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# Labor and Human Rights Risk Analysis of the Guatemalan Palm Oil Sector



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## Executive Summary

This report provides information on labor and human rights risks linked to palm oil production in Guatemala. These risks include land grabs and displacement, unethical recruitment and hiring practices, indicators of forced labor, wage and hour violations, child labor, violations of women's rights, unacceptable living conditions, a lack of grievance mechanisms, and environmental damage. This report also includes recommendations for the Guatemalan government and palm oil producers and buyers on steps that they can take to reduce these risks.

Verité carried out research in Guatemala from June through October 2013 with the financial support of Humanity United. In preparation for field research, Verité mapped out the supply chain of Guatemalan palm oil and carried out background research. During field research activities, Verité researchers interviewed 46 experts and 74 workers. Expert and worker interviews were carried out in Guatemala City, the Northern Departments of Petén and Alta Verapaz, and the Southern Departments of Escuintla, Retalhuleu, and San Marcos. These departments house major areas of palm oil production and communities in which palm oil workers live. The research was qualitative in nature and sought to uncover information about the presence and characteristics of labor and human rights risks. While workers from a wide variety of regions and employed in a variety of locales and occupations were interviewed, the sample cannot be said to be statistically representative at a national or sectoral level.

Guatemala's palm oil sector has grown exponentially since African palm was first introduced in Southern Guatemala in the late 1980s. The amount of land on which African palm is cultivated grew almost ten-fold from 2000 to 2012, while the revenue generated from palm oil exports increased more than 20-fold during this same period. In 2011, Guatemala was the ninth largest palm oil exporter in the world and the second largest palm oil exporter in Latin America. This can be partially attributed to the fact that Guatemala has achieved the highest palm oil yields per acre out of any country (due to ideal climatic conditions in certain areas of the country and workers' high production targets). While the United States imports a relatively small amount of Guatemalan palm oil, a large amount makes its way into the food, beverages, and cosmetics produced and sold by large US-based companies in Mexico, the United States, Guatemala, and other Central American countries.

This report places an emphasis on Sayaxché, Petén because it is the municipality with the highest concentration of African Palm cultivation and serious labor and human rights risks. Almost half of the land on which African palm is cultivated is concentrated in Sayaxché. Additionally, Verité found that a large number of the most vulnerable categories of workers - local workers who had lost their farmland and migrant workers hired by labor contractors - were employed in Sayaxché.

Verité found a number of human rights and labor risks related to Sayaxché's palm sector. There were numerous reports of displacement and land grabs related to palm companies in Sayaxché. Subsistence farmers who sold their land due to coercion, deceit, pressure, or offers of large up-front payments had few options other than working for the palm companies that had obtained huge swaths of land in Sayaxché. The loss of land for subsistence agriculture and a lack of other employment opportunities in Sayaxché created a local labor force that either had to continue working on palm plantations under poor conditions or move out of the area to search for work.

The other group of vulnerable workers in Sayaxché consisted of migrant workers brought in from rural impoverished areas. These workers were typically hired by labor contractors, some of whom deceived them about their conditions of work and charged them up-front recruitment fees and deductions of up to 20 percent of their pay. Additionally, migrant workers were generally hired on one to three-month contracts, and there were reports that they were not paid if they did not finish their contracts and did not leave the plantations on which they were housed for the duration of their contracts. Many of these migrant workers' identity documents were retained, which prevented them from filing official complaints against their employers.

This situation can create vulnerability to forced labor and Verité researchers found a number of indicators of forced labor in Guatemala's palm sector, most of which were concentrated among these two groups of vulnerable workers in Sayaxché. Indicators of lack of consent included induced indebtedness, deception or false promises about types and terms of work, withholding and non-payment of wages, and retention of identity documents or other valuable personal possessions. Indicators of menace of penalty included physical violence against workers or family or close associates, sexual violence, imprisonment or other physical confinement, dismissal from current employment, exclusion from future employment, exclusion from community and social life, deprivation of food, shelter or other necessities, and shifts to even worse working conditions. It should be noted that while the data contained in this report is valuable for assessing the risk of forced labor, it cannot be used to determine the existence or scale of forced labor.

Verité found other risks related to palm oil production on plantations across Northern and Southern Guatemala. These risks included wage, benefit, and working hour violations; child labor; discrimination and other issues facing women; health and safety risks; poor housing; environmental damage; and a lack of grievance mechanisms. Verité research found that while in general, conditions were better on plantations in Southern Guatemala, which tended to be located close to urban areas and were not involved in land grabs, a number of labor risks could still be found on these plantations. Additionally, while Corporate Social Responsibility (CSR) certifications and monitoring of plantations tended to lessen the risk of more extreme forms of exploitation, they were not a guarantee against labor or human rights violations.

Palm companies are operating in very complicated environments in which land conflicts, impunity, and unscrupulous labor contractors and criminal actors contribute to land grabs and the exploitation of workers. There have been some improvements in recent years. However, there is still a high level of vulnerability, especially among workers who have lost their land due to land grabs and migrant workers from impoverished areas. Therefore, it is essential that the Guatemalan government and palm oil producers and buyers take urgent action to reduce these risks. Verité recommends that the Guatemalan government effectively implement all 18 points of Guatemala's Enforcement Plan to promote increased respect for labor rights; take specific measures to improve the capacity of the labor inspectorate; reform labor law to adequately protect agricultural workers; and improve measures to detect, report, refer, and prosecute forced labor and labor exploitation. Verité recommends that palm oil producers and buyers design and carry out effective supply chain assessments to identify non-compliances; design and implement training and capacity building programs in order to better understand the risks associated with palm oil production and institutionalize knowledge and expertise within the company and across its supply chain; develop and make available to workers and community members credible grievance mechanisms; and engage in policy advocacy and stakeholder dialogue on a local, national, and international level in order to address risks linked to palm oil production.

# Map of Guatemala and Departments under Study



## Research Methodology

### Research Team

The research team was comprised of a male and female researcher, both of whom are bilingual and had previously conducted research on forced labor in Guatemala and other countries throughout the Americas. Verité also contracted local guides to assist in contacting workers.

### Research Timing and Locales

Verité carried out research in Guatemala from June through October, 2013. In June, in preparation for field research, Verité conducted desk research, a mapping of production areas and the supply chain of Guatemalan palm oil, and expert consultations over the phone. During July and August, field research was carried out in Guatemala. Based on preliminary research, Verité chose to conduct expert consultations in Guatemala City and to focus its field research activities on the Northern Departments of Petén (where the largest amount of palm oil is produced) and Alta Verapaz (an emerging palm oil producer and a major sending region for palm workers employed in Petén). Verité also carried out research in the Southern Departments of Escuintla, Retalhuleu, and San Marcos (major areas of palm oil production which also include communities in which palm oil workers live).

Verité found that the most vulnerable categories of workers - local workers who had lost their farmland and migrant workers hired by labor contractors - were employed in Sayaxché. While there were some labor issues in the other departments under study, Sayaxché was by far the department in which workers registered the highest level of vulnerability to severe forms of exploitation. Additionally, Sayaxché is by and large the biggest palm producing municipality in Guatemala. Therefore, the research and this report emphasize Sayaxché.

Field research began with expert consultations in Guatemala City, in which Verité interviewed Guatemalan and foreign government officials, representatives of international organizations and NGOs, journalists, and academics. These interviews provided Verité with a better understanding of the major issues present in the palm oil sector, the supply chain, and the areas in which indicators of forced labor were most likely present. This helped Verité to map out the main areas of palm oil production in which there was the highest risk of forced labor and human trafficking.

Subsequently, field research was carried out in the Departments of Petén, Alta Verapaz, Escuintla, Retalhuleu, and San Marcos. During field research, Verité was able to visit palm plantations, processing plants, and workers' communities of origin. Researchers conducted interviews with workers, cooperative members, labor brokers, foremen, employer representatives, and local experts (from the government, NGOs, academia, and religiously-affiliated organizations). In total, Verité was able to interview 74 workers and 46 experts during research activities.

## Interviews

Table 1: Summary of Expert Interviews		
Number of Interviewees	Category of Interviewees	Location of Interviews
9	Government Officials	Throughout Guatemala
1	Foreign Government Official	Guatemala City
11	NGO	Guatemala City
2	International Organization	Guatemala City
2	Media	Guatemala City
2	Employer Representative	San Marcos
2	Employer Representative	Retalhuleu
1	Foreman	Escuintla
1	Faith-Based Organization	Escuintla
3	Faith-Based Organization	Cobán
1	Foreman	Petén
4	Labor Brokers	Petén
3	Cooperative Member	Petén
2	Faith-Based Organization	Petén
1	NGO	Petén
1	Academic	Petén
<b>46 in Total</b>		

Table 2: Summary of Worker Interviews		
Number of Interviewees	Category of Interviewees	Location of Interviews
2	Workers	Retalhuleu
9	Workers	Escuintla
5	Workers	San Marcos
4	Workers	Cobán
54	Workers	Petén
<b>74 in Total</b>		

## Data Analysis

This report provides background information on palm production, Guatemala, and Sayaxché and findings on labor and human rights risks associated with palm oil production in Guatemala. These risks include land grabs and displacements; unethical recruitment and hiring practices; indicators of forced labor; wage and hour violations; and other labor issues, such as child labor, violations of women’s rights, unacceptable living conditions, and a lack of grievance mechanisms. Verité has also provided some information on environmental damage linked to palm plantations. For this report, Verité researchers collected and cross-analyzed data from desk research, expert consultations, and worker interviews in order to ensure the triangulation of data.

Building on Verité’s past experience researching indicators of forced labor, researchers carried out a rapid analysis on the existence of indicators of forced labor. In the *Findings* section, Verité provides an overview of the indicators of forced labor encountered in the Guatemalan palm sector in accordance with the ILO’s 2005 guidance on “Identifying forced labor in practice.”<sup>1</sup> In *Appendix 1: Presence of ILO Indicators of Forced Labor*, Verité provides a chart of a broader



spectrum of indicators of forced labor, based on the ILO’s 2011 publication, *Hard to See, Harder to Count: Survey Guidelines to Estimate Forced Labor of Adults and Children*. Verité collected data on the existence of indicators of forced labor as opposed to making a determination of whether each individual was a victim of forced labor. Verité did not seek to determine the existence or scale of forced labor, but rather to highlight the risk of labor and human rights violations, including forced labor.

### Box 1: Identifying forced labour in practice

#### Lack of consent to work (the "route into" forced labour)

- Birth/descent into "slave" or bonded status
- Physical abduction or kidnapping
- Sale of person into the ownership of another
- Physical confinement in the work location – in prison or in private detention
- Psychological compulsion, i.e. an order to work, backed up by a credible threat of a penalty for non-compliance
- Induced indebtedness (by falsification of accounts, inflated prices, reduced value of goods or services produced, excessive interest charges, etc.)
- Deception or false promises about types and terms of work
- Withholding and non-payment of wages
- Retention of identity documents or other valuable personal possessions

#### Menace of a penalty (the means of keeping someone in forced labour)

- Physical violence against worker or family or close associates
- Sexual violence
- (Threat of) supernatural retaliation
- Imprisonment or other physical confinement
- Financial penalties
- Denunciation to authorities (police, immigration, etc.) and deportation
- Exclusion from future employment
- Exclusion from community and social life
- Removal of rights or privileges
- Deprivation of food, shelter or other necessities
- Shift to even worse working conditions
- Loss of social status

The ILO defines forced labor as “all work or service which is exacted from any person **under the menace of any penalty** and for **which said person has not offered himself voluntarily.**” This means that a person is in a forced labor situation if he or she is working under conditions to which he or she did not originally consent and cannot leave that job without penalty or a threat of penalty. In this case, a penalty could include physical constraint or punishment, or other forms of abuse such as threats of deportation, the confiscation of passports, or the non-payment of wages that effectively binds a worker to a job or employer. *Hard to See, Harder to Count* provides a broad spectrum of indicators of forced labor and breaks them down into three dimensions: unfree recruitment, work and life under duress, and impossibility of leaving employers.<sup>2</sup> According to the ILO’s methodology, in order for forced labor to exist, there needs to be at least one indicator of involuntariness and one indicator of menace of penalty in at least one dimension (unfree recruitment OR life and work under duress OR impossibility of leaving the employer), and at least one of these indicators must be strong. Each individual case must be assessed using this methodology. Therefore, while the data contained in this report is valuable for assessing the risk of forced labor, it cannot be used to determine the existence or scale of forced labor.

The ILO's non-binding *Recommendation concerning Indirect Compulsion to Labour* encourages member states to take into consideration “the desirability of avoiding indirect means of artificially increasing the economic pressure upon populations to seek wage-earning employment” and “the evil effects which too sudden changes in the habits of life and labour may have on the social conditions of the population” when “deciding questions connected with the economic development of territories in a primitive stage of development, and, in particular, when deciding upon: (a) increases in the number and extent of industrial, mining and agricultural undertakings in such territories; (b) the non-indigenous settlement, if any, which is to be permitted; (c) the granting of forest or other concessions, with or without the character of monopolies.”<sup>3</sup> This *Recommendation* is relevant to the Guatemalan palm sector in that land grabs have resulted in the concentration of a large percentage of land and employment opportunities in the hands of a small number of palm companies in Sayaxché. A large number of uneducated indigenous farmers lack land for subsistence agriculture or alternative employment opportunities, which can indirectly compel them to labor on palm plantations.

Verité bases its definition of labor trafficking on the 2000 UN *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*, also known as the *Palermo Protocol*. This protocol contains the internationally recognized definition of human trafficking, which is defined 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.”<sup>4</sup> Verité research assessed the existence of indicators of forced labor rather than indicators of labor trafficking. While Verité recognizes that Guatemala's legal system is more oriented towards combating human trafficking, it is important to note that there is a great deal of overlap between the ILO's indicators of forced labor and labor trafficking.<sup>5</sup>

## Limitations

It should be noted that the research was qualitative in nature and sought to uncover information about the presence of labor and human rights risks. While workers from a wide variety of regions and employed in a variety of locales and occupations were interviewed, the sample cannot be said to be statistically representative at a national or sectoral level.

The level of insecurity in Guatemala cannot be overemphasized as a research challenge. Due to an increase in narcotics trafficking and organized crime, a climate of violence and fear has returned to the country, causing individuals to become increasingly cautious about airing their grievances or talking with outsiders. Guatemala has registered the fourth highest homicide rate of any country in the world as well as a large number of murders of high profile figures, labor unionists, and NGO activists. Furthermore, there is a high rate of “vigilante” killings in Guatemala. 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 in order to obtain permission to operate in particular regions, to gain the confidence of workers, and to ensure the security of the

researchers and respondents. Researchers carefully explained the purpose of the research to avoid misperceptions, used the term “forced labor” sparingly, and couched questions about forced labor among questions about production, general conditions of work, labor relations, and other related issues.

It is very difficult for outsiders to enter palm plantations. While conducting research, Verité researchers noted a large number of armed guards controlling the entrances to palm plantations and researchers needed to obtain permission from management to enter plantations. Experts interviewed by Verité have indicated that palm plantations have denied entrance to labor inspectors and representatives of the Human Rights Ombudsman (PDH) and United Nations seeking to carry out inspections on palm plantations. One leading expert interviewed by Verité reported that “it is more difficult to enter a palm plantation than a military base.” A Verité researcher was informed by a government official that labor inspectors had been threatened with guns in the past when attempting to inspect agricultural plantations. In cases where Verité was successful in gaining access to plantations, it was generally not possible to interview workers privately or without putting them at risk of reprisal.

### Fenced Worker Housing



Because of this impeded access to the plantations and the danger to both researchers and workers, researchers conducted interviews in migrant workers’ communities of origin or in public spaces such as markets. This was especially challenging with migrant workers employed in plantations in Sayaxché, since these workers were housed on the plantations and were generally not permitted to leave during the duration of their employment. Many of these workers came from remote areas in Alta Verapaz, as well as other Departments and countries. Because many of their communities are extremely isolated, it was not possible to interview migrant workers from isolated communities who were employed in Sayaxché, who appear to be one of the two categories of workers most vulnerable to forced labor. However, researchers obtained information about their conditions of work from interviews with other workers and experts.

### Background on Guatemala

Guatemala is a country in Central America of almost 15 million inhabitants. At 42,042 square miles, it is roughly the size of the U.S. State of Virginia. Although Guatemala ranks as a middle-income country, it is plagued by high levels of poverty and inequality, and low levels of human development. This economic desperation, coupled with Guatemala's 36 year-long civil war and societal violence has 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 the civil war.

### Socioeconomic Indicators

Guatemala, with a GDP of approximately USD 70 billion, ranks 81<sup>st</sup> out of 226 countries globally in terms of overall GDP.<sup>6</sup> Guatemala has the largest GDP in Central America, comprising approximately 35 percent of the GDP of the whole isthmus. Services generate 61 percent of Guatemala's GDP, industry generates 28 percent, and agriculture generates 11 percent.<sup>7</sup>

In 2011, Guatemala had a population of 14,713,763, the largest population in Central America.<sup>8</sup> While its overall GDP is relatively high compared to other Central American countries, its GDP per capita is relatively low. In 2011, Guatemala had a GDP per capita of approximately USD 5,200, ranking 143<sup>rd</sup> in terms of GDP per capita out of 226 countries.<sup>9</sup> This is compared to a GDP per capita of USD 6,000 in El Salvador, USD 10,800 in Costa Rica, and USD 46,300 in the United States.<sup>10</sup> In fact, out of Central American countries, Guatemala only surpassed Honduras in GDP per capita.<sup>11</sup>

Applying the GINI coefficient, a measurement of equality where a score of zero means complete equality and 100 means complete inequality, Guatemala has a score of 55.1, making it the 13<sup>th</sup> most unequal country in the world out of a total of 147 countries in 2011. The only countries with higher levels of inequality in Latin America and the Caribbean were Ecuador (54.4), Bolivia (57.2), Honduras (58), Colombia (58.5), and Haiti (59.5). In comparison, Nicaragua scored 43 and Costa Rica scored 48.<sup>12</sup> In Guatemala, less than one percent of the population controlled over 80 percent of the arable land, one of the highest rates in the world.<sup>13</sup>

The UN Development Program's (UNDP) Human Development Index (HDI) ranked Guatemala at 0.581 in 2012. Its score was 133<sup>rd</sup> out of 186 countries ranked in 2012, down from 131 in 2011 and 121 in 2008. In fact, after Haiti, it had the second lowest score out of any country in the Western Hemisphere.<sup>14</sup>

The Human Rights Ombudsman (PDH) concluded that inequality, discrimination, and an economic model dependent on agriculture contributed to elevated levels of poverty and malnutrition among indigenous peoples.<sup>15</sup> As of the 2002 census (the most recent year for which comprehensive statistics on ethnicity exist), approximately 40 percent of Guatemala's population was made up of indigenous peoples: K'iche Mayans constituted 9.1 percent of Guatemala's population; Kaqchikel constituted 8.4 percent; Mam constituted 7.9 percent; Q'eqchi constituted 6.3 percent; other Mayan groups constituted 8.6 percent; and other indigenous non-Mayan groups constituted 0.2 percent. There are 23 officially recognized indigenous languages, the most prominent of which are Quiche, Mam, Garifuna, Xinka,

Kaqchikel, and Q'eqchi <sup>16</sup> A 2007 national survey found that 75 percent of indigenous Guatemalans were living in poverty and 27.4 percent were living in extreme poverty, compared to 36.5 percent of non-indigenous people living in poverty and 7.8 percent living in extreme poverty.<sup>17</sup> Of the 1,951,724 Guatemalans living in extreme poverty in 2011, 69.5 percent were indigenous.<sup>18</sup>

According to a 2007 study, 78 percent of Guatemalans living in poverty were concentrated in rural areas, while 28 percent were concentrated in urban areas. The highest levels of poverty could be found in the Northern Departments of Alta and Baja Verapaz, where 77.1 percent of inhabitants lived in poverty and 38.8 percent of the population lived in extreme poverty. In the Northwestern Departments of Quiché and Huehuetenango, 75.6 percent of the population lived in poverty and 23.6 percent lived in extreme poverty. In addition, poverty affected approximately half of the residents of San Marcos, Suchitepéquez, and Retalhuleu.<sup>19</sup>

According to the 2010 National Survey on Employment and Income (ENEI), women comprised 36.3 percent of Guatemala's Economically Active Population (EAP). In rural areas, women earned an average of 16.7 percent less than men and in urban areas they earned an average of 12.5 percent less than men.<sup>20</sup> In 2007, 30.8 percent of families with a female head of household were living below the poverty line, while 42.7 percent of households led by men were living below the poverty line. Studies show that children were much more likely to be affected by poverty, as 60 percent of children between the ages of 0 and 14 were living below the poverty line in 2007.<sup>21</sup>

According to a PDH report, Guatemalans living below the poverty line were plagued by hunger and malnutrition.<sup>22</sup> In fact, Guatemala had the fourth highest rate of malnutrition in the world and the highest rate of any Latin American country in 2012. Malnutrition, which affected 49.8 percent of children under the age of five, was especially prevalent in rural and indigenous communities.<sup>23</sup>

In 2011, 38 percent of Guatemalans were economically active: 38 percent of whom were employed in the agricultural sector, compared to 26 percent in services, 18 percent in commerce, and 14 percent in industry. Other data indicates that the percentage of workers employed in agriculture grew six percent from 35.32 percent in 2010 to 41.42 percent in 2011, while the percentage of workers employed in commerce shrunk from 20.72 percent to 15.7 percent.<sup>24</sup> In 2012, 57 percent of agricultural workers came from rural areas, 43 percent came from urban areas, 71 percent were men, and 69 percent were indigenous. Temporary agricultural workers had an average of 4.5 years of schooling.<sup>25</sup> A PDH report from 2012 indicates that 63.8 percent of Guatemalan workers were employed in the informal sector (including temporary agricultural work), in which there are fewer worker protections and lower wages.<sup>26</sup>

## ***Violence***

Guatemala's 36 year-long civil war ended in 1996 with the Peace Accords.<sup>27</sup> The Historical Clarification Commission, backed by the United Nations, found that over 200,000 people were killed and more than one million were displaced during the war. The Commission also determined that while guerrilla groups were responsible for numerous kidnappings and killings, the military and government-backed paramilitary groups carried out the vast majority of the killings.<sup>28</sup> During the civil war, 83 percent of the victims were indigenous Mayans.<sup>29</sup> The Commission has labeled the campaign of massacres targeted at rural indigenous communities a

genocide.<sup>30</sup> 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.<sup>31</sup>

The violence of the civil war, combined with an economic downturn, caused the forced displacement of over a million Guatemalans.<sup>32</sup> By 2013, there were approximately 1.2 million Guatemalans in the United States, two-thirds of whom were foreign born.<sup>33</sup> In 2013, Guatemalan immigrants sent USD 3.2 billion in remittances to Guatemala, constituting the country’s primary source of foreign currency.<sup>34</sup>

However, migration also brought negative consequences, such as family disintegration and the spread of gang culture from the United States to Guatemala. In the United States, Guatemalans often found themselves in poor neighborhoods where some joined gangs such as Mara Salvatrucha (M-13) and the Eighteenth Street Gang (Mara 18 or M-18) to defend themselves. Many of these gangs turned 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.<sup>35</sup>

Some gangs formed links with the growing organized crime and drug trafficking organizations (DTOs) in Guatemala.<sup>36</sup> In 2010, the U.S. Department of State reported that “entire regions of Guatemala [were] essentially under the control” of organized crime syndicates and narcotics traffickers. Seven of Guatemala’s 22 Departments were reportedly under the control of these criminal groups, which had been aided by active and former military personnel.<sup>37</sup>

**Guatemala Criminal Map<sup>38</sup>**



Recent waves of migration have been fueled by organized crime pushing poor people out of their communities. In 2010, for example, due to the incursion of organized crime into Alta Verapaz, then-president Alvaro Colom declared a state of emergency in the Department, sent in the military, imposed curfews, and prohibited public meetings. He declared that the Department had become “like an international airport” for drug flights. The state of emergency was lifted in February 2011. Although most of the drug flights were ceased in the Department, he stated that four areas of the country were still under the control of DTOs.<sup>39</sup> Since 2011, the infiltration of DTOs has forced people out of their homes and into the palm plantations, and has made the palm workers in Petén more vulnerable to exploitation.

Guatemala has one of the world’s highest homicide rates as a result of gang activity, infighting between drug cartels, and an increase in common crime. In 2004, the Inter-American Commission on Human Rights placed the Guatemalan homicide rate at 70 per 100,000 residents, compared to a rate of six homicides per 100,000 residents in the United States.<sup>40</sup> In 2011, homicide rates fell to 39 per 100,000 residents or 15 murders per day, a rate still roughly twice as high as Mexico’s. Statistics show that in January 2012, the average number of murders per day returned to the 2009 average of 17 per day.<sup>41</sup> In some Departments, including those under study, homicide rates were much higher. For example, Escuintla was the Department with the second-highest homicide rate in Guatemala, with 93 murders for every 100,000 inhabitants and Petén had a homicide rate of 50 per every 100,000 inhabitants.<sup>42</sup>

**Murder Rates by Department 2012 and 2013<sup>43</sup>**



Violence has permeated the electoral process, resulting in 43 deaths, 39 injuries, 65 threats, and 14 other types of aggressions carried out against politicians, party officials, and their family

members from January to October 2011.<sup>44</sup> Many of the killings in Guatemala are carried out by contract killers (*sicarios*), who charge as little as USD 15 to carry out a murder.<sup>45</sup> The high level of impunity in Guatemala has contributed to elevated levels of criminality and violence in the country. Government statistics reveal that there was a 95 percent impunity rate in 2010.<sup>46</sup>

The United Nations' International Commission to Combat Impunity in Guatemala (CICIG) has been effective in reforming the Guatemalan justice system. The Commission established a system to protect witnesses and criminals who turn state's evidence and paved the way for wire taps to combat organized crime. Due to the valiant efforts of CICIG and Guatemala's Attorney General, Claudia Paz y Paz, Guatemala has taken important steps in combating organized crime, violence, and impunity. They have been involved in the prosecution of high-level criminals and corrupt government officials, including ex-Presidents.<sup>47</sup> However, CICIG's mandate has been challenged, and Paz y Paz is being pushed out of office early, putting into question Guatemala's future.<sup>48</sup>

While CICIG has made strides in prosecuting corrupt officials, solving high-profile cases, and reforming the judicial sector, it has failed to assist in the prosecution of crimes against union members, which was one of its original goals. In fact, according to the ITUC, Guatemala "has become the most dangerous country in the world for trade unionists," with at least 53 union members killed between 2007 and June 2013, the highest per capita rate in the world. The ITUC reported in 2013 that the killings, kidnappings, torture, attacks, robbery, and threats made against trade unionists instilled a culture of fear that made the exercise of freedom of association impossible.<sup>49</sup> In 2011, the ILO Commission of Experts on the Application of Conventions and Recommendations (ILO-CEACR) reported an increase in violence against unionists and a lack of prosecution of those responsible. Although the government claimed that murders of union members were not politically motivated, the high number of killings and the failure to clarify the motives or prosecute those responsible creates fear and resentment among workers and labor activists and a lack of trust in the authorities' ability to protect them.<sup>50</sup>

The killing of agricultural workers with impunity has created an increased sense of fear and mistrust. The 2011 decapitation of 27 contract workers on *plantations* in Los Cocos, La Libertad, Petén for unknowingly working on a rival drug trafficker's farm demonstrated the low value placed on temporary farm workers' lives.<sup>51</sup> Individuals have also been murdered by armed guards on coffee *plantations*. For example, in 2011, a 63 year-old *campesino* trespassed on a coffee *plantation* to collect firewood and was shot to death. When family members came to look for him, they too were received by gunfire, tragically resulting in the death of another family member. Instead of reporting the incident to authorities, community members took the guard who had shot them hostage and threatened to lynch him because they did not trust the authorities.<sup>52</sup>

The palm sector has also been plagued with violence. In 2012, an armed guard was assassinated on a palm plantation in Pajapita, San Marcos.<sup>53</sup> While Verité was carrying out research in Escuintla in 2013, the manager of a palm oil plantation was killed in a highway ambush during broad daylight.<sup>54</sup> In January 2014, a powerful Spanish businessman who owned multiple fincas in Northern and Southern Guatemala and had recently begun to operate a palm plantation in Izabal was kidnapped and killed.<sup>55</sup> There were also reports of a shootout, resulting in four deaths, between two armed groups on a palm plantation owned by one of the leaders of the Guatemalan branch of the Zetas, Mexico's most brutal drug trafficking organization.<sup>56</sup>



The public's mistrust of authority figures has resulted in a resurgence of *linchamientos* ("lynchings" - by mobs or vigilante groups), which have reached levels comparable to those during the civil war. From 2006 to 2011, 913 people were lynched, 176 of whom were killed. In 2011 alone, a total of 294 individuals were lynched, resulting in 51 deaths.<sup>57</sup>

The high levels of violence, impunity, and inequality in Guatemala create a system where little value is placed on the lives of impoverished, uneducated indigenous *campesinos*. Workers know that their lives are cheap and that they lack the political connections and economic power to gain credibility and make significant changes. They know that workers have been killed for organizing or complaining and they know that the vast majority of their killers have not been brought to justice. Therefore, even if workers owe small amounts of money, even if they hear an implicit threat, even if there are merely armed guards on a *plantation*, they may be frightened for their lives.

## Background on Sayaxché

Besides having the highest concentration of African palm and the highest palm oil yields, Sayaxché has a number of characteristics that increase the vulnerability of workers to exploitation. These include the proliferation of organized crime and land grabs and the high number of migrant workers from impoverished areas. Therefore, this report includes sections specifically focused on Sayaxché.

### Ferry to Sayaxché



Sayaxché is part of Guatemala's northernmost Department of Petén, the country's largest Department. At more than 22,000 square miles of land, it is twice as big as the entire country of El Salvador. Petén has over 350 miles of Guatemala's most porous border with Mexico and is

mostly comprised of jungles and agricultural land, much of which is only accessible by air.<sup>58</sup> Despite being the largest department in Guatemala, Petén is the least populated, with approximately ten inhabitants per square mile, compared to the national average of 82 inhabitants per square mile.<sup>59</sup> This is because much of the land in Petén is either controlled by criminal entities or large private companies, many of which are affiliated with the palm industry, or has been designated as environmentally protected land.<sup>60</sup>

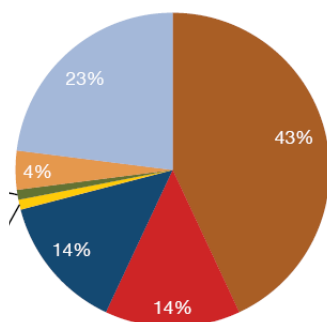
The Municipality of Sayaxché consists of 2,331 square miles of land divided into ten micro regions.<sup>61</sup> It is by far the municipality with the highest concentration of palm plantations and its economy is dominated by and dependent on the palm sector. Sayaxché’s population is mainly comprised of migrants - those fleeing the civil war in the 1970s-1990s and those seeking employment in the palm sector after the turn of the century. Like Guatemala, Sayaxché has been plagued by violence and organized crime, which has increasingly been tied to the palm sector.

### **Socioeconomic Indicators**

In 2008, there were 63,372 inhabitants living in 170 communities in Sayaxché. By 2010, the number of inhabitants had risen to 66,867, but the number of communities decreased to 166. The reduction in the number of communities is attributed to the rapid expansion of palm plantations.<sup>62</sup> In 2009, 72 percent of the residents of Sayaxché were indigenous Guatemalans, 95 percent of whom lived in rural areas.<sup>63</sup> Approximately half of Sayaxché’s inhabitants are not fluent Spanish speakers.<sup>64</sup>

Sayaxché’s economy, primarily based on agriculture, is susceptible to both droughts and flooding, making Sayaxché one of Guatemala’s poorest municipalities. The vast majority of the population depends on agriculture for survival, whether it is through subsistence agriculture (corn, rice and beans) or agro-industries (mostly palm). As subsistence farmers have sold their land to plantations, they have become increasingly dependent on these plantations for their livelihoods.<sup>65</sup> More than half of the individuals surveyed in 2011 in four Sayaxché communities by the Council for Guatemalan Displaced Persons (CONDEG) reported that they worked for palm companies.<sup>66</sup> The spread of palm plantations has also resulted in a reduction in the number of schools, with only two secondary schools in all of Sayaxché, both of which desperately lack resources. According to Action Aid, 75 percent of schools in Sayaxché consisted of huts with mud floors.<sup>67</sup>

**Sources of occupation of the economically active male population in Sayaxché 2010<sup>68</sup>**

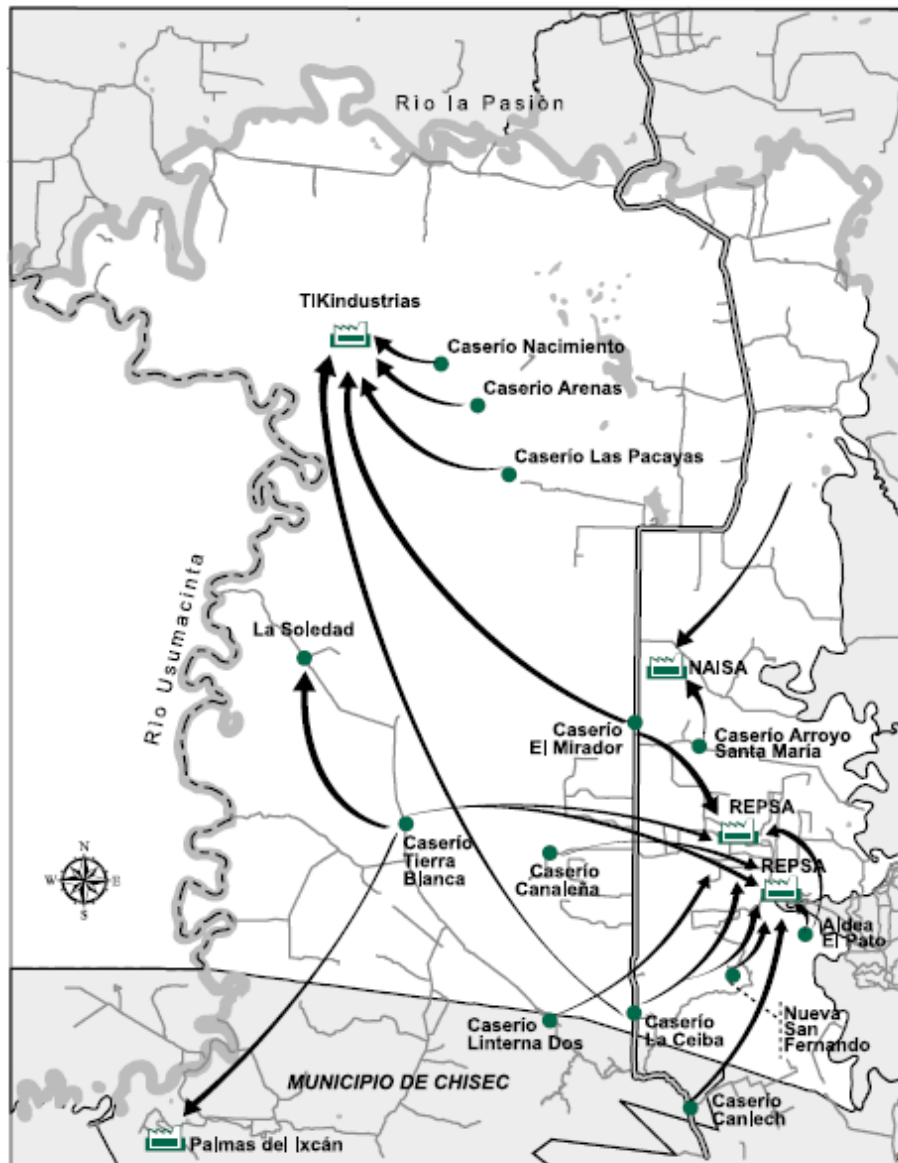


- Self-employed in agriculture 43%
- Students and or unemployed 23%
- Family farming 14%
- Palm oil company 14%
- Nonfarm business 1%
- Public sector 1%
- Other 4%

## Migration and Sayaxché

The population of Sayaxché is mostly comprised of migrants. Many of the residents of Sayaxché who report that they were displaced by palm companies were victims of previous displacements. A large number of residents of the municipality migrated during the civil war from the regions of Alta Verapaz, Baja Verapaz, and Quiché, where indigenous rural communities were wiped out by scorched earth campaigns. In fact, it has been estimated that 41 percent of the residents of the municipality were victims of displacement from the Department of Alta Verapaz, in which rural indigenous communities were heavily targeted during the civil war.<sup>69</sup> Another 13 percent of the population is composed of migrants from Baja Verapaz, Escuintla, and Jutiapa.<sup>70</sup>

Flow of Migrant Workers to Palm Plantations in Sayaxché<sup>71</sup>



ActionAid has laid out three periods of migration to Sayaxché. The first large-scale migration to Sayaxché occurred during the 1960s, following the 1959 creation of the Enterprise for the

Promotion and Development of Petén (Empresa Fomento y Desarrollo del Petén - FYDEP), which promoted migration to Petén and agricultural development in the Department. The second wave of migration was in 1978, after 53 indigenous inhabitants were massacred and approximately 50 were injured during the Panzós massacre in Alta Verapaz. The third wave of migration began at the turn of the century, when temporary migrants came to Sayaxché to work on plantations and in processing plants in Sayaxché's rapidly growing palm sector. According to ActionAid, many migrant workers have also come from other countries, such as El Salvador, Honduras, and Nicaragua.<sup>72</sup> In-country experts interviewed by Verité stated that migrant workers have come from Belize as well.

While immigration into Sayaxché is an important phenomenon, emigration has also played a key role. According to a University of California Davis study, due to the lack of employment opportunities outside of the agricultural sector in Petén, many workers' only option is to emigrate. While in 1999, the number of people from Petén living outside of Guatemala was negligible, by 2003, 15 percent of men and six percent of women from Petén were living outside of the country. By 2009, 31.8 percent of people from Petén reported that at least one of their family members lived outside of Guatemala.<sup>73</sup> This migration has been fueled by increases in violence.

### ***Drug Trafficking and Violence in Sayaxché***

The Economist has highlighted Petén as one of the areas in Central America's extremely violent Northern Triangle with the highest proliferation of organized crime. This is due to weak law enforcement and vast remote stretches of land, making Petén a propitious place for clandestine landing strips for planes carrying drugs.<sup>74</sup> The Zetas, Mexico's most violent DTO, have taken over parts of Petén, as Guatemala is an important transit point for the vast majority of cocaine that makes its way to the United States. The Zetas' incursion into Petén has resulted in a number of violent altercations both with other Mexican DTOs and with Guatemalan family-based drug trafficking "clans." They have also claimed large stretches of land and many innocent lives, often at the expense of impoverished peasant families.

In May 2011, 27 temporary farm workers were massacred, some decapitated with chainsaws, by the Zetas on a cattle ranch in Petén owned by a suspected Guatemalan drug trafficker. The massacre was allegedly an act of retaliation against the drug trafficker for a drug deal gone bad. Authorities found that these laborers were not linked to drug trafficking and that the Zetas had killed them simply to send a message to him. In fact, they wrote on the wall of one of the ranch's buildings in a victim's blood, "I'm going to find you, and this is what's going to happen to you."<sup>75</sup>

An Insight Crime report, "Grupos de poder en Petén: territorio, política y negocios," has found that organized crime has begun to take over the Department of Petén. They found that organized criminal groups, including powerful Guatemalan drug trafficking families, have taken over more than 50,000 acres of land in Petén (over ten percent of the cultivable land in the Department and more than the amount of land occupied by palm companies).<sup>76</sup> According to the report, these groups have also been able to obtain lucrative public works contracts through front NGOs and have gained influence over major political parties, including a party led by the front-runner to become Guatemala's next president.<sup>77</sup>

Organized crime has spread to Sayaxché, where local families have formed what have allegedly formed a cartel that transports drugs from the municipality to Mexico. A member of one of the

families ran for mayor of Sayaxché's capital city in 2011 and another member served as the mayor of another Sayaxché town for five terms.<sup>78</sup>

In Petén, organized crime has been linked to both African palm and cattle ranching, which an expert on organized crime interviewed by Verité asserted was a "classic" way for DTOs to launder money. Other expert interviews indicate that many *campesinos* sold their land first to cattle ranchers, who then sold this land to palm companies. In Petén, there was reportedly a shootout between organized crime groups resulting in numerous deaths on a palm estate owned by a top Zeta leader in Guatemala. This estate was surrounded by ten lots dedicated to African palm production owned by the Zeta commander. A prominent Guatemalan political analyst and consultant to palm oil companies reported that before this Zeta leader was captured in Belize in 2010, he and other narcotic traffickers in Petén were "pioneers in the planting and cultivation of African Palm." He also reported that members of organized crime groups had attempted to sell their palm fruit to palm companies.<sup>79</sup>

### Land used for Palm Cultivation and Cattle Ranching



### Palm Oil Production Worldwide

There has been a rapid rise in demand for palm oil worldwide, mostly fueled by increased demand for vegetable oil in Asia, as well as global demand for biofuels. While Malaysia and Indonesia have traditionally dominated palm oil production, African and Latin American countries are emerging as important palm oil producers. Global demand for vegetable oil rose from 25.57 million metric tons (MT) in 1970 to 144.76 million MT in 2010. Likewise, the demand for palm oil increased 7.8 percent during this time period, and palm oil constituted 34 percent of vegetable oils consumed in 2010.<sup>80</sup> The exponential growth in demand for palm oil has been attributed to population growth, the increased per capita consumption of palm oil in food and other products, and to a lesser extent, the increased use of bio-fuels.<sup>81</sup>

Compared to other vegetable oils, palm oil production has exponentially increased over the last 30 years. Land cultivated for oil palm production increased from 1.55 million hectares in 1980 to 12.2 million hectares in 2009. During this time period, production jumped from 4.5 million tons to 45 million tons, three fourths of which were traded over the international market.<sup>8</sup> Currently, fifty million tons of palm oil are produced annually.<sup>82</sup>

The production of processed foods by transnational food manufacturers contributes to growth in the demand for oil palm. The World Bank estimates that by 2050 the demand for palm oil will double with the promotion of processed foods in emerging economies.<sup>83</sup> Palm oil is primarily used in food for human and animal consumption.<sup>84</sup> It is the world's most-commonly used vegetable oil, which is sold in its raw form as cooking oil, and is used in processed foods such as baked and fried goods, concentrated foods, condensed milk, and animal foods.<sup>85</sup> In fact, palm oil can be found in about half of the products in supermarkets in western countries, though due to labeling regulations in the U.S., many of these goods are simply labeled as containing "vegetable oil."<sup>86</sup> Palm oil is also a key ingredient in soaps, detergents, candles, cosmetics, glues, lipstick, ink, vitamins, and machinery lubricants.<sup>87</sup>

In 2012 alone, the U.S. imported 2.7 billion pounds of palm oil, and this figure is steadily increasing annually.<sup>88</sup> Although consumption of palm oil tripled in the U.S. between 2007 and 2012, it is a small consumer compared to Asia and Europe. This is due both to a tradition of palm oil use in Asia and Europe and to increased access to cheaper corn, soybean, and rapeseed oil in the U.S. The U.S. consumes about 2.2 percent of the world's palm oil, whereas E.U. countries consume approximately 10.2 percent of palm oil. Over 90 percent of palm oil consumed in India and Pakistan was used as cooking oil and palm oil-based cooking oil is also ubiquitous in China. Population growth in Asian countries has thus contributed significantly to the rise in demand for palm oil.<sup>89</sup>

Rising demand for palm oil is linked to increased consumption in developing countries but also to the increase in demand for biofuels, as forecast by the UN Food and Agriculture Organization.<sup>9</sup> This growing global demand for biofuel is part of what lies at the root of the explosion of the production and global trade in palm oil: it is cheap, widely available and delivers high yields per hectare.<sup>90</sup> Many European countries, alongside other developed nations, have promoted national investments in green fuels to phase out harmful petrochemicals, providing USD 20 billion in subsidies annually.<sup>91</sup> Although the use of biodiesels remains relatively small, recent figures have shown that biodiesel use is rapidly increasing. From 2000 to 2010 the use of

biodiesel in Europe increased by a compound growth rate of 38.4 percent. The demand for oil palm will likely further increase as scientific innovations increase efficiencies in both the production and use of biodiesels.<sup>92</sup>

Most of the world's palm oil supply is grown in Indonesia and Malaysia. The two countries supply nearly 85 percent of the world's oil palm supply, making palm oil an integral part of their export economies. In 2012, Malaysia produced 18,202 thousand metric tons of palm oil and Indonesia produced 25,900 thousand metric tons. In 2010, palm oil was their largest agricultural export, comprising 4.3 percent of Malaysia's GDP and 1.4 percent of Indonesia's GDP. The palm oil industry employs as many as 3.5 million workers from the two countries.<sup>93</sup> The U.S. imports nearly 90 percent of its palm oil from Malaysia while the EU imports about 32 percent from Malaysia and 54 percent from Indonesia.<sup>94</sup> Indonesia and Malaysia will likely continue to be the largest international suppliers of palm oil. However, there has been a significant increase in palm oil production in Latin America and Africa.

### ***Palm Oil Production Process***

While African palm grows in tropical climates near the equator,<sup>95</sup> it can only thrive in areas with average annual temperatures between 25 and 28 degrees Celsius, at altitudes of 0-500 meters above sea level, and in areas with over 1,800 mm of rainfall per year. Despite its high yield, it is a relatively expensive crop to plant, so assuring the appropriate climatic conditions is essential for profitability.<sup>96</sup>

African Palm trees take only three years to reach maturity and the trees are productive for approximately 20 years.<sup>97</sup> The oil palm tree has an extremely high yield compared to other oil crops. The tree averages three or four harvests per year and requires relatively low maintenance, making it an attractive and cost-effective alternative to other oil crops. This, along with the increasing demand for palm oil, has driven farmers and agribusiness to plant palm on a massive scale.<sup>98</sup>

#### **African Palm Saplings**

To begin planting palm oil seedlings, land is cleared and prepared for plantations. This process may include removing wild vegetation and previously cultivated crops, tilling, and irrigation.<sup>99</sup> African palm saplings are planted in a greenhouse for nine to ten months and are then planted in the plantations.<sup>100</sup> The planted crop is commonly sprayed with Paraquat or other chemical pesticides. Once matured, after three years, palm fruits are manually harvested from the palm trees using long sickles. Within 48 hours, harvested palm fruits are collected to be shipped to mills for processing.<sup>101</sup>

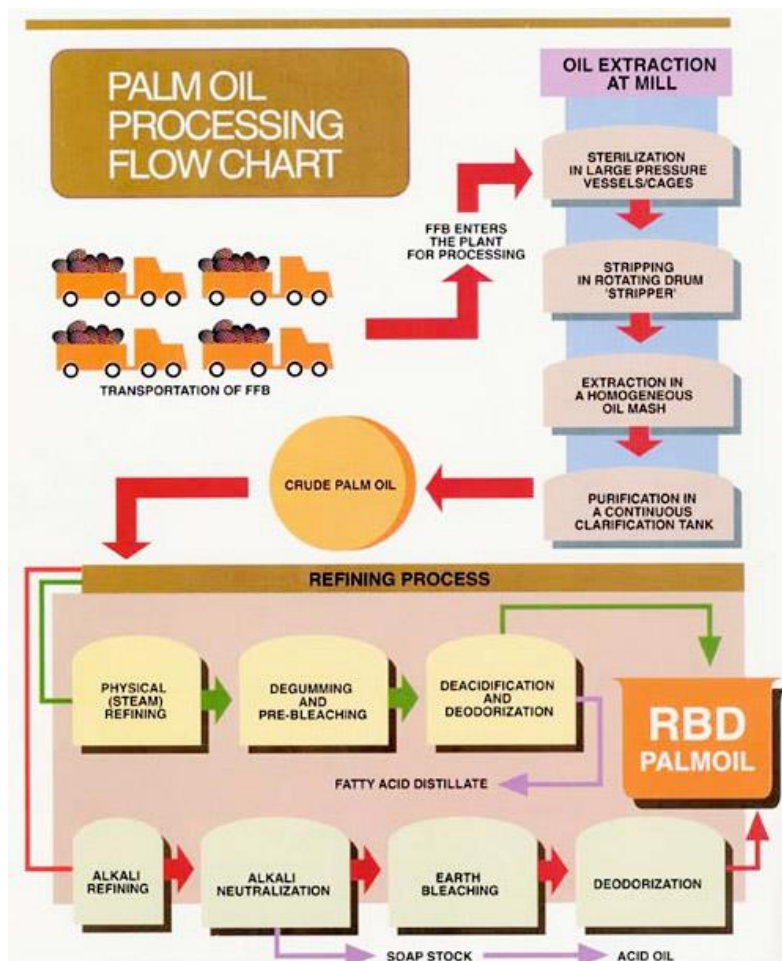


To begin the extracting process, palm fruits are sterilized via steam in large pressurized containers. The sterilization eliminates bacteria and halts the breakdown of oils within the fruit.

Fruits are then removed from bunches and placed into large threshing drums, while the empty bunches are set aside to be used as fuel for the milling process. Individual kernels go through a press digester. This divides the fruit oil from the fruit solids, which are called press cake and are shipped to a special facility that separates the palm nut from its fibrous cake, which is then recycled as fuel for the crushing process. Once the palm fruit is split, the kernel is separated via a winnowing system.<sup>102</sup>

Most palm oil is refined by physical rather than chemical processing because it is less complex, less expensive, less polluting, and more efficient. Palm oil is degummed by acids, then bleached and deodorized, creating refined palm oil, palm kernel oil, and palm fatty-acid distillates. Oil palms undergoing chemical processing are treated with alkaline sodium hydroxide to neutralize the oils prior to being bleached and deodorized, creating neutralized palm oil, palm kernel oil, and soap stock.<sup>103</sup> The oil can be again processed to produce varying densities of derivatives that can be mixed in with other vegetable oils.<sup>104</sup>

### Palm Oil Production Process<sup>105</sup>



### Supply Chain

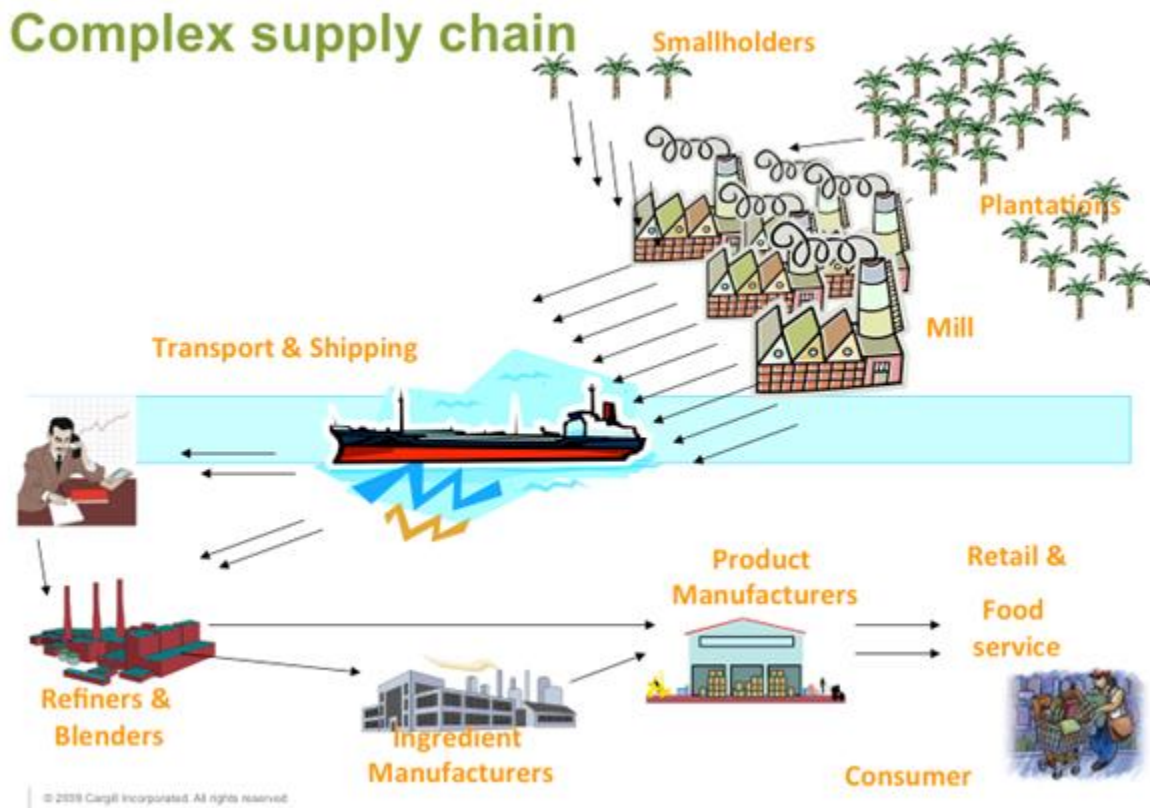
The various levels of the palm oil supply chain include producers, processors, exporters, importers, agents, wholesalers, re-exporters, retailers, and specialized retailers.<sup>106</sup> The control of the global palm oil trade rests in the hands of a relatively small number of companies that



dictate nearly all the buying and selling of the commodity.<sup>107</sup> Large palm companies like usually operate their own diverse network of plantations, mills, and refineries and sometimes operate as global palm oil brokers as well.<sup>108</sup>

Once palm oil is imported into developed nations, it is often sold by refineries and traders to other commercial businesses such as food service operators and packaged goods manufacturers. Palm oil is then processed into derivatives such as stearin, olein, and oleochemicals to be used in a number of food and nonfood products. Very few companies openly report their use of palm oil. However, a number of prominent international cosmetics, food, and consumer goods companies have acknowledged using thousands to millions of metric tons of palm oil per year.<sup>109</sup>

### Palm Oil Supply Chain<sup>110</sup>



### Labor Force

African palm production, that is cultivation and harvesting, is an extremely labor intensive activity and provides for most of the jobs within the palm oil industry. Although it differs from plantation to plantation, one worker is generally needed for each 25 acres of land. Despite the low ratio of workers to land and advances in technology and efficiency, most jobs on palm plantations are provided by extremely large estates that require a large number of workers.<sup>111</sup>

Work on palm plantations is primarily carried out by unskilled workers. Due to their isolation, most estates must hire temporary workers during peak harvest and are reliant on outsourced labor. Labor brokers on company payrolls often lure men, women, and children with enticing offers of high wages, easy work, and promising living conditions.<sup>112</sup>

There are reports that the palm oil industries in both Malaysia and Indonesia actively violate labor rights. Migrant workers are forced into debt by profiteering labor brokers. Even local workers have been victims of exploitative labor practices and an increasing amount of smallholders fall into a trap of unfair loan agreements.<sup>113</sup> Children have also fallen victim to the numerous labor rights violations within the palm industry, spurring the U.S. Department of Labor to list palm oil as one of the worst offenders for forced and child labor.<sup>114</sup>

## **Palm Oil Production in Guatemala**

Although the African Palm is not native to Guatemala, it spread rapidly throughout Southern and then Northern Guatemala after its introduction in the 1980s. Palm was first planted in 1988 in the Southern coastal areas of Guatemala, and the first harvest of palm fruit took place in 1991.<sup>115</sup> It has since spread throughout Northern Guatemala.

### **Palm Plantation in Southern Guatemala**



The amount of land used to cultivate African palm has increased exponentially. In 2000, there were approximately 36,437 acres under cultivation. Over the next ten years, palm cultivation grew by an average of 21,497 acres per year to 251,407 acres in 2010.<sup>116</sup> In 2012, the president of Guatemala's Chamber of Agriculture (Camagro) estimated that palm would be planted on 296,400 acres by the end of the year.<sup>117</sup>

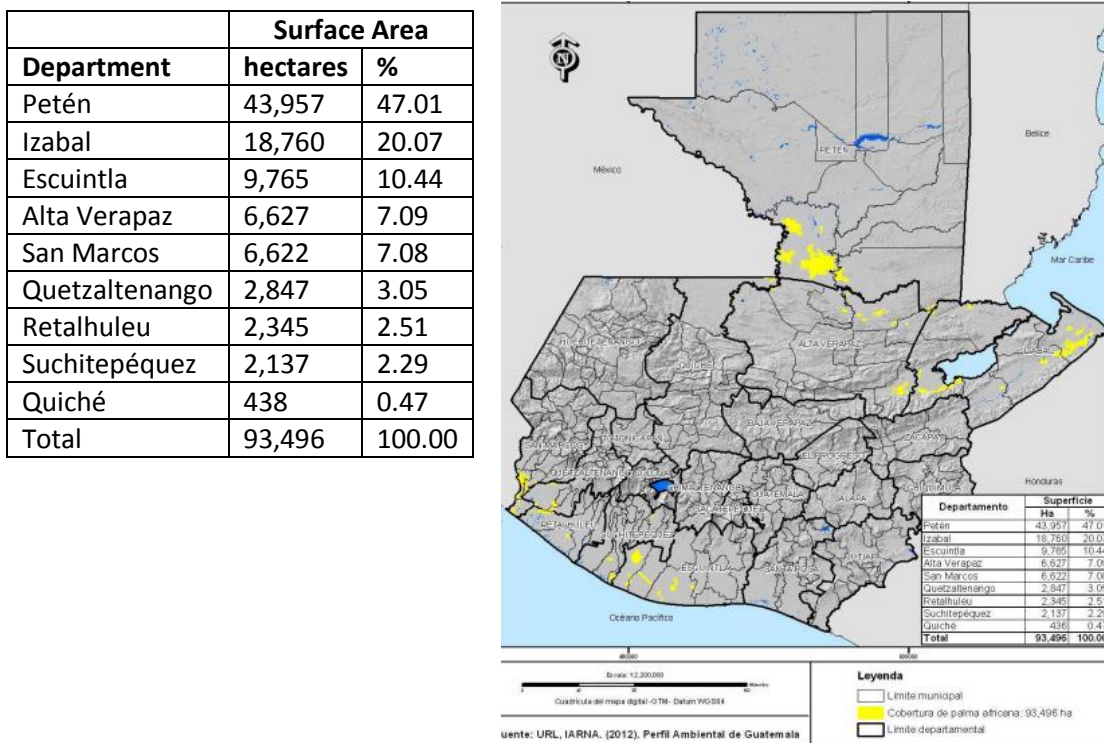
Due to the rising demand for palm oil and the ideal climatic conditions in Guatemala, palm has supplanted cattle, cotton, and sugar production in many areas of the country.<sup>118</sup> The palm industry has also taken over forestland and land originally cultivated for traditional subsistence crops, such as beans and corn, and has affected the food security of inhabitants in regions into which the palm industry has spread.<sup>119</sup> A 2013 Oxfam report indicated that, contrary to claims that palm was planted on land previously used for cattle, almost a third of the land that was being used for palm oil production in 2013 was planted with corn ten years earlier, 36 percent was previously dense forest, 22 was planted with cotton, and 23 percent was grassland. According to Oxfam, the land occupied by palm plantations in 2013 was equivalent to the amount needed to sustain 60,000 subsistence farmers.<sup>120</sup>

### Areas under Cultivation

In Northern Guatemala, palm is grown in Izabal, Alta Verapaz, Petén, and Quiché.<sup>121</sup> Approximately three quarters of palm production in 2010 was concentrated in these Northern Departments. In 2010, 47 percent of all of Guatemala’s African Palm producing areas were concentrated in Petén, compared to 20 percent in Izabal, seven percent in Alta Verapaz, and 0.5 percent in Quiche.<sup>122</sup> Almost all of Petén’s palm oil production was concentrated in the small municipality of Sayaxché, meaning that almost half of all of Guatemala’s palm oil production takes place in one of Guatemala’s 335 municipalities.

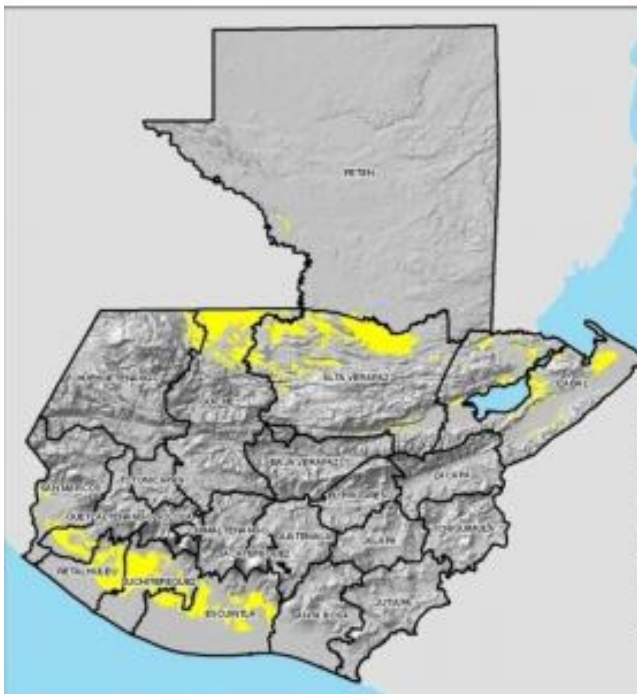
In Southern Guatemala, palm plantations can be found in the Departments of San Marcos, Quetzaltenango, Retalhuleu, Suchitepéquez, and Escuintla. In Southern Guatemala, over ten percent of all of African Palm land under cultivation was concentrated in Escuintla, compared to seven percent in San Marcos, three percent in Quetzaltenango, 2.5 percent in Retalhuleu, and two percent in Suchitepéquez.<sup>123</sup>

Coverage of African Palm in 2010: Guatemala<sup>124</sup>



A 2010 Ministry of Agriculture (MAGA) study found that palm was only planted on 15.7 percent of land viable for palm oil production. In 2010 there were almost 1.5 million acres still available for palm production. Fifty-eight percent of this available land was concentrated in Northern Guatemala: 27 percent in Alta Verapaz, 17 percent in Quiche, ten percent in Izabal, three percent in Huehuetenango, and one percent in Petén. The remaining 42 percent was divided among Southern Departments, 14 percent in Escuintla, 13 percent in Suchitepéquez, eight percent in Retalhuleu, five percent in Quetzaltenango, and two percent in San Marcos.<sup>125</sup> As international demand for palm oil increases, there is potential for a dramatic increase in African palm cultivation. Since the land viable for palm oil production represents 37 percent of all of Guatemala’s arable land, this has the potential to have dramatic repercussions for Guatemala.<sup>126</sup> The map below shows the country’s remaining areas viable for African palm cultivation.

**Potential Areas for the Cultivation of African Palm: Guatemala<sup>127</sup>**



Department	Surface Area	
	ha	%
Alta Verapaz	158,365	26.74
Quiche	98,897	16.70
Escuintla	81,529	13.76
Suchitepéquez	77,171	13.03
Izabal	61,191	10.33
Retalhuleu	48,186	8.13
Quetzaltenango	29,103	4.91
Huehuetenango	19,194	3.24
San Marcos	11,559	1.95
Petén	7,044	1.19
Baja Verapaz	99	0.02
Total	592,338	100.00

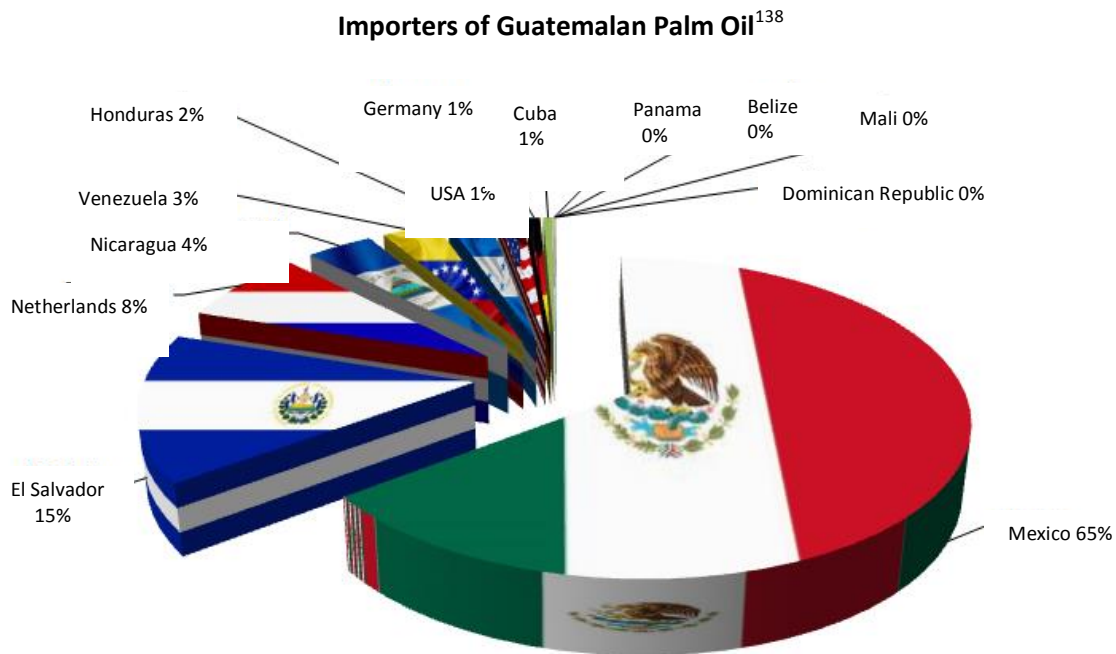
***The Economics of Palm Oil Production in Guatemala***

A United Nations Food and Agriculture Organization (FAO) study found that Guatemala produced 182,000 Metric Tons (MT) of palm oil in 2010, up from 170,000 in 2008.<sup>128</sup> Palm oil exports have expanded exponentially since the turn of the century. Between 2000 and 2009, palm oil export revenue increased by 587 percent.<sup>129</sup> Revenue generated from palm oil increased from USD 14 million in 2000 to USD 20.4 million in 2002, USD 36 million in 2005, and USD 83 million in 2007, before doubling to USD 166 million in 2008.<sup>130</sup> Due to decreases in international palm oil prices, Guatemalan palm export revenue fell to USD 125.7 million in 2010.<sup>131</sup> However, export revenue quickly rebounded and almost doubled to 239,486 MT worth USD 246 million in 2011 and 295,063 MT worth USD 283 million in 2012.<sup>132</sup>

In 2008, Guatemala was the 11th largest palm oil exporter in the world.<sup>133</sup> By 2011, Guatemala had become the ninth largest palm oil exporter in the world and the second largest palm oil

exporter in Latin America after Ecuador.<sup>134</sup> A representative of GREPALMA reported in 2012 that 30 percent of Guatemala’s palm oil was used for domestic consumption and the remaining 70 percent was exported, mainly to other Central American countries, Mexico, the United States, and Europe.<sup>135</sup>

The primary markets for Guatemalan palm oil are Mexico and other Central American countries. In 2012, Mexico imported 65 percent of Guatemalan palm oil, followed by El Salvador (15 percent), the Netherlands (eight percent), Nicaragua (four percent), Venezuela (three percent), Honduras (two percent), and the United States, Germany, and Cuba (one percent each).<sup>136</sup> Their proximity and the recent integration of the customs offices of Central America’s Northern Triangle countries (Guatemala, El Salvador, and Honduras) has facilitated the free movement of tractor-trailer trucks and encouraged regional trade in palm oil, while palm must be shipped to the Netherlands by container ship.<sup>137</sup>



While the United States imports a small amount of raw palm oil from Guatemala, it should be noted that a large amount of Guatemalan palm oil makes its way into food, beverages, and cosmetics owned by large US-based companies and consumed in Guatemala, Central America, and Mexico. Furthermore, a large-scale U.S.-based company has become an important retailer of products made with Guatemalan palm oil in both Guatemala and Mexico.<sup>139</sup> Food, beverages, and cosmetics produced with Guatemalan palm oil are also exported to the United States. Due to rolling decreases in tariffs under the Dominican Republic–Central America Free Trade Agreement (CAFTA-DR), exports of raw palm oil and palm oil-derived goods from Guatemala to the United States should continue to increase.

Another palm-derived export that has the potential to drive the growth of African Palm plantations in Guatemala is bio-diesel. The U.S. Department of Agriculture (USDA) found that while Guatemala has not yet begun producing bio-diesel, it may be encouraged to do so by Inter-American Development Bank (IDB) funding, its inclusion in the U.S.-Brazil Biofuels Initiative, and GREPALMA’s promotion of biodiesel production and consumption.<sup>140</sup> ActionAid and the Latin American School of Social Sciences (FLACSO) recently reported that the U.S. and

Europe have already undertaken negotiations regarding the import of biodiesel from Guatemala through the Mesoamerican Biofuels Program.<sup>141</sup> A USD 400,000 grant was issued by the IDB in 2008 to promote biofuel in Guatemala.<sup>142</sup> According to the USDA, “Guatemala is the strongest potential biofuels producer in Central America given its efficient well-developed local industries and the country’s high yields of palm oil.”<sup>143</sup>

In fact, the Guatemalan Palm Producers’ Guild (GREPALMA) has reported that Guatemala has achieved the highest palm oil yields per acre in the world.<sup>144</sup> While on average countries produce approximately 1.6 MT of palm oil per acre, Guatemala has been able to produce over 2.8 MT of palm oil per acre.<sup>145</sup> Palm company representatives interviewed by Verité attributed these high yields both to ideal climatic conditions in certain areas of the country and the high production targets that are required of workers.

### ***Guatemalan Palm Companies***

Six Guatemalan business groups run by some of Guatemala’s most powerful families control the Guatemalan palm oil supply chain. Oxfam America has reported that these companies “dominate production, sales, and prices.”<sup>146</sup> A 2012 study found that eight families controlled all of Guatemala’s palm oil processing plants and produced 98 percent of all palm oil.<sup>147</sup>

Some of the palm oil companies produce cooking oil, while others have important international connections. For example, two of the companies produce their own brands of cooking oil, which are two of the most popular cooking oils in Guatemala and are sold in supermarkets owned by one of the biggest international retail chains. One of the palm companies also operates in Panama, while another palm company owns sugar plantations and a sugar processing plant and sources to major international brands.<sup>148</sup>

While prominent Guatemalan families now control all of the major business groups, one of the companies was previously controlled by a major US investment bank and asset management firm.<sup>149</sup> According to Oxfam, this company was the second-largest palm oil exporter in Guatemala with an investment of USD 14 million and was slated to become the first business to export palm-based biofuel. It was touted as a “model project to create an ecological plantation of oil palm that is environmentally responsible, economically sustainable, and socially fair to local, small-scale producers.” The company planned to plant palm on 61,750 acres of land. However, its plans were derailed by the withdrawal of the investment firm at the end of 2011 and by the limited amount of land it was able to obtain (11,362 acres, 87 percent of which are located in Sayaxché, Petén). GREPALMA (The Palm Growers’ Guild of Guatemala) has reported that the withdrawal was prompted by both the fall in biofuel prices and the presence of land conflicts that presented an investment risk. Oxfam reported that although the company does not directly export its palm oil to the U.S., it does sell it to international palm oil brokerage companies, which in turn sell the palm oil to the U.S.<sup>150</sup> It is important to note that the palm oil produced by these companies, even if it is not exported to the U.S., makes its way into foods and cosmetics sold by major international brands and consumed in the U.S., Mexico, Guatemala, and other Central American countries.

### ***Independent Producers***

Although the vast majority of palm production is controlled by a small number of families and businesses, there are some small-scale independent producers that control approximately two percent of palm production. Small-scale palm production was incentivized through the

government's failed ProPalma program, launched in 2008 by former president Álvaro Colom as part of the ProRural program. The ProPalma program provided USD 1.6 million in economic incentives to small-scale palm producers (with less than 60.5 acres of land) in Ixcán, Quiché and Chisec, Alta Verapaz to help with the substantial initial investment needed for the first three years before the trees become productive.<sup>151</sup>

However, the program ended after one year and was handed over to the Association of Farmers for the Comprehensive Development of the Northern Basin of the Chixoy River (ADINC), which gave some of the producers much less money than originally promised. ADINC signed a 25-year agreement with Palmas de Ixcán allowing small-scale producers to obtain seeds and technical assistance from Palmas de Ixcán as an advance on future deliveries of palm fruit. The small-scale producers signed contracts with ADINC agreeing to give them their palm fruit in exchange for the seed capital, but there were allegations that small-scale producers were made to sign blank pages on which the details of the advances and future deliveries were later printed.<sup>152</sup>

According to Oxfam, the independent producers that signed onto the ProPalma program became indebted due to the failure of the government to deliver on promises of start-up capital. Thus, they were unable to buy the needed fertilizers and pesticides to make their plantations productive and had to mortgage or sell their lands or animals to buy the needed supplies. Thirty small-scale producers have since filed a lawsuit to get out of the contracts and be able to form a cooperative.<sup>153</sup>

## **Labor Force**

Over 99 percent of workers employed in the palm oil sector in 2010 worked on large plantations either owned or leased by the six prominent palm companies. Just 0.7 percent of workers were employed by small-scale producers.<sup>154</sup> Labor contractor estimates indicate that over 214,000 temporary migrant workers are employed in the palm sector each year in Northern Guatemala alone.<sup>155</sup>

In 2013, GREPALMA reported that the African Palm sector generated approximately 4.5 million workdays, or 17,327 direct jobs and 87,500 indirect jobs,<sup>156</sup> an estimate that ActionAid deemed to be much lower than the number of individuals actually working on palm plantations.<sup>157</sup> Even so, GREPALMA's estimate of the number of jobs generated by the palm sector is roughly 30 times the estimated number of jobs generated by other industrial crops such as soy, sorghum, and rubber.<sup>158</sup> Although palm generates more jobs than other industrial crops, African Palm generates fewer jobs per acre than almost any other crop in Guatemala. In fact, African palm generates only 21 days of work per acre annually, less than half the number of workdays generated by an acre of corn.<sup>159</sup>

In its 2013 report, Oxfam divided workers in Guatemala's palm oil sector into three different categories: *cuadrillas*, temporary migrant workers, and workers on payroll. *Cuadrillas* are groups of local workers hired by labor contractors are responsible for their transportation and payment. These day laborers lack direct employment relationships with palm plantations, permanent employment arrangements, and benefits. Labor contractors also hire temporary migrant workers, who come from other areas of Guatemala, as well as El Salvador, Nicaragua, Honduras, and Belize. These workers are employed for periods ranging from one to three months, during which time they live on the plantations. They also lack benefits and a direct employment relationship with the companies for whom they work. Workers on payroll have contracts with the palm companies and are entitled to social benefits (bonuses, vacations, and social security),

although some do not receive them in practice. Some of these workers are employed temporarily with 21 to 60 day contracts, while others are hired on a permanent basis. Workers may have to work for many years before being contracted permanently.<sup>160</sup>

### Workers Housed on Palm Plantation



ActionAid has broken down palm oil sector workers in Sayaxché into four categories based on their employment status: permanent workers with a contract, permanent workers without a contract, “local” temporary workers, and migrant temporary workers. Permanent workers with contracts, also known as “*presupuestados*,” are workers who have a formal working relationship directly with palm companies and receive a fixed monthly wage and benefits. This workforce is generally comprised of semi-skilled and skilled workers such as processing plant workers, maintenance workers, drivers, accountants, secretaries, and lab and workshop workers. Permanent workers without contracts lack benefits and a formal employment relationship with the company, as a labor contractor or other intermediary generally contracts them on renewable “contracts” of one to three months. “Local” temporary workers live in areas close to palm plantations and processing plants and in addition to working for the palm companies, also own or rent a small plot of land on which they plant subsistence crops. These workers are not rehired after they have worked for three months so that the palm companies do not take on legal responsibilities as employers of permanent workers.

Temporary migrant workers, also known as “*cuadrilleros*,” “*campamentados*,” or “*encampamentados*” are hired by labor contractors for short periods (generally one month) and are transported by the contractors from their communities of origin to their places of work, where they are also housed and fed. Generally, for every 100 *cuadrilleros* hired, eight women



are hired for cooking. These workers are reportedly recruited by radio advertisements broadcasted in their communities and the only requirement listed during these broadcasts is that they bring their identification documents.<sup>161</sup>

There are five major types of jobs on the plantations. The first is day labor, which is comprised of mixed tasks ranging from picking and/or carrying palm fruit to applying fertilizers or insecticides to cleaning the plantation. The second category is harvesting, which is the largest category and usually employs groups of 15 to 25 workers. Clearing consists of using a machete to clear away vegetation in an area approximately ten feet in diameter around the palm trees. Fertilizer application is carried out by groups of approximately four workers who are paid by the amount of fertilizer applied. Groups tasked with *abalizado* are responsible for laying stakes. Finally, workers may also perform fumigation or apply fertilizer.<sup>162</sup>

## **Palm Oil Production in Sayaxché**

Palm oil plantations have rapidly expanded into Guatemala's northern lowlands, including the departments of Alta Verapaz, Izabal, Quiché, and Petén. Petén contains 47 percent of the land used to plant palm nationwide. The vast majority of this land is concentrated in the municipality of Sayaxché. Petén is by far the largest palm producing Department in Guatemala and Sayaxché is by far the largest palm producing municipality in Petén, making it the most important palm producing area in all of Guatemala.

Palm oil production grew almost one-hundred-fold between 2000 and 2010 in Sayaxché (from 1,149 to 108,872 acres).<sup>163</sup> By May 2011, Sayaxché's four leading palm companies had planted palm on approximately 150,000 acres of land.<sup>164</sup> As the total territory of Sayaxché is 2,331 square miles, this means that about 16 percent of the municipality's land (and a much larger percentage of its arable land) is planted with palm.<sup>165</sup> A University of California Davis study found that in 2010, African palm was planted on 37 percent of Sayaxché's agricultural land, and an additional 18 percent was occupied by cattle ranching, meaning that a total of 55 percent of Sayaxché's agricultural land was occupied by the palm and cattle industries, both of which generate very little employment per acre.<sup>166</sup>

The palm oil industry in Sayaxché is dominated by four companies, representing a concentration of large amounts of land in the hands of a few influential families. Not until 2010 did smaller scale farmers begin to plant palm to sell to the processing plants, also controlled by these companies.<sup>167</sup> According to ActionAid, the first palm company to establish itself in Sayaxché had planted approximately 100,000 acres of palm as of 2011. Additionally family members this company established their own small plantations, which sell palm fruit to the company's processing plant.<sup>168</sup> The other companies together planted palm on approximately 50,000 additional acres of land.<sup>169</sup> Their lands extend through the now extinct communities of Las Arenas, Las Pacayas, Pico de Oro, and El Nacimiento.<sup>170</sup>

## Labor Dispute in Sayaxché

In March 2011, palm sector workers protested their working conditions and demanded that they be paid the minimum wage. With the support of a number of organizations, workers filed a complaint requesting inspections on the plantations of all four companies covering contracts, the minimum wage, benefits, the rights of women and children, and health and safety. In February 2012, the Ministry of Labor, the PDH, and the United Nations' Office of the High Commissioner for Human Rights (OHCHR) set out to conduct the first ever inspection of palm oil plantations in Sayaxché. However, they were only allowed access to one of the plantations, and even there, they were prohibited from interviewing workers.<sup>1</sup> Following the failure of this process, in May 2012, 14,000 palm sector workers engaged in an eight-day strike and demonstration in Sayaxché. They blocked highways and the entrances to palm companies in the municipality in order to protest sub-minimum wages, widespread hiring through labor contractors, child labor, and substandard transportation provided by the palm companies, among other issues.<sup>1</sup> The protestors claimed that they did not have access to valid grievance mechanisms; when they complained about their conditions of work, their employers verbally threatened to fire them by stating that there were a large number of people desperate for jobs that would accept employment with even worse conditions.<sup>1</sup> The failure of government inspections reinforced their conviction that their grievances would not be addressed through official channels.

The palm companies initially agreed to pay workers the minimum wage and to make some improvements to working conditions.<sup>1</sup> After a month, the government established a dialogue roundtable as a space where workers and the palm companies could discuss their issues. The dialogue roundtable is comprised of representatives of the four palm companies and two representative workers employed at each company, and is supported by the Governor of Petén, the Mayor of Sayaxché, the Presidential Commissioner for Permanent Dialogue, and the Vice-minister of Labor. At the roundtable, workers presented the following eight formal demands (half of which simply request compliance with legal requirements): free transit for all people through the palm plantations and a minimum of ten meters between plantations and other farmland to reduce the risk of spreading fires; the direct hiring of workers and the provision of benefits; transportation of workers on buses rather than by truck; increased payment for palm fruit transporters; improved respect for female workers' rights; palm company support for community development; preferential hiring of community members over migrant workers; and prohibition of drug consumption.<sup>1</sup>

Verité's research found that the palm companies did not implement many of the changes requested by the protestors in practice and that these and a series of other issues continue to affect workers. According to Oxfam, workers from three of the four companies participated and only two of the companies actually made improvements following the dialogue. Workers and NGO representatives indicated a lack of improvement in terms of wages and benefits, medical attention, and unfair dismissals.<sup>1</sup> In fact, one of the palm companies responded by dismissing all local workers and replacing them with migrant workers.<sup>1</sup> Workers interviewed by Verité reported that they had been dismissed and blacklisted as a result of their participation in the protests. Some companies reportedly carried out campaigns to discredit and intimidate workers who engaged in the protests. The director of one of the largest palm companies in Guatemala said that those who criticized the palm sector "were a very small minority that generates noise."<sup>1</sup> There were also reports of intimidation as well as propaganda campaigns to discredit protestors. GREPALMA has admitted that they requested police and soldiers to "implement military and civilian intelligence strategies, in order to take measures against individuals and possible external financing." and took photographs of people participating in protests.<sup>1</sup>

### Displacement and Land Grabs

Forced displacement and land grabs have been linked to palm oil production around the world,<sup>171</sup> and Guatemala is no exception. In fact, the high levels of inequality, violence, and impunity in Guatemala create an environment especially propitious for land grabs. The expansion of both organized crime and African palm cultivation is forcing impoverished peasant farmers off of their land and into employment in the palm sector in Sayaxché. The director of a leading Guatemalan NGO has stated that he believes that palm companies operating in Sayaxché used coercion both to obtain the land that they needed for their plantations, as well as to create a captive labor force that depended on employment in the palm sector.

### *Government Policies on Land Distribution*

One of the main grievances leading to Guatemala's civil war was the concentration of large amounts of land in the hands of a few oligarchic families. However, during the civil war, many indigenous peoples were displaced from and lost their land, resulting in further concentration of land ownership in the hands of emerging economic, military, and political elites.<sup>172</sup> The 1996 Peace Accords officially ended Guatemala's 36 year-long civil war and sought to address the underlying causes of the war, including inequality in land ownership, by making it the State's responsibility to ensure that peasants had land.<sup>173</sup>

However, Guatemalan government initiatives have thus far been largely unsuccessful in addressing inequality in land ownership. In order to achieve the Peace Accords' goal of increasing equality in land distribution, the government established FONTIERRAS, which offered peasant farmers credits and technical assistance so that they could buy land and successfully farm it. However, FONTIERRAS lacked an adequate budget and personnel and failed to live up to its mission. Large landowners sold their land to peasant farmers at inflated prices, resulting in insurmountable levels of debt and the loss of their recently acquired land. In addition, FONTIERRAS' budget was too small to purchase all the lands requested or to hire personnel to provide technical assistance. According to the United Nations, 2004 budget levels would only allow FONTIERRAS to adequately meet approximately five percent of the claims of landless families.<sup>174</sup>

In addition, the government implemented the Land Administration Project (PAT 1) in Petén to ensure that land titles were better registered and legally protected. This project was carried out from 1998 to 2007 with USD 31 million in World Bank funding, and sought to benefit poor agricultural communities. However, once poor self-subsistence farmers obtained titles to their land, 46 percent sold their lands (mostly to cattle ranchers and palm companies), leading to the concentration of land in the hands of new elites.<sup>175</sup>

In 2013, Guatemala was the only country in all of Central America that lacked a nation-wide property registration system, which has led to Guatemalans being swindled out of their families' land. Estimates indicate that about half of the land in Guatemala was not officially registered. Therefore, many poor Guatemalan peasant farmers lack documentation to prove land ownership, making it easy for powerful individuals to falsely obtain deeds to their land through corrupt lawyers and judicial officials.<sup>176</sup>

## ***Inequality in Land Ownership and Land Disputes***

Due to the failure of government initiatives, in 2012, Guatemala was still one of the most unequal countries in the world, and the second most unequal in Latin America when it came to land distribution.<sup>177</sup> This inequality has resulted in ongoing land disputes; as of 2011, there were over 1,000 recorded land disputes involving over one million Guatemalans.<sup>178</sup> Eighty-one percent of those involved in land disputes were indigenous and 66 percent of land disputes occurred in the Departments of Petén, Alta Verapaz, Huehuetenango, and Quiché.<sup>179</sup> In February 2014, nine members of a family, including a three month-old girl and five year-old girl, were killed in Petén by a group of 20 men, reportedly over a land dispute.<sup>180</sup>

### ***Land Grabs***

A 2012 report by a leading expert on Guatemalan land grabs found that 11 percent of families in the Northern Lowlands of Guatemala (most of whom were indigenous) had lost their land in the previous decade. According to the report, this land was obtained through coercive and non-coercive means. While one-third of male heads of households interviewed for a 2012 study reported that they sold their land because it was not productive, half reported that they were forced to sell their land and the rest reported that they sold their land due to high levels of debt.<sup>181</sup>

The high level of indebtedness, much of which was created by programs like FONTIERRAS, has reportedly contributed to the loss of large amounts of land by peasant farmers. Even peasant farmers who reported that they sold their land “voluntarily” may have ultimately had to sell their land due to their indebtedness. While peasant farmers’ access to private credit was facilitated by FONTIERRAS, private banks routinely charged 18 to 26 percent interest on these loans. Many times, the loans were not sufficient to buy the land or the necessary seeds, fertilizers, and supplies. In these cases, the land either became “unproductive,” leading the peasant farmers to sell their land, or they were forced to take out loans from informal moneylenders, who charge up to 120 percent interest.<sup>182</sup> This can result in unsustainable levels of debt, creating vulnerability to debt bondage or forcing peasant farmers to sell off their newly acquired land and return to work as temporary farm laborers.<sup>183</sup>

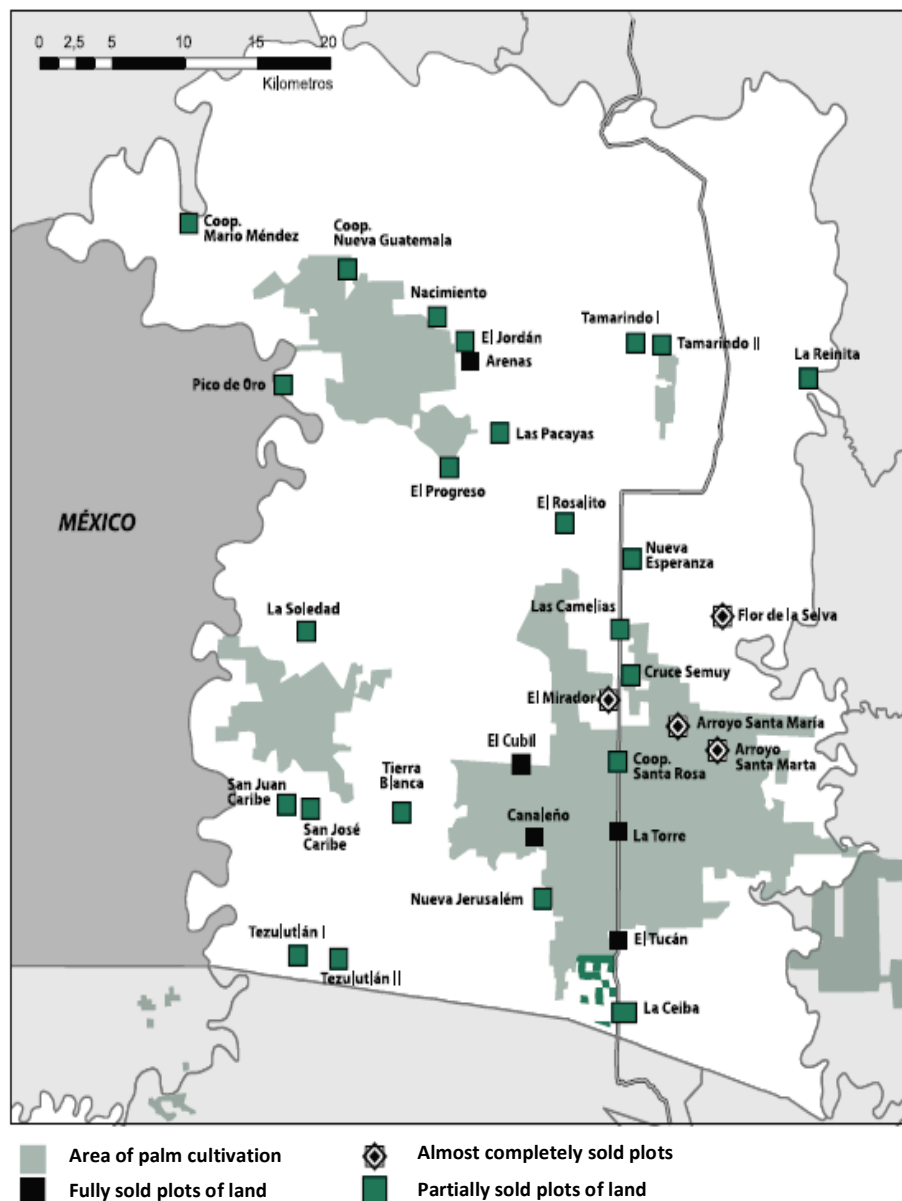
In addition to debt, peasant farmers are faced with more coercive mechanisms used to force them to sell their land, including threats and violence. Guatemalan palm and sugar companies have been accused of using coercive means and both state and private security forces to forcefully obtain land. Their tactics can range from encircling and enclosing the lands of individuals who refuse to sell of their land, to closing off access to roads, to harassment, to forced eviction.<sup>184</sup> Between 2008 and 2011, there were 99 evictions involving the police and military in Guatemala. Many of these evictions involved agro-industry companies, including powerful palm and sugar companies.<sup>185</sup>

In 2009, some 600 soldiers, police officers, and other officials removed 164 families from the community of Centro Uno in Sayaxché, which had been informally created in 1992. The community was mainly created by peasant farmers from Quiché, Izabal, and Alta Verapaz looking to create a community safe from the violence surrounding the civil war. They eventually built two schools where 180 children received classes and attempted to gain legal recognition for the community, but since it was located within a protected area, they were removed with a half hour of notice.<sup>186</sup>

## Land Grabs in Sayaxché

Palm cultivation has grown at an alarming rate in Sayaxché, and the fact that palm companies have been able to take over large tracts of land suggests that coercion is playing a role. A local expert interviewed by Verité pointed out on a GIS map that in areas in which coercion did not play a part in land acquisition; it looked like a checkerboard, with some lands being sold to palm companies, and others retained by subsistence farmers. However, in Sayaxché, huge swaths of land have been taken over by palm companies and small farmers have been pushed out completely, with palm plantations occupying expansive areas of the map. In fact, a report by the Institute for Agrarian Studies of the Coordinator of NGOs and Cooperatives (CONGCOOP) has determined that palm plantations have grown at a rate of 590 percent in Guatemala between 2000 and 2010, and at a rate of over 6,000 percent in Sayaxché during this same time period (from 465 hectares in 2000 to 28,554 in 2010).<sup>187</sup>

Land Grabs and Palm Cultivation in Sayaxché<sup>188</sup>



An in-country expert interviewed by Verité reported that 42 communities in Sayaxché (including their schools and community centers) had entirely disappeared due to land grabs, mostly by palm companies. According to ActionAid, in Las Arenas, palm companies obtained land from community members through deceit and threats.<sup>189</sup> A community leader mentioned a number of communities in Sayaxché that had completely disappeared as a result of all of the families having left the communities: El Progreso (23 families), El Cubil (32 families), El Canaleño (46 families), La Torre (76 families), Santa Rosa (86 families), Santa María (43 families), and Centro Uno (164 families).<sup>190</sup>

Palm companies generally use intermediaries, referred to as “coyotes,” to purchase land from poor farmers. While there were reports that coyotes used a variety of coercive and deceptive means to obtain land, many coyotes were simply very persistent and persuasive and offered poor landowners large sums of money. In many cases, there was no coercion, and small-scale landowners quickly agreed to sell their lands for large upfront payments of sums of money that these self-subsistence farmers had never seen in their lives. Some individuals interviewed reported that they saw their neighbors sell their land and buy cars or motorcycles. In most cases, after the money was quickly spent, they regretted having willingly given up their land due to the lack of decent employment in the area, and the decreased standard of living among people who lacked land on which to plant subsistence crops.

According to interviews carried out by Verité, some palm companies recruited trusted community or religious leaders in order to convince landholders to sell their land. Interviews carried out by Verité indicate that some landowners felt social pressure from community or religious leaders to sell their land. There were also reports that coyotes pitted community members against each other. For example, they sometimes required that entire communities agree to sell their land before a deal would go through. This caused community members who wanted to sell their land to pressure their neighbors to do so as well.

In some cases, there was evidence of deceit. In addition to money, some small-scale farmers were promised permanent, well-paying jobs on palm plantations in exchange for selling their land.<sup>191</sup> However, these jobs never materialized and the farmers were instead given short-term informal employment with conditions and payment below the legal minimums.<sup>192</sup> There were also reports that some small-scale farmers were falsely told that they would be able to continue to plant their crops on their after they sold it.<sup>193</sup> In other cases, representatives of palm companies reportedly told peasant farmers that if they sold their land, they would help them find better, more fertile land. However, the farmers soon found that there was little land available and that what land was available cost significantly more than the proceeds from the sale of their original land.<sup>194</sup>

Local landowners interviewed by Verité reported that palm company representative told them that the government was building a dam as part of the Plan Puebla Panama megaproject and that their lands would be flooded. Coyotes offered to “do them a favor” by buying their land, which would supposedly soon be under water. In the community of El Mirador, palm company representatives found out that community members had attended a protest against a hydroelectric dam that was to be built on the Usumacinta River. They spread rumors that the construction of this dam would flood the community and the lands around it, which pushed the community members into selling off their lands.<sup>195</sup>

In some cases, workers reported that coyotes employed by the palm companies had guaranteed them that the land was not being purchased by palm plantations (which they saw as monolithic companies that did not offer decent employment). According to workers interviewed by Verité, in some cases, cattle ranchers guaranteed that the land would not be sold to palm plantations and that individuals who sold their land would be given employment on the ranches. However, these ranchers subsequently sold the land to palm companies within six months.

### **Case Study – How Palm has Affected Three Generations in Sayaxché**

Verité researchers interviewed three generations of palm workers in Sayaxché, Petén – Don Manuel (the grandfather), Roberto (the son/father), and Tito (the grandson). Don Manuel migrated from Alta Verapaz to Petén during the civil war. After years of living on a parcel of land and producing crops for family consumption, he finally obtained a title to the land, part of which he gave to his son Roberto. In the late 1990s, rumors began to circulate that the government was going to build a hydroelectric plant in the area, which would result in the flooding of all of the lands in the area. A land buyer employed by a palm company, who was suspected of spreading the rumors, offered to buy the land from him for a low price and a promise of a permanent job on the palm plantation. Don Manuel accepted because he felt that the land would be worthless under water.

However, the palm company he worked for failed to provide him with permanent employment with benefits and payment of at least the minimum wage. Instead he was given a temporary job that paid a piece rate. At 75, Don Manuel was still working on the palm plantations and earned much less than the minimum wage or younger workers who had the physical capacity to harvest many more palm fruits per day. With nothing to retire on and no other opportunities or land, Don Manuel had to keep working in order to eat.

Don Manuel's son Roberto had inherited land from his father. However, he had attended a training in another Department in which he was told that the rumors of flooding were lies, so he refused to sell his land despite pressure to do so. He worked on the palm plantation and was paid a piece rate, but also grew his own crops. Although he was getting into his mid-fifties and his productive capacity and wages were going down, he had his subsistence crops to fall back on.

Roberto's son Tito had not inherited any land. After the palm companies came in and bought up vast swaths of land, including whole communities and schools, the number of schools in the area decreased drastically. Without having completed elementary school, Tito's only option was to work on the palm plantations. He said that the work was grueling and poorly paid, but there simply were not any other employment opportunities in the region. He knew of multiple people who had been fired and blacklisted by the palm companies for complaining about their conditions or engaging in protests, so he felt that his only option was to accept his fate and continue working on the plantations.

## **Lack of Free Transit**

Generally communities are divided into population centers and plots of land around the periphery that community members use to plant their subsistence crops. One of the most common forms of coercion used to obtain land was “encirclement,” in which palm companies bought up the land in between the population centers and farmland and prohibited community members’ access to their farmlands. Palm companies reportedly prohibited the passage of individuals who refused to sell their land through the lands owned by the palm companies using armed guards, fences, and locked gates. This restricted them from leaving their lands and isolated them from the outside world, or prevented them from accessing their land.<sup>196</sup> Therefore, many landowners were forced to sell their lands, which had become useless to them.<sup>197</sup>

### **Case Study – The Effects of Land Grabs on Alta Verapaz**

Verité interviewed a local expert in Alta Verapaz who described the effects of palm companies’ land acquisition campaigns on Alta Verapaz. He said that while the civil war and the subsequent Peace Accords sought to address land distribution issues, “the armed conflicted ended, but the land problem continues.”

He said that in most cases, people in Alta Verapaz had not been coerced into selling their land, stating, “there was not a coercive or armed force that bought the land ... they offered more so that people would sell.” However, many people had to sell their land due to the high level of poverty (80 percent) and indebtedness in Alta Verapaz. Other experts interviewed in Alta Verapaz stated, “people think of eating today and they sell their land. When they sell it, they are offered a job, but they do not follow through.” Instead, workers are provided with temporary jobs and are dismissed after three months.

In the Municipality of Raxruhá, Alta Verapaz, land grabs in neighboring Petén have had a series of negative effects. It was previously much easier for members of communities in Raxruhá to access educational and health services in Petén, but palm companies had bought up land in Petén, including a portion of the road that went from Raxruhá to Petén. Therefore, 12-19 communities in Raxruhá had become extremely isolated and their inhabitants had to spend significant amounts of time and money to access services. He stated that this could be especially serious when women went into labor or people were injured or fell severely ill, as they now had to travel three hours to get to the closest hospital in Sayaxché.

Land grabs have also resulted in a large number of land conflicts. He stated that there were active 480 land conflicts. In some cases, groups of peasant farmers who had sold their land had organized to invade plantations and take back their land.

Even when palm companies lack an explicit intention of pressuring community members to sell off their land, they have blocked access through palm plantations, resulting in a number of issues. There are reports that palm companies have used gates and armed guards to restrict access, and in one community in Sayaxché, community members reportedly had to ask for permission to traverse the plantation eight days in advance.<sup>198</sup> There are also reports that palm companies impeded access to both water and firewood, which are essential to peasant farmers. Since many palm plantations are located along riverbanks for irrigation purposes, farmers may have to walk extremely long distances around palm plantations in order to fetch water.<sup>199</sup>



In both Sayaxché and Alta Verapaz, there were reports that palm companies had cut off communities' access to highways. In one case, a half-hour drive to the highway was increased to a circuitous four hour journey after the palm company took over the land. This prevents community members from selling their produce at markets and accessing legal and health services.<sup>200</sup> Experts interviewed reported that a number of people had died due to the excessive time it took them to get to the hospital.

### ***Violence, Organized Crime, and Land Grabs***

Multiple experts and some workers interviewed reported that they had heard that landowners had been implicitly threatened with violence if they failed to sell their land. However, Verité researchers deduced that explicit threats of violence were not widely used to coerce landowners into selling their land. None of the landowners interviewed by Verité reported that they had been threatened, and everyone who reported having indirectly heard of threats used the same phrase, "sell me your land or I will buy it from your widow."<sup>201</sup> It is unlikely that multiple people consistently uttered this same phrase and seems more likely that threats were only used in isolated incidences and that the rumors of threats began to spread. However, rumors of threats of violence, started intentionally or unintentionally, can be very powerful in persuading poor farmers to sell their land, especially given Guatemala's exceptionally high crime and impunity rates and the presence of organized crime.

It is important to note the climate of violence and impunity, the increasing incursion of organized crime into all areas of life, and the involvement of criminal groups in land grabs. According to recent research, the largest land buyers in Sayaxché are companies involved in palm production, reforestation, and cattle grazing, as well as narcotraffickers, with some overlap between these actors. In fact, narcotraffickers have reportedly used these companies as a cover for their illicit businesses. Some of these front companies become large, legitimate businesses.<sup>202</sup>

In Petén, organized crime has been linked to both African palm and cattle ranching, which an expert on organized crime interviewed by Verité asserted was a "classic" way for organized crime to launder money. Other expert interviews indicate that many farmers sold their land first to cattle ranchers, who then sold this land to palm companies. The knowledge that a cattle rancher is linked to organized crime can push poor farmers to sell their land to these individuals without the need for even an implicit threat. ActionAid reported that the presence of narcotrafficking and the accompanying violence had a large influence in causing people to sell their plots of land, especially in Tierra Blanca, Sayaxché, where there is a strong presence of organized crime.<sup>203</sup> A prominent community leader from Sayaxché reported that partly due to pressure from organized crime groups, some small-scale landowners were selling their land for approximately a quarter of its market value.

In one community close to the border with Belize, which had its own school, each community member reportedly had one caballería (over 100 acres) of land on which to plant subsistence crops and graze cattle. With enticements of large up-front payments in dollars offered to the owners of plots of land on the periphery of the community, these people sold their lands, encircling people in the center of the community, and forcing them to sell their land at lower prices. Eventually, all of the community members had to sell off their land and the community and its school disappeared. It turned out that the buyer was a member of a major Guatemalan

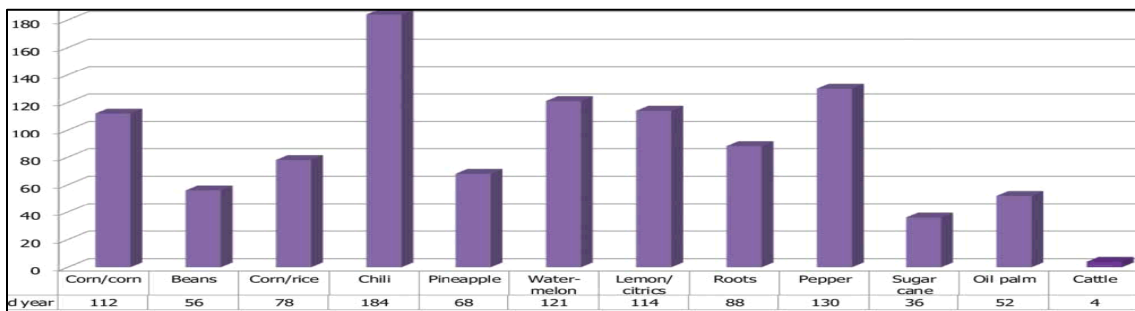
drug trafficking family, who was able to establish an estate of more than 3,000 acres that was perfect for trafficking drugs to and from Belize.<sup>204</sup>

## Lack of Employment Opportunities

Ironically, one of the main factors that increases workers' vulnerability to labor exploitation in the palm sector is the fact that palm generates much less employment per acre than many other crops. In many areas, palm production has taken over land previously occupied by subsistence crops or other cash crops that generate employment. This can result in a competitive environment among workers for a small number of jobs.

The palm sector generates approximately 21 days of work per acre per year, compared to the 75 days of work per acre for chili peppers, 53 for red/green peppers, 46 for limes, 45 for corn, 36 for yucca, 32 for land planted with both rice and corn, and 23 for beans. In fact, the only sector studied that created less employment per acre was cattle.<sup>205</sup> In rural areas of Guatemala, the primary source of employment is family-based agriculture, which generates a much higher number of jobs per acre than industrial plantations. A recent study has found that while family-based agriculture is lower paid than work on palm plantations, workers are provided with free lunch and labor fewer hours per day, which allows them to also produce subsistence crops that contribute to their families' nutritional needs.<sup>206</sup> In 2010, in Northern Guatemala, family-based agriculture generated 53 percent of jobs, the palm sector generated 33 percent, non-palm industrial agriculture and other plantations generated seven percent, and non-agricultural businesses, security, and NGOs each generated one percent.<sup>207</sup>

**Working Days per hectare in Guatemala's Northern Lowlands, 2009<sup>208</sup>**



In Northern Guatemala, especially Petén, palm has taken over vast swaths of land previously occupied by family-based or subsistence agriculture or other cash crops. As palm supplants other crops that generate more employment per acre, the number of jobs available drastically decreases, while the population continues to grow. This results in rapidly accelerating competition for a limited number of jobs. In areas in which palm has become one of the only sources of employment for unskilled workers, competition for a limited number of jobs can result in workers accepting poor conditions of work because they know that there are many workers who would take their jobs. Many workers interviewed reported that when they complained about their working conditions or pay, their supervisors or labor contractors told them that many workers (most mentioned migrant workers) would gladly take their jobs, and if they did not like the conditions, they should leave.

In Sayaxché, the lack of jobs in the palm sector is especially problematic due to a number of factors. First, Sayaxché is an isolated region in which palm production has taken over a large percentage of the municipality's arable land, leaving very few jobs for unskilled laborers outside of the palm sector. Second, many individuals sold off their lands to palm companies with the promise that the palm companies would provide them with permanent employment, which were not fulfilled. Under the assumption that they would have stable, well-paid employment, many of these individuals sold land on which they had previously planted subsistence crops. These subsistence crops had subsidized their income and allowed them to sustain their families. Studies show that malnutrition rates have increased in Sayaxché since the introduction of African palm and that subsistence farmers are better off than palm workers who lack land on which to grow subsistence crops.<sup>209</sup>

## **Recruitment and Hiring**

### ***Recruitment***

The vast majority of workers in the palm sector are recruited by third parties. Many local workers hear about jobs on palm plantations through word of mouth or are directly recruited by labor contractors. While migrant workers may also be directly recruited by labor contractors in their communities of origin, many are recruited through radio advertisements. These advertisements generally state the number of workers needed, the type of activities they will be expected to undertake, payment, and other very general information about labor conditions.<sup>210</sup>

Cobán, Alta Verapaz has come to be known as a center for recruitment for palm plantations in Sayaxché. Verité research in Alta Verapaz indicated that people interested in jobs on palm plantations were told to arrive at the bus terminal in the Departmental capital of Cobán, Alta Verapaz and that they simply needed to bring their Personal Identification Document (DPI). On Sunday mornings, workers who want to be work on palm plantations meet close to the municipal gym.<sup>211</sup> Generally, workers meet at 4 AM, and are transported by bus or truck to the plantations, where they meet with a manager who creates a list of workers in a notebook. The plantation generally creates a list of workers in their database, which is delivered to labor contractors, who are responsible for registering their working hours.<sup>212</sup> Interviews carried out by Verité researchers in Cobán indicate that workers from Cobán and surrounding towns were generally hired as security guards or supervisors, while workers from remote rural areas in Alta Verapaz or Quiché were hired as field workers.

## Workers being Transported to Palm Plantation



### **Hiring**

Some workers in the palm sector are hired permanently. However, in general, only management and highly-skilled workers are provided with permanent contracts.<sup>213</sup> Workers who live in communities close to palm plantations may go directly to the company offices in order to obtain employment. If they are selected for employment, they are provided with a “codigo,” or a code number, which is assigned to each worker and used to assign them to tasks and for accounting purposes. However, many local workers are hired by labor contractors,<sup>1</sup> and almost all of them lack written employment contracts or permanent employment.

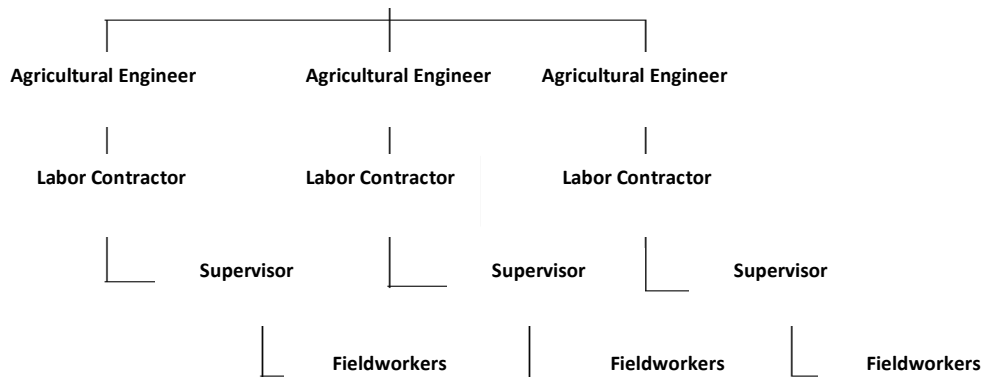
Migrant workers are almost exclusively hired through labor contractors and generally have to hand over their identification documents to their labor contractor. These workers are generally hired on short-term “contracts” by labor contractors, who are their official employers. Each group is supervised by *caporales* (overseers) who are supervised by a plantation engineer or manager.<sup>214</sup> Field research indicates that some workers are supervised directly by their labor contractors.

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<sup>1</sup> In Spanish, labor contractors may be known by a variety of names, such as *contratistas* (contractors) or *intermediarios* (intermediaries), but their functions are generally the same and we will use the term labor contractors for the sake of consistency.

## Palm Oil Plantation Organizational Chart<sup>215</sup>

Engineer - General Field Manager



Temporary migrant workers are generally hired under one of two modalities in the Guatemalan palm sector. In one scenario, a group of workers is hired to complete a specific task, such as clearing an area of a plantation. In this case, a labor contractor will generally draft a budget and sign a contract with a palm company for a lump sum payment, including labor costs, for the whole project. However, this form of hiring is less common because it requires a high level of coordination, planning, budgeting, and up-front investment by labor contractors.<sup>216 217</sup>

The second, more commonly used form of hiring is by unwritten agreement between a labor contractor and a palm company to hire a certain number of workers for a commission. The agreements generally spell out vague terms regarding the living conditions and transport of workers and the duration of the contract. The amount that labor contractors receive per worker varies by palm company, and some labor contractors also receive a daily wage on top of their commission. This type of “contract” is more common in the palm sector because it does not require a high degree of sophistication or investment on the part of labor contractors and because it shelters employers from any documented connection to labor contractors.<sup>218</sup>

Independent of whether the contract between labor contractors and palm companies is verbal or written, migrant agricultural laborers are almost never provided with written contracts. It is important to note that written contracts are not required by Guatemalan law, which allows for verbal contracts for agricultural work under Article 27 of the Labor Code. However, this same Article requires that employers who do not provide workers with written contracts provide them with a written “card” or document stating the beginning date of the employment relationship, wages, the pay period, and the number of days or shifts worked, or the number of “pieces” produced, or tasks carried out.<sup>219</sup> None of the temporary workers interviewed by Verité indicated that they were provided with these types of written documents. In many cases, the only records that workers had of their employment were photocopies that they made themselves of their paychecks.<sup>220</sup>

Workers interviewed in Southern Guatemala reported that they were hired both directly by plantations and by labor contractors. They reported that there were separate payrolls for those hired by the plantations and labor contractors, and that only workers hired directly by the plantations were provided with benefits. Workers hired by labor contractors were not provided

with vacations, while those hired by the plantations were. However, in both cases workers lacked written contracts.

The proliferation of temporary employment, a lack of employment contracts, and hiring through labor contractors creates a highly unstable labor relationship with a low level of job security. In some cases, workers do not know whether they will be hired day to day. They have to wait for a bus or truck to pick them up and their employment is dependent upon how much work has been assigned to their labor contractor.<sup>221</sup> In Northern Guatemala, this casual, short-term employment relationship is especially common, allowing workers to be easily dismissed. Forty percent of Q'eqchi' laborers surveyed in Northern Guatemala reported that they dismissed rather than having left their employment voluntarily.<sup>222</sup>

### **Labor Contractors**

According to ActionAid, the majority of palm sector workers are hired by labor contractors.<sup>223</sup> In Sayaxché, despite demands by workers that palm companies hire directly, hiring through labor contractors continues to be prevalent. Labor contractors serve as key links between employers and workers and their involvement in the recruitment and hiring process creates vulnerabilities to labor trafficking among workers. Palm businesses have come to rely on labor contractors for the hiring of workers.<sup>224</sup> Experts interviewed by Verité have also reported that labor contractors have also been used by the palm companies as land buying agents.

A 2010 study found that third parties recruited 80 percent of palm oil workers, resulting in a high level of informal employment.<sup>225</sup> While many labor contractors recruit workers in person or through radio advertisements, others do not have to actively recruit workers because people who know them and are seeking employment actively seek them out.<sup>226</sup> In the case of migrant workers, labor brokers are generally from workers' communities of origin. However, labor contractors may outsource some of their functions to "coyotes," who are paid around GTQ 10 (USD 1.27) per worker, plus a food allowance in order to recruit workers in municipalities in which the labor contractors do not know workers.<sup>227</sup> In some cases, plantation personnel reportedly request the number of workers in a dehumanizing way, requesting "100 heads,"<sup>228</sup> or requesting workers by the truckload ("*camionada*"). Labor contractors offer employment to a certain number of workers, agree to a meeting place and time, transport workers to their place of employment, and become responsible for paying them and returning them home.<sup>229</sup>

According to ActionAid, workers prefer to work for labor contractors who they know because workers believe that they will not deceive them about working and living conditions and will transport them back home when their employment is over. In the case of local workers, labor contractors were generally members of communities close to palm plantations who contract a specified number of workers in and around their communities.<sup>230</sup> This gives labor contractors a high degree of power in their communities, as they are able to decide who will gain access to employment in the palm plantations, which is the main source of employment in many areas. They also assign tasks to workers, which can vary greatly in terms of workload, schedule, and remuneration.<sup>231</sup>

Verité field research indicates that palm companies routinely hired both community and religious leaders as labor contractors. Local experts interviewed by Verité reported that mayors of sending communities sometimes worked as labor contractors. According to experts interviewed by Verité and ActionAid, palm companies have actively sought out community

leaders because they know many community members and have respect, trust, and influence in workers' communities of origin.<sup>232</sup>

### **Case Study – Labor Contractor 2 – Activist Fighting for Rights of Local Workers**

“Esteban” had been pushing for improved working conditions for local workers after having attended trainings on workers' rights provided by NGOs. For a long time he had been fighting a local palm company to get them to give local workers permanent employment and decided that the best way to achieve this goal was to work as a labor contractor. When interviewed, he had begun working as a labor contractor two months earlier.

He had recruited 40 workers, all of whom were family members, friends, or acquaintances. He tried to obtain permanent employment for them, but the palm company had so far denied his request. Therefore, he decided to work alongside this group of workers, “forming a team.” He said that he ensured that the workers were treated and paid decently, but also that they did a good job.

He was paid per worker by the company and did not charge the workers anything, noting that there would be problems with the company if he did so. He brought his workers' complaints to company representatives, especially regarding what workers considered insultingly low piece rates, saying, “I don't want them to keep being paid in cents.” He said that while company representatives often dismissed his complaints, telling him that he “only came to bother them,” he had achieved some improvements for the 40 workers that worked under him, and he hoped that by showing the company that he had a group of dependable workers who worked hard that they would be given permanent employment.

Verité researchers noted that when this labor contractor interacted with his workers, there was a climate of trust and openness and workers felt free to openly communicate their grievances. This was in stark contrast to the interactions between most workers and their labor contractors witnessed by Verité researchers.

In addition to recruiting workers, labor contractors are responsible for setting and explaining the terms of employment to workers, transporting workers to and from their workplace, and resolving grievances. Some labor contractors 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 *cuadrilla*. A labor contractor interviewed by *Plaza Publica*, one of Guatemala's most trusted independent news sources, reported that he earned about GTQ 600 (USD 76.63) after transportation, advertising, and other expenses during a three-month period.<sup>233</sup>

### ***Labor Contractors and Vulnerability to Labor Exploitation***

Hiring through labor contractors creates increased vulnerability among workers in a number of ways. Labor contractors are often unregistered and it is very hard to track them down if labor violations should arise or if workers go unpaid. Hiring through labor contractors creates murkiness regarding workers' employment relationship and shelters palm companies from liability for labor violations. There are also reports that labor contractors have deceived new recruits about their conditions of work. Finally, some labor contractors charge workers placement fees, and migrant workers sometimes have to pay their labor contractors a percentage of their earnings.

Labor contractors are in most cases workers legal employers.<sup>234</sup> Labor contractors are legally required to be registered, but many of them are not. This is very problematic because when unregistered labor contractors serve as workers' official employers it makes it very difficult for workers to track them down to file complaints against them in cases of labor violations. While the situation is mutually beneficial both to labor contractors and palm companies, it is detrimental to the interests of workers.

By hiring through labor contractors, palm companies have been able to avoid liability for labor and other violations in practice.<sup>235</sup> For example, during a 2009 accident in which 34 workers were killed and dozens of others were injured, the palm company to which they were being transported denied all responsibility and the labor contractors only offered the family a nominal indemnity payment.<sup>236</sup> Palm companies have denied company provided medical attention to workers injured in workplace accidents under the pretext that they are not on payroll.<sup>237</sup> In cases of injuries or death, labor contractors are expected to be responsible, and serve as a buffer between workers and their employers, many of whom never actually see each other in person. Local workers have a hard time tracking down and holding the labor brokers responsible, but this is especially true for migrant workers from other departments and other countries.<sup>238</sup>

### **Workers being Picked up from Palm Plantation on School Bus**



Although palm companies have been able to avoid liability for infractions in the past by hiring through labor contractors, they are legally responsible for any violations of workers' rights committed by their labor contractors. In February 2005, the US embassy sent a cable detailing a Guatemalan Legal reform ushered in by the Constitutional Court (CC) through Article 81 of the Labor Code. Under this provision, businesses that hire workers through labor contractors are to be held solely responsible for labor violations. Previously, the law had held that there was joint responsibility between the businesses and labor contractors. This means that palm companies can be held legally accountable for all labor violations committed against workers subcontracted by labor contractors.<sup>239</sup> Some palm companies have tried to evade this responsibility by not signing contracts with their labor contractors.<sup>240</sup> However, even if these contracts are verbal, the companies may still be held legally accountable for labor violations, and may also face other



consequences, such as damage to their image and loss of contracts to purchase palm oil by socially conscious buyers.

Labor contractors are paid according to the number of workers they recruit, in contravention with the law.<sup>241</sup> This incentivizes them to recruit as many workers as possible, and can result in deception regarding conditions of work. Local experts and workers interviewed by Verité have reported that many workers are deceived about their pay by labor contractors. Labor experts interviewed by Verité reported that while some labor contractors were paid solely by the palm companies per worker recruited, some labor contractors charged workers one-time placement fees and/or a percentage of their earnings. According to an expert interviewed, labor contractors charged workers a nominal up-front payment of GTQ 25-50 (USD 3.19 -6.39), and deducted GTQ 5-10 (USD .64 -1.28) from workers' pay. There have been reports that labor contractors charge the workers that they recruit fees of up to 20 percent of their earnings, which can drastically reduce their take home pay. There have been some reports that workers were given cash advances before their employment. According to ActionAid, labor contractors now rarely give workers advances, and in cases in which they do, they require that workers give them their original identification documents until the advances are repaid.<sup>242</sup>

### Case Study – Labor Contractor 2 - Looking to Make Money from Migrant Workers

“Juan” began working on a palm plantation in Sayaxché in 1998 when he was 12 years-old. At that time, he was paid GTQ 30 (USD 3.83) per day to clear brush around the base of palm trees. He said that at that time, there were many children working on the palm plantations, but that the number had been reduced greatly in recent years. He worked on that plantation for seven years, then transferred to another plantation, where he continued working in clearing, and then transitioned to a variety of tasks, and finally became a *caporal*. After working at this plantation for eight years, he recently became a labor contractor.

As a labor contractor, Juan, who had grown up in the area, said that he only recruited local workers. He said that because people knew him, he did not have to advertise and that people came to see him or called him when they wanted a job. He only required that they provide him with a photocopy of their identification document and their bank account number, since payments were directly deposited. The palm company paid him GTQ 3 (USD .38) per each worker he recruited and he did not charge the workers anything. He said that he generally had about 60 workers working under him, meaning that he earned about GTQ 180 (USD 22.99) per day, but he said that this was not enough to support his wife and two children.

After operating for a year without being legally registered, as is required by law, he had recently officially registered to work as a labor contractor. He said that this would allow him to contract migrant workers, both from other areas of Guatemala and from Belize, Mexico, and El Salvador. He said that international migrants were paid as well as local workers, were given ten month contracts, and were provided with benefits. However, according to Juan, internal migrant workers from other Departments fared worse. They had to provide the labor contractor with their original identity documents and friends who contracted internal migrant workers told him that they charged these workers ten percent of their earnings, in addition to the GTQ 3 (USD .38) per worker per day that the palm company paid them. He was excited about being able to recruit migrant workers, as he stated that he would be able to earn significantly more than he did recruiting local workers by charging them a percentage of their earnings.

## Indicators of Forced Labor

Part of Verité’s research mandate was to conduct a rapid assessment on the existence of indicators of forced labor in the Guatemalan palm sector. In the following section, Verité provides an overview of the indicators of forced labor encountered in the Guatemalan palm sector in accordance with the ILO’s 2005 guidance on “Identifying forced labor in practice,” which breaks down indicators of forced labor into indicators of lack of consent and menace of penalty. In *Appendix 1: Presence of ILO Indicators of Forced Labor*, Verité provides a chart of a broader spectrum of indicators of forced labor, based on the ILO’s *Hard to See, Harder to Count*, which breaks indicators down into three dimensions: unfree recruitment, work and life under duress, and impossibility of leaving employers. In order for forced labor to exist, there needs to be at least one indicator of involuntariness and one indicator of menace of penalty (one of which must be strong) in at least one of these dimensions. As each individual case must be assessed using this methodology, the information contained in this report cannot be used to determine the existence or scale of forced labor. However, this information is useful for assessing the relative risk faced by certain categories of workers in certain areas and for designing policy interventions to reduce workers’ vulnerability to forced labor in the palm sector.

**Worker on a Palm Plantation in Sayaxché**



### ***Lack of Consent***

#### **Induced Indebtedness**

There have been reports that in the Guatemalan agricultural sector, labor contractors have been known to give payment advances.<sup>243</sup> According to ActionAid, after some workers skipped out on their advances, many labor contractors stopped giving advances. However, some contractors continued to give workers advances, but required that workers give them their original

identification documents until the advances are repaid.<sup>244</sup> For migrant works, payment advances, combined with document retention and up front labor contractor fees and deductions of five to 20 percent from their pay creates vulnerability to induced indebtedness.

There are also reports that palm workers have to buy corn and other products on credit at local stores, and have to pay off this credit when they receive their payment.<sup>245</sup> Some workers were reportedly constantly in debt to small independent stores. Because workers were paid every 15 to 28 days, they had to buy food on credit. When they received their checks, they had to pay off their debt, which in many cases was equal or superior to their paychecks. Therefore, they had to again obtain food and other goods on credit, resulting in a cycle of debt. Experts interviewed by Verité reported that while workers were generally not directly indebted to the palm companies, in El Estor, Izabal, a palm plantation owned a store that provided workers with food on credit. In-country labor experts interviewed by Verité reported that products in Petén were overpriced compared to other parts of the country, increasing the cost of living, and making it easier for workers to fall into debt.

### **Deception or False Promises about Types and Terms of Work**

Local experts interviewed by Verité reported that while deception about types of work was uncommon, deception and false promises regarding terms of work were widespread. An in-country labor expert interviewed by Verité reported that while pre-hiring descriptions of conditions were closer to reality for local workers, deception regarding conditions of work was widespread among migrant workers. Small groups of migrant workers are generally contracted by networks of labor contractors that visit remote communities far from the plantations or are recruited through radio advertisements that provide vague information about conditions of work on the plantations. Workers in these communities have little knowledge about the actual conditions on the plantations and have little power to voice their grievances if the promises are not fulfilled.

According to experts and workers interviewed, deception generally regarded hours of work and payment. One expert interviewed reported that contractors promised workers GTQ 2,000 (USD 255.44) per month, but paid workers GTQ 1,400 (USD 178.81) per month in practice. Another stated that contractors told workers that they would have weekends off, and then required workers to work weekends. Workers interviewed reported that they were deceived regarding payment, hours of work, conditions of work, and the tasks that they would have to carry out.

### **Withholding and Non-Payment of Wages**

Local experts interviewed by Verité have reported that many workers who are dismissed are not paid the wages due to them. In Chisec, Ixcán, and Polochic, there have been documented cases of workers being dismissed without being paid the indemnities and other benefits owed to them.<sup>246</sup> According to local experts interviewed by Verité, some security guards from Cobán, Alta Verapaz were dismissed without being paid the money owed to them. According to experts interviewed by Verité, some workers are recruited by “plan,” under which they are expected to work for 22 to 28 days. If these workers do not complete their “plan,” they are not paid anything.

Workers interviewed reported a variety of erroneous or fraudulent deductions from their pay. Many workers interviewed reported that money was deducted from their pay for Guatemalan Institute of Social Security (IGSS) coverage, but that they were not provided with an IGSS card or

social security coverage in practice. Workers interviewed also reported deductions for lost or damaged equipment, tools, and personal protective equipment (PPE). Furthermore, workers reported that their working hours and productivity were underestimated for payment purposes and that they were not provided with written documentation detailing their payments and deductions.

### **Retention of Identity Documents or Other Valuable Personal Possessions**

Workers and experts interviewed by Verité reported that migrant workers' national identity documents (*cedula* or the new *Documento Personal de Identificación -DPI*) were confiscated by their labor contractors or by the plantation and were not returned to them when they were dismissed. Generally, Guatemalan agricultural workers possess one of these two documents. The *cedula* and *DPI* constitute most workers' only personal identity documents, and are required for bank transactions, loans, to obtain drivers' licenses, and to carry out transactions or file paperwork in public offices. As the vast majority of palm workers are from rural areas without public offices that issue these documents, they have to spend significant amounts of time and money in order to obtain replacement documents. Therefore, the confiscation of these documents can constitute a significant disincentive for workers to leave the *plantations*. Additionally, a local labor expert interviewed by Verité reported that without these documents, workers are unable to file any legal complaints against their employers.

### ***Menace of a Penalty***

#### **Physical Violence against Worker or Family or Close Associates**

Many of the workers interviewed came from areas that were heavily victimized during the civil war, when merely criticizing the military could result in torture or death. This resulted in mass trauma and what has been termed as a "survival strategy of silence" in which many Guatemalans endure abuse rather than risking reprisals for reporting it.<sup>247</sup> In addition, the high level of violence in Guatemala, including on palm plantations, may affect workers' decisions even if explicit threats are absent. The history of repression, violence, and impunity lend real weight to implicit threats or offhand comments.

During and after worker protests in Sayaxché, there were allegations that workers who participated in the protest faced a campaign of intimidation by palm companies. In fact, GREPALMA, made a request for the police and military personnel to be brought in to carry out intelligence gathering operations. GREPALMA has also admitted to photographing workers who participated in the protests so that they could bring charges against them.<sup>248</sup> The director of a Guatemalan NGO that has been active in Sayaxché reported to Verité that the palm companies investigated who was behind the protests and demanded that the authorities detain them.

Local experts interviewed by Verité reported that some workers and NGO representatives have been threatened with death for filing complaints against palm companies. Representatives of a Guatemalan NGO that has fought for the interests of palm workers reported to Verité that they had received death threats. One of the callers reportedly said, "be careful because if you keep orienting the workers, something could happen to you."

## Sexual Violence

Workers interviewed in Southern Guatemala reported that supervisors sometimes requested sexual favors from female workers. If the women did not accede, their supervisors transferred them to jobs that had worse conditions of work. For example, some women worked carrying palm saplings and were paid by the piece. If they denied their supervisors sexual favors, they could be assigned to carry the saplings even greater distances, decreasing their pay and increasing their workload.

## Imprisonment or Other Physical Confinement

Many of the palm plantations are immense and physically isolated from communities and stores. In some cases, it is possible to drive for three-quarters of an hour inside a plantation without being able to find one worker. Additionally, outsiders were prohibited from entering the plantations without permission and when they tried to talk to palm workers, supervisors would arrive shortly afterwards, making it difficult for these workers to speak freely.<sup>249</sup> Experts interviewed reported that during inspections, labor inspectors were not permitted free access areas of plantations in which migrant workers worked or lived and were unable to speak with them. This makes it extremely difficult for labor inspectors or other stakeholders to access or interview migrant workers.

### Fenced Worker Housing



There are reports that there are locked gates and armed guards on palm plantations in Sayaxché. While local workers generally return to their homes every night, migrant workers

generally live on the plantations for the duration of their contracts, which can last up to six months, according to workers and experts interviewed by Verité. Local workers interviewed by Verité in Sayaxché reported that they had very little contact with migrant workers on the plantations, as they were segregated from the local workforce on the immense plantations, and the migrant workers did not leave the plantations, even on Sundays. The presence of guards, especially armed guards, who control the entrances/exits of the plantations can be a strong dissuasive factor for migrant workers to leave the plantations without permission.

### **Dismissal from Current Employment**

Verité research indicates that workers have been dismissed for underperforming, failing to meet quotas, missing work, organizing, and complaining. Recent research in Northern Guatemala indicates that 40 percent of Q'eqchi' palm workers interviewed reported that they had been dismissed.<sup>250</sup> Workers have also been dismissed for failing to meet quotas, missing work, organizing, complaining, and to prevent them from obtaining benefits.

Workers and a supervisor interviewed reported that in Southern Guatemala, workers were dismissed for being “lazy” or not meeting production quotas. Workers interviewed in Southern Guatemala reported that workers were dismissed if they missed three days of work and workers in Sayaxché reported that migrant workers were dismissed if they missed two days of work during their short-term contracts.

Multiple workers interviewed by Verité reported that they had been dismissed or threatened with dismissal for protesting or complaining about their conditions of work. Local experts interviewed by Verité reported that workers who complained about their conditions of work faced dismissal and blacklisting. When dismissed, many of these workers were reportedly not paid the wages due to them, and workers who had provided their employers with their identification documents did not have these documents returned to them. Workers reportedly had to pay GTQ 100 (USD 12.77) and incur significant travel, time, and expense in order to obtain replacements documents, and workers who lacked these documents were unable to file complaints through the courts or Ministry of Labor offices.

After a protest in Sayaxché, one palm company reportedly dismissed all of their local workers and replaced them with migrant workers.<sup>251</sup> Local workers interviewed in Sayaxché by Verité reported that they were commonly threatened with being dismissed and replaced by migrant workers; their supervisors told them that if they were not satisfied with their conditions of employment there were a large number of workers waiting to take their jobs.

### **Exclusion from Future Employment**

CONDEG has reported that many workers have tried to voice their grievances, but have been met by threats of dismissal and blacklisting. CONDEG has reported that palm companies blacklist or refuse to hire workers who have organized or filed complaints.<sup>252</sup> According to a 2011 report, after nine workers from Alta Verapaz brought a legal complaint against a palm company for unjust dismissal and failure to pay them the severance and other benefits owed to them, the palm company reportedly ceased hiring any workers from their community of origin.<sup>253</sup> Experts and workers interviewed by Verité echoed these claims of blacklisting and asserted that workers were blacklisted for trying to organize or complaining. They also reported that workers who engaged in protests in Sayaxché were placed on blacklists and were not hired by the palm companies.

## **Exclusion from Community and Social Life**

There have been reports that community, political, indigenous, and religious leaders have been employed by palm companies to work as labor contractors or land buyers. These individuals are employed because of their power and trusted status in communities. Some workers and experts interviewed by Verité reported that people felt strong pressure to sell their land due to the involvement of these leaders and perceived that they could be shunned by the community for failing to cooperate. There are also reports that palm companies have played community members against one another by stating that they will only buy land in a community if everyone agrees to sell their land, leading community members who are in favor of selling their land to ostracize those who are not. Finally, because palm plantations have taken over vast swaths of Sayaxché and there are few other employment opportunities outside of the plantations, many inhabitants have to choose between working on the palm plantations and abandoning their communities to search for employment elsewhere.

## **Deprivation of Food, Shelter or Other Necessities**

As mentioned in the *Land Grabs* section, many families in Sayaxché have lost the land that they used for subsistence agriculture. Whereas these families had previously been able to survive through a combination of subsistence agriculture and temporary work on small farms or in other sectors, palm now dominates the region. These families thus become dependent on employment in the palm sector as one of the only sources of jobs for unskilled workers close to their communities. According to ActionAid, families who have sold all of their land come to completely depend on the palm plantations for their sustenance.<sup>254</sup> Furthermore, migrant workers depend on the palm plantations for their food and shelter during their time on the plantations, which can last up to six months.

## **Shift to Even Worse Working Conditions**

Workers interviewed in Southern Guatemala reported that supervisors sometimes requested sexual favors from female workers. If the women did not accede, their supervisors transferred them to jobs that had worse conditions of work. For example, some women worked carrying palm saplings and were paid by the piece. If they denied their supervisors sexual favors, they could be assigned to carry the saplings even greater distances, decreasing their pay and increasing their workload.

Workers interviewed also reported that some supervisors showed favoritism to certain workers, placing them in more desirable jobs and placing workers that they disliked or who complained in less favorable jobs. There were reports that some supervisors requested bribes to place or keep workers in well-paid, easier jobs. If workers failed to pay the bribes, they could be transferred to more strenuous, lower-paying jobs.

## **Wages**

A report from 2011 found that the average monthly wage earned in Guatemala was nine percent lower than the country's minimum monthly wage. In the private sector, it was 18 percent lower, while public sector workers working for the government earned an average of 59 percent more than the minimum wage.<sup>255</sup> A 2012 nationwide ASIES study found that 67 percent of unsalaried workers earned less than the monthly minimum wage of GTQ 2,075 (USD 263.24). Twenty-six percent of unsalaried workers earned less than GTQ 1,000(USD 126.86) per month,

25 percent earned between GTQ 1,001(USD 126.99) and GTQ 1,500(USD 190.29) per month, and 16 percent earned between GTQ 1,501(USD 190.42) and GTQ 2,000(USD 253.73) per month.<sup>256</sup>

Meanwhile, 95 percent of temporary agricultural workers earned less than the monthly minimum wage. Seventy percent earned less than GTQ 1,000 (USD 126.86) per month, 19 percent earned between GTQ 1,001 (USD 126.99) and GTQ 1,500 (USD 190.29) per month, and six percent earned between GTQ 1,501 (USD 190.42) and GTQ 2,000 (USD 253.73) per month.<sup>257</sup> A report issued by the United Nations in 2013 indicated that 97 percent of temporary agricultural workers did not receive wages high enough to satisfy their basic needs.<sup>258</sup>

In many cases, unskilled workers are paid a piece rate. While this rate may be beneficial to young male workers who can earn more than the minimum wage, older or female workers may be disadvantaged and unable to earn the minimum wage.<sup>259</sup>

### Northern Guatemala

In Sayaxché, until 2010, local workers were generally paid GTQ 50 (USD 6.38) per day, which was below the minimum daily wage for an agricultural worker. ActionAid research found that in March 2011, all of the *cuadrilleros* interviewed in Sayaxché still earned GTQ 50 (USD 6.38) or less per day despite an increase in the minimum wage to GTQ 63.70 (USD 8.08). In fact, some companies paid workers GTQ 30-40 (USD 3.81-5.07) per day after deductions for food and housing.<sup>260</sup>

At the end of 2010, one of the palm companies began paying workers the minimum wage of GTQ 56 (USD 7.10) per day, but increased quotas for workers and then began either paying workers piece rates or a set payment for the completion of a particular task. This practice was promoted by GREPALMA as a good practice that benefited workers. GREPALMA claimed that this would result in workers earning more than the minimum wage. However, according to Action Aid, in practice, when workers were paid a piece rate as opposed to a daily wage, they had to work longer hours in order to earn the minimum wage.<sup>261</sup>

### Increased Workload in Order to Earn the Minimum Wage (2010 focus groups)<sup>262</sup>

Activity	Units per shift	Payment per unit -daily wage	Units per shift	Payment per unit – piece rates	Difference in pay per unit	Increase in work to earn same pay
Clearing	40	GTQ 1.25 (USD .16)	60	GTQ .93 (USD .11)	- GTQ .32 (USD .04)	50%
Hole Digging	30	GTQ 1.66 (USD .21)	40	GTQ 1.40 (USD .18)	- GTQ .26 (USD .03)	33%
Planting	50	GTQ 1 (USD .12)	60	GTQ .93 (USD .11)	- GTQ .07 (USD .00)	20%
Clearing around plants	40	GTQ 1.25 (USD .16)	60	GTQ .93 (USD .11)	- GTQ .32 (USD .04)	50%
Fertilizer Application	20	GTQ 2.50 (USD .32)	30	GTQ 1.86 (USD .23)	- GTQ .64 (USD .08)	50%
Pesticide application	10	GTQ 5 (USD .64)	15	GTQ 3.73 (USD .47)	- GTQ 1.27 (USD .16)	50%



Piece rates have had negative consequences in practice. Piece rates present problems to older workers, because while young men may be able to earn more than the minimum wage, there is no minimum wage guarantee and older workers are in many cases not able to work fast enough to earn the minimum wage.<sup>263</sup> The following is a table of the piece rates paid by one plantation in Sayaxché, based on focus group discussions conducted by ActionAid in September 2010.<sup>264</sup>

According to Oxfam, after a complaint was filed with the Ministry of Labor, palm companies in Sayaxché promised to pay workers the minimum wage. However, workers and NGOs have reported that workloads were increased and excessive daily quotas were set. For example, male workers were expected to spread more than a ton of fertilizer per day, clear at least 100 palm trees, or harvest 150 palm fruits per day.<sup>265</sup> There are reports that workers have to fulfill unofficial quotas in Sayaxché in order to earn the minimum wage. While workers were promised that they would be paid the minimum daily wage for palm fruit harvesting, they were subsequently told that if they did not harvest at least 300 palm fruits per day, they would not receive the minimum wage.<sup>266</sup>

A local expert interviewed by Verité reported that women in Sayaxché previously received GTQ 15-30 (USD 1.91 -3.83) per day for picking up palm kernels. After they complained about their low level of payment, some palm plantations raised their payment to the minimum wage of GTQ 71.40 (USD 9.06) per day, but required them to carry out the same heavy tasks as men, such as harvesting at least 125 palm fruits per day. If women were unable to meet these high quotas, they were only paid GTQ 35 (USD 4.47) per day. In 2013, Oxfam reported that women were paid GTQ 0.25 (USD .03) for filling a bag with 50 pounds of palm saplings and dirt. In order to earn the 2013 minimum wage of GTQ 71.40 (USD 9.20), women would have to fill and carry 286 bags per day.<sup>267</sup>

An expert interviewed by Verité reported that while some companies in Sayaxché began to pay local workers the minimum wage following the May 2012 protests, migrant workers were still paid between GTQ 40 and 50 (USD 5.10 and 6.38), well below the minimum wage. This was reportedly because they had no leverage in wage negotiations, as they came from disparate communities and did not have any organization or entity that represented their interests. In one plantation, migrant workers, most of who came from Alta Verapaz, reportedly earned GTQ 68 (USD 8.68) per day before deductions. However, after GTQ 18 (USD 2.29) per day was deducted for housing and meals, they earned GTQ 50 (USD 6.38) per day. Some of the local workers interviewed felt that this arrangement was more beneficial, as they believed that the food provided was worth more than GTQ 18 (USD 2.29) per day.

Local workers interviewed by Verité in Sayaxché reported wide variations in payment depending upon the company they worked for, whether they were local or migrant workers, their employment status (permanent versus temporary), whether they were paid by the day or by the piece, deductions, the tasks that they carried out, and their ability to work quickly. Daily wages generally ranged from GTQ 50 (USD 6.38) to GTQ 71.40 (USD 9.11). In the highest-paying plantation, workers interviewed by Verité reported that they received GTQ 71.40 (USD 9.11) per day, the minimum wage, or GTQ 2,000-2,500 (USD 255.44-319.30) per month for six days of work per week, six to nine hours per day, which comes out to approximately GTQ 77-96 (USD 9.83-12.26) per day. There were also reports of wide variations in the piece rates paid to workers between plantations. Local workers interviewed by Verité who worked on one of the plantations in Sayaxché reported that although they were paid at least the minimum wage, they were not paid for overtime hours.

## Overgrowth around Palm Tree that Workers Clear for USD 0.11 per Tree



Workers from a plantation in Sayaxché were paid by check, and reported that their labor contractor transported them to the bank to cash their checks, but did not provide transportation back to the plantation. For workers who work in remote areas, this can mean a two and a half hour journey each way, so workers may have to use up the little free time that they have to cash their checks and incur a significant expense for transportation.<sup>268</sup>

There are reports of fraudulent deductions for social security coverage from workers' wages. According to CONDEG, monthly deductions are made from the wages of workers employed in Sayaxché to cover their contributions to the Guatemalan Social Security Institute (IGSS). However, workers are reportedly not provided with social security cards or benefits in practice.<sup>269</sup> Workers interviewed by ActionAid at a plantation in Sayaxché reported that IGSS contributions were deducted from their wages, but that they were not provided with a social security card.<sup>270</sup>

Workers have also reported fraud in the payment of wages. For example, workers who earn a piece rate have claimed that the amount they were paid for clearing palm trees was based on a fraudulent under-calculation of the number of trees than they had actually cleared.<sup>271</sup> According to ActionAid, workers were required by their labor contractors to sign a document stating that they received their payment, but were not provided with this document nor any other written document explaining their payment and deductions.<sup>272</sup> In fact, according to local experts interviewed by Verité, many workers were not even provided with a check stub detailing their payments and deductions, which prevents them from verifying whether their wages are accurate. According to ActionAid, when workers in Sayaxché missed work due to sickness or other justifiable reasons, they were paid only half of their daily wage.<sup>273</sup>

In the Polochic Valley, there have been reports that in 2010, workers earned 30 percent less than the minimum wage. There have also been allegations that workers are forced to carry out unremunerated work during the dry season. Workers are reportedly told that if they want jobs harvesting palm fruits during the rainy season that they must work for 15 days per month for four to five months clearing debris and weeds around the palm trees for no pay.<sup>274</sup>

### **Southern Guatemala**

In Southern Guatemala, some workers interviewed reported that they earned the minimum wage, while others reported that they earned less than the minimum wage. Payments varied widely depending on the plantation, workers' employment status, and the tasks that workers were hired to carry out. Verité interviewed eight workers in Southern Guatemala, as well as their caporal. The caporal reported that all workers were paid the minimum wage of GTQ 71.40 (USD 9.11) per day. However, some of the workers interviewed reported that they earned GTQ 65 (USD 8.30) per day, before a deduction for IGSS coverage, which they were provided with in practice. They reported that they worked from 7:00 AM to 2:00 PM. However, some workers (harvesters and fertilizer appliers) who were paid by the piece could earn above the minimum wage if they worked hard. Harvesters from another plantation interviewed reported that they earned the minimum wage of GTQ 71.40 (USD 9.11) per day for harvesting five *quintales* (100 pound sacks) of palm fruit, which they were able to do in three hours.

Some workers reported that they were paid the minimum wage on paper, but earned less than the minimum wage in practice after deductions, and experts interviewed by Verité alleged instances of double bookkeeping. Other workers interviewed reported that they were blatantly paid less than the minimum wage. Some workers interviewed reported that their hours of work or productivity were fraudulently underreported, resulting in payments lower than what workers had actually earned. Workers from one plantation reported that their wages were directly deposited into a bank account and that they were not provided with any written documentation detailing payment and deduction calculations.

### **Benefits**

A report published in 2012 indicates that a large number of workers are employed informally by palm plantations, resulting in an extremely low percentage of workers provided with benefits. According to the report, 72 percent of palm oil workers lacked social security benefits.<sup>275</sup> Some local permanent and temporary workers whose contracts were renewed annually reported that they were provided with the legal benefits that they were entitled to. However, they reported that migrant workers received no benefits at all. According to ActionAid, permanent workers without contracts were required to sign documents renouncing their right to benefits, and were not provided with a copy of this document.<sup>276</sup>

The largest palm companies operating in Sayaxché have officially reported employing an extremely low number of workers, especially permanent workers with contracts, indicating that a large number of workers are employed informally and lack access to benefits. Representatives of an NGO active in Sayaxché reported to Verité that temporary workers employed by palm companies in Sayaxché did not receive benefits. They also reported that while GTQ 100 (USD 12.77) was deducted from workers' wages for social security (IGSS) coverage, the workers were not provided with IGSS cards or social security benefits in practice. Research carried out in

Sayaxché in 2011 indicates that palm sector workers were not provided with days off or paid vacation.<sup>277</sup>

It is common for palm sector workers to be employed for periods of a maximum of seven to ten months at a time. They are repeatedly dismissed and rehired so that they are unable to accrue benefits.<sup>278</sup> Workers interviewed by Verité in Sayaxché and Southern Guatemala reported that they were hired on ten-month contract and were dismissed every ten months and then rehired again.

Local workers interviewed in Southern Guatemala reported that they were provided with different levels of benefits, depending upon their employment status (permanent versus temporary) and whether they were hired by a labor contractor or directly by the plantation. Workers hired by labor brokers reported that they were not provided with vacation time, while workers who were directly hired by the plantations were provided with vacation time. Many workers interviewed in Southern Guatemala reported that while payments for IGSS were deducted from their pay, they were not provided with an IGSS card or social security benefits, which include free access to doctors and prescription medication. While many workers were not given severance pay, some workers interviewed in Southern Guatemala reported that when they were dismissed they were given GTQ 10,000 (USD 1,277.22) in severance pay.

## Working Hours

Guatemala's Labor Code specifies maximum daily and weekly limits on working hours. For day shifts, workers may labor a maximum of eight hours per day and 44 hours per week. For night shifts, the limit is set at six hours per day, and 36 hours per week. For mixed shifts, the limit is seven hours per day, and 42 hours per week.<sup>279</sup> A 2012 ASIES study found that 30 percent of agricultural workers nationwide worked two to four hours per day, 24 percent worked four to six hours per day, and 46 percent worked six to eight hours per day. Ninety-two percent of temporary agricultural workers reported that they were satisfied with their working hours.<sup>280</sup>

### Northern Guatemala

Research carried out in 2011 indicates that many workers employed in the palm sector in Sayaxché worked shifts of 6:00 AM to 12:00 PM or 7:00 AM to 3:00 PM from Monday to Sunday. This indicates that workers generally worked six to eight hours per day (below the legal limits on daily working hours), but forty-two to fifty-six hours per week (at or exceeding limits on weekly working hours).<sup>281</sup> Other research carried out by CONGCOOP in Northern Guatemala indicates that in 2010, 11 percent of workers employed in the palm sector worked less than eight hours a day, 61 percent worked eight hours per day, and 28 percent worked over eight hours per day, in excess of legal daily limits on working hours. In contrast, 13 to 14 percent of laborers worked in excess of eight hours per day in family-based agriculture in 2010.<sup>282</sup> Local workers interviewed by Verité in Sayaxché generally reported working six to nine hours per day, six days per week.

### Southern Guatemala

Workers interviewed in Southern Guatemala who worked for Guatemala's largest palm oil company and were paid by the day reported that they generally worked from 7:00 AM to 2:00 PM (seven hours per day). Harvesters interviewed reported that they earned the minimum wage for harvesting five *quintales* (100 pound sacks) of palm fruit, which they were able to do in

three hours. Workers interviewed reported that since the largest palm oil company had obtained Rainforest Alliance certification two years earlier, production targets and working hours had greatly decreased. They reported that they previously had to work eight to 9.5 hours per day.

Workers who were paid a piece rate reported working schedules that fluctuated a great deal. For example, workers responsible for applying herbicide reported that they were paid a fixed amount for applying 14 backpacks full of herbicide each day. They reported that they generally worked from 6:00 AM to 11:30AM (5.5 hours) and were able to return home at this time. Workers who applied fertilizer reported that they only had to work from 7:00AM to 10:00AM or 11:00 AM (three to four hours) to meet their target.

## Child Labor

A 2003, ILO/UNICEF/World Bank report found that 507,000 children between the ages of seven and 14 (approximately 20 percent of children in this age group) were working in Guatemala. Approximately two-thirds of children were employed in agriculture, including 75 percent of boys and 40 percent of girls. The report found that children engaged in child labor were subjected to dangerous working conditions, including long working hours, exposure to the sun, carrying heavy loads, and working with sharp tools. Thirty-eight percent of working children did not attend school, compared to 22 percent of non-working children. Working children worked an average of 47 hours per week, with those not attending school working an average of 58 hours per week.<sup>283</sup>

A 2006 ILO-IPEC report detailed the situation of indigenous child and juvenile laborers in Guatemala. According to the report, a 2000 Guatemalan government survey indicated that there were 937,530 children and adolescents working in Guatemala. Of these minors, 55.4 percent were between the ages of five and 14 and 44.6 percent were between the ages of 15 and 17. The study found that the incidence of child and juvenile labor was higher among indigenous Guatemalans, as 35.3 percent of indigenous children and adolescents were working and 52.3 percent of all child and juvenile laborers in Guatemala were indigenous. Overall, 61.7 percent of child laborers worked in agriculture, while 70.5 percent of indigenous child laborers working in agriculture.<sup>284</sup>

In 2011, the U.S. Department of State reported that there were approximately one million child and juvenile laborers between the ages of five and 17 in Guatemala. The U.S. Department of State further reported that most child labor occurred in rural areas, especially in the informal and agricultural sectors.<sup>285</sup> The U.S. Department of Labor has reported that work on plantations was very demanding and that a large number of parents in Guatemala made their children work alongside them in order to comply with quotas in the agricultural sector.<sup>286</sup> During Verité research on indicators of forced labor in coffee production, carried out in 2011, 98.9 percent of the 372 coffee sector workers interviewed reported that minors were working on the last coffee finca in which they worked.<sup>287</sup>

Verité research indicates that the incidence of child labor was much lower in the palm sector than in the coffee sector. An expert interviewed by Verité reported that there was child labor on palm plantations in El Estor, Izabal. Oxfam has reported that there have been reports of child labor on palm plantations, and that this was seen as “normal” by many parents. Some protests even erupted when certain palm companies prohibited minors under 18 years of age from

working on the plantations, even though these minors are legally prohibited from engaging in hazardous work, including exposure to the sun, fertilizers, pesticides, and insecticides.<sup>288</sup>

In 2011, CONDEG reported that although child labor had become less common, there were a significant number of juvenile laborers above the age of 14 working on palm plantations in Sayaxché. CONDEG further reported that in one Sayaxché-based palm company alone, there were approximately 1,000 underage workers who carried out the same tasks, received the same pay, and worked the same number of hours as adults. This violates Article 149 of the Labor Code, which states that minors must work one hour less per day and six fewer hours per week than adult workers.<sup>289</sup>

Workers interviewed in Southern Guatemala reported that children sometimes worked alongside their mothers, who were responsible for picking up fallen palm kernels. Because women had to reach a quota and could be fired for failing to do so, some reportedly brought their children to help them reach this quota, even though the palm companies officially prohibited this practice.

## Issues Facing Women

In many cases, women employed on palm plantations are assigned specific tasks, among which are working in greenhouses, planting palm trees, or pushing carts of palm fruit. Some palm businesses perceive women as being better at carrying out delicate tasks, but weaker than men. Nonetheless, women, including pregnant women are responsible for heavy tasks. For example, CONDEG has reported that women may have to fill 50 bags of dirt weighing 40 pounds each and make ten to 12 trips of approximately 15 minutes each to carry these bags of dirt. Women are also responsible for cleaning the planting areas, weeding, and applying fertilizers and pesticides, among other activities. Pregnant women and their offspring are especially vulnerable to the effects of toxic insecticides or fertilizers.<sup>290</sup>

Women are sometimes paid less than men, as it is falsely assumed that their earnings are an extra contribution to their households.<sup>291</sup> According to Oxfam, women working seven-hour shifts earned at the most 50 percent of the daily minimum wage, while men earned close to the minimum wage.<sup>292</sup> According to a local expert, women in Sayaxché previously received GTQ 15-30 (USD 1.91 -3.83) per day for picking up palm kernels. After they complained about their lower payment, some palm plantations raised their payment to the same rate as men - GTQ 71.40 (USD 9.20) per day - but required women to carry out the same heavy tasks as men, such as harvesting at least 125 palm fruits per day. If women were unable to meet this high quota, they were only paid GTQ 35 (USD 4.47) per day. In 2013, Oxfam reported that women were paid GTQ 0.25 (USD .03) for filling a bag with 50 pounds of palm saplings and dirt. At this rate, in order to earn the minimum wage they would have to fill and carry 286 bags per day.<sup>293</sup>

In many cases, women are the sole breadwinners of their households. They may have to pay for childcare so that they can work on the plantations, incurring an additional expense, and making it even more difficult for them to meet their families' basic needs.<sup>294</sup> Women who cannot afford to pay for childcare must leave their young children with older children, which can result in these older children having to drop out of school. Alternately, they may have to bring their young children to work with them, which can also result in child labor. Because women are expected to cook and do household chores, many have to wake up at 4:00 AM to prepare meals for their husbands, and do chores upon returning from work on the plantations.<sup>295</sup>

Many women are excluded from the decision-making process. Women's organizations have been excluded from involvement in negotiations with palm companies. Land is also generally registered under men's names and women are not consulted on the sale of land. According to Oxfam, many women have been opposed to the sale of their lands and some have organized to prevent land sales.<sup>296</sup> In fact, a 2012 study found that 86 percent of female heads of household were opposed to land deals.<sup>297</sup> Women interviewed in focus groups in 2010 by ActionAid reported that they did not want to sell their lands, as they remembered how much effort went into obtaining it. They reported that while some people chose to sell their lands due to economic necessity, others did so due to pressure.<sup>298</sup>

When female land-owners did sell their land, they received less compensation than men. ActionAid found that women who sold their land in a community in Sayaxché in 2010 received half as much as men per caballería of land. Between 2000 and 2002, women received a third of what men received per caballería in another community in Sayaxché.<sup>299</sup>

Workers interviewed in Southern Guatemala reported sexual harassment of female workers by supervisors. They also reported that supervisors requested sexual favors from female workers and if they did not accede, their supervisors transferred them to worse paid or more strenuous jobs. For example, some women worked carrying palm saplings and were paid by the piece. If they denied their supervisors sexual favors, they could be assigned to carry the saplings greater distances, decreasing their pay and increasing their workload.

## Health and Safety

According to the Research and Social Studies Association (ASIES), national statistics from 2012 indicate that on a national level, 40 percent of unsalaried workers had either experienced a workplace accident or knew someone who had in the previous six months, while 45 percent had not, and 15 percent did not know or did not respond. Forty-nine percent of unsalaried workers reported that the primary cause of workplace accidents was a lack of prudence; 26 percent reported that it was a lack of training, information, or experience; three percent reported that it was tools or equipment; and two percent reported that it was a lack of maintenance. The 2012 statistics further indicated that only 11 percent of unsalaried workers had access to PPE, while 73 percent did not, and 15 percent did not know or did not respond. In the agricultural sector, 38 percent of workers reported that they had access to PPE, while 60 percent reported that they did not.<sup>300</sup>

Palm workers, including men, women, and children, are vulnerable to a wide variety of risks to their health and safety. Workers may face exposure to the sun, injuries from falling palm fronds, cuts from sharp instruments, poisonous snake or insect bites, exposure to toxic herbicides or pesticides, the use of heavy equipment, or transport accidents.<sup>301</sup> A United Nations High Commission on Human Rights report indicated that the most frequent injuries were to workers' backs and hips due to the large amount of walking, but that many workers were injured due to accidents during transport under "inhumane" conditions. Injuries and fatalities can cause workers and their families to fall deeper into poverty.<sup>302</sup>

Workers interviewed in Southern Guatemala reported that prior to receiving Rainforest Alliance certification two years earlier, the plantation did not provide them with any PPE, but since the certification, they had been provided with masks and gloves. They could also purchase other

equipment and special clothing at what they considered a “low price.” According to CONDEG, the only tools or PPE employers provide to palm plantation workers in Sayaxché were bags for planting palm trees and long sharp chisels used for harvesting palm fruit.<sup>303</sup> Workers interviewed by Verité in Sayaxché reported that they had to buy their own pikes and that if they lost employer-provided tools or materials, the value of the tools would be deducted from their wages. Because employers do not provide workers with a safe place to store their tools, they had to transport their tools back and forth from home to work, which can create other hazards, especially if workers are involved in crashes when carrying their chisels or machetes.<sup>304</sup>

### Ambulance on Palm Plantation



There have been reports that workers are not provided with the PPE necessary for handling chemicals or applying pesticides or fertilizers.<sup>305</sup> According to *Plaza Publica*, although workers in Sayaxché spread 15 bags weighing 100 pounds each of fertilizer per day, they were never provided with gloves or masks. They complained about the smell and burning in their eyes and their skin.<sup>306</sup> Workers interviewed in Southern Guatemala who worked for Guatemala’s biggest palm company reported that prior to obtaining Rainforest Alliance certification two years earlier, workers who applied herbicides were not provided with PPE, and that workers had died due to what they believed was exposure to herbicides. However, after obtaining Rainforest Alliance certification, these workers were provided with PPE. Meanwhile, in Sayaxché, workers who applied pesticides on a plantation owned by another company that received Rainforest Alliance certification reported that they applied pesticides and were not provided with any PPE. According to local experts interviewed by Verité, there had been cases of worker intoxication and death due to the handling of dangerous chemicals without PPE.

According to CONDEG, strong insecticides used by workers in Sayaxché were given to workers in white containers without labels. Workers reportedly complained of the immediate effects of insecticides, including burning in the throat, coughs, and rashes on the arms and face, and



reddening and tearing of the eyes. There are other long-term effects that have not been studied.<sup>307</sup> According to *Plaza Publica*, one of the pesticides applied by palm workers was Klerat, a powerful anticoagulant used to kill rodents that eat palm kernels. USAID has prohibited the use of Klerat in all of their agricultural projects and has classified it as a dangerous pesticide.<sup>308</sup>

Poisonous snakebites are a real hazard on palm plantations. While many workers use rubber boots to reduce the risk, others do not, and the boots do not fully protect against snakebites. In Southern Guatemala, workers interviewed by Verité reported a widespread belief that the palm companies purposely released venomous snakes into the palm plantations so that the snakes would eat mice and rats that ate palm kernels. In Escuintla, workers interviewed reported that prior to their plantation obtaining Rainforest Alliance certification two years earlier and acquiring anti-venom for the small on-site medical clinic, an average of three workers died per year from snake bites because they could not make it to a hospital in time. Oxfam reported that in Sayaxché many plantations still lacked anti-venoms and only provided workers with some over-the-counter medications so that they could be transferred to a hospital.<sup>309</sup>

### Poisonous Snakes Killed by Worker on Palm Plantation



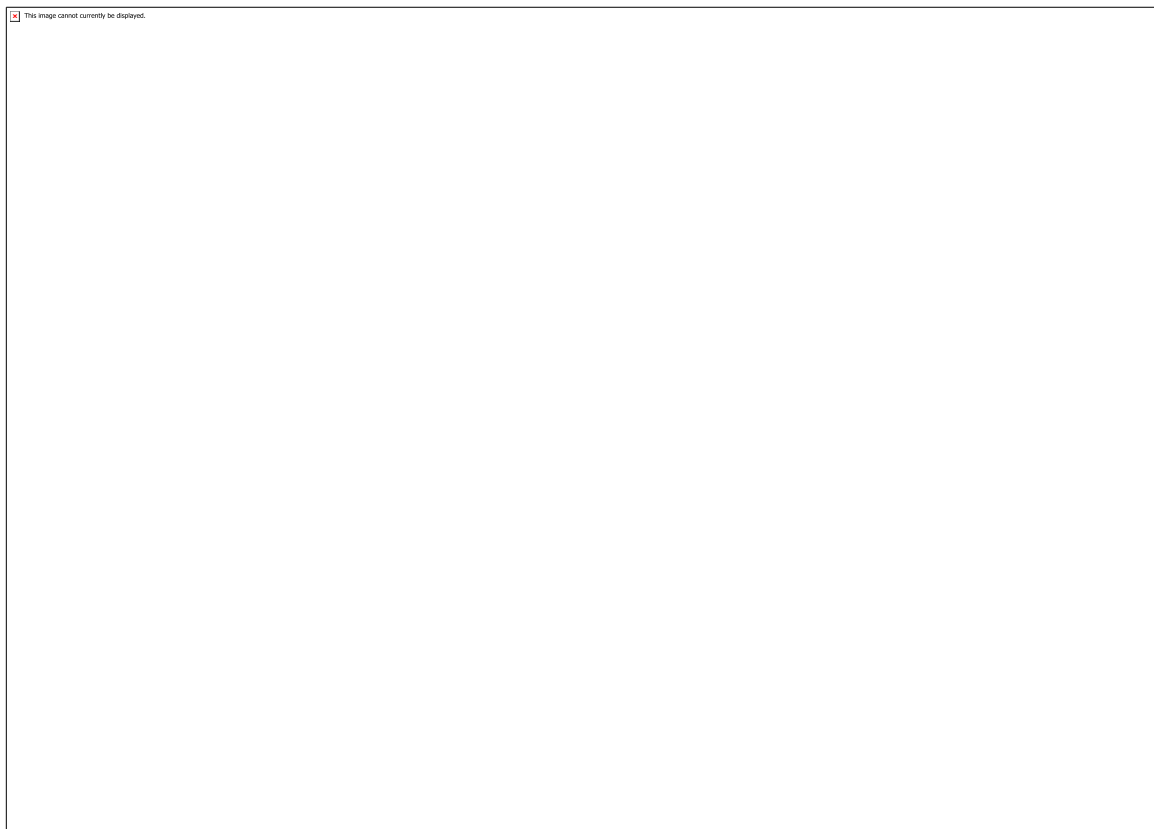
Workers interviewed reported that falling palm fruit and palm fronds presented a risk to their health and safety. Workers have to use long pikes to cut down palm fruits that can be up to 30 feet high and weigh up to 125 pounds. They also have to cut down palm fronds in order to be able to reach the fruit. Because workers are not provided with goggles, helmets, or other PPE, they risk damage to their eyes from falling debris and insects, as well as other injuries from falling palm fruit or fronds. One worker interviewed reported that a 20 pound palm fruit had fallen on his head while he was sleeping under a palm tree, giving him a concussion. Another worker reported that a larger palm fruit fell on and broke his leg while he was cutting it down.

During consultations, the palm companies in Sayaxché agreed to only use busses to transport workers. However, Oxfam reported that trucks were still used to transport workers in 2013.<sup>310</sup> Furthermore, Verité researchers observed workers being transported in the backs of trucks and

pickup trucks in Sayaxché. There have been reports of a large number of accidents involving busses and trucks transporting palm workers, which have resulted in numerous fatalities and injuries. According to *Plaza Publica*, there were five publicly reported accidents involving trucks or busses carrying large numbers of palm workers between 2009 and May 2012. These accidents resulted in 59 deaths and 179 injuries, but the number of accidents, deaths, and injuries is likely much higher because many accidents are never reported.<sup>311</sup>

In February 2009, 36 workers were killed on a truck transporting workers to a palm plantation in Sayaxché as a result of a landslide.<sup>312</sup> Three years later, in February 2012, another truck transporting 104 workers to a plantation owned by the same company was involved in an accident, resulting in two deaths and 54 injured workers, including ten minors. This company claimed that they were not legally responsible for compensating these workers because the company did not directly employ them and the workers did not have written contracts.<sup>313</sup> The families of the workers who died held the labor contractor who had hired the workers responsible, and he was reportedly threatened with being lynched if he did not pay the funeral expenses. He ended up having to pay approximately GTQ 10,000 (USD 1,277.22) for the funeral expenses of each worker killed. However, the palm company reportedly did not take any responsibility and did not make any payments to workers.<sup>314</sup>

### Workers Being Transported to Palm Plantation



Workers reported that many palm companies did not take responsibility for workplace accidents. In the best of cases, in Sayaxché, workers were given four days of paid time off if they were injured on the job, but no more. In Southern Guatemala, workers employed on one of the plantations were reportedly provided with antidote to snake bites or minor first aid at a small medical clinic for other injuries and were provided with transport to a hospital in the case of

injury. However, in many cases, workers reported that they were not provided with any treatment at all.

Many workers interviewed in both Northern and Southern Guatemala reported that while payments for IGSS were deducted from their pay, they were not provided with an IGSS card or social security benefits, which include free access to doctors and prescription medication. Some workers who were employed in rural areas reported that although they were provided with an IGSS card, they were unable to access IGSS services because the closest facilities that accepted IGSS were too far away. Other workers interviewed who were provided with benefits and worked or lived close to IGSS facilities reported that although they could access benefits, they had to wait for long periods of time and that the IGSS facilities frequently ran out of prescription medications.

## Housing

### Worker Housing on Palm Plantation



On a national level, ASIES surveys have indicated that in 2012, 66 percent of temporary agricultural workers felt that employer-provided housing was satisfactory, 28 percent felt that it was somewhat satisfactory, and five percent felt that it was not satisfactory at all. Thirty-six percent of temporary agricultural workers surveyed reported that employer-provided housing lacked electricity, 35 percent reported that it lacked potable water, 27 percent reported that it lacked sanitary facilities, and 26 percent reported that it lacked areas for food preparation.<sup>315</sup>

Verité research indicates that hundreds of migrant workers may be housed in very crowded *galeras* (long open structures). They are provided with cots or bunk beds that are located in close proximity to one another and lack privacy or access to safe places in which to store their possessions.

## Environmental Damage

A wide variety of environmental consequences have been linked to palm oil production worldwide: deforestation, loss of biodiversity, harm to endangered animals, encroachment on protected lands, high water use, and soil erosion and degradation.<sup>316</sup> According to the Rainforest Action Network, the palm industry is “one of the leading causes of rainforest destruction around the globe.”<sup>317</sup> Deforestation generates a number of related problems, from destruction of rainforests and habitats of endangered species to contributing to climate change, air and water pollution, and soil erosion.<sup>318</sup> Burning, a common method for clearing a natural forest of vegetation to prepare for a palm plantation, results in pollution. The smoke produced by these burns was cited as a major cause of air pollution. Water pollution is also a major environmental problem associated with palm oil production. For every metric ton of palm oil that is produced, 2.5 metric tons of effluent are produced as a byproduct of palm oil processing. This effluent, along with pesticides and fertilizers, are often released directly into the freshwater near the processing plants. Oxfam reported in 2010 that research in Indonesia indicated that it would take 420 years of biofuel production to make up for the destruction wrought by deforestation related to palm oil.<sup>319</sup>

### A Bird’s Eye View of Petén

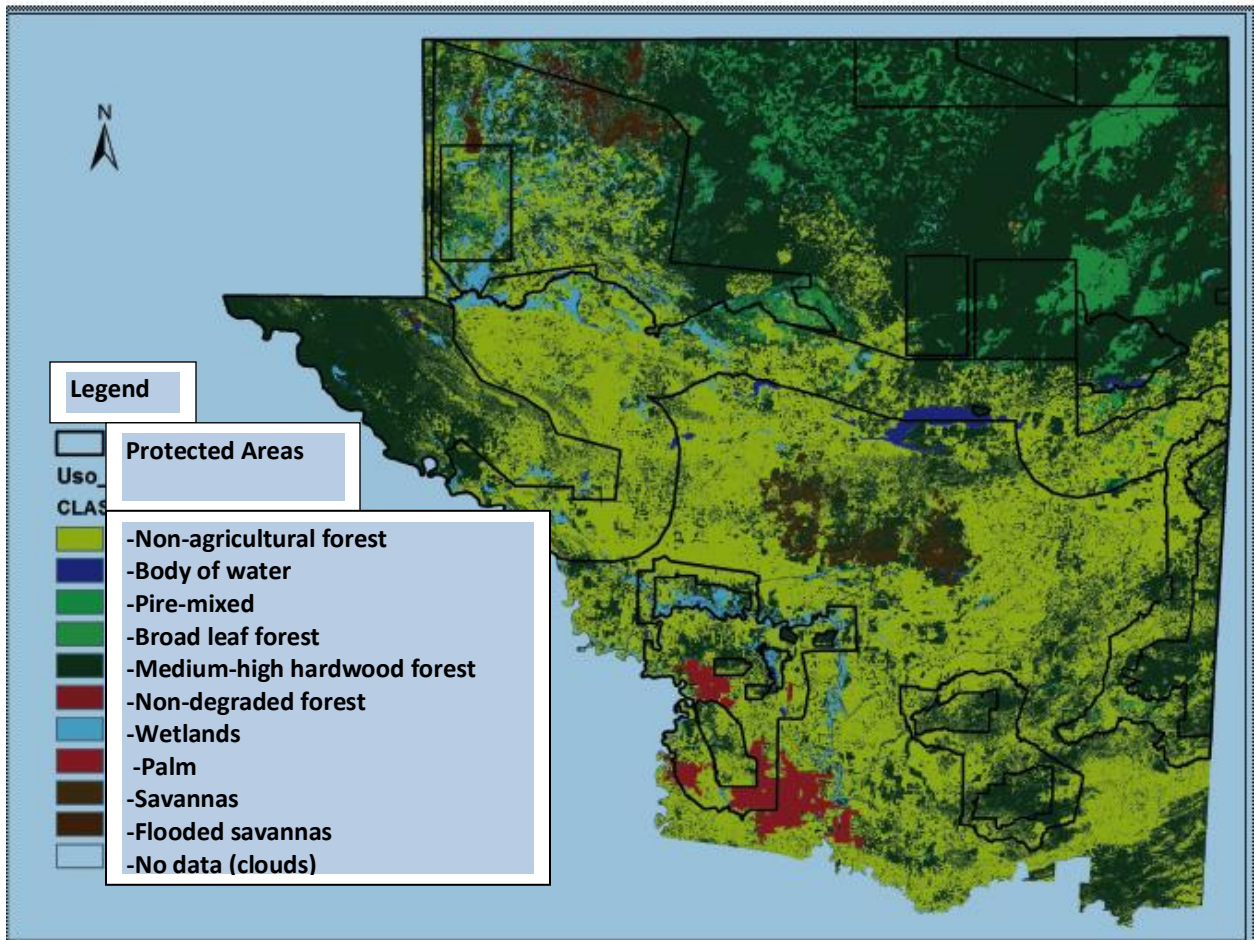


Oxfam has reported that palm oil production has contributed to deforestation in Guatemala, especially in Sayaxché and Ixcán.<sup>320</sup> It has been reported that 20 percent of the land in Guatemala on which African palm was planted in 2010 was forest in 2000, 29 percent was

dedicated to production of basic grains, 32 percent was natural pasturelands, and one percent was wetlands.<sup>321</sup> In fact, it has been estimated that over 148,000 acres of forest were cleared in a five-year period for palm production in Northern Guatemala alone.<sup>322</sup> From 1982 to 2010, Petén lost over 1,300,000 acres of forest, while palm production expanded by about 110,000 acres during this same period.<sup>323</sup>

In Guatemala, palm companies have claimed that they have contributed to reforestation.<sup>324</sup> An ex-high-level government official responsible for environmental issues in Guatemala, interviewed by Verité, stated that the palm industry had gotten a bad rap and other crops such as corn degraded soil at a faster pace and did not provide shade or shelter for birds or other animals. However, the director of the Center for Legal, Environmental, and Social Action (CALAS), a prominent Guatemalan NGO, has reported that the claims that palm plantations provide shade and capture carbon dioxide are misleading. Furthermore, a report published in 2011, *Realidad Ecológica de Guatemala*, states, “palm plantations are not forests, but rather monoculture.” They lack the biodiversity of forests and do not generate food. In addition, palm companies see native species as threats to their crops that must be exterminated.<sup>325</sup>

**Land use in Petén in 2010 superimposed on protected areas<sup>326</sup>**



The expansion of palm production has also resulted, directly and indirectly, in encroachment on protected areas. For example, approximately 500 acres of protected buffer areas to the Laguna Alachua National Park have reportedly been lost to palm production.<sup>327</sup> Another consequence of

palm oil production is that poor farmers, who have been displaced due to palm oil production, either due to the loss of their lands or communities or to the lack of employment opportunities, have been forced by necessity to migrate. Because of a lack of alternatives, some move into protected areas, which are the only areas in which they can plant subsistence crops without having to pay rent.<sup>328</sup> The director of CALAS has reported that the displacement of families by palm plantations has caused encroachment on protected lands, as well as both environmental and social conflict.<sup>329</sup>

The water usage on palm plantations also has a number of effects on the environment and the communities surrounding the plantations. Palm plantations require a very large amount of water, especially during the first stage of planting, and many plantations have been set up along Guatemala's rivers for this reason. These plantations sometimes divert rivers and streams, use a large amount of water, and contaminate bodies of water with fertilizers and pesticides.<sup>330</sup> Palm oil processing plants in Guatemala also pollute rivers and streams with their effluents.<sup>331</sup>

Northern Guatemala has a more constant rainfall than Southern Guatemala meaning that it requires less water, which makes it a more ideal place to plant palm. Palm cultivation in Southern Guatemala is less damaging in some ways, in that much of the palm production takes place on lands previously occupied by other crops, especially cotton, sugar, and rubber. However, Southern Guatemala has extremely high levels of precipitation during part of the year and very low levels during the other part, causing the palm plantations to need a great deal of water. Some plantations have dammed up rivers, drastically affecting surrounding communities, which lose access to water for irrigation and household use. There are also allegations that palm-processing plants in Southern Guatemala dump their waste in rivers.<sup>332</sup>

Affected communities have begun to fight back against the environmental degradation caused by palm plantations in Guatemala. In Sayaxché, some communities have complained that palm companies have diverted rivers away from their communities.<sup>333</sup> In Fray Bartolomteo, Alta Verapaz, communities have complained that a palm plantation and processing plant have brought with them flies, gasses, and chemical runoff. In Raxruhá, Alta Verapaz, a community filed a complaint for environmental contamination with the Guatemalan Supreme Court. According to in-country experts interviewed by Verité, environmental activists opposed to palm production have reported being victims of campaigns of intimidation.

## Grievance Mechanisms

CONDEG has reported that in Sayaxché, half of the population does not speak Spanish fluently. While most workers are impoverished rural peasant farmers who speak indigenous languages with low levels of education, most plantation administrators are highly educated individuals from urban areas who speak Spanish. In addition to language and cultural barriers, workers are wary about bringing their grievances to management, and in many cases do not know their labor rights.<sup>334</sup>

Local workers interviewed by Verité in Sayaxché reported that they were commonly threatened with being dismissed and replaced by migrant workers and that their supervisors told them that if they were not satisfied with their conditions of employment, a large number of workers were waiting to take their jobs. A national expert interviewed by Verité reported that after about 100 workers were not paid for their work on a palm plantation, one of the workers filed a complaint. This worker reportedly had to flee the area after he received threats. In-country experts

interviewed by Verité reported that both workers and their advocates faced death threats when complaints were filed. In many cases, recruiters and labor contractors live in workers' communities and know their family members. This causes victims to refrain from filing complaints. When labor-related cases are brought to court, there are a number of issues that prevent workers' grievances from being resolved.

A prominent expert interviewed by Verité reported that workers faced violent retaliation and intimidation for organizing or filing complaints. For example, ten members of the Izabal Banana Workers' Union of Guatemala (SITRABI) had been assassinated. Additionally, he noted that a miner who filed a complaint for a lack of compensation when he was paralyzed in an accident was shot and killed. In fact, the International Trade Union Confederation (ITUC) stated in June 2013 that "Guatemala has become the most dangerous country in the world for trade unionists," registering at least 53 unionist killings since 2007, as well as a number of threats and acts of intimidation, kidnappings, incidents of torture, and attempted murders, creating a "culture of fear and violence."<sup>335</sup>

### Case Study – Lack of Grievance Mechanisms in Southern Guatemala

"Roberto worked on palm plantations in Southern Guatemala for years. He worked in other sectors, like construction, when he could find work, but palm was always his backup. He said that there is "a lot of injustice" on the palm plantations, but workers did not complain because they needed their jobs and "the culture is very poor, people have not woken up." Workers were also afraid to lose their jobs because "behind each worker there are five more waiting for their job." He also said that there was a perception that it was impossible to win a complaint, stating, "you're never going to win ... When are you going to win against these people? Never! It's better to just accept it."

In 2009, the Ministry of Labor brought a case against a palm company for failing to pay nine workers from Alta Verapaz the benefits owed to them when they were unjustly dismissed. However, many of these workers were unable to cover the cost of transportation to the Departmental capital of Cobán to pursue their legal case, and company representatives visited them multiple times in an attempt to convince the workers to accept less compensation than they were legally entitled and to drop their case. Due to their economic necessity, the workers eventually accepted the company's offer and dropped their case. They were told by the company to sign a document that stated that they had never worked for the company, which was later presented to the Ministry of Labor. Following these workers' attempt to resolve their grievances, the palm company reportedly stopped hiring all workers from their community.<sup>336</sup>

### Government Enforcement Efforts

#### *Enforcement of Labor Law*

There are a number of loopholes in Guatemalan labor law that increase agricultural workers' vulnerability to labor exploitation. Guatemala's Labor Code fails to explicitly prohibit and sanction forced labor and fails to provide special protections for agricultural workers, instead weakening their 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 up to 30 percent of agricultural workers' wages to be paid in food and supplies. Please see *Appendix 2: Legal Framework* for a detailed analysis of Guatemalan labor law.

There have also been reports that Guatemala's labor laws do not provide for fines that are sufficiently dissuasive. According to a regional representative of the Labor Inspectorate interviewed by Verité, employers are supposed to submit a report on their compliance with labor law, including payment records, to the Ministry of Labor during January or February of every year. If an employer fails to do so, they are considered to be in violation of the law, and are given an additional period of time in which to submit the documents. If the employer fails to submit the documents, they can be brought to court and fined. However, according to the representative of the Labor Inspectorate, the level of fines is in many cases lower than the amount that employers would be required to pay for unpaid wages or benefits, and they therefore prefer not to submit these documents and pay the fines.

This representative of the Labor Inspectorate also reported other deficiencies. For example, labor brokers are supposed to submit a power of attorney (from the employer) to the Labor Inspectorate, which issues a permit for the labor broker to engage in recruitment activities. However, in many cases the Labor Inspectorate retained the list of authorized labor brokers in their central office in Guatemala City and did not distribute it to the regional offices of the Labor Inspectorate, lost them, or kept incomplete lists. Therefore, it is difficult for labor inspectors to verify which labor brokers are authorized to carry out recruitment activities.

Guatemala registers a high level of corruption, which affects the ability of the police and the justice sector to promote the rule of law and combat worker exploitation in the agricultural sector. According to Transparency International, the scale of corruption in Guatemala grew significantly worse between 2010 and 2013. Transparency International's 2013 Corruption Perceptions Index gave Guatemala a score of 29 out of 10 (123 out of 175 countries surveyed), down from 32 (91 out of 180 countries surveyed) in 2010.<sup>337</sup> According to the U.S. Department of State, although Guatemala has laws that provide for sanctions for engaging in corruption, these laws are rarely enforced and "officials frequently engaged in corrupt activities with impunity."<sup>338</sup> An in-country labor expert interviewed by Verité reported that inspectors' low wages made them susceptible to corruption.

One of the biggest factors that impedes the government's ability to protect workers from exploitation is its labor inspections system. High-level representatives of the U.S. Embassy in Guatemala, the PDH, the Ministry of Labor, and the Labor Inspectorate have attested to the



inability of the Labor Inspectorate to adequately enforce labor law, especially in the agricultural sector. Problems facing the Labor Inspectorate include a lack of staff and funding, the fact that inspectors sometimes have to pay for their own gas (which disincentivizes them from visiting remote locations), and labor inspectors' fear of carrying out inspections in the agricultural sector due to the high level of violence in Guatemala. In-country experts interviewed by Verité indicated that Ministry of Labor personnel were poorly paid, and the payments and benefits provided to them sometimes violated legal minimum requirements. Experts further reported that Ministry of Labor employees were not reimbursed for these expenses and that their wage payments were sometimes delayed.

A high-level government representative reported that labor inspections in the agricultural sector were seriously hindered by the level of violence in Guatemala. She reported that a large number of labor inspectors did not carry out inspections on agricultural plantations because they feared that they would be threatened, hurt, or killed. In fact, she reported that a labor inspector had been threatened with a gun on a plantation. Another in-country expert echoed this concern about a lack of security for labor inspectors on plantations. He reported that a large number of plantations employed private armed guards, and that journalists who were visiting a *finca* were detained by armed guards and were not allowed to leave. He also reported that when he visited a *finca* to speak with a worker who wanted to file a complaint for labor law violations, armed men on horses rode up to him and told him to leave. For this reason, he insisted that it was important that police officers accompany labor inspectors, which did not take place in practice.

An expert interviewed by Verité reported that when cases of criminal actions committed against migrant workers were brought to the Public Ministry, the people who filed the cases were "scolded." He also reported that there was a lack of protections for whistleblowers. The PDH's Defender of Workers' Rights has reported that many labor violations are never investigated or never make it to trial because of "parallel power structures" in the judiciary that pressure judges to act in favor of companies.<sup>339</sup> The ILO has also criticized the slowness of Guatemala's legal proceedings and the lack of independence of the judiciary, which it claims has created a "grave situation of practically total impunity."<sup>340</sup>

In April 2008, the AFL-CIO and six Guatemalan unions filed the first public submission under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), alleging that the Guatemalan government was failing to effectively enforce its labor laws with regard to freedom of association, the right to bargain collectively, and acceptable conditions of work. The U.S. Department of Labor (DOL) conducted a review of the submission and issued a public report on January 16, 2009. DOL found significant weaknesses in Guatemala's ability to enforce its labor laws and made specific recommendations on steps that Guatemala should take to address these matters. Based on Guatemala's apparent failure to effectively enforce its labor law and the lack of progress in addressing its concerns, the United States requested consultations with the Government of Guatemala on July 30, 2010. The specific failures to effectively enforce labor laws outlined in the U.S. consultations request included Ministry of Labor failures to conduct investigations and carry out enforcement actions and the judiciary's failure to enforce labor court orders. As a result of insufficient progress during consultations, the United States held a meeting of the Free Trade Commission under Chapter 20 (Dispute Settlement) of CAFTA-DR in June 2011. As its concerns were not addressed, the United States requested the establishment of an arbitration panel on August 9, 2011.

In January 2013, the United Nations noted a number of 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, where approximately three quarters of worker 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.<sup>341</sup>

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 had a ways to go to come into full compliance, it had taken some important steps to comply with the Enforcement Plan, including:

- A Ministerial Accord on interagency cooperation between the Ministry of Labor and the Ministry of the Interior;
- A directive requiring that national police provide the labor inspectorate with assistance to facilitate access to workplaces
- Ministerial Accords that require annual Ministry of Labor inspections of all businesses receiving special tax benefits and prohibit companies that have violated labor laws from receiving tax benefits;
- Ministerial Accords that require that the Ministry of Labor ensure that workers are properly compensated when businesses close and the creation of an Inter-Institutional Rapid Response Team to ensure that this happens in practice;
- Criteria for the Judiciary's recently created Verification Unit to verify employer compliance with labor court orders;
- A systematic review of all labor courts to hold judges accountable for failure to enforce court orders;
- Hiring of 100 new labor inspectors; and
- Creation of a tripartite sub-committee to ensure compliance with the Enforcement Plan.<sup>342</sup>

### ***Enforcement of Anti-Trafficking Law***

Guatemalan law fails to explicitly prohibit and sanction forced labor. However, Article 202 of the Labor Code, Decree 17-73, defines and prohibits human trafficking, including for 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. In 2009, Guatemalan Congress approved the Law Against Sexual Violence, Exploitation and Human Trafficking (*Ley Contra la Violencia Sexual, Explotación y Trata de Personas*) through Decree 9-2009. This Law, which was passed in order to ensure Guatemala's compliance with conventions that it had ratified, including the Palermo Protocol and ILO Convention 182, explicitly defines and sanctions human trafficking, including for forced labor.

During research activities, Verité interviewed a large number of Guatemalan government institutions and NGOs about government activities to combat forced labor and labor trafficking. Research indicates that while there has been increased attention to trafficking since the 2009 passage of Guatemala's anti-trafficking law, efforts have not generally focused on combating forced labor. The majority of action and prosecutions have been focused on sex trafficking, as the Secretary against Sexual Violence, Exploitation, and Human Trafficking (SVET) is inherently more focused on sex trafficking. With the recent advances achieved in the justice sector - due in large part to CICIG's involvement - the Guatemalan Attorney General's office, judges, and police

now have an increased capacity 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. While researchers did notice a substantial increase in government posters informing people about the risks and signs of trafficking, including labor trafficking, most of these posters were located in government offices and border posts, and no posters or other anti-trafficking materials were found on plantations or workers' communities of origin.

The Public Ministry received a total of 197 reports of human trafficking in 2012. This was a 24 percent decrease from 2011, which the PDH attributed to victims' fear of denouncing trafficking networks. Only five percent of the reports of human trafficking pertained to forced labor, and 93 percent of cases of trafficking had not been resolved.<sup>343</sup> In 2013, the U.S. Department of State reported that the Guatemalan government had increased its anti-trafficking efforts. It reportedly created specialized police and prosecution units and courts focused on trafficking. However, enforcement of Guatemala's anti-trafficking laws was impeded by a lack of adequate efforts to detect and prosecute trafficking and, in some cases, government complicity in trafficking. Furthermore, there was a lack of services for victims of labor trafficking.<sup>344</sup>

The government, including SVET, carried out a number of operations to combat labor trafficking in 2013. For example, in October 2013, the Public Ministry and National Civil Police (PNC) freed 42 victims of labor trafficking in and around Guatemala City in eight different operations.<sup>345</sup> While this is a positive step, it should be noted that these and other anti-trafficking operations have been focused on urban areas and victims were exploited in small restaurants, shops, and markets. There have been no reports of trafficking operations or prosecutions in the agricultural sector, which the IOM has listed along with domestic service as the two sectors with the highest rates of labor trafficking in Guatemala.<sup>346</sup>

### ***Government Efforts to Combat Exploitation in the Palm Sector***

A local labor expert interviewed by Verité reported that while the government provided some oversight in palm oil processing plants and easily accessible palm plantations, monitoring and enforcement actions were absent on many palm plantations. Verité research indicates that there are some very dedicated officials that put their lives at risk and spend their own money for transport to enforce labor law on palm plantations. However, experts interviewed indicated that inspectors were not always provided with the support that they needed to adequately do their jobs. In one case, a local Ministry of Labor office was able to secure free office space in a smaller municipality, and offered to send some of the personnel from the main office to the municipality in order to combat the labor abuses in palm plantations there. However, this request was denied without explanation.

The Ministry of Labor ramped up efforts to enforce labor law in Sayaxché in 2012 in response to multiple complaints of labor violations. Labor inspectors, accompanied by representatives of the PDH and the UN Office of the High Commissioner for Human Rights (OHCHR), attempted to inspect palm plantations owned by all of the major companies operating in Sayaxché. However, only one of the companies permitted the inspectors to enter the plantations.<sup>347</sup> Even then, according to a local expert interviewed by Verité, the inspectors' access was limited and they were not able to interview migrant workers. In the other plantations, security guards denied the inspectors entrance, resulting in the Ministry of Labor filing an "Act of Obstruction" against the companies.

The companies eventually provided the labor inspectorate with payroll and other documents, and no violations were detected. However, the Ministry of Labor continued to receive complaints regarding sub-minimum wages, a lack of benefits, a lack of overtime pay, and dismissals for filing complaints. Further, there have been reports of double bookkeeping and the number of workers officially reported by palm companies is far lower than estimates of the actual number of workers employed in the palm industry in Sayaxché, suggesting that the payroll records are likely fraudulent and/or only cover a small percentage of workers (permanent workers who are employed under better conditions).

Furthermore, local labor inspectorates are not provided with the resources that they need to effectively enforce labor law in palm plantations. An in-country labor expert interviewed by Verité reported that, “The Ministry of Labor does not have the resources necessary to carry out inspections.” There were complaints of extremely slow internet connections. A regional Ministry of Labor office’s electricity was reportedly shut off by the electrical company for an extended period due to a lack of payment. Labor inspectors are not provided with money for gas and the cars that are provided with are often broken down. In many cases, labor inspectors had to pay their own expenses during inspections, such as gas, bus fare, and food. There are reports that the central Ministry of Labor office owed inspectors approximately GTQ 1,000 for past expenses that had not been reimbursed. Some employees of the Ministry of Labor were reportedly earning less than the minimum wage. An expert interviewed said that even “inspectors’ rights are violated.”

Finally, labor inspectors put their lives on the line when investigating labor issues in rural areas around palm plantations. An in-country labor expert interviewed by Verité said that in many rural areas there is drug and illegal wood trafficking, as well as organized criminal groups with heavy firepower. There were reports of two different individuals coming into a Ministry of Labor office and putting pistols on an inspector’s desk and telling him that complaints against them had to go away.

Labor experts interviewed noted that many palm sector workers were afraid to file complaints with the Ministry of Labor due to threats and actual dismissals of workers who had filed complaints in the past, making it difficult for the Ministry of Labor to conduct complaint-based inspections. It is also prohibitively expensive for many poor migrant workers to file complaints for labor violations, as they generally have to pay GTQ 200 every time they have to go to Petén’s Departmental Capital and at the least GTQ 500 every time their lawyers appears in court. In many cases, trials can last months or even years. In-country experts interviewed by Verité reported that the Ministry of Labor had requested a lawyer to work pro-bono on these types of cases, but their request had been denied.

## **Corporate Social Responsibility Initiatives**

Due to increased attention to the environmental impacts of palm oil, corporate engagement on CSR issues in the palm sector has recently increased. At the urging of Greenpeace, in 2008, Unilever made a commitment to achieve sustainable sourcing by 2015. Wal-Mart and General Mills followed Unilever’s lead in 2010. While social issues such as forced labor have not been at the foreground of these campaigns, in one notable case The Body Shop dropped their major supplier of palm oil, Dabaan Organics, over allegations of illegal land confiscations in Colombia.<sup>348</sup>

Governments and inter-governmental organizations have also become concerned about palm oil production. The World Bank is developing a palm oil strategy which "will outline a set of principles to guide the World Bank Group's future engagement in the palm oil sector." The Netherlands has pledged to move to sustainable palm oil sourcing beginning in 2015 and the United Kingdom has announced a research initiative on palm oil with UK companies.<sup>349</sup>

While a number of corporate social responsibility efforts are engaged in the palm sector, most of them are primarily focused on environmental issues. Verité research has found that conditions are generally worse where there is no involvement of international brands or CSR efforts. However, CSR efforts are just beginning to focus on labor issues in the palm sector and the fact that palm plantations or companies have obtained certifications or are affiliated with CSR initiatives cannot be taken as a guarantee that they are free from exploitative labor practices.

### **Roundtable on Sustainable Palm Oil (RSPO)**

Companies and other stakeholders banded together in 2004 to create the Roundtable on Sustainable Palm Oil (RSPO) in order to promote the increased production and use of sustainable palm oil. The RSPO is a multi-stakeholder initiative that encourages a collaborative approach to address challenges in the palm oil industry, including economic, environmental, community, and social issues. The RSPO seeks to register all industry stakeholders as RSPO members, including producers, buyers, retailers, government groups, finance organizations, and NGOs. Today, the RSPO is widely considered the palm oil industry's best attempt to manage its effect on the people and places impacted by the palm oil industry.<sup>350</sup>

**RSPO Membership 2012<sup>351</sup>**

RSPO Member Categories	Members (#)
Banks and Investors	10
Consumer Goods Manufacturers	223
Environmental or Nature Conservation Organizations (NGOs)	17
Oil Palm Growers	111
Palm Oil Processors and Traders	225
Retailers	43
Social or Development Organizations (NGOs)	9
Total Membership	639

There are a total of four RSPO members in Guatemala. These companies include Agroaceite, S.A.; Agrocaribe; NaturAceites S. A.; and Santa Rosa S.A. Agrocaribe has been a member since 2008, Agroaceite has been a member since 2011, NaturAceites has been a member since 2010, and Santa Rosa has been a member since 2011. None of these companies have been certified by the RSPO.<sup>352</sup>

In 2005 the RSPO adopted its first set of the RSPO Principles and Criteria for Sustainable Palm Oil Production (P&Cs). The P&Cs serve as the foundation for RSPO certification standards. Their purpose is to define and codify production and management practices that are sustainable and ethical, and that address critical issues identified in the palm oil industry. The critical provisions for social accountability in the P&Cs include:

- Ongoing commitment to transparency
- Legal compliance with national and international law
- Responsible land use and absence of land conflicts

- No diminishment or loss of customary rights without free, prior, and informed consent (FPIC)
- Systems for resolving disputes and achieving negotiated agreements
- Assessments of social impacts
- Implementation of health and safety requirements
- Open and transparent communications
- Assurances of acceptable pay and fair prices and appropriate training for smallholders
- Recognition of the right to organize and collective bargaining
- Protections against child labor and in favor of women, migrant laborers, and smallholders
- No forced labor or discrimination
- Contributions to local development through participatory social and environmental impact assessments for proposed new plantations.<sup>353</sup>

The RSPO has launched a certification system for sustainable palm oil. The RSPO developed standards for environmental and social responsibility, against which growers and millers are audited for certification. The RSPO requires companies claiming to sell certified-sustainable palm oil to submit to third-party assessments to confirm “legal, economically viable, environmentally appropriate, and socially beneficial management and operations.”<sup>354</sup> Fifteen percent of RSPO member groups have committed to using only sustainably produced palm oil by 2015.<sup>355</sup> To date, only a handful of companies purchase a significant volume of certified sustainable palm oil (CSPO). One notable buyer of CSPO is Unilever, which in 2011 purchased 20.6 percent of the CSPO produced under the RSPO criteria.<sup>168</sup> Other top buyers of certified sustainable palm oils include other well-known European and American brands.<sup>356</sup>

#### Top Ten Buyers of RSPO-Certified Palm Oil in 2011<sup>357</sup>

Name	Country of Origin	Purchased CSPO & CSPKO (MT)
Unilever	British/Dutch	1,415,015
Kraft Foods	USA	125,960
J&J Companies	USA	101,142
Nestle	Switzerland	85,334
Ikea	Sweden	60,000
Kellogg	USA	41,081
Premier Foods Group	United Kingdom	39,407
AAK UK	United Kingdom	33,593
Frieslandcampina	Netherlands	27,825
Vandemoortelle Group	Belgium	25,050
<b>Subtotal (Top 10)</b>		<b>839,420</b>
<b>Total</b>		<b>1,130,969</b>

The first set of standards developed by RSPO did not include specific criteria against forced and trafficked labor. However, after pressure from organizations, including Verité, the RSPO voted in April 2013 to create a new set of principles and criteria that included stronger provisions on labor, employment, human rights, and business ethics. The RSPO should consider the labor and human rights risks linked to palm oil production in Guatemala as it expands its work in this region. The risks and problems noted underline the vital importance of the RSPO putting into place robust systems to prevent land grabs, protect migrant workers, and ensure that labor contractors are complying with legal and RSPO standards in order to bolster the recent inclusion of forced labor provisions in RSPO standards.

## **Rainforest Alliance**

Companies associated with the oil palm sector are becoming increasingly interested in obtaining certificates of sustainability. Wal-Mart, for example, has taken the initiative to stock its shelves with products that are certified by the Rainforest Alliance, an international nonprofit organization that works to conserve biodiversity and ensure sustainable livelihoods. Until recently, Rainforest Alliance certified only coffee, but in 2008 it widened its efforts to other crops such as palm oil and cacao, thanks to a project financed by Swiss aid.<sup>358</sup>

Rainforest Alliance standards are based on the ten principles established by the Sustainable Agriculture Network. A third-party, the Inter-American Foundation of Tropical Research (FIIT), audits compliance with these principles. The ten principles are:

1. A social and environmental management system, which should include a training program.
2. Ecosystem conservation, which should involve identifying, protecting, and restoring all natural ecosystems through a conservation program.
3. Wildlife protection.
4. Water conservation, including waste reduction.
5. Fair treatment and good working conditions for workers, including direct hiring, salaries and benefits at least equal to the legal minimums, and a commitment to adherence to national laws.
6. An occupational worker health and safety program to reduce and prevent accidents, including training and adequate equipment.
7. Good community relations and contributions to local economic development through training and employment to prevent negative impacts on the areas, activities, or services that are important to local populations.
8. Integrated crop management (ICM), which minimizes the use of chemical products.
9. Soil management and conservation.
10. Integrated waste management.<sup>359</sup>

Agrocaribe and NaturAceites were the first companies in Guatemala to obtain Rainforest Alliance certification (the Rainforest seal). Palmas de Ixcán was working to obtain it in 2013 and developed a plan of good practices and received technical assistance during 14 months beginning in November 2012.<sup>360</sup>

## **Tracking**

The tracking of palm oil is extremely important so that companies can understand their supply chains and the labor risks that they may be exposed to. However, in many cases, companies that source palm oil do not know where it comes from, let alone the conditions under which it is produced. On November 12, 2013, Unilever announced a significant move to accelerate the production of sustainable palm oil. It has committed to buying all of its palm oil from traceable, known sources by the end of 2014. Marc Engel, Unilever's Chief Procurement Officer announced, "Market transformation can only happen if everyone involved takes responsibility and is held accountable for driving a sustainability agenda."<sup>361</sup>

## Conclusions and Recommendations

Verité research found a number of human rights and labor risks related to Guatemala's palm sector. These risks included land grabs and displacements; unethical recruitment and hiring practices; indicators of forced labor; wage and hour violations; and other issues, such as child labor, violations of women's rights, unacceptable living conditions, environmental damage, and a lack of grievance mechanisms. Verité research found that Sayaxché was the municipality with the highest concentration of serious labor and human rights risks linked to the palm sector.

Labor and human rights violations, including forced labor and human trafficking are all-too-often hidden from view, deep within the supply chain where social compliance and government enforcement programs have little, if any, visibility. They involve deception and are typically complicated by long chains of labor supply. Compounding this, coercive practices by employers or third party labor recruiters can be exacerbated by policies that increase worker vulnerability. This situation requires new and strategic ways of thinking about supply chain due diligence. Therefore, it is essential that the government and companies involved in the production and consumption of palm oil take urgent action to reduce labor and human rights risks. Verité has drafted the following recommendations.

### Recommendations to the Government of Guatemala

1. Effectively implement all 18 points of Guatemala's Enforcement Plan in order to promote increased respect for labor rights. Of special importance to ensuring improved enforcement of labor law in the agricultural sector are:
  - a. implementing an inter-agency information sharing plan;
  - b. providing inspectors with police assistance;
  - c. providing the labor inspectorate with sufficient resources to ensure enforcement of labor law in the agricultural sector;
  - d. granting the Ministry of Labor the authority to issue sanctions;
  - e. establishing standardized timetables for inspections in the agricultural sector;
  - f. implementing a system to ensure compliance with judicial orders;
  - g. verifying employer compliance with judicial orders; and
  - h. ensuring that labor judges and tribunals take measures to ensure compliance.
2. Take measures to improve the capacity of the labor inspectorate by:
  - a. paying for labor inspectors' gas and providing inspectors with financial incentives to carry out inspections in the agricultural sector and in remote locations;
  - b. increase labor inspectors' salaries in order to combat corruption;
  - c. provide inspectors with incentives for detecting labor law violations;
  - d. provide labor inspectors with the authority to issue sanctions during inspections;
  - e. set standards for the amounts of fines corresponding to specific violations in order to combat corruption and favoritism;
  - f. increase the amount of fines for labor violations and for failing to submit reports on compliance to the labor inspectorate to dissuasive levels;
  - g. improve the system for collecting and distributing lists of authorized labor brokers to local labor inspectorate offices;



- h. improve systems to ensure that labor brokers are complying with legal requirements and are not engaging in deceitful or coercive recruitment practices;
  - i. take measures to ensure that the number of active labor inspectorate staff engaged in inspections in each Department is not inadequate for the number of inhabitants;
  - j. take measures to protect labor inspectors carrying out inspections in the agricultural sector, including by providing them with police assistance and by prosecuting individuals who threaten or intimidate them;
  - k. inspect plantations in which labor law violations have been reported;
  - l. set up a system to verify compliance with minimum wage requirements, including among workers who are paid a piece rate;
  - m. train labor inspectors to detect indicators of forced labor and labor trafficking and establish a system to report cases of forced labor and labor trafficking to appropriate authorities for prosecutions of offenders; and
  - n. establish a system to refer victims of forced labor and labor trafficking to government and NGO service providers.
3. Reform labor law provisions that fail to adequately protect agricultural workers from forced labor and other forms of exploitation by:
- a. including an explicit prohibition of forced labor in the Labor Code;
  - b. removing any legislation that provides agricultural workers with less favorable terms of employment, including provisions that allow agricultural workers to be provided with reduced vacation time;
  - c. requiring that agricultural workers be provided with written contracts in both Spanish and their native language, and a verbal description of their terms of employment in their native language; and
  - d. eliminating legal provisions that allow up to 30 percent of agricultural workers' wages to be paid in food and supplies.
4. Improve measures to detect, report, refer, and prosecute cases of forced labor and labor exploitation in the agricultural sector and to protect victims by:
- a. training members of the Ministry of Labor, labor inspectorate, police, NGOs, service providers, and health workers on the signs of and laws covering forced labor, labor trafficking, and labor exploitation in the agricultural sector and referring victims to victim services;
  - b. training police, prosecutors, and judges on laws that can be used to convict and sanction exploitative employers and labor brokers in the agricultural sector;
  - c. training police and prosecutors on interviewing victims, collecting evidence, and building successful cases against employers, labor brokers, and complicit public officials in the agricultural sector;
  - d. creating and distributing information on labor rights, forced labor, and labor trafficking to workers in the agricultural sector;
  - e. provision of improved victim services to adult and child victims of forced labor and labor trafficking in the agricultural sector; and
  - f. providing victims of forced labor and other forms of labor exploitation with free legal assistance and witness protection, as necessary.

## Recommendations to Palm Oil Producers and Buyers

1. Design and carry out effective supply chain assessments to identify non-compliances with corporate or multi-stakeholder codes of conduct by:
  - a. strengthening assessment protocols to cover labor and human rights risks identified in the palm sector;
  - b. improving training for staff to enable them to identify labor and human rights risks;
  - c. extending assessments to supply chain “locations” where the risk is greatest; and
  - d. focusing on sub-contracting arrangements and business relationships that can include third-party labor providers.
  
2. Design and implement training and capacity building programs in order to enable relevant staff to better understand the risks associated with palm oil production and institutionalize knowledge and expertise within the company and across its supply chain by:
  - a. developing collaborative training programs that involve suppliers and stakeholders to generate joint understanding and engagement on key issues and strengthen important supply chain and stakeholder relationships; and
  - b. training workers to inform them of their rights in order to enable them to better defend themselves in the face of vulnerability, both individually and collectively, and give them the confidence to use appropriate mechanisms to raise and resolve grievances.
  
3. Develop and make available to workers and community members credible grievance mechanisms to provide them with an outlet to lodge complaints and give them recourse if their rights are violated by:
  - a. designing confidential, effective and trustworthy grievance mechanisms that account for the unique circumstances of migrant workers;
  - b. developing grievance mechanisms that are broad enough in scope and mandate to handle problems that may arise during recruitment or migration before the worker arrives at the workplace;
  - c. ensuring that grievance mechanisms are accessible to all workers and community members;
  - d. creating a “feedback” loop that flags key or recurrent issues and promotes continuous improvement in employment relations; and
  - e. effectively addressing grievances.
  
4. Engage in policy advocacy and stakeholder dialogue on a local, national, and international level in order to address risks linked to palm oil production by:
  - a. advocating for legal reforms in countries in which palm oil is produced in order to reduce the risk of human and labor rights violations;
  - b. joining CSR initiatives, such as Rainforest Alliance and the RSPO, which represents an important framework for promoting multi-stakeholder action against abuses; and
  - c. adhering to existing standards and advocating for improved standards to protect against labor and human rights risks.<sup>362</sup>

## Palm Plantation in Guatemala



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## Appendix 1: Presence of ILO Indicators of Forced Labor

After data collection and analysis were completed using the 2005 ILO indicators “Forced Labor in Practice,” Verité undertook a post-hoc analysis of the research findings with respect to a broader spectrum of indicators of forced labor presented in the ILO’s 2011 publication, *Hard to See, Harder to Count: Survey Guidelines to Estimate Forced Labor of Adults and Children*. According to the ILO’s methodology, in order for forced labor to exist, there needs to be at least one indicator of involuntariness and one indicator of menace of penalty in at least one dimension (unfree recruitment OR life and work under duress OR impossibility of leaving the employer), and at least one of these indicators must be strong. Each individual case must be assessed using this methodology. Therefore, while the data contained in this chart is useful for assessing the risk of forced labor, it cannot be used to determine the existence or scale of forced labor.

Indicators of unfree recruitment	
Strong Indicators of Involuntariness:	
Recruitment linked to debt (advance or loan)	Some workers had to pay money in order to obtain employment and/or agree to pay their labor contractors a percentage of their earnings. Some labor contractors gave workers advances and required that workers give them their original identification documents until the advances are repaid.
Medium Indicators of Involuntariness:	
Deceptive recruitment (regarding working conditions, content or legality of employment contract, housing and living conditions, legal documentation or acquisition of legal migrant status, job location or employer, wages/earnings)	Some migrant workers from areas far from palm plantations were deceived regarding their conditions of work during recruitment. Workers interviewed reported that they were deceived regarding payment, hours of work, conditions of work, and the tasks that they would have to carry out.
Strong Indicators of Menace of Penalty:	
Confiscation of identity papers or travel documents	Some workers’ national identity documents ( <i>cedula</i> or the new <i>Documento Personal de Identificación -DPI</i> ) were confiscated by their labor contractors.
Indicators of work and life under duress	
Strong indicators of involuntariness:	
Limited freedom of movement and communication	Some migrant workers were extremely physically isolated. Many of the palm plantations are immense and physically isolated from communities and stores. There are reports that there are locked gates and armed guards on palm plantations in Petén. While local workers generally returned to their homes every night, migrant workers generally lived on the plantations for the duration of their contracts, which can last up to six months.
Degrading living conditions	Some migrant workers are housed in very crowded <i>galeras</i> (long open structures). They are provided with cots or bunk beds that are

	located in close proximity to one another and lack privacy or access to safe places in which to store their possessions.
<b>Medium indicators of involuntariness:</b>	
Induced or inflated indebtedness (by falsification of accounts, inflated prices for goods/services purchased, reduced value of goods/services produced, excessive interest rates on loans, etc.)	Some workers had to pay fees to their labor contractors in order to obtain employment and/or agree to pay their foreman a percentage of their earnings. Some labor contractors gave workers advances and required that workers give them their original identification documents until the advances were repaid. For migrant works, payment advances, combined with document retention and up-front labor contractor fees and deductions of five to 20 percent from their pay created vulnerability to induced indebtedness. There are also reports that palm workers have to buy corn and other products on credit at local stores, and have to pay off this credit when they receive their payment. Some workers were reportedly constantly in debt to small independent stores. In El Estor, Izabal, a palm plantation owned a store that provided workers with food on credit. Products in Petén were overpriced compared to other parts of the country, increasing the cost of living, and making it easier for workers to fall into debt.
Multiple dependency on employer (jobs for relatives, housing, etc.)	Migrant workers were dependent on their employers for jobs, housing, and food. Workers who lost their land in Sayaxché were dependent on palm plantations as their only source of employment, and many would have to relocate if they chose not to work in the palm sector.
<b>Strong indicators of penalty (or menace of penalty):</b>	
Confiscation of identity papers or travel documents	Some workers' identity documents ( <i>cedula</i> or DPI) were confiscated by their labor contractors or employers. These documents are required for bank transactions, loans, to obtain drivers' licenses, and to carry out transactions or file paperwork in public offices, including legal complaints against employers. Workers have to spend significant amounts of time and money in order to obtain replacement documents.
Further deterioration in working conditions	Some workers reported that if they complained or failed to pay bribes to their supervisors, they could be assigned jobs that had worse conditions of work. Some women were reportedly demoted to harder or lower paying jobs for turning down supervisors' requests for sexual favors.
Isolation	Many palm plantations are immense and physically isolated from communities and stores. When outsiders tried to talk to workers, supervisors arrived shortly thereafter, making it difficult for these workers to speak freely. The presence of locked gates and armed guards who control the entrances/exits of the plantations can be a strong dissuasive factor for migrant workers to leave the plantations without permission.
Sexual violence	Some women were reportedly subjected to sexual harassment and abuse and/or were punished for failing to provide supervisors with sexual favors.
Physical violence	There was a high level of violence, impunity, and fear in

	Guatemala. There were armed guards on many plantations who controlled the entrances and exits. During and after worker protests in Sayaxché, there were allegations that workers who participated in protests faced a campaign of intimidation by palm companies. Some workers and activists have been threatened with death after filing complaints against palm companies.
Constant surveillance	During and after worker protests in Sayaxché, workers engaged in the protests were reportedly subjected to surveillance by the palm companies. In fact, GREPALMA, made a request for the police and military personnel to be brought in to carry out intelligence gathering operations and admitted to photographing workers who participated in the protests so that they could bring charges against them. The director of a Guatemalan NGO that has been active in Sayaxché reported to Verité that the palm companies investigated protestors and demanded that the authorities detain them.
Withholding of wages	Some workers who were dismissed were not paid the wages due to them. According to experts interviewed by Verité, some workers were recruited by “plan,” under which they were expected to work for 22 to 28 days. If these workers did not complete their “plan,” they were not paid anything. Workers reported a variety of erroneous or fraudulent deductions from their pay.
<b>Medium indicators of penalty (or menace of penalty):</b>	
Dismissal	Workers have been dismissed for underperforming, failing to meet quotas, missing work, organizing, and complaining. When dismissed for complaining or organizing, workers were reportedly not paid the wages due to them, and workers who had provided their employers with their identification documents did not have these documents returned to them.
Exclusion from future employment	Workers reported extensive use of blacklists that were shared among palm plantations. Workers could reportedly be blacklisted for trying to organize or complaining.
Exclusion from community and social life	Workers from Sayaxché reported that palm plantations were their only source of employment, and if they left their jobs they would have to abandon their families and communities to search for work elsewhere. There have been reports that community, political, indigenous, and religious leaders have been employed by palm companies to work as labor contractors or land buyers. These individuals are employed because of their power and trusted status in communities. Some workers and experts interviewed by Verité reported that people felt strong pressure to sell their land due to the involvement of these leaders and perceived that they could be shunned by the community for failing to cooperate. There are also reports that palm companies have played community members against one another by stating that they will only buy land in a community if all community members agree to sell their land. This can lead community members who are in favor of selling their land to ostracize those who are not.
Extra work for breaching labor discipline	Some workers reported that they were given harder work if they complained.

<b>Indicators of impossibility of leaving employer</b>	
<b>Strong indicators of involuntariness:</b>	
Forced to stay longer than agreed while waiting for wages due	According to experts interviewed by Verité, some workers are recruited by “plan,” under which they are expected to work for 22 to 28 days. If these workers do not complete their “plan,” they are not paid anything.
<b>Strong indicators of penalty (or menace of penalty):</b>	
Confiscation of identify paper or travel documents	Some workers’ identity documents ( <i>cedula</i> or DPI) were confiscated by their labor contractors or employers. These documents are required for bank transactions, loans, to obtain drivers’ licenses, and to carry out transactions or file paperwork in public offices, including legal complaints against employers. Workers have to spend significant amounts of time and money in order to obtain replacement documents. Therefore, the confiscation of these documents can constitute a significant disincentive for workers to leave the <i>plantations</i> .
Physical violence	There was a high level of violence, impunity, and fear in Guatemala. There were armed guards on many plantations who controlled the entrances and exits. During and after worker protests in Sayaxché, there were allegations that workers who participated in protests faced a campaign of intimidation by palm companies. Some workers and activists have been threatened with death after filing complaints against palm companies.
Under constant surveillance	During and after worker protests in Sayaxché, workers engaged in the protests were reportedly subjected to surveillance by the palm companies. In fact, GREPALMA, made a request for the police and military personnel to be brought in to carry out intelligence gathering operations and admitted to photographing workers who participated in the protests so that they could bring charges against them. The director of a Guatemalan NGO that has been active in Sayaxché reported to Verité that the palm companies investigated protestors and demanded that the authorities detain them.
Withholding of wages	Some workers who were dismissed were not paid the wages due to them. According to experts interviewed by Verité, some workers were recruited by “plan,” under which they were expected to work for 22 to 28 days. If these workers did not complete their “plan,” they were not paid anything. Workers reported a variety of erroneous or fraudulent deductions from their pay.
<b>Medium indicators of penalty or menace or penalty:</b>	
Dismissal	Workers have been dismissed for underperforming, failing to meet quotas, missing work, organizing, and complaining. When dismissed for complaining or organizing, workers were reportedly not paid the wages due to them, and workers who had provided their employers with their identification documents did not have these documents returned to them.
Exclusion from future employment	Workers reported extensive use of blacklists that were shared among palm plantations. Workers could be blacklisted for trying to organize, engaging in protests, or complaining about their conditions of work.



Exclusion from community and social life	<p>Workers from Sayaxché reported that palm plantations were their only source of employment, and if they left their jobs they would have to abandon their families and communities to search for work elsewhere. There have been reports that community, political, indigenous, and religious leaders have been employed by palm companies to work as labor contractors or land buyers. These individuals are employed because of their power and trusted status in communities. Some workers and experts interviewed by Verité reported that people felt strong pressure to sell their land due to the involvement of these leaders and perceived that they could be shunned by the community for failing to cooperate. There are also reports that palm companies have played community members against one another by stating that they will only buy land in a community if all community members agree to sell their land. This can lead community members who are in favor of selling their land to ostracize those who are not.</p>
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## Appendix 2: Legal Framework

This review of Guatemala’s legal framework analyzes national and international law on recruitment, transport, hiring, housing, wages, working hours, discrimination, child labor, women’s work, coercion, and threats, among other issues.

### International Legal Framework

Guatemala has ratified a number of international treaties and conventions on workers’ rights, including United Nations (UN) and International Labor Organization (ILO) treaties and conventions.

The Congress of the Republic of Guatemala has ratified 71 ILO Conventions,<sup>363</sup> which establish the fundamental rights of workers. The Core ILO Conventions and other relevant ILO Conventions ratified by Guatemala are detailed below:

ILO Conventions Ratified by Guatemala		
Fundamental Principles or Rights	Conventions	Date of Ratification
Freedom of Association and Collective Bargaining	Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)	January 28, 1952
	Right to Organize and Collective Bargaining Convention, 1949 (No. 98)	January 22, 1952
	Right of Association (Agriculture), 1988 (No. 11)	May 3, 1988
Elimination of Forced or Compulsory Labor	Forced Labor Convention, 1930 (No. 29)	February 7, 1989
	Abolition of Forced Labor Convention, 1957 (No. 105)	November 10, 1959
Elimination of Discrimination	Equal Remuneration Convention, 1951 (No. 100)	June 28, 1961
	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	September 20, 1960
Elimination of Child Labor	Minimum Age Convention, 1973 (No. 138)	May 3, 1938
	Worst Forms of Child Labor Convention, 1999 (No. 182)	July 23, 2001
Minimum Wages	Minimum Wage Fixing Convention 1970 (No. 131)	June 22, 1961
	Protection of Wages Convention 1952 (No. 95)	January 28, 1952
Indigenous Workers	Recruiting Indigenous Workers Convention 1936 (num. 50)	February 7, 1989
	Indigenous and Tribal Peoples Convention 1989 (num. 169)	June 5, 1996
Health Services	Occupational Health Services Convention 1985 (num. 161)	February 7, 1989

It is important to note that Guatemala did not ratify ILO Convention 82 on the Worst Forms of Child Labor until 2001, ILO Convention 169 on Indigenous and Tribal Peoples until 1996, or ILO Convention 11 on the Right to Associate in Agriculture until 1989.

ILO Convention 111, ratified by Guatemala on September 20, 1960, prohibits workplace discrimination. Guatemala, which has a large indigenous population, has ratified ILO Conventions 50 and 169 on indigenous workers.

Guatemala has also ratified other UN and Organization for American States (OAS) instruments on human rights, including on workers' rights and non-discrimination. These include the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, ratified by Congress through Decree 9-92 in February 1992. The International Covenant on Economic, Social and Cultural Rights was ratified by Congress in 1996. Congress approved the Inter-American Convention on Human Rights on March 30, 1978 and is also party to the Convention on the Elimination of all Forms of Racial Discrimination.

The United Nations Convention against Transnational Organized Crime of 2000 was ratified by Guatemala on December 12, 2000 and was approved by Congress through Decree 36 of 2003. This Convention includes a Protocol against the Smuggling of Migrants by Land, Sea and Air and a Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (also known as the Palermo Protocol).

### **Guatemalan Legal Framework**

Labor rights in Guatemala are protected by the Constitution, the Labor Code, and other laws and regulations.

The Constitution of the Republic of Guatemala, approved by the National Constituent Assembly on May 1, 1985, establishes in Article 101 that "Work is a right and a social obligation. The country's labor regime should be organized in conformance with principles of social justice." Article 12 includes a list of labor rights, including:

- the right to freely-chosen employment;
- the right to equal remuneration for all workers;
- equal wages for equal work; and
- the obligation to pay workers in a legal currency.

The current Labor Code was approved through Decree 1441 on April 29, 1961 by the Guatemalan Congress. This Code has been subject to various reforms through Decrees, 64-91, 35-98, 13-2001, and 18-2001, each of which were approved by Congress.

### ***Freedom of Association***

Guatemalan labor law protects workers' right to freedom of association. Guatemala has ratified ILO Conventions 87 and 98 on freedom of association and collective bargaining, and much of Guatemala's legislation is in compliance with their requirements. 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.

## **Forced Labor**

Guatemala's Labor Code fails to explicitly prohibit and sanction forced labor. However, Article 202 of the Labor Code, Decree 17-73, defines and prohibits trafficking, including for forced labor. Article 202 defines human trafficking as the capture, transport, retention, harboring, or reception of people with the purpose of exploitation. Exploitation includes prostitution or sexual exploitation, forced labor, labor exploitation, begging, slavery, servitude, the sale of people, the extraction and trafficking of organs, the recruitment of minors for organized criminal organizations, irregular adoptions, pornography, forced pregnancy, or forced or servile marriage. People found guilty of trafficking are subject to prison sentences of eight to 18 years and fines of GTQ 300,000-500,000 (USD 38,316.62 -63,861.04). The consent of the victim or their representative shall not be taken into account during sentencing. In addition, Article 10 of the Labor Code prohibits any form of reprisal against workers that are intended to completely or partially restrict them from exercising their legally protected rights. In 2009, Guatemalan Congress approved the Law Against Sexual Violence, Exploitation and Human Trafficking (*Ley Contra la Violencia Sexual, Explotación y Trata de Personas*) through Decree 9-2009. This Law, which was passed in order to ensure Guatemala's compliance with ratified conventions, including the Palermo Protocol and ILO Convention 182, explicitly defines and sanctions human trafficking, including for forced labor.

## **Child Labor**

On April 27, 1990, Guatemala ratified ILO Convention 138, which establishes in Article 2 that the minimum age for child labor must be higher than 15 and the age for compulsory education. However, it also states that cases in which 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. Guatemalan labor law sets the minimum age for child labor at 14.

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, night or overtime work, or work in bars or other work expending alcoholic beverages.

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 during normal daytime working hours, as established by the Labor Code. In order 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.

## **Discrimination**

Article 202 of Guatemala's Penal Code defines discrimination as any distinction, exclusion, restriction, or preference based on gender, race, ethnicity, language, age, religion, economic status, sickness, disability, marriage status, or any other characteristic that would impede a

person, group of persons, or association from exercising their legally established rights, as established by the Constitution and international treaties on human rights. Individuals, who engage in discrimination, as defined in the Penal Code, are subject to legal sanctions of one to three years in prison and fines of GTQ 500-3,000 (USD 63.86 -383.16). Article 14 of the Labor Code prohibits discrimination based on race, religion, political beliefs, and economic status in social assistance, educational, cultural, recreational, or commercial establishments that benefit workers or in private or public enterprises. 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.

### ***Protections for Female Workers***

The law includes specific protections for female workers. Differential treatment between married and single female workers is prohibited. The law also establishes protections for pregnant and lactating 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. For breast feeding, women are provided with two extra breaks during each shift. Further, employers are prohibited from dismissing pregnant or lactating workers.

### ***Agricultural Workers***

The Labor Code regulates agricultural work as a "Special Regime," alongside work carried out by women and minors. However, the Labor Code fails to provide special protections for agricultural workers, and instead includes legislation that discriminates against them. The Constitution only authorizes ten days of vacation for agricultural workers, compared to 15 days for workers in other sectors. In addition, it was not until 2011 that the minimum wage for agricultural workers was set at the same level as the minimum wage for workers in other sectors. Further, the Labor Code does not require written employment contracts for workers in the agricultural sector and labor law allows up to 30 percent of agricultural workers' wages to be paid in food and supplies.

### ***Conditions of Work***

#### Wage Payment

Article 90 of the Labor Code establishes that wages must be paid in legal currency and may not be paid in merchandise or coupons. However, peasant agricultural workers may receive up to 30 percent of their wages in food and other articles destined for immediate consumption by the worker or his or her family members, as long as it is provided to the worker at or below cost.

Article 92 of the Labor Code states that workers and employers may come to agreement on the frequency of salary payments, as long as wages are not paid less often than every 15 days for manual workers and less than every month for intellectual and domestic workers.

Article 88 of the Labor Code establishes that wages may be paid on a piece rate. Article 91 of the Labor Code establishes that workers' salaries may be reached by agreement between workers and employers, but may not be set at less than the minimum wage.

## Minimum Wages

Government Accord No. 388-2010 (*Acuerdo Gubernativo número 388-2010*), emitted by the President of Guatemala through the Ministry of Labor and Social Provision, set separate minimum wages for 2011 for agricultural work, non-agricultural work, and the maquila sector. On December 30, 2011, Government Accord No. 520-2011 was published. It increased minimum wages as of January 1, 2012 and established the same minimum wage for agricultural and non-agricultural work. Minimum wages were further increased for 2013 by Government Accord 359-2012.

### **Minimum Wages 2011**

<b>Minimum wage by Activity</b>	<b>Per Hour</b>	<b>Per Day</b>	<b>Per Month</b>
Agricultural Work	GTQ 7.90 (USD 1.00)	GTQ 63.70 (USD 8.13)	GTQ 1,937.54 (USD 247.46) <i>(+bonus)</i> GTQ 250.00 (USD 31.93) <i>Total</i> GTQ 2,187.54 (USD 279.39)
Non-Agricultural Work	GTQ 7.96 (USD 1.01)	GTQ 63.70 (USD 8.13)	GTQ 1,937.54 (USD 247.46) <i>(+bonus)</i> GTQ 250.00 (USD 31.93) <i>Total</i> GTQ 2,187.54 (USD 279.39)
Maquila Sector	GTQ 7.43 (USD .94)	GTQ 59.45 (USD 7.59)	GTQ 1,808.27 (USD 230.95) <i>(+bonus)</i> GTQ 250.00 (USD 31.93) <i>Total</i> GTQ 2,058.27 (USD 262.88)

### Minimum Wages 2012

Minimum wage by Activity	Per Hour	Per Day	Per Month
Agricultural Work	GTQ 8.50 (USD 1.09)	GTQ 68.00 (USD 8.69)	GTQ 2,074.00 (USD 264.89) <i>(+bonus) GTQ 250.00</i> (USD 31.93) <i>Total GTQ 2,324.00</i> (USD 296.82)
Non-Agricultural Work	GTQ 8.50 (USD 1.09)	GTQ 68.00 (USD 8.69)	GTQ 2,074.00 (USD 264.89) <i>(+bonus) GTQ 250.00</i> (USD 31.93) <i>Total GTQ 2,324.00</i> (USD 296.82)
Maquila Sector	GTQ 7.81 (USD .99)	GTQ 62.50 (USD 7.98)	GTQ 1,906.25 (USD 243.47) <i>(+bonus) GTQ 250.00</i> (USD 31.93) <i>Total GTQ 2,156.25</i> (USD 275.40)

### Minimum Wages 2013

Minimum wage by Activity	Per Hour	Per Day	Per Month
Agricultural Work	GTQ 8.93 (USD 1.15)	GTQ 71.40 (USD 9.20)	GTQ 2,171.75 (USD 279.96) <i>(+bonus) GTQ 250.00</i> (USD 32.23) <i>Total GTQ 2,421.75</i> (USD 312.18)
Non-Agricultural Work	GTQ 8.93 (USD 1.15)	GTQ Q71.40 (USD 9.20)	GTQ 2,171.75 (USD 279.96) <i>(+bonus) GTQ 250.00</i> (USD 32.23) <i>Total GTQ 2,421.75</i> (USD 312.18)
Maquila Sector	GTQ 8.20 (USD 1.06)	GTQ 65.53 (USD 8.46)	GTQ 1,996.25 (USD 257.33) <i>(+bonus) GTQ 250.00</i> (USD 32.23) <i>Total GTQ 2,246.25</i> (USD 289.56)

## Deductions

The Constitution allows field workers to be paid up to 30 percent of their salaries in food and supplies for immediate consumption by the worker and their family members if the workers agree to this arrangement. If this is the case, the employer is required to provide workers with the food at a price not higher than cost. Article 90 of the Labor Code also allows for a similar practice, permitting up to 30 percent of wages to be paid in food. However, it makes clear that this only applies to *campesino* workers in agriculture and ranching. Article 138 of the Labor Code defines *campesino* workers as “peasants, young men, laborers, ranchers, squadrons of workers and other similar workers who work in agricultural and ranching businesses.”

The Labor Code includes a prohibition on deductions from workers’ wages. However, it allows wages to be garnished to “protect a worker’s family” or by judicial order in order to pay off debts to creditors. Wages may also be garnished in order to pay for food. Article 96 establishes that wages may be garnished to pay off debts to employers, which may create a menace of penalty and a cycle of debt for workers who borrow money from their employers. Up to 65 percent of the wages of workers who earn GTQ 300 (USD 38.31) or more per month may be withheld. Article 97 of the Labor Code establishes that deductions of up to 50 percent may be made from the wages of workers who earn any amount of money in order to meet obligations to pay for food or to pay off debts that are more than six months-old.

## Bonuses

Workers who have worked for at least one continuous year are entitled to yearly bonuses of not less than 100 percent of monthly wages. Workers who have worked for less than a year are entitled to a bonus proportional to their time of service.

## Social Security

Article 100 of the Constitution states that all employers and workers covered by social security (except for exemptions covered by 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 (*ley del Instituto Guatemalteco de Seguridad Social*) states that all inhabitants of Guatemala that are active in producing goods and services are obligated to contribute to the social security system and have the right to receive 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 Guatemalan Institute of Social Security’s (IGSS) 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.



## Working Hours

The normal workday for daytime work cannot exceed eight hours per day, or 44 hours per week (equivalent to 48 hours for the payment of wages). The normal workday for night work cannot exceed six hours per day, or 36 hours per week. The normal workday for mixed daytime and night work cannot exceed seven hours per day, or 42 hours per week. All work carried out outside of the normal workday constitutes overtime and must be remunerated as such. The law establishes qualifying exceptions under which these provisions on working hours do not apply.

## Rest Time

Guatemala ratified ILO Convention 14 on Weekly Rest (Industry) on May 3, 1998 and ILO Convention 106 on Weekly Rest (Commerce and Offices) on November 10, 1959. In Guatemala, every worker has the right to one paid day of rest per each normal workweek or for each six consecutive days of work. The Labor Code establishes workers' right to paid holidays. It also establishes cases in which days off may be denied in essential services that cannot be disrupted, such as public transport and electricity. Articles 126 and 127 of the Labor Code establishes the following legal holidays: January 1; the Thursday, Friday, and Saturday of Holy Week; May 1; May 10 (for female workers for Mother's Day); June 30; September 15; October 20; November 1; December 12 starting at noon; December 25; December 31; and local holidays.

Workers also have the right to fifteen working days of paid vacation per year after each year of continuous service, except in the case of agricultural workers, who only have the right to ten working days of vacation per year. Vacation time must be taken and employers are not permitted to compensate workers for vacation time by other means, unless the employment relationship is terminated.

## Transport

Article 33 of the Labor Code states that if a Guatemalan worker lives more than 15 kilometers from his or her home, the employer is obligated to pay "reasonable expenses" (for transport and food) for the worker's first trip from his or her home to the worksite and from the worksite to his or her home upon conclusion of the work contract. If the contract is for 60 days or less, the employer is only obligated to pay for the workers' travel expenses; but if the contract is for more than 60 days, the employer must also pay for the travel expenses of workers' wives and family members who live with them, depend on them economically, and live with them at the worksite.

## Housing

Article 105 of the Constitution mandates that employers provide workers with adequate housing and sets requirements for this housing. Article 61 of the Labor Code states that *fincas* must provide peasant workers living on the *fincas* with firewood for domestic consumption as long as these *fincas* produce more firewood than is needed for the business. Article 145 of the Labor Code states that agricultural workers have the right to hygienic living conditions that meet health requirements.

## Food

There are no laws that require employers to provide workers with food. However, it is customary for employers to provide food to workers and to make deductions from their salaries for this food. During labor conflicts, judges take this custom into account when making rulings as a kind of case law.

## ***Hiring and Recruitment***

### Contracts

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 labor and social provision. It is important to note that written contracts are not required for agricultural workers by Guatemalan law. Article 27 of the Labor Code allows for verbal contracts for agricultural work, but requires that employers who do not provide workers with written contracts provide them with a written “card” or document stating the beginning date of the employment relationship, wages, the pay period, and the number of days or shifts worked, or the number of “pieces” produced, or 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 a work contract with the employer, even if they are considered as the “helpers” of the head of the household.

### Recruitment

Article 141 of the Labor Code establishes that “employer representatives” that are dedicated to recruiting peasant workers must have legal authorization, as well as power of attorney (*carta-poder*) from the employer authorizing them to conduct recruitment activities. A copy of the letter should be sent to the Administrative Department and another copy should be kept by the employer representative, who is only allowed to carry out recruitment activities upon approval by the Labor Inspectorate. This *carta-poder* must be renewed annually. Article 143 of the Labor Code states that it is the responsibility of the Labor Inspectorate to inform peasant workers that they should demand to see the *carta-poder* before going through a recruiter. Recruiters should be paid a fixed salary by the employer. The Labor Code prohibits the payment of bonuses to recruiters. Therefore, the common practice of workers paying recruitment fees to recruiters or of employers paying recruiters per the number of workers that they recruit is prohibited.

## ***Migration***

In 1999, the Guatemalan Congress approved the Law on Migration (*Ley de Migracion*) through Decree 529-99. However, this law only regulates the flow of Guatemalans to foreign countries and foreigners in Guatemala, and Guatemala lacks legal regulations on internal migration.

## Appendix 3: Sample Interview Questions

El entrevistador deberá confirmar o sospechar que el entrevistado fue o es víctima del trabajo forzoso, usando las preguntas de identificación de víctimas potenciales.

Fecha:

Género:

Etnicidad:

### Preguntas Generales Sobre la Persona

1. Cuénteme un poco sobre usted mismo/a –
  - a. ¿De dónde es?
  - b. ¿Cuántos años tiene?
  - c. ¿Tiene hijos y/o esposa? ¿Cuántos hijos?
  - d. ¿Tiene algunos estudios? ¿Qué nivel escolar completó?
  - e. ¿Puede hablar y leer bien el español? ¿Qué otros idiomas/dialectos?
2. ¿Dónde está ubicada la plantación donde trabajó/a?
3. ¿En qué temporadas trabaja en la plantación? ¿Ha trabajado todo el año en la misma plantación?
4. ¿Cuántos años lleva viajando para ir a trabajar en las plantaciones de palma Africana?
5. ¿Ha regresado a una misma plantación varias veces?
6. De acuerdo al código de trabajo existente, ¿Conoce usted sus derechos laborales?
  - a. Si
  - b. No
7. En el caso de que sus derechos sean violados, ¿Sabe usted a donde ir para denunciarlo?
  - a. Si
  - b. No

### Reclutamiento, Contratación, y Transportación: Caminos hacia el Cautiverio y el Trabajo Forzado

#### Preguntas Generales – Sobre el Trabajo:

8. ¿Por qué decidió obtener un trabajo en la plantación?
9. ¿Hay varias personas de su aldea, pueblo o ciudad que trabajan en las plantaciones de palma Africana?
  - a. Si es así, ¿en qué lugares?
  - b. ¿Qué tipo de trabajo hacen?
  - c. ¿Cómo encuentran el trabajo?
  - d. ¿Cómo deciden las personas donde van a trabajar y qué tipo de trabajo harán?

10. ¿Hay ciertas temporadas en las que muchas personas trabajan en las plantaciones de palma Africana? Si es así, ¿En qué temporadas y por qué?
11. ¿Hay ciertas temporadas en las que intermediarios/empleadores llegan a las aldeas, pueblos o ciudades a reclutar personas para trabajar en las plantaciones de palma Africana? Si es así, ¿En qué temporadas y por qué?

#### Intermediarios – Selección del Trabajador

12. Cuénteme, ¿cómo consiguió el trabajo en la plantación?
13. ¿Alguien lo ayudó a encontrarlo?
  - a. Si es así, ¿cómo conoció a esa/esas persona/s?
  - b. ¿Cómo escucho sobre esta/estas persona/s por primera vez?
14. ¿Quién lo contrato?
  - a. Contratista quien es empleado por los propietarios de la plantación
  - b. Un gerente de la plantación
  - c. Contratista que trabaja por cuenta propia
  - d. Otro trabajador
  - e. Otra persona, por favor explique
15. ¿Por qué eligió a esa persona?
16. ¿Le tuvo confianza a su intermediario?  
Sí No  
¿Por qué?
  - a. ¿Hizo algo para averiguar o estar seguro de que el intermediario era alguien de confianza?

#### Intermediarios/Contratistas – Cobros

17. ¿Tuvo Usted que pagar a la persona que le consiguió el trabajo? Si es así, ¿Cuánto tuvo que pagar?
18. ¿Qué gastos se suponía que cubriría el dinero que usted pago? ¿Fueron estos gastos cubiertos? (De ser posible, especifique cantidades)
  - a. Pago al intermediario por su servicio
  - b. Transporte
  - c. Una garantía (un pago para asegurar el cumplimiento de su trabajo o el pago de una deuda)
19. ¿Le tuvo que pedir dinero prestado a alguien para pagar al intermediario o para gastos relacionados con el trabajo?
  - a. Si es así, ¿a quién le pidió dinero prestado?
  - b. ¿Le cobraron intereses? ¿Cuál fue la tasa de interés de este préstamo?
  - c. ¿Pudo pagar el préstamo?
20. Para iniciar con el trabajo, ¿Recibió Usted comida, herramientas, dinero, o algo más de un prestamista?

- a. ¿Cuánto prestó?
- b. ¿Le dieron algún documento sobre el préstamo?
- c. ¿Tuvo que pagar intereses? ¿Cuánto?
- d. ¿Tuvo que venderle su oro al prestamista?
- e. ¿Tuvo que quedarse en la plantación por cierta cantidad de tiempo o hasta pagar haber pagado la deuda?

#### Intermediarios – Antes de salir

- 21. ¿Le explicó su intermediario con anticipación sobre el tipo de trabajo que usted haría?
- 22. ¿Firmó Usted un contrato antes de salir de su pueblo?
  - a. Si es así, ¿podrías explicar el contrato?
  - b. ¿Tiene Usted una copia de su contrato?
  - c. ¿Su contrato estuvo escrito en un idioma que usted podía entender?

#### Traslado/Transporte a Lugar de Trabajo

- 23. ¿Cómo llego de su aldea, pueblo o ciudad hasta su lugar de trabajo?
  - a. ¿Cómo fueron las condiciones durante tu viaje?
  - b. ¿Estuvo cómodo?
  - c. ¿Se sentía seguro?
  - d. ¿Habían demasiadas personas viajando con Usted? ¿Estuvo incómodo, apretado o limitado de espacio?
  - e. ¿Pasó algún incidente que le hay hecho preocuparse o asustarse? Si es así, por favor describe lo que pasó.

#### **En el Trabajo: Mecanismos de Coacción y Cautiverio**

##### Recepción y Asignación del Trabajo

- 24. Cuando llegó al sitio de trabajo ¿Era este el lugar y trabajo que esperaba o fue diferente?
- 25. ¿El trabajo que le dieron fue el mismo que su intermediario le había ofrecido antes de salir de su pueblo?
- 26. A su llegada, ¿Pudo iniciar su trabajo inmediatamente?
- 27. ¿Cómo fue la vivienda/casa a donde llegó a dar?
  - a. ¿La vivienda fue como la esperaba?
  - b. ¿Tuvo que pagar por la vivienda?
- 28. Cuando llegó al lugar de trabajo, ¿Tuvo que firmar un contrato diferente al que ya había firmado antes de salir de su pueblo, o los términos de trabajo que le explicaron fueron diferentes a los originales?
  - a. Si fue así, ¿qué diferencias habían entre los términos originales y los nuevos?

### Libertad de Movimiento

29. En el lugar de trabajo ¿Se sentía usted libre de movilizarse y salir a dónde quisiera?
30. ¿Cómo obtenía su comida?
31. ¿Tenía Usted que pedir permiso para salir de su vivienda/casa, o lugar de trabajo? Si fue así, ¿Cuáles fueron los pasos a seguir para poder conseguir el permiso?
32. ¿Había alguien quien lo vigilaba cuando estaba trabajando, y/o cuando estaba fuera de horas de trabajo?
33. ¿Había un guardia o guardias en el lugar de trabajo y/o en la vivienda/casa?
34. Durante el tiempo que trabajo allí, ¿Alguna vez vio a alguien llevando un arma?
35. ¿Alguna vez fue encerrado bajo llave?

### Aislamiento

Nota para el entrevistador: La meta consiste en evaluar la ubicación geográfica de los sitios de trabajo, con respecto al aislamiento físico, social y/o cultural de los trabajadores.

36. ¿Podría describirme el lugar donde trabajo?
  - a. ¿Podía salir caminando de su lugar de trabajo a carreteras principales o a un pueblo?
37. En caso necesario, ¿Había alguna forma de encontrar ayuda, incluyendo servicios médicos?

### Esclavitud por Deuda – Penalidades Financieras

38. ¿Podían los trabajadores abandonar su trabajo sin haber cumplido con el contrato o tiempo obligatorio o sin haber pagado sus deudas? De ser posible,
  - a. ¿Tenía que pagar una multa/penalidad? ¿De cuánto?  
De no ser posible, ¿Qué les sucedía si lo hacían?
39. Si alguien era despedido, ¿Podía encontrar empleo en otra plantación? De no ser así, explique.
40. Si el trabajador abandonaba el empleo antes de tiempo, ¿El empleador le pagaba todo el salario y prestaciones que correspondían o recibiría algún tipo de sanción?
41. ¿Alguna vez su intermediario o empleador le obligó a pagar una multa/penalidad por no haber hecho algo que le pidieron, o porque usted cometió un error en el trabajo? Si es así, por favor explique lo que pasó.
42. ¿En algún momento temía a perder su empleo?
  - a. Si fue así, por temor a perder su empleo, ¿Hizo usted cosas en el trabajo que no quería hacer? Por favor explique.

## Esclavitud por Deudas – Métodos de Pago

Nota para el entrevistador: Explore aquí formas en las cuales la estructura de pago en sí creaba riesgo al trabajo forzoso.

43. ¿Cómo le pagaban?
  - a. ¿Por hora, tarea, o peso?
  - b. Si fue por peso, ¿piensan que pesaban bien el oro?
44. ¿Cuánto le pagaban?
45. ¿Le pagaban todo su salario en efectivo?
46. ¿Le pagaban parte o todo de su salario en vales, beneficios, alimentación, vivienda, vales canjeables en ciertas tiendas, o en otra forma?
47. Si le pagaban con cheque, ¿cómo lo cambiaba?
  - a. ¿Tenía que pagar un monto por cambiar su cheque?
48. ¿Su intermediario o empleador le explicó el monto que ganaría, la razón de ello y las deducciones que le harían?
49. Cuando le pagaban por su trabajo, ¿le daban un codo o comprobante de cheque u otro documento que mostrara la cantidad que ganaba y las deducciones?
  - a. Si fue así, ¿Estaba este documento escrito en un idioma que usted podía entender bien?
  - b. ¿Usted podía guardar esta constancia de pago o tenía que devolverla a su intermediario/empleador?
50. ¿Le explicaron claramente como fue calculado su pago, incluyendo horas extras, deducciones obligatorias de impuestos, seguridad social, etc.?

## Esclavitud por Deudas

51. ¿Hubo alguna parte de su dinero que no le pagaron?
52. ¿Su empleador le cobro gastos de vivienda, entretenimiento, comida, seguro médico, o alguna otra cosa? Si fue así, ¿cuánto le cobró y por qué gastos?
53. ¿Alguna vez su intermediario/empleador “guardó” algo de su pago, un documento de identificación, o un objeto para dárselo cuando terminara su contrato?
  - a. Si fue así, ¿Qué guardó? ¿Lo recibió cuando salió del trabajo?
  - b. ¿Su intermediario/empleador le pidió permiso/autorización para guardarlo?
54. Al momento de recibir su pago, ¿Qué deducciones le hicieron?
  - i. Transporte
  - ii. Alimentos
  - iii. Vivienda
  - iv. Anticipos
  - v. Servicios médicos

- vi. Seguro medico
- vii. Otros

- 55. Si hubo algún descuento de su pago, ¿Entendió Usted para que fue esta deducción?
- 56. ¿Usted tiene algún registro o prueba de estas deducciones?
- 57. ¿Los ahorros obligatorios, deducciones, multas, etc., estuvieron incluidos y claramente explicados en el contrato original o en los términos de trabajo que le explicaron?
- 58. Después de todas las deducciones, ¿Cuánto dinero recibía?
- 59. ¿El intermediario o empleador cumple con todos los beneficios que le ofreció a los trabajadores?
- 60. ¿Pudo Usted pagar las deudas que tenía, relacionadas con el trabajo? ¿En cuánto tiempo pudo hacerlo?

#### Habilidad para Ganar

- 61. ¿Pudo ganar lo que necesitaba para poder pagar sus gastos y deudas?
- 62. ¿Pudo ganar lo que esperaba o pensaba que iba a ganar?
  - a. Si no fue así, ¿Tuvo Usted que prestar dinero al empleador o a otra persona? ¿A quién? ¿Cuánto prestó? ¿Para qué?
- 63. ¿Hubieron temporadas en las cuales no podían ganar lo que esperaba, necesitaba o quería ganar?

#### Miedo y Violencia – Hechos y Amenazas

Situaciones que pudieron haberlo hecho sentir asustado o incómodo.

Nota para el Entrevistador: Buscar información sobre abuso, perpetrador, y cómo se sentía el trabajador en relación a su seguridad y bienestar.

- 64. ¿Puede contarme de alguna/s experiencia/s que lo hicieron sentir asustado/a o temeroso/a?
  - a. ¿Alguna vez alguien lo amenazo de alguna manera?
  - b. ¿Alguna vez alguien hizo algo que lo hizo sentir asustado/a o temeroso/a?

Situaciones de algunos tipos específicos de amenazas o abusos que pudo haber sufrido en el lugar de trabajo.

- 65. ¿Alguna vez su intermediario/empleador lo amenazó con denunciarlo a las autoridades?
- 66. ¿Alguna vez alguien lo amenazó con lastimarlo/a físicamente o lo/la atacó físicamente? Si fue así, por favor explique.
- 67. ¿Alguna vez alguien amenazó de lastimar a su familia? Si fue así, por favor explique.



68. ¿Alguna vez alguien fue abusivo verbalmente con Usted? Si fue así, por favor explique.
69. ¿Alguna vez alguien le hizo a Usted o algún otro trabajador proposiciones sexuales no deseadas?
70. ¿Alguna vez alguien le pidió a usted o a algún otro trabajador favores sexuales no deseadas?
71. ¿Alguna vez alguien cometió algún tipo de violencia sexual contra Usted o contra algún otro trabajador?
72. ¿Alguna vez alguien le dijo que si Usted no hacía algo que esta persona quería, entonces esa persona se vengaría de usted o de su familia?
73. ¿Alguna vez su intermediario o empleador le pidió o le forzó a usar alcohol/drogas?
74. ¿Alguna vez Usted fue extorsionado?

#### Otras Prácticas de Explotación

75. ¿Cómo fue su día de trabajo regular?
- ¿cuál fue el horario de inicio y salida?
  - ¿Hubieron ocasiones en las que trabajó jornadas muy largas? ¿Podría describirlas?
  - ¿Podía Usted elegir si quería trabajar jornadas largas de trabajo?
  - ¿Le pagaban dinero extra por trabajar horas extras?
  - ¿Tenía algún medio para regresar a su casa/vivienda cuando no quería seguir trabajando después de finalizado su horario normal de trabajo?
  - ¿Había alguna multa o penalidad si no trabajaba las horas extras?
76. ¿Tenía algún día libre de trabajo?
77. ¿Tenía descanso en los días feriados?
78. ¿Qué pasaba cuando se enfermaba o se lastimaba? ¿Tuvo acceso a algún servicio médico? ¿Le pagaban cuando estaba enfermo?
79. ¿Qué pasaba si se lastimaba en el trabajo? ¿Su empleador le pagaba el cuidado médico?
80. ¿Trabajaron niños en la plantación?
- ¿Durante que épocas del año?
  - ¿Qué actividades llevaron a cabo?
  - ¿Trabajaron los niños con mercurio o en algún tipo de trabajo peligroso?
  - ¿Habían niños que no iban a la escuela porque tenían que trabajar?
  - ¿Cuántas horas al día trabajaban los niños?
  - ¿De qué edades eran los niños?
  - ¿Los niños trabajaban directamente para el propietario de la plantación o lo hacían en compañía de sus padres?
  - ¿Les pagaban directamente a los niños o a sus padres?

81. ¿Sufrió Usted de discriminación en el trabajo?
- ¿Tratan diferente a los indígenas, mujeres, o trabajadores migrantes en las plantaciones?
  - ¿Qué actividades realizan los hombres, mujeres, indígenas, trabajadores migrantes?
82. ¿Llevo Usted a cabo actividades peligrosas?
- ¿Trabajó Usted con químicos?
  - ¿Estuvo Usted expuesto a animales peligrosos?
  - ¿Tuvo cargas muy pesadas?
  - ¿Habían otras actividades peligrosas?

### Salida del Trabajo

83. ¿Alguna vez quiso Usted salir de su trabajo? ¿Lo pudo hacer? Sí no, ¿Por qué no pudo hacerlo?
84. ¿Era posible salir de su trabajo antes de terminar su contrato o pagar la deuda? Si no fue así, ¿Por qué?
85. ¿Cómo salió de su trabajo?
- ¿Fue despedido?
  - ¿Renunció?
  - ¿Terminó Usted su contrato?
  - ¿Tuvo Usted que salir huyendo?
86. Cuando salió del lugar de trabajo, ¿Hubo alguna amenaza o represalia?
87. Si tenía alguna garantía o documento retenido, ¿Se lo devolvieron?
88. Cuando salió, ¿Todavía le debía dinero a alguien?
89. ¿Ha escuchado o ha sido testigo de alguna amenaza a algún trabajador que si se haya cumplido?
90. ¿Cuáles son las quejas más frecuentes de los trabajadores?
- El salario recibido no fue el acordado
  - Por el transporte
  - Por la alimentación
  - Por las deducciones no acordadas
  - Por las condiciones de trabajo no acordadas.
  - Otros

### Preguntas Finales

91. ¿Tiene algo más que contar sobre su experiencia o la experiencia de alguna otra persona que trabajó en las plantaciones en los últimos cinco años?
92. ¿Qué otras personas podrían dar más información para este estudio?

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