



International
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FAIR RECRUITMENT COUNTRY BRIEF: GUATEMALA TO MEXICO CORRIDOR

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Labour migration from Guatemala to Mexico

In the context of a globalized economy, Guatemalan workers are increasingly searching for decent work and better livelihoods abroad, leading to a steady increase of labour migration flows. In 2016, the number of events¹ registered of Guatemalans entering Mexico to work was approximately 523,040 (COLEF, 2017), including those who stay less than 24 hours. Around 82 per cent of border crossings (events) by Guatemalan workers were made by people who reported having a document for regular entry into the country. In 2017, 47 per cent held a *Tarjeta Migratoria de Trabajador Fronterizo* (TVTF, Migrant Border Worker Card), which entitles the holder to work, and 35 per cent reported to have *Tarjeta Visitante Regional* (TVR, Regional Visitor Card) which permits entry but does not permit the holder to work. The majority of Guatemalan migrants perform jobs which are semi- or low-skilled, with the vast majority working in agriculture as well as informal commerce, construction and domestic work (COLEF, 2017).²

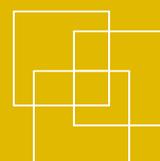
Labour migration has provided a source of household income for many Guatemalans, contributing to the socio-economic development of the country. Remittances to Guatemala more than doubled between 2010 and 2017, and in 2018 represented around 11.5 per cent of the country's Gross Domestic Product (World Bank 2018).

In recent decades Mexico has transitioned from a traditional country of emigration and transit (predominately to the United States), to also a host of temporary and permanent migration from Central America.

Recognizing the growing relevance of labour migration and acknowledging the challenges faced by migrant workers at all stages of their migration experience, the Governments of Guatemala and Mexico have, individually and jointly, aimed to address these emerging issues through better labour migration governance and protection of migrant workers.

1 The EMIF South Survey measures the number of crossings at the border (number of events), not the number of people, thus EMIF South Survey does not provide an estimated volume of people. Consequently the numbers reflected by EMIF account for a person who may have entered the country several times over an estimated period, in this case, a year.

2 Guatemalan migrants entering Mexico in 2017 were distributed across the following sectors: 69.9 per cent in agriculture, 9.4 per cent in industry including construction, 10.9 per cent in trade, and 9.7 per cent in services including domestic work (COLEF, 2017).



Labour migration at a glance

Guatemala

Guatemala total migrant stock in 2017: 1,117,355 (an increase from 343,623, in 1990)

Total stock of Guatemalans in Mexico in 2017: 54,508

Number of border crossings for labour migration from Guatemala to Mexico in 2016: 523,040

Women/Men ratio: 87.6 per cent men migrants and 12.4 per cent women migrants

Private remittances sent to Guatemala in 2017: US\$8,540 million (approximately)

Bilateral (Guatemala to Mexico) remittance estimates for 2017: US\$266 million

Mexico

Total migrant stock in 2017: 12,964,882 (in comparison to 4,394,684, in 1990)

Private remittances sent to Mexico in 2017: US\$ 30,600 million (approximately)

Sources: UNDESA, COLEF, World Bank

The Global Action to Improve the Recruitment Framework of Labour Migration (REFRAME) project seeks to work in partnership with ILO constituents to address some of the identified challenges related to the recruitment of migrant workers in line with the ILO's General Principles and Operational Guidelines for Fair Recruitment. The section below summarizes some of the identified challenges and the areas of priority for the REFRAME project intervention along the Guatemala-Mexico corridor during the biennium 2018-19. The challenges and opportunities have been identified based on existing research and studies undertaken within the framework of REFRAME, as well as through national and binational consultations.

Main labour migration trends: challenges and opportunities

Steadily increasing migration flows since the 1990s, with recent decline

Labour migration between Guatemala and Mexico is based on historical and cultural affinity and has been consistently increasing since the 1990s. However this trend seems to have significantly slowed since 2014, with a steady decrease of 53 per cent between 2014 and 2017 (in 2014 there were 629,000 Guatemalan migrants in Mexico, 523,040 in 2016, and 295,500 in 2017 (COLEF, 2018)).³ This decline may be attributed to a decline in the attractiveness of the Mexican labour market to Guatemalan workers (in particular given the depreciation of the Mexican Peso against the Guatemalan Quetzal), concerns about the security situation in Mexico, and restrictions regarding youth migration established by the Mexican authorities.

It must be noted that reliable and comparable data remains a significant challenge. To address this, El Colegio de la Frontera Norte (COLEF, College of the Northern Border) have established statistics surveys to cover the Northern and Southern borders of Mexico (EMIF Norte and EMIF Sur).

Informality, irregularity and temporality of migratory movements across a porous border

Informality and temporality remain a prevalent feature of mobility across the Guatemalan and Mexican borders, with workers traditionally migrating back and forth according to seasonal labour needs. For example, data from 2015 found that nearly a quarter (22.9 per cent) of surveyed Guatemalan workers stayed in Mexico for less than 24 hours, while 7.7 per cent remained for between 1 to 15 days, 28.6 per cent between 16 days to one month, and 40.8 per cent more than one month (COLEF, 2017).

³ The figures should be treated with caution because many sources indicate different results.

In addition to the historic dimension of the informality of the migration patterns – and the historic porosity of the border – the irregular nature of the migration may be further explained by the significant informality of the Mexican labour market.⁴ This is the case in particular in the sectors employing migrant workers such as small trade, construction and domestic work, and to a lesser extent agriculture (primarily the smallholder farms). Due to the lack of available information on formal recruitment processes, the complexity of the work permit process and its cost, both migrant workers and employers default to irregular migration and employment (ILO, 2018a). This situation has an impact upon the working conditions and may increase migrant workers' vulnerability to exploitation and abuse, in particular for women migrant workers who are overrepresented in the domestic work and services sectors. Fears of deportation and other consequences further leave migrant workers vulnerable to exploitation (ILO, 2017).

While irregularity of migration remains significant in the region and recruitment processes are predominantly facilitated by informal agents or family networks, the issuance of temporary work-related documentation to residents of the border region in Guatemala has enabled greater regulation.

Weaknesses in the policy framework strengthened in recent years

The Governments of Mexico and Guatemala have progressively implemented a policy framework aiming to regulate labour migration. The establishment of the Guatemalan 2016 *Código de Migración* (Migration Code) and the enactment of the 2008 Mexican *Ley de Migración* (Migration Law) and accompanying regulation represent significant developments. These national policy frameworks are strengthened by increased bilateral cooperation which led to the signature of bilateral agreements on labour migration in 2014 and 2018. While these agreements attest to the commitment to cooperate and coordinate, practical implementation

Key labour migration policy and legislation

Guatemala:

- *Código de Migración* (Migration Code) (2016)

Mexico:

- *Mexican Ley de Migración* (Migration Law) (2008) and accompanying regulation
- *Tarjeta Migratoria de Trabajador Fronterizo (TVTF)* (Migrant Border Worker Permit) (2012)
- *Tarjeta Visitante Regional (TVR)* (Regional Visitor Card) (2012)

Bilateral agreements on labour migration signed in 2014 and 2018

and effective monitoring remain relatively weak. Similarly, differing positions and interests of both parties with regards to a labour migration governance system require further inter-institutional and bilateral exchanges, information sharing and coordination.

With a view to better governing labour migration and protecting migrant workers, the Mexican government has introduced two key worker permits: the *Tarjeta Migratoria de Trabajador Fronterizo* (TVTF) and the *Tarjeta Visitante Regional* (TVR). The TVTF provides Guatemalan and Belizeans with the opportunity to work in the Mexican southern border states (including Campeche, Chiapas, Tabasco and Quintana Roo), provided that they have a written employment offer prior to departure. The TVR entitles the holder to multiple entrances to and from Mexico for the purpose of visiting for a period of three days, but does not allow the holder to work.

⁴ According to the *Encuesta Nacional de Ocupación y Empleo* (National Occupation and Employment Survey), 60 per cent of the Mexican economy is currently informal. In the region of Chiapas – a key state employing Guatemala workers – the informality rate is 78.2 per cent (ILO, 2018a).

While a significant number of these documents have been issued since their introduction in 2012, the numbers are dwindling and their desired effect on regularizing the workforce and protecting workers has not been fully realised.

A relatively low number of workers are employed through the TVTF program⁵ in comparison with the annual migration flows (ILO, 2018a; ILO, 2018d). A recent study suggests that this decrease may be related to several factors such as the requirement to provide a written employment offer which guarantees the right to the minimum wage, the associated fees and costs of obtaining the permit, the low wages, and the depreciated value of the Mexico peso (ILO, 2018d).

Furthermore, a number of workers continue to prefer migrating without documentation through irregular channels. Although it is difficult to quantify as a whole, the last survey in 2016 registered 123,463 migrants who crossed the border without migration documents (which amounts to 17.7 per cent of officially recorded inflows, a number which increased to 22.4 per cent in 2017) (COLEF, 2017 and 2018).

A further category of irregular Guatemalan workers are those who originally aimed to pass through Mexico to enter the United States but actually did not cross the US border but rather decided to stay in Mexico and work in northern states such as Baja California.

Low level of registered and protected women

According to official data, 86,110 border crossings of Guatemalan women were recorded in 2016 (COLEF, 2017). This number noticeably decreased between 2009 and 2016, with the proportion of women decreasing from 28 per cent to 12 per cent (ibid). The sectors employing Guatemalan women are mostly trade activities (53.7 per cent), domestic work (37.5 per cent), agricultural work (4.5 per cent) and sex

work (unknown) (ibid). These sectors predominately exist in the informal economy and are dominated by irregular women migrant workers (in particular those who enter Mexico without a permit for work but undertake remunerated activities subsequently).⁶

In addition, women are more likely to be hired as “accompanying family members”⁷ and hence do not have a work permit of their own. This may increase their vulnerabilities to exploitation as these women are not only in an irregular status but dependent upon a family member for employment (ILO 2018d).

A recent ILO study (ILO, 2018b) identifies several situations that may lead to this phenomenon. Firstly, many women either use the TVR to enter Mexico or cross the border without documents, and then engage in itinerant trade activities or work in the domestic or sex work sectors. Secondly, women may accompany their husband who has been recruited by an agricultural holding through the TVTF. These women are entering Mexico through regular channels, but then may be irregularly employed as their permit does not allow work. Thirdly, there are also women who work under the contract of their husband (as they entered as accompanying family members under a TVTF) and consequently they do not receive their own work contract and even, in some cases, their respective wages (ILO, 2018b).

These situations indicate that the current recruitment and employment frameworks are not adequately regulating the sectors that predominately employ migrant women. Domestic work is emblematic of this issue considering that the employers, due to their informal status, do not meet the requirements to recruit foreign workers through a TVTF. Men, overrepresented in the agriculture sector – a less informal sector – are thus less affected by this phenomenon than women migrants. The lack of registration of these workers increases their vulnerability to exploitation, which is particularly exacerbated in the sex work and domestic work sectors,

5 The Mexican authorities issued 16,658 TVTF in 2015 and 15,139 in 2016; and issued 114,217 TVR and 89,816 in 2015 and 2016 respectively (ILO, 2018a).

6 A survey conducted in 2013 indicates that 89 per cent of Guatemalan women who crossed the border had a valid migration document to enter Mexico. 53 per cent of those surveyed stated having the TVR and 46 per cent the TVTF (CANAMID, 2015, Visitors and Residents: Guatemalan, Salvadoran and Honduran Workers in Mexico). It must be noted however that these figures do not precisely encompass the irregular flows.

7 The TVTF card, which is given to temporary workers on the basis of an employment offer, can be extended to family members as well, including wives or children of the applicant that are over 18 years old. In these cases, the family members that receive their work permit are considered to be under the same contract as the main applicant.

due to the asymmetrical power relationship between worker and employer. Women migrant workers who are required to live in the employers' household may see their freedom limited as well as their capacity to report abuse, for fear of deportation (ILO, 2015; ONU Mujeres, 2014). Furthermore, it has been argued that women migrant workers are particularly likely to be deported due to their lack of registration, and often in tougher conditions than men (ILO, 2018b). In 2013, 3,628 Guatemalan women were deported, increasing to 6,177 in 2014 and 8,596 during the first months of 2015 (ILO, 2018b).

Weak recruitment regulation and abuse at the recruitment stage

The Guatemala to Mexico corridor is characterized by weak recruitment regulation. Although public and private recruitment agencies exist and a regulation on employment agencies was enacted in Mexico in 2006, the majority of Guatemalan workers do not migrate through formal recruitment agency services (ILO, 2018a; ILO, 2016a). Rather, recruitment is arranged directly by employers or facilitated by other informal contractors or intermediaries who usually operate outside of the existing legal and regulatory framework (including family networks, acquaintances, or recruiters often referred to as *enganchadores*).

Weak regulation of these actors coupled with migrant workers' lack of access to knowledge and information about recruitment and rights at work feed the irregular migration flows as well as increase the vulnerability of the migrant workers.

Challenges for employers to register migrant workers

Employers also face challenges in the regular recruitment and employment of migrant workers. On the one hand, like migrants, employers lack information on existing regulations (such as the TVTF), and the necessary requirements to formally employ a migrant worker. On

the other hand, the formal process (including submission of required documents, processing of paperwork etc.) may seem particularly burdensome given the temporary and seasonal nature of the work (ILO, 2018a). The current requirements for employers to recruit migrant workers formally do not adequately reflect the realities of the region and the sectors employing migrant workers, in particular the informality of the labour market, historical informality of recruitment practices, and the numerous small employers.

Insufficient information and limited access to justice for migrant workers

The combination of very temporary stay for some workers, the weak recruitment regulation as well as the informal nature of many jobs and/or the irregular status of some workers contributes to the limited opportunities for workers to access the protection and remedy mechanisms available to them both in Mexico and Guatemala.⁸ According to a recent study (ILO 2018a), many migrant workers who are victims of exploitation and abuse do not file complaints or access labour dispute arbitration services because of fear of the consequences of residing in Mexico with an irregular status. The number of registered complaints is very low for this reason (ILO, 2016a).

⁸ The available protection mechanisms are either linked to local Secretariats of Labour (Attorney General for the Defence of Labour; Local Conciliation and Arbitration Boards) or the Federal Secretary of Labour. Also available are the Human Rights State Commissions and the National Commission for Human Rights. Lastly, depending on the nature of the problem, there are the Special Prosecutor's Office for Crimes against Migrants and the Special Prosecutor's Office for Crimes against Women and Human Trafficking.

Weak representation of migrant workers and labour migration concerns within workers' organizations

Workers' organizations and civil society actors can play a role in providing workers with essential information and services, advocating for their rights at multiple levels, as well as monitoring recruitment practices and influencing policy and legislative reform. Yet, trade unions and civil society organizations in Guatemala have little involvement in labour migration while the majority of Mexican counterparts are more focussed on migration toward the United States.

However there are several Mexican associations, especially in the region of Chiapas, which are becoming very active in this area including *Fray Matias de Cordova and el Servicio Jesuita a Migrantes y Refugiados* (the Jesuit Service for Migrants and Refugees) which support case management for labour issues. In Guatemala, *Casa del Migrante* (House of the Migrant) performs similar work on the Guatemalan side of the border (San Marcos).

Regarding unionization, in Mexico only migrant workers in a regular status can participate in a union, and there is a limited precedent of union involvement by migrant workers. Furthermore, there are few unions targeting agricultural workers (ILO, 2018a). It has been suggested that informality and irregularity as well as the sometimes very temporary employment and frequent changes in occupations might be factors impeding the organization of migrant workers (ILO, 2018a).

The REFRAME project priorities for action in Guatemala and Mexico

The REFRAME project operates in Guatemala and Mexico within the ILO regional strategy which considers labour migration and fair recruitment as key areas of intervention.

The activities relating to labour migration are operationalized in Guatemala and Mexico through the following Country Priority Outcome: *The country has a regulatory framework and/or a migration policy based on the multilateral framework on labour migration and the ILO general principles and operational guidelines for fair recruitment.*

Key REFRAME project partners

Government

Mexico Ministry of Labour

Guatemala Ministry of Labour and the Ministry of Foreign Affairs

National Institute of Statistics and Geography (INEGI) (Mexico)

Workers' organizations:

The Union Nacional de Trabajadores (UNT) (The National Union of Workers) (Mexico)

The Confederación Revolucionaria de Obreros y Campesinos (CROC) (The Revolutionary Confederation of Workers and Peasants) (Mexico)

The Confederación de Trabajadores de México (CTM) (The Confederation of Workers of Mexico)

Employers' organizations:

The Confederación Patronal de la República Mexicana (COPARMEX) (The Employers' Confederation of the Mexican Republic)

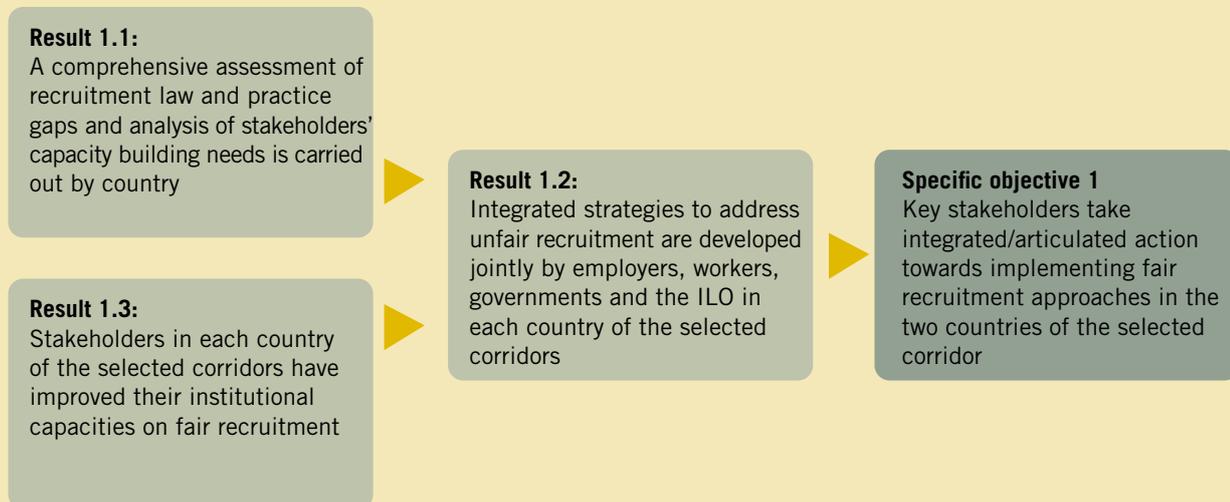
Alianza Hortofrutícola Internacional para el Fomento de la Responsabilidad Social (International Horticultural Alliance for the Promotion of Social Responsibility) (Mexico)

CAMAGRO (Chamber of Agriculture) (Guatemala)

Recruitment agencies:

CIERTO Global (Mexico)

REFRAME activities in Guatemala and Mexico are aligned with the global REFRAME Theory of Change, Objective 1:



To address the several challenges while taking advantage of the opportunities offered by the existing frameworks in Guatemala and Mexico, the project undertakes the following:

- **Conduct studies and policy consultations** on specific issues and thematic areas. Assessments of law, policy and practice on recruitment have been conducted in both countries and thematic analyses have been carried out in several areas (e.g. social and economic effects of Guatemalan returnees, special focus on women migrant workers). Further thematic analyses of recruitment practices (e.g. domestic work) will be undertaken in order to document the gender dimensions of labour migration.
- **Identify specific needs of stakeholders**, including recruitment agencies and employers, **and support the development of specific tools**, such as a fair recruitment toolkit for the agricultural sector and the integration of a module on fair recruitment into the employers' union's code of conduct, to improve the effectiveness of recruitment practices while enhancing their compliance with relevant standards.
- **Support awareness raising and capacity building activities of trade unions**, including support to identify and address recruitment abuses (by adopting a national agenda on fair recruitment for unions) and provide better services to members and migrant workers (by supporting the development of a manual on recruitment of migrant workers).

- **Promote awareness and capacity of media** to report fairly on labour migration and identify abuses in the recruitment process.
- **Facilitate the strengthening of coordination mechanisms and tripartite dialogues** in order to develop integrated strategies towards implementing fair recruitment. Integrated work plans with priority areas of intervention have been established through stakeholder consultations.
- **Support national and binational policy consultations and dialogues.** In order to promote binational coordination on this topic, the project will support sectorial dialogues: a binational employers' dialogue, a binational trade union dialogue and binational government dialogues. These dialogues are hosted with a view towards the hosting of a tripartite binational dialogue as a culmination of the project. The project is also seeking means to support the implementation of a bilateral labour agreement between Mexico and Guatemala.

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Notes

Notes

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