



*Asociación de Trabajadoras del Hogar, a Domicilio y de Maquila
"ATRAHDOM"*

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Situation of women domestic workers, maquila and rural workers, in Guatemala.



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1. Labour branches: Domestic workers

Domestic work in Guatemala as in the rest of the world is still a form of slavery, exploitation and labour trafficking, a dehumanized labour. It is ruled in the Código de Trabajo (Work Code) Decree 330, reformed by the Accord 1441, in which it has a special regime from 73 years. According to the National Survey of Employment and Income, ENEI, in Guatemala by 2016 there were more than 242 thousand domestic workers. From ATRAHDOM it has been established by researching, that 92% of this population are women, 62% are migrant indigenous people, displaced for violence, war and the lack of opportunities of development in their villages, 43% are children and teenagers from ages between 14 to 26 years, 70% has not been able to finish elementary school and only 10% is able to finish 9th grade; 80% receive wages below the ruling minimum wage, 70% work schedules are from 12 to 22 daily hours without remuneration of overtime, 73% is victim of sexual, physical, verbal and psychological abuse, 39% of the population receives benefits such as the christmas bonus and year bonus, 19% receives paid vacations, 65% doesn't receive paid days off, only 2% is benefited by Social Security, because their employers include them in their company's employee list but not as a domestic worker.¹

2. Job Opportunities:

In Guatemala there are about 6 companies that recruit and place domestic workers, which are investigated and subjects to recruiting and placing standards. These companies are not in a verified list by the Ministry of Labour.

The Ministry of Labour does not contemplate the generation of job opportunities for domestic work in it's employment policy.

3. Income Generation:

3 of 5 obtain less than Q1,000² a month in the capital city, meanwhile in the interior the wages are still Q300 to Q400³ a month, without paid benefits, while for 2017 the legal minimum wage for non agricultural activities (in which domestic work is categorized) is Q2,893.21⁴ including the incentive bonus of Q250 monthly. "Only one in every one hundred domestic workers have an income of the same value or higher than the minimum wage"⁵

4. Available mechanisms of labour inspection:

There is no mechanism available for domestic work inspection by the Inspección General de Trabajo (General Labour Inspection). **Labour conditions:** There are no mechanisms that investigate or inspect the forms of recruiting and the labour conditions of domestic work, this is undertaken in subhuman conditions by the norms established by employers. Like the

¹ Asociación de Trabajadoras del Hogar a Domicilio y de Maquila, ATRAHDOM, reference of country on domestic work.

² \$135 monthly approximate.

³ \$ 54 monthly approximate.

⁴ \$ 391 monthly.

⁵ Source, Trabajo Doméstico en Guatemala ASIES, Año 29, #3 2014.



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salary being less than the minimum wage, long labour schedules above average, no social security, no child and teenage protection and migrants in the national territory.

5. Health and Security:

Certification of good health: the employer may demand, prior to formalizing the labour contract, the presentation of a certification of good health (Article 163). **Termination of the labour relation for illness:** according to subsection c) of article 165, the employer may terminate the labour relation, if illness incapacitates the worker for more than one week. There is the Programa de Prevención para la trabajadora de casa particular PRECAPI (Prevention Program for the household worker) in the Instituto Guatemalteco de Seguridad Social –IGSS- (Guatemalan Institute of Social Security), which only covers capital city, in accidents, maternity, and healthy child (only covers healthy children if they are ill they will not be covered) which is dysfunctional, there is no demand for this due to the precariousness of the service, and the IGSS has not worried in improving the coverage for the workers, like the right to common illness and the right to quotation for retirement.

6. Minimal rules of domestic work (special regime of domestic work in the Work Code)

- 7. Schedules and Working days:** domestic work is not subject to schedules or limitations of working day and neither it is applicable to the articles 126 and 127 of the Work Code (article 164), but the workers have the following rights: a) Absolute minimum and compulsory resting time of 10 daily hours, from which 8 must be at night and continuous, and 2 must be destined for food intake. b) During Sundays and holidays they must have an additional resting time of 6 daily hours. Special cause of dismissal: the lack of respect or the notorious abuse by the worker towards the people that inhabit the house where they lend their services and “the manifested negligence of fulfilling their duties” (Article 166).

8. Ratification of ILO-C189.

- Three consultations were undertaken. One to the Secretaría Presidencial de la Mujer (Women’s Presidential Secretary), issued a favorable dictum, other to the Procurador de los Derechos Humanos (Human Rights Advocate) with favorable dictum, and the other to the Ministerio de Trabajo y Previsión Social (Ministry of Labour and Social Security) for it to issue the dictum of the tripartite commission of International Affairs, conformed by the Government, Private Sector⁶, and the Workers Sector⁷
- 4 Consultations were made to the population: one in the capital city, the others in the west, east and north of the country, all were issued favorable.
- In February 2015, the Tripartite Commission of International Affairs issued their favorable dictum for the ratification solicitation.

⁶ Represented by the Comité Coordinador de Asociaciones Agrícolas, Comerciales, Industriales y Financieras –CACIF-

⁷ Represented by the Union Movement, from both currents, Autonomous and Global.



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- On August 13th 2015, Pérez Molina sends it to the Congreso de la República (Republic's Congress), entering as Iniciativa de ley 4981 (Bill 4981).
- Now in Congress the Convention is sent to the Labour Commission, presided by Congressman Ovidio Monzón who gives it a favorable dictum on March 8th 2016 on the International Women's day.
- By the end of October the Bill 4981 passes second reading in which it is still.
- 80 votes are required for it to be approved in a 3rd reading.
- It is subject to the congressmen to be put in the main points of the legislative agenda.
- A few congressmen and congresswomen of the Official party have manifested against the ratification of ILO-C189 through its Bill 4981.

9. Workers in the Textile Maquila

Labour Exploitation and precarious work

For decades the women that work in Guatemala's textile industry, have pointed out that they have no decent labour conditions. Sadly the majority of women that suffer labour rights violations do not denounce for fear or the lack of credibility by the institutions encharged of ensuring the fulfillment of the labour legislation.

The textile industry sector is still one of the ambits were in great measure labour rights are violated and is the one that hires more female workforce. “Una aproximación al salario de vida en el sector maquila en Centroamérica”, a little more than half of generated jobs by the maquila sector (55%) is conformed by women, who besides of being full time workers, generally are mothers and heads of household.⁸

10. Job Opportunities

In the lack of job opportunities in their birthplaces, the working population finds the need of migrating to the central zone of the country. The people or families that migrate to the capital city are far from reaching the necessary development, they live in poverty and extreme poverty conditions, with what little they obtain is not enough for a decent life. Their daily struggle against misery worsens with labour exploitation and social violence arising in the last years.

Another form of recruiting are underground workshops. There is no control by institutions that must ensure their functionality at a level of their registration in the Merchant Registry and the tutelation of labour rights of the people that work there, some hold 20 to 70 people, according to the workers.

11. Income Generation

The differentiation of minimum wage for the workers of the clothing manufacturing and textile maquila has been lowered in relation to the minimum wages of the other economic activities, a situation that puts the workers of this economic activity in disadvantage and

⁸ COVERCO, EMIH, PASE, Sergio Chávez y Red de solidaridad de la maquila. Una aproximación al salario de vida en el sector maquila en Centroamérica. Octubre 2015.



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inequity to provide for their basic needs and their families, denying them a way to improve their level of life and to get over the levels of poverty in which they are.

In the matter of income generation, the textile manufacturing sector, as an export industry, they are a privileged category, since they count with a bi-part commission that benefits employers, and since they pay a minimum wage lower than the ruling wage in the agricultural and non agricultural activities and they are benefited with tax exemption. In the matter of overtime pay, the employers change tactics to avoid this payment, they require workers to have an assistance card at the time they leave and the time corresponding to overtime is not paid in full.

12. Available mechanisms of labour inspection.

It has been reported that many workers have been dismissed in an unjustified way without payment of their benefits and compensation. However, if they go to the General Labour Inspection to present their corresponding complaint, the Inspection being saturated with complaints finds it difficult to work and the workers find it difficult to access justice. The workers are accepted as workers for two months and at the end they are notified that they did not pass the test period and that they will not be hired.

13. Labour conditions

The workers of factories where maquilas work, have pointed out their inadequate conditions for work, such as: overcrowding, lack of proper lighting and ventilation, scarcity of toilets and drinking water, inexistence of a first aid kit, etc. All this contradicts what is established in the Reglamento General sobre Higiene y Seguridad en el Trabajo from 1957 (General Regulations of Hygiene and Security in the workplace).

- No recruiting women older than 30 years of age, due to that the employers say they may not be able to fulfill the work goals.
- A service called Infornet is utilized, it is a data base of people that have had credit trouble with banks, or data of people that have been fired for demanding the fulfillment of their rights.
- Prior to recruiting a person a research is conducted to check their history. This database is utilized as a black list.
- It has been denounced the use of a lie detector in the process of recruiting.

14. Health and Security

The workers have spoken about illness in the respiratory tract and muscle and skeletal disorders (associated with the repetitive movements and inadequate postures in their workplaces, also the continuous exposure to foreign agents like cotton, dust, fabric particles). The constant violation of their sexual and reproductive rights, have repercussions in illness like urinary infection, dysmenorrhoea and even kidney disease.

15. Agricultural, camp or rural workers

Women's workforce as day laborers or camp workers is significantly lower to men's, constituting, according to ENEI 2013 to just 8% of the total. This number might make



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invisible the work of women in the camp, due to the many times that husband coadyuvancy is the role given to them, without having a direct salary for their work. It is very significant that the Economically Active Population (EAP) in the rural ambit 25% is considered as non remunerated workers.

16. Income Generation

Women do not get paid a minimum wage. 14% of the laborers receives 35% of the minimum wage, and 73% receives almost half of the minimum wage.

17. Available mechanisms of labour inspection

The work of women in the camp is subject to the legal dispositions governed by the Ministerio de Trabajo y Previsión Social (Ministry of Labour and Social Security). We can say that in reality the dispositions are others, since women in the camp under the economical need are subject or are repressed by the rules and norms that the employers, landlords or bosses impose in the farms or factories like the packing industry.

Therefore why there are no recurring complaints in the Inspección General de Trabajo (General Labour Inspection) or their department offices, due to the lack of trust in the operators of labour justice, or they are intimidated by their employers or bosses to not issue a complaint when their rights are violated.

18. Labour conditions

The difference that exists with the average income of a rural worker Q1,470.50 (\$198.71) is around half in contrast to the urban worker Q2,930.43 (\$396).

These differences are even greater when the rural worker is indigenous and when they are indigenous women, they are the ones that have the lowest income, approximately a third of the average urban salary.

According to Article 100 of the Constitución Política del Estado (Political Constitution of the State), social security is a public function, instituted at a national level, unitary and obligatory, and it's application corresponds to the Instituto Guatemalteco de Seguridad Social IGSS (Guatemalan Institute of Social Security). However, the State has created another parallel programs like the Régimen de Clases Pasivos Civiles del Estado (Regime of Civil Passive Classes of the State) and the Instituto de Previsión Militar (Military Pension Institute).

19. Recommendations:

Recommendations for domestic work:

To the State of Guatemala, to ratify ILO C189, Convention concerning decent work for domestic workers, to fill the gaps of inequity in human labour rights, starting from the evident legislative vulnerability and the lack of protection and disadvantages of the economical and social benefits, the discrimination and the lack of equity in relation to the rest of work branches.

Recommendations for textile maquila:



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The salary for the textile industry is Q2,417.52 and an incentive bonus of Q250.00, a situation that evidences discrimination in this work sector, therefore the salary for the textile industry should be leveled with the agricultural and non agricultural activities wage which is Q2,643.21 and the incentive bonus of Q250.00.

Recommendations for the camp or rural work:

It is necessary to reform Article 139 of the Work Code, so that women stop being considered Coadyuvants to the work of men, and that their work is recognized and have an equal salary. Rural women must benefit of the same labour rights that man and women from urban zones have (Right to healthcare, protection to maternity, benefis, general conditions of labour protection in the work fields).