been addressed, and it is yet to be seen whether this will result in improvements in practice. In June 2017, a large delegation of worker and government representatives traveled to the ILO's headquarters in Geneva for discussions.³⁸⁸

Verité's recent interactions with departmental Ministry of Labor functionaries, as well as representatives of other governmental entities such as the office of the Secretary against Sexual Violence, Exploitation, and Human Trafficking (SVET), the PDH, and the Attorney General's Office, indicate an increased interest in addressing these issues. It is important that the government continue to increase its capacity to address labor abuses, especially in the sugar sector, where many workers are employed and Verité research has found evidence of egregious labor violations.

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