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Guatemalan Workers Face Uphill Struggle in Fight for Safe Working Conditions

by Louisa Reynolds

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On Feb. 16, 20-year-old Juan Tiul Xol was travelling standing up in a cramped and overcrowded truck when the vehicle was hit by another truck that tried a dangerous maneuver in an attempt to pass. Tiul and 105 other farm laborers, all from the municipality of Fray Bartolomé de las Casas, in northcentral Guatemala, never reached their final destination—an African palm plantation in the municipality of Sayaxché, in the northern department of Petén, where they were to be employed to clear the shrubs before the trees were sown, a task known as "socola".

The plantation is owned by Tikindustrias SA, a company owned by the Weissemberg family, which also owns the El Pilar sugar plantation and is known as one of the wealthiest members of Guatemala’s landowning elite.

The accident left two dead and 54 injured. "Look, I never thought...I never intended to lead people to their death," insists Alberto Coc Caal, 40, a Mayan Qeqchí community leader who works as an "enganchador," the person in charge of recruiting farm hands for sugarcane, coffee, and African palm plantations.

Coc, a father of ten and one of the few men in the village who can speak Spanish, has no contract with Tikindustrias, the corporation that owns the plantation in Sayaxché that the laborers were heading to.

After the accident, angry villagers threatened to lynch Coc if he did not pay for the dead laborers' funeral expenses, forcing him to dole out a total of US$2,500 to the grieving families and leaving him in debt with friends and family members.

Usually, during the three-month "socola" season, Coc earns between US$384 and US$513 a month, and from this amount he has to deduct between US$320 and US$384 to pay the owner of the truck, plus US$51 to pay for ads broadcast in Qeqchí on the local community radio station that are necessary to recruit the workers. At the end of the month, that leaves him with a total of US$77.

Farm laborers who work on African palm plantations no longer earn the US$8.70 per day rural minimum wage after the Gremial de Palmicultores (GREPALMA) introduced a "performance-related wage" (pago por productividad) in 2010. Now the enganchador is paid US$38.40 for every 0.7 hectares of land cleared by the team, an amount that he distributes among the laborers.

This was trumpeted as an opportunity for efficient workers to boost their earnings when in fact a study on the working conditions in this industry published by Action Aid in 2010 revealed that companies such as Tikindustrias are saving US$2.40 per worker, while laborers are pushing themselves to the limit to reach the minimum wage.

However, this year, Tiul and his fellow workers returned to Fray Bartolomé de las Casas empty-handed, Coc refused to pay the owner of the truck, and he is now in debt.
In January 2009, another truck transporting farm laborers bound for the Tikindustrias plantation was involved in an accident in the municipality of San Cristóbal Verapaz, leaving 36 people dead.

Since 2009, at least five accidents of this sort have occurred in Guatemala with a total of 59 deaths and 179 injuries. As farm laborers usually travel standing, spinal and hip injuries are the most common, often resulting in total or partial paralysis. Losing the breadwinner sinks rural families even further into poverty.

The UN Office of the High Commissioner for Human Rights (OHCHR) branded the transportation of farm laborers in such conditions as "inhumane" in its latest report.

Researchers Laura Hurtado and Geisselle Sánchez, authors of the Action Aid study, explain that plantations have scant regard for their workers’ lives as a result of a deep-seated racism that devalues indigenous lives and is embodied in derogatory expressions such as "bring me 200 heads" when companies ask for farm laborers.

**Labor laws are not enforced**

As well as being subjected to precarious forms of transportation, Guatemalan workers are often forced to endure unsafe and unhealthy conditions in the workplace. Labor attorney Alejandro Argueta says that he has fought cases ranging from sugarcane-plantation workers crushed to death by huge machines to office workers who catch deadly respiratory diseases because of the poor condition of air-conditioning machines.

The Código de Trabajo as well as the International Labor Organization (ILO) conventions ratified by Guatemala clearly state that rural plantations are responsible for the safe transportation of their laborers and that employers should provide workers with appropriate safety gear such as boots, masks, and gloves, when necessary, and enforce their use. Under Guatemalan law, employers are also forced to report all accidents that occur at the workplace.

Guatemala has plenty of laws, says Argueta, the problem is that they are seldom enforced. To begin with, employers rarely comply with the law and report accidents to the Ministry of Labor. In 2009 and 2010, no accidents were reported, whereas in 2011, 30 were reported, and 13 have been reported so far in 2012.

Under Guatemalan law, authorities ought to carry out regular inspections even when no incidents have been reported. However, Minister of Labor Carlos Contreras admits that this does not occur as there are only 200 inspectors to cover the entire country.

And when an inspection does take place, the Ministerio de Trabajo cannot impose sanctions and must refer the case to a special labor court (juzgado de trabajo). Since 2009, only two of ten cases have resulted in a sentence. When workers cannot afford to pay a lawyer, they are forced to plead their own case and argue against the legal firms employed by huge corporations, thus standing little or no chance of winning the case.

Another major obstacle is subcontracting. Under Guatemalan law, the primary company and the subcontractor have a shared responsibility for workers’ health and safety. However, proving this in an inefficient and corrupt legal system in which all the odds are against them has proven to be extremely difficult.
In 2006, Argueta fought the case of César Hernández, a worker at a cardboard-box factory whose right arm was severed by a hazardous machine that was kept in poor condition, and proved that the factory was subcontracted by a Korean garment manufacturer that exported clothes to the US. After Argueta proved that both factories had the same owner, Judge Moisés Herrera ruled in Hernández’s favor but later overruled his own verdict.

When a clear-cut case such as this faces so many obstacles in court, there is even less hope left for rural workers such as Alberto Coc Caal who have no written contract with their employers.