



ANNUAL -REPORT

ANTI-UNION VIOLENCE

GUATEMALA | 2019



ANNUAL REPORT ON ANTI-UNION VIOLENCE IN GUATEMALA, 2019

The Red de Defensores de Derechos Laborales de Guatemala [Network of Labor Rights Defenders of Guatemala] (REDLG)

Design and layout: VeRo

illustrations: www.freepick.es

Cover and interior photos: Image Bank of the Red de Defensores de Derechos Laborales de Guatemala - REDLG

This report was produced with the support of the Solidarity Center.

Partial or total reproduction of the document is allowed, provided the source is cited.

Guatemala. 2020

Table of Contents

| | Page |
|---|------|
| Presentation | 5 |
| Context | 6 |
| Political context | 6 |
| Socioeconomic context | 7 |
| Documented anti-union violence – the tip of the iceberg | 9 |
| Number of incidents by type of attack | 9 |
| Number of incidents by department | 10 |
| Number of attacks reported | 10 |
| Cases | 11 |
| Data from the Public Ministry | 15 |
| Number of complaints by type of crime | 15 |
| Number of complaints by department | 16 |
| Anti-union violence as a phenomenon – the iceberg | 17 |
| Gender-based violence | 17 |
| Number of incidents by sex of the victim | |
| Peer violence | 18 |
| Normalized anti-union measures | |
| | 21 |
| Conclusions | 22 |
| Recommendations | 23 |
| Bibliography | |



Introduction

While the labor union movement as a social actor is embattled, it nonetheless endures – firstly, because trade unionism continues to be a tool that guarantees workers the possibility of uniting and collectively demanding respect for their labor rights and improvement in their conditions and secondly, because the rule of law, even with its weaknesses, recognizes the freedom of labor unions, collective bargaining, and the right to defend one's rights.

The 2018 Report on Anti-Union Violence analyzed the different levels of violence, or those contexts that contribute to direct violence labor rights defenders. The principal problem highlighted in that report is the issue of impunity. It is understandable, then, how important it is to have a strong State with effective institutions that act in adherence with the law, so as to guarantee conditions of security and freedom in defense of human rights in general, and labor rights in particular. This entails having laws and public policies that are adapted to the needs and realities of the working world and the defense of rights, as well as the importance of raising the awareness of this problem. This report, based on what was recorded and observed in 2019, seeks to highlight the fact that anti-union violence is a complex social occurrence in Guatemala, of which we are far from knowing its depth.

To that end, the report is divided into three sections. First, we provide a brief description of the political and socioeconomic context within which the records and analysis were made. Given the fact that the country's political reality lends itself to different analysis in terms of labor justice and violence against those who promote it, this context provides brushstrokes of the panorama in these times of crisis. The second part provides data from the records maintained by the *Red de Defensores de Derechos Laborales de Guatemala* [Network of Labor Rights Defenders of Guatemala] (REDLG) which serves as an example of what can be inferred regarding the anti-labor violence in general in Guatemala. The third and final section analyzes some factors that make it difficult to frame anti-union violence within concrete definitions or classifications such as gender-based or peer violence.

We extend our appreciation to the Guatemalan labor movement, Solidarity Center, and labor rights defenders from unions or organizations, or out of their own personal goodwill, who shared their testimonies and information for this record.

Context

POLITICAL CONTEXT

Politically speaking, 2019 was framed within the context of the general elections. This was the second electoral process since the political crisis that began in 2015¹ and can be viewed as a return to traditional politics, in a bid to put an end to those circumstances. Each phase of the process was heavily questioned and audited. The polarization of the discourse regarding the role of the International Commission against Impunity in Guatemala (CICIG) that was generated during the government of Jimmy Morales played a significant role in the elections. The Movimiento Semilla [Seed Movement] party, which emerged from the 2015 citizen movement, announced in March 2019 that Thelma Aldana, the Attorney General of the Public Ministry from 2014 through 2018, would be its presidential candidate. However, in April 2019 her participation was nullified due to a complaint filed with the objective to invalidate the legal registration of her candidacy.

Within a context of superficial electoral offerings and electioneering actions on the part of candidates for popularly-elected positions, the focus of the electoral dialogue on matters such as the actions of the Supreme Electoral Tribunal, CICIG, and the rulings of the Supreme Court of Justice and Constitutional Court, pushed candidates' political policies and positions into the background. Lastly, there was a runoff between Alejandro Giammattei, the candidate of the conservative right, and Sandra Torres, a social democrat. Both contenders have been singled out for corruption and/or abuse of authority over the course of their political careers.

It is important to note the participation of the *Movimiento para la Liberación de los Pueblos* [Movement for the Liberation of the Peoples] (MLP). The party's base is comprised of campesino organizations and its presidential candidate was an indigenous leader of the *Comité de Desarrollo Campesino* [Committee for Campesino Development] (CODECA), Telma Cabrera. Her position in third place on the first ballot indicated a true change in the trend among voters that could reflect a search for a partisan anti-system proposal.

The election period as a set of circumstances has an impact on the labor sphere, above all in the public sector. As evidenced by Guatemala's recent history, elected officials not only have non-unionized personnel [*personal de confianza*], but also utilize the institutions as loot to be plundered, negotiating vacancies, hindering processes of institutionalization, and affecting labor stability. For example, it is to be expected that in 2020 many municipalities will face serious labor conflicts due to the practice of firing personnel in order to hire people who are of a like mind with the Mayor-elect.

1) In April 2015, the International Commission against Impunity in Guatemala and the Public Ministry of Guatemala began a process of judicializing cases of corruption by high-level officials of all three branches of government. This led to protest marches and citizen organizations that generated a political situation in which strong social auditing put the institutions at risk.

SOCIOECONOMIC CONTEXT

The results of the XII Population Census and VII National Housing Census were presented in September 2019 after a 16-year absence of this statistical exercise. The updated data confirm that Guatemala has entered a period characterized by a demographic dividend. That is, the share of working-age persons is much greater than those who are dependents – children and the elderly. This phenomenon will be the trend, as projected, for approximately 30 years. This means that each year for 30 years a large number of working persons will join the labor market. However, the inequality in terms of opportunities, rights, and access to services has worsened.

While Guatemala has a low unemployment rate (3%), 70% of the economically active population (EAP) works in the informal sector; as such, advantage is not being taken of the demographic dividend. In the face of such a labor supply, and with the new government, one can only expect more relaxation of laws relating to terms of employment and therefore, job insecurity.

In fact, in June 2019, the Executive Branch published Government Decree 89-2019 which proposed regulating the application of ILO Convention 175 regarding part-time work.² This Convention seeks to ensure the protection provided by labor laws and social security for persons working less than a normal workday. Under the argument of formalizing informal work and ensuring legal security for investment, this decree would produce a legal framework for precarious work with wages below the minimum wage,³ thereby contradicting the Political Constitution of the Republic.⁴ In fact, the Constitution already guarantees the protections contained in ILO Convention 175, even though the Labor Code does not explicitly mention part-time work.

The labor movement brought an action challenging the Decree's unconstitutionality⁵ and the Constitutional Court (CC) issued a resolution partially suspending the Decree. In light of this, the government and business sector accused the labor movement of halting the creation and formalization of jobs.⁶ It is important to clarify that formal part-time work with benefits and social security has existed for some time and is protected by the Constitution. What the CC ruling suspended was the creation of formal work with wages lower than the minimum wage and proportional benefits.

One month following the publication of Decree 89-2019 in July 2019, the Ministry of Labor launched a campaign aimed at businesses, urging them to offer work to returned migrants. In fact, as a result of the immigration policy of the United States, around 35,000 deported Guatemalans⁷ had been reported for that month. The insistence on the part of the government and business sector to further reduce the value of labor becomes clear.

Decree 89-2019 brought up for discussion the matter of the minimum wage. The year 2019 saw no increase in the minimum wage in any sector. It was the first time this had occurred in 10 years. In September 2019, the *Comité Coordinador de Asociaciones Agrícolas, Comerciales, Industriales y Financieras* [Coordinating Committee of Agricultural, Commercial, Industrial, and Financial Associations] (CACIF) communicated its intention to present a proposal to reduce the minimum wage. This was based on the fact that, by not respecting the payment of a minimum wage, more informal work is generated.

2) ILO Convention 175 (1994) was ratified by the Congress of the Republic in January 2017.

3) "Decree 89-2019, Section II, Article 4: Part-time workers have the right to receive an hourly wage which may not be less than the hourly minimum wage established every year." Nonetheless, the minimum wage, which is insufficient in and of itself, is not calculated by the hour but rather, on the basis of a 48-hour week.

4) "CPR [Political Constitution of the Republic], Art. 102, g) . . . Those who, as provided by law, customary practice, or agreement with management work less than 44 hours weekly in day shifts, 36 in night shifts, or 42 in mixed shifts shall have the right to receive a full weekly wage . . ."

5) The action alleging partial unconstitutionality argued against three articles concerning the definitions of concepts established in the Labor Code, the payment of hourly wages, and the workers' voluntary shift from being full-time to part-time. It established that the three articles were contrary to the Constitution, in that a decent income must be guaranteed, as well as the fact that the procedure for modifying a law such as the Labor Code does not transpire through a governmental decree.

6) The traditional media published this news employing the following linguistic construction: "The CC suspends part-time hiring."

7) Dominguez, M. (July 29, 2019). The number of deportees could exceed 35,000 this week. *Prensa Libre* [Free Press]. Available at: <https://www.prensalibre.com/guatemala/migrantes/cifra-de-deportados-puede-superar-esta-semana-los-35-mil/>



CACIF additionally argued that basic food staples [*canasta básica de alimentos*] are calculated incorrectly and that their cost is in fact lower. No allusion was made to the fact that the ‘expanded basket’ of staples – which includes other basic needs in addition to foodstuffs – costs twice as much. Although the proposal has not been presented, at the end of 2019 the government decreed an increase of approximately 3%, solely for the non-agricultural and maquila sectors.

According to the Best Jobs Index of the Inter-American Development Bank (IADB) – which measures labor conditions in countries based on the number and quality of jobs – Guatemala is the country with the worst labor conditions and the largest gender gap.⁸ In addition, according to the Global Rights Index of the International Trade Union Confederation (ITUC), Guatemala continues to be among the 10 worst countries for workers. The index classifies countries from 1 to 5+, depending on the degree to which they fulfill collective labor rights. A classification of 1 refers to countries in which rights violations occur sporadically. A classification of 5, the highest score, is reserved for countries in which rights are not guaranteed and workers do not have effective access to them and as such, are exposed to unjust labor practices. There is a classification of 5+ for countries in which rights are not guaranteed due to the “disintegration of the rule of law” as a result of armed conflict. Guatemala and Honduras are the only countries in the Mesoamerican region that are assigned a score of 5, with the aggravating factor of being scenarios of violence.

8) The gender gap is an index that is calculated based on data on women’s participation in the economy [and] politics and their access to education and healthcare, among others. It is an index that allows for the visualization of inequality between men and women. In Guatemala, for example, women earn approximately 20% less than men for the same or comparable work.

Documented anti-union violence

The tip of the iceberg

The REDLG documented 26 cases of anti-union violence in 2019. It is important to clarify that such a low number represents significant underreporting due to various factors limiting the ability to document incidents. Noteworthy among them is the normalization of violence, lack of a culture of documenting and systematizing, and isolation of many trade union organizations.

It is recognized as underreporting, given that the Public Prosecutor's Office for Crimes against Trade Unions received 709 complaints during the year, 40 of which correspond to threats.

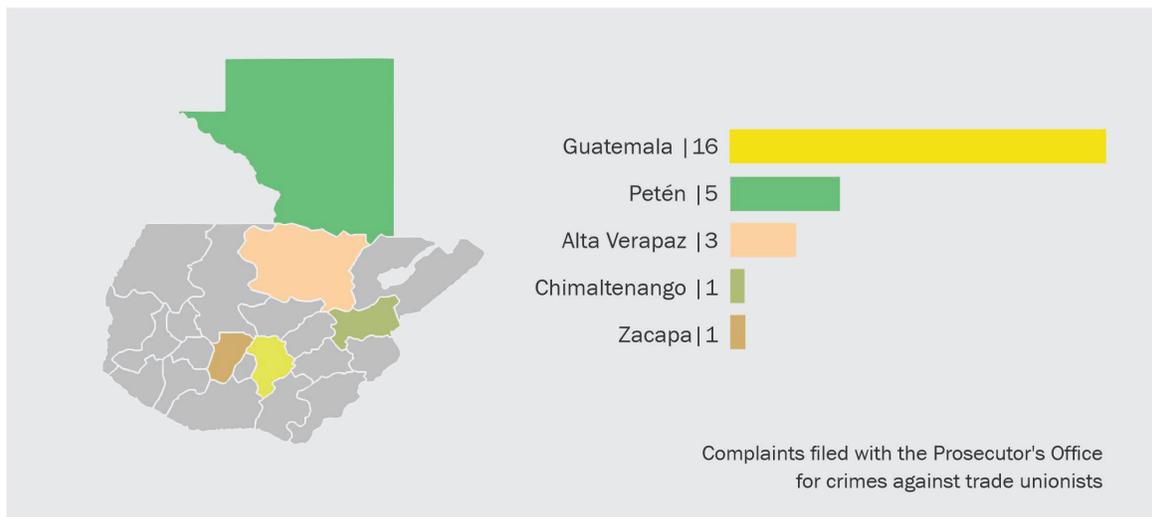
TABLE 1 | Number of incidents by type of attack

| TYPE OF ATTACK | NUMBER |
|---------------------|-----------|
| Criminalization | 9 |
| Threats | 7 |
| Intimidation | 3 |
| Surveillance | 3 |
| Forceful entry | 1 |
| Harassment / injury | 1 |
| Fire | 1 |
| Persecution | 1 |
| TOTAL | 26 |

Of the documented cases, the most frequent was criminalization. Criminalization refers to the misuse of the criminal system as a means to halting the work of a defender. In some cases, criminal complaints presented against a labor unionist are fabrications that force the denounced person to submit to processes that pull him/her away from his/her union work. In other cases, the intention is to ensure the person goes to prison so as to completely paralyze the person and prevent processes of dialogue or negotiation from transpiring.

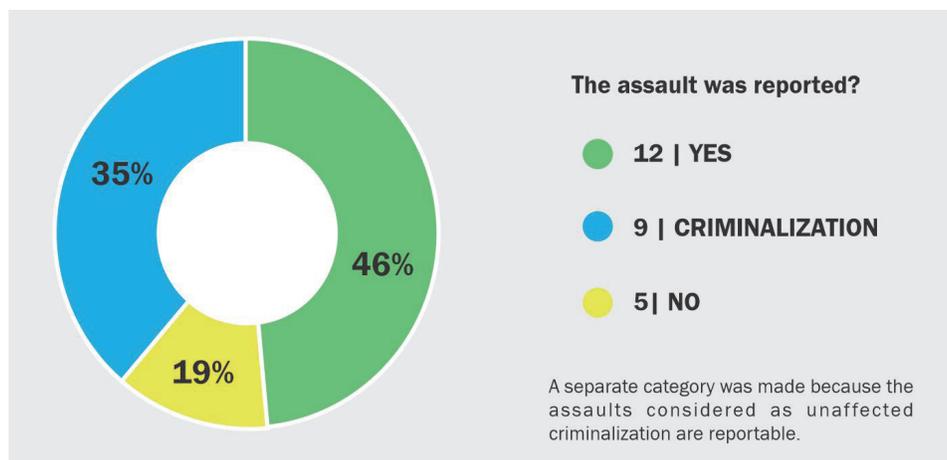
The threats and intimidation continue, overall, to be the most common forms of violence, whose goal it is to hinder union work. Many threats can be understood solely by context and taking previous incidents into account. It is of the utmost importance to know how to record and document the incidents that generate an anti-union environment, in order to contextualize the threats and strengthen complaints before the Public Ministry.

GRAPHIC 1 | Number of incidents by department



Guatemala continues to be the department with the greatest recorded number of incidents. The centralization of the REDLG explains this record and reflects the tendency of complaints to be presented to the Public Prosecutor's Office for Crimes against Trade Unions.

GRAPHIC 2 | Number of attacks reported to authorities



This graph illustrates how many of the incidents were reported to a competent authority. A separate category was made for criminalization, due to the fact that the attacks considered to be criminalization are not necessarily denounceable. The victim, in this case, is the one who is being denounced. That is, the criminal system or other punitive methods are used to discredit or hinder the defense of rights.

The graph shows the number of incidents that cannot be denounced, such as criminalization, surveillance, or harassment, among others, thus showing that the Public Ministry's data also reflects an underreporting of anti-union violence. This highlights the importance of maintaining a database of incidents as a monitoring tool that demonstrates Guatemala's anti-union culture and politics from various perspectives and expressions, thereby enabling proposals for substantial changes to the policies of protection and security measures to allow for the free exercise of union activity.

CASES DOCUMENTED IN 2019⁹

| N° | NAME OF VICTIM | ORGANIZATION | DATE | SUMMARY OF INCIDENT |
|----|---------------------|--|--------------|---|
| 1 | Organization | Sindicato de Trabajadores de la SAT ¹⁰ [SAT Employees Union] SITRASAT | January 2019 | SURVEILLANCE – The union’s headquarters was surveilled by [persons in] a pickup truck for several days. The vehicle’s license plates confirmed that it had previously been registered to the SAT. |
| 2 | Manuel Caal choc | Organized Employees of REPSA ¹¹ | 5/01/2019 | CRIMINALIZATION – On January 2, 2019, during a negotiation meeting with representatives of REPSA and the Governor of the Petén, four representatives of the REPSA employees were verbally accused of kidnapping and coercion within the context of a protest held by the workers on January 1 and 2, wherein they demanded a reduction in the goals imposed by the plantation’s foremen. On January 5 they were fired and informed about a criminal complaint that had been lodged against them. |
| 3 | Manuel Caal Choc | Organized Employees of REPSA | 5/01/2019 | CRIMINALIZATION – On January 2, 2019, during a negotiation meeting with representatives of REPSA and the Governor of the Petén, four representatives of the REPSA employees were verbally accused of kidnapping and coercion within the context of a protest held by the workers on January 1 and 2 wherein they demanded a reduction in the goals imposed by the plantation’s foremen. On January 5 they were fired and informed about a criminal complaint that had been lodged against them. |
| 4 | Vivente López Lajuj | Organized Employees of REPSA | 5/01/2019 | CRIMINALIZATION – On January 2, 2019, during a negotiation meeting with representatives of REPSA and the Governor of the Petén, four representatives of the REPSA employees were verbally accused of kidnapping and coercion within the context of a protest held by the workers on January 1 and 2 wherein they demanded a reduction in the goals imposed by the plantation’s foremen. On January 5 they were fired and informed about a criminal complaint that had been lodged against them. |
| 5 | Augusto Choc Butz | Organized Employees of REPSA | 5/01/2019 | CRIMINALIZATION – On January 2, 2019, during a negotiation meeting with representatives of REPSA and the Governor of the Petén, four representatives of the REPSA employees were verbally accused of kidnapping and coercion within the context of a protest held by the workers on January 1 and 2 wherein they demanded a reduction in the goals imposed by the plantation’s foremen. On January 5 they were fired and informed about a criminal complaint that had been lodged against them. |

9) No information is published without prior authorization by the persons who report the incidents.

10) *Superintendencia de Administración Tributaria* [Department of Tax Administration]

11) *Reforestadora de Palmas del Petén, S.A.* [Palm Reforestation Company of the Petén]

| N° | NAME OF VICTIM | ORGANIZATION | DATE | SUMMARY OF INCIDENT |
|----|---------------------|--|------------|---|
| 6 | Dora Regina Ruano | Sindicato Nacional de Trabajadores de Salud de Guatemala [National Union of Health Workers of Guatemala] (SNTSG-FNL) | 18/01/2019 | CRIMINALIZATION – The former Organizing Secretary of the National Union of Health Workers of Guatemala (SNTSG), Dora Regina Ruano, and the General Secretary, Luis Alpírez Guzmán, were detained for nearly 10 days (January 17-28) for having signed a collective bargaining agreement between the union and authorities from the Ministry of Health in 2013. They were accused of ‘abuse of authority’ because apparently the Ministry of Health did not have sufficient funds to pay what had been agreed to in the negotiations. Despite having been released from prison, both union leaders remained under house arrest. |
| 7 | Luis Alpírez Guzmán | Sindicato Nacional de Trabajadores de Salud de Guatemala [National Union of Health Workers of Guatemala] (SNTSG-FNL) | 18/01/2019 | CRIMINALIZATION – The former Organizing Secretary of the National Union of Health Workers of Guatemala (SNTSG), Dora Regina Ruano, and the General Secretary, Luis Alpírez Guzmán, were detained for nearly 10 days (January 17-28) for having signed a collective bargaining agreement between the union and authorities from the Ministry of Health in 2013. They were accused of ‘abuse of authority’ because apparently the Ministry of Health did not have sufficient funds to pay what had been agreed to in the negotiations. Despite having been released from prison, both union leaders remained under house arrest. |
| 8 | Organización | Federación Sindical de Empleados Bancarios y de Seguros [Union Federation of Bank and Insurance Employees] (FESEBS) | 4/02/2019 | FORCEFUL ENTRY – Between the night of February 3 and early morning of February 4, the building housing the offices of Members of Congress of the Republic as well as the headquarters of the Union Federation of Bank and Insurance Employees (FESEBS) was forcibly entered. Computers and archival documents were taken from the FESEBS office. While they are still performing an inventory, they noted that books of affiliates and documents on research on legislative bills that were underway were taken. |
| 9 | Gladys Santay | Comité Ad Hoc JS International [JS International Workers Committee] | 14/02/2019 | DEATH THREAT – Between February 14 and 24, death threats against members of the Ad Hoc Committee of the JS International, S.A. apparel factory were written on the company’s bathroom doors. This occurred after having handed out flyers about complaints against the company and inviting workers to join the Committee. Company authorities have isolated the leaders of the Committee and maintain constant surveillance on them. |

| N° | NAME OF VICTIM | ORGANIZATION | DATE | SUMMARY OF INCIDENT |
|----|----------------|--|------------|--|
| 10 | Julio Escobar | Comité Ad Hoc JS International [JS International WorkersCommittee] | 14/02/2019 | DEATH THREAT – Between February 14 and 24, death threats against members of the Ad Hoc Committee of the JS International, S.A. apparel factory were written on the company’s bathroom doors. This occurred after having handed out flyers about complaints against the company and inviting workers to join the Committee. Company authorities have isolated the leaders of the Committee and maintain constant surveillance of them. |
| 11 | Nidia Poitan | Comité Ad Hoc JS International [JS International WorkersCommittee] | 14/02/2019 | DEATH THREAT – Between February 14 and 24, death threats against members of the Ad Hoc Committee of the JS International, S.A. apparel factory were written on the company’s bathroom doors. This occurred after having handed out flyers about complaints against the company and inviting workers to join the Committee. Company authorities have isolated the leaders of the Committee and maintain constant surveillance of them. |
| 12 | Confidential | Confidential | March 2019 | Criminalization |
| 13 | Confidential | Confidential | March 2019 | Criminalization |
| 14 | Santiago Tiul | Trabajadores Organizados Industria Chiquibul. S.A. [Organized Workers of the Chiquibul Industry] | March 2019 | INTIMIDATION – In March 2019, the representative of Human Resources threatened Santiago Tiul with initiating criminal proceedings against him and any worker lodging a complaint with the General Labor Inspectorate. |
| 15 | Organización | Sindicato de Trabajadores de la SAT ¹² - [SAT Employees Union] (SITRASAT) | March 2019 | SURVEILLANCE – The management of Internal Affairs of the Department of Tax Administration (SAT) asked an investigator to investigate the Executive Committee of the SITRASAT union, performing an unauthorized investigation. |
| 16 | Edwin Marin | Sindicato de Trabajadores del Organismo Judicial [Judicial Branch Employees Union] (SOLTRAJ) | 4/03/2019 | INJURY AND HARASSMENT – On March 4, Edwin Marin of the Sindicato Solidaridad, Trabajo y Justicia [Solidarity, Work, and Justice Union] of the Judicial Branch Employees Union (SOLTRAJ) was physically assaulted by a fellow process server in the court in which they work. He has been harassed for years due to his support as a process server of workers affiliated to the Sindicato de Trabajadores de la Empresa Ternium Internacional Guatemala S.A. [Union of Workers of the Ternium Internacional Guatemala, S.A. Company] (SITRATERNIUM) in a case of reinstatement in 2012. |
| 17 | Nidia Poitan | Comité Ad Hoc JS Internacional [JS International WorkersCommittee] | 14/03/2019 | INTIMIDATION – On March 14, 2019, Nidia Poitán, the leader of the apparel factory’s Ad Hoc Committee (or Workers Committee), was intimidated when exiting the bus to go to her house by two men on a motorcycle who pointed her out and called out her name. |

12) Superintendencia de Administración Tributaria [Department of Tax Administration]

| N° | NOMBRE DE LA VÍCTIMA | ORGANIZACIÓN | FECHA | RESUMEN DE LOS HECHOS |
|----|----------------------------|---|-------------|--|
| 18 | Eduardo González Méndez | Sindicato de Investigadores y Docentes de la Universidad San Carlos de Guatemala [Union of Researchers and Teachers of the San Carlos University of Guatemala] (SINDINUSAC) | 26/03/2019 | DAMAGE TO PRIVATE PROPERTY – The home of Eduardo González Méndez, General Secretary of the affiliate of the Centro Universitario de Petén [University Center of the Petén] (CUDEP) of the Union of Researchers and Teachers of the San Carlos University of Guatemala (SINDINUSAC) was set on fire, resulting in damage assessed at more than Q500,000.00, after repeated complaints made by the leader against the Director of the University Center for the anomalous hiring and promotion of staff. |
| 19 | Damaris Jiménez | C-SITE TEXPIA Workers Committee | 9/07/2019 | DEATH THREAT – On July 9, 2019, workers at the apparel factory threatened to lynch Damaris Jiménez and Edgar Chiguichón, leaders of the Workers Committee, if they did not resign. |
| 20 | Edgar Chiguichón | C-SITE TEXPIA Workers Committee | 9/07/2019 | DEATH THREAT – On July 9, 2019, workers at the apparel factory threatened to lynch Damaris Jiménez and Edgar Chiguichón, leaders of the Workers Committee, if they did not resign. |
| 21 | Celeste Solares | Sindicato de Trabajadores de la SAT ¹³ -[SAT Employees Union] (SITRASAT) | 17/07/2019 | SURVEILLANCE – On July 17, 2019, the secretary of the union noted upon leaving the union's office that a person was taking pictures of her and/or the union's office from inside a car. |
| 22 | Organización | Sindicato de Servidores Públicos de la Municipalidad de El Tejar [Union of Public Servants of the Municipality of El Tejar] (being established) | August 2019 | INTIMIDATION – In august, during a protest in front of the Municipal City Hall to demand reinstatement, the woman in charge of human resources took photos of them, insulted them, and called the National Civil Police (PNC) while threatening to forcibly remove them. |
| 23 | Juan Ramón Alegría Ramírez | Sindicato de Trabajadores de Koa Modas [Union of Koa Modas Workers] | 12/08/2019 | PERSECUTION – Juan Ramón Alegría Ramírez, Executive Secretary of the Koa Modas apparel factory workers union, was pursued by three unknown individuals, one of whom was carrying a firearm, while the union member walked from the parking lot to his place of work. This occurred after a series of incidents of harassment by his line supervisor. The union is continuing its case and complaint against the company for incompletion of payments to the Guatemalan Social Security Institute (IGSS), despite the worker portions of the payments being withheld from their paychecks. |
| 24 | Héctor Reyes | Sindicato de Trabajadores de la Municipalidad de San Diego [Union of Workers of the Municipality of San Diego] | 12/12/2019 | DEATH THREAT – Hector Reyes, a union leader, received a death threat by text message from a person, indicating he should resign from his job and from his efforts to found a union. |

13) Superintendencia de Administración Tributaria [Department of Tax Administration]

Data from the Public Ministry

The Public Prosecutor's Office for Crimes against Trade Unions received 709 complaints in 2019. As has been recorded in previous years, the principal complaint – more than half – refers to disobedience¹⁴ on the part of civil servants or private citizens.

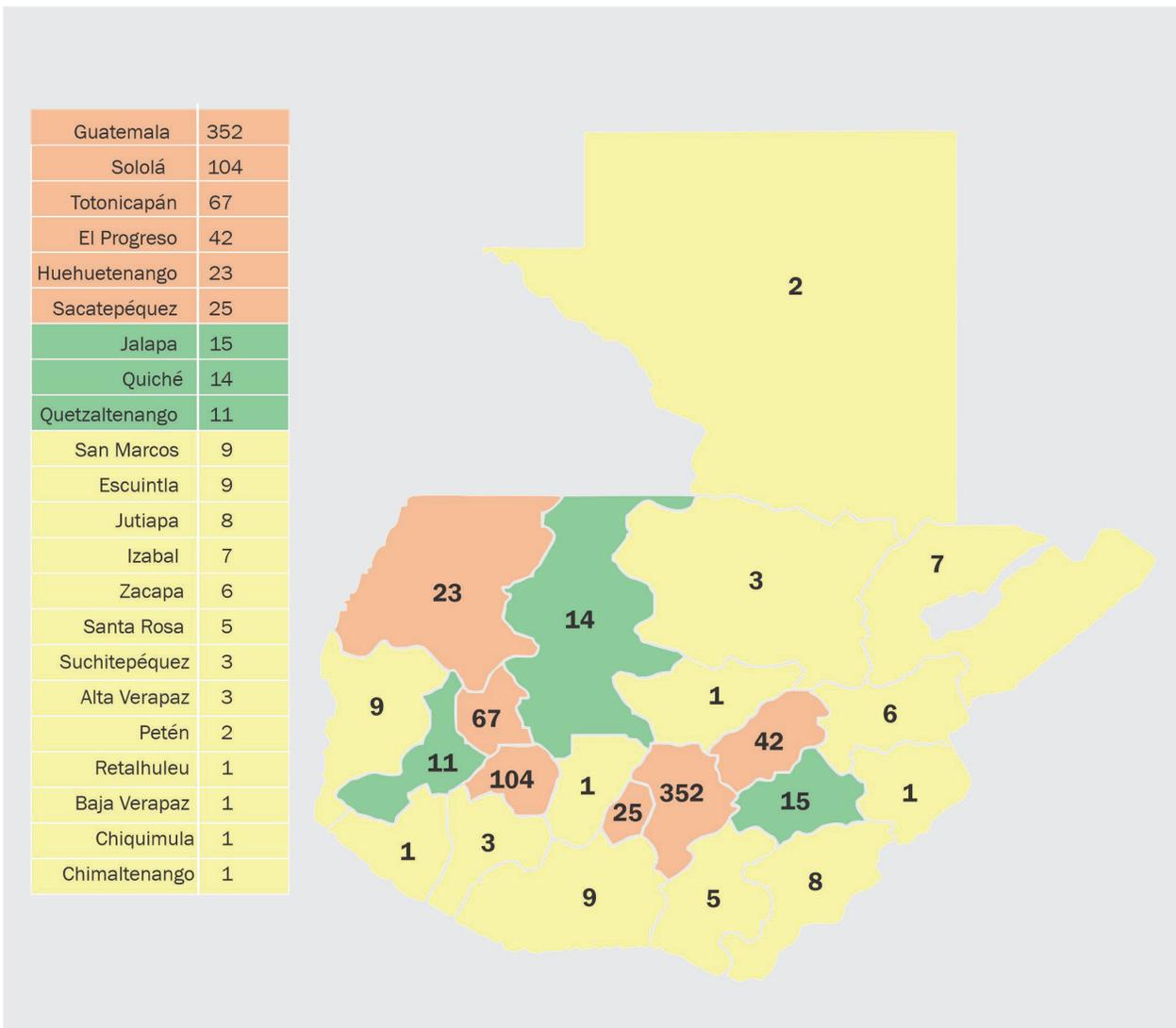
TABLE 2 | Number of complaints by type of crime

| CRIME | TOTAL DENUNCIATIONS |
|--|---------------------|
| Disobedience (by civil servants) | 369 |
| Disobedience (by private citizens) | 177 |
| Coercion | 49 |
| Threats | 40 |
| Abuse of authority | 23 |
| Discrimination | 9 |
| Incompliance of duties (by civil servants) | 17 |
| Forcible entry | 3 |
| Minor injuries | 3 |
| Violence against women | 1 |
| Fire | 1 |
| Other ¹⁵ | 17 |

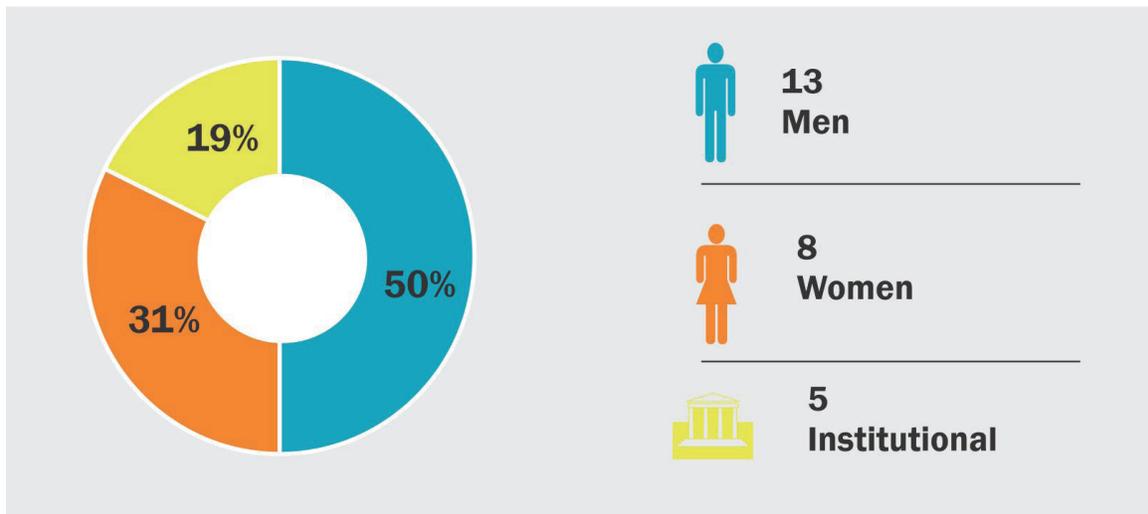
14) Disobedience refers to the failure to comply with judicial rulings. An example of this is the common practice of not respecting reinstatement orders following an illegal firing.

15) Classifications with two or fewer complaints filed, excluding violence against women and fires, were grouped together. Active bribery, robbery, non-payment, concealment of assets, influence peddling, false accusations and denunciations, fraudulent statement of professional credentials ['usurpación de calidad'], ideological misrepresentation, economic violence, material misrepresentation, illegal appointment, minor injuries.

GRAPHIC 3 | Number of complaints by department



Anti-union violence as a phenomenon – the iceberg



GENDER-BASED VIOLENCE

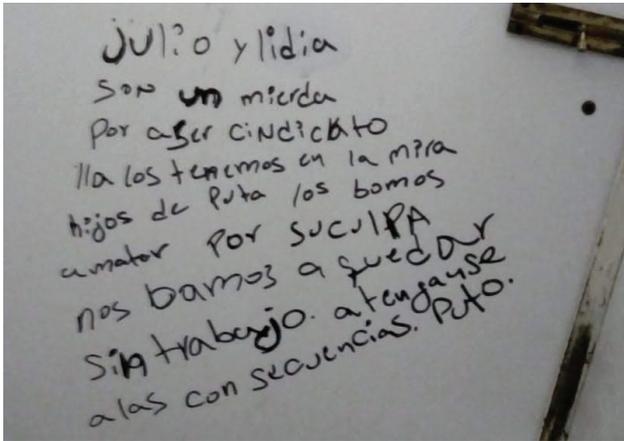
The number of documented cases against men exceeds those against women. Although the number of incidents does not allow for generalization regarding a particular trend, it is a fact that Guatemala is a country with a significant gender gap that is replicated in various spaces, including labor unions. The reason women report less anti-union violence than men might be the limited access they have to participating in positions of leadership within unions. Nonetheless, it is also necessary to keep in mind that there is systemic violence, with women as a social group being more prone to suffering types of violence that can be normalized, rendered invisible, or whose scope is separate from anti-union violence. One could mention sexual violence, harassment, coercion, and domestic violence, among others.

This intersectional¹⁷ violence can go unnoticed in the analysis of anti-union violence. In the case of women in particular, ILO Convention 190 emphasizes recognizing that domestic violence has an impact on the working world. This means that if a female union member is a victim of violence due to her gender within the sphere of her home or in public spaces, there will be repercussions for the union. An analysis of anti-union violence must include studying actors and interests that are in conflict based on labor-related matters. In the case of women, there are conflicts of interest and power struggles due to their gender, with the main opponent to their participation in unions sometimes being in their homes or communities. This type of violence can be normalized and go undetected; as such, documenting with a focus on gender can significantly alter the results presented in the graph.

The thought expressed in the previous paragraph applies to and should be considered in the case of other vulnerable groups, such as members of the LGBTIQ+ community, indigenous people, persons with disabilities, etc.

16) 5 cases of anti-union violence were against the entire organization and not to an individualized victim.

17) The intersectional dimension of the analysis of violence refers to the fact that certain groups, due to sex, gender, ethnicity, sexual preference, etc., suffer targeted violence that has an impact in other spheres of social life.



FPhoto: Threat written on the door of the JS International apparel factory bathroom stating “Julio and Lidia are shit for forming a union. We are watching you, you sons of bitches. We are going to kill you. Because of you we are going to be without a job. Beware of the consequences fucker. / Demonstration of maquila factory workers.

PEER VIOLENCE

As has already been mentioned, anti-union violence, as well as other types of violence, has particular characteristics conferred by the moniker ‘anti-union.’ The Public Ministry’s instructions for investigating crimes committed against labor rights defenders indicates that certain acts exist that “constitute a form of intimidation against the victim due to his/her participation in a labor or union organization or is intended to cause fear due to denunciations, complaints, or demands related to labor or union rights, or seeks to hinder in any other manner full unionization or the exercise of social, labor, or economic rights.”¹⁸

The instructions indicate that attention must be given to the manner in which the place of employment is organized so that the investigation can shed light on the level of responsibility of persons in higher posts. This is important because the practice of using intermediaries is common. The orders to intimidate, threaten, or commit physical attacks are executed internally by immediate bosses, workers allied to the bosses, and/or internal security agents; and externally by hired assassins or persons linked to organized crime.

The responsibility is clear when there is a direct order, even when there was knowledge of the action and failure to act. Thus, there is a need to understand the structure and hierarchy within a work place. Nonetheless, tactics have been observed where responsibility is diluted.

Rumors and defamation are commonly utilized as anti-union measures. Their effectiveness lies in their ability to divide the workers. For example, we observed the practice of alarming and misinforming the workers in an apparel factory via rumors that the company will close due to actions taken by the union, ad hoc workers’ committee, or workers in the process of organizing. This has led to threats of lynching or assassination, isolation, and other forms of intimidation on the part of work colleagues. The violence that erupts among peers has another level of impact on union organizing and if it emerges from various sources, it means that the defenders face opponents on many fronts. A criminal complaint may not have the dissuasive power that is desired, as the party responsible for creating this environment of violence, or at least permitting it with impunity, is not directly denounced.

In the worst cases, rumors or defamation penetrates the organization itself and destroys the group from within. It is not surprising, then, that there are unions in only two of the 173 apparel factories¹⁹ in the country. Nonetheless, the cases of abuse and violence abound.

18) Instructive 01-2015: instructions for effectively investigating and criminally prosecuting crimes committed against workers, union members, and members of organizations of workers and other labor and trade union rights defenders (Article 14, point A).

19) According to the Asociación de la Industria de Vestuario y Textiles de Guatemala [Association of the Clothing and Textile Industry of Guatemala] (VESTEX), there are 173 companies in Guatemala dedicated to clothing manufacturing; 36 textile and thread factories; and 81 that provide services and offer accessories to manufacturers. According to the Ministry of Labor, there were 643 companies in the textile industry registered in the commercial registry through October 2017, and to date no operations have been recorded as closed.

Similarly, an intense process of stigmatization was observed in the large palm oil cultivation companies in the northern part of the country when their community relations managers targeted workers seeking to organize to demand better working conditions. The direct relationship with community authorities, such as the *Comités Comunitario de Desarrollo Urbano y Rural* [Community Committees for Urban and Rural Development] (COCODEs),²⁰ are utilized to discredit workers and their defense of labor rights by referring to them as being bad workers, troublesome, violent, etc. While no cases of peer violence have been recorded in this context, it is clear that the strategy, similar to what occurs in apparel factories, is to undermine grassroots support and in extreme cases, provoke violence with impunity.

It is important to note that the role of immediate supervisors, or mid-level bosses, is of great relevance in the analysis of anti-union violence. On one hand, it has been observed that sometimes they act on their own initiative, whether due to the fact that they have been warned that they will be fired if the workers under their supervision organize themselves (as in the case of the apparel factories), or because they view their own power as being threatened (as in the case of the palm oil plantations). This situation refers back to the importance of holding the employers responsible, who although they may not have been direct participants in the acts of violence, acquiesce to them by failing to act to prevent them from happening.

Peer violence generates a loss of grassroots support due to the delegitimization of the actions and reason for the movement. The lack of grassroots support considerably limits the field of work of a labor union or labor rights defense organization. The union movement should develop the capacity to exert a counterweight to these actions of delegitimization.

The generalization of an anti-union culture is the result of decades of violence, repression, and economic measures of labor insecurity – that is, the attempt to install structural anti-unionism. The media have been utilized to build stereotypes about unions and their members. The Ministry of Education's *Currículo Nacional Base* [Basic National Curriculum] (CNB) – a space wherein various sectors of society fight for historic memory – includes nothing about labor unions.²¹ The textbooks do not mention the word within the context of an analysis of social actors in recent history. In effect, the unions themselves lack that historical memory. There is no reinforcement of either the role played by organized workers as a social force in political moments – such as the march of the miners from San Ildefonso Ixtahuacán in 1977, the strike of the sugarcane, cotton, and coffee workers from the Southern Coast in 1980, and the role of teachers in the overthrow of the dictator Jorge Ubico in 1944 – or any mention of the importance of unionism as a concept in collectively demanding labor rights.

20) The COCODE is the community level of the Sistema de Consejos de Desarrollo Urbano y Rural [System of Urban and Rural Development Councils], whose objective is to identify and promote in a participatory manner projects that benefit the community. In the case of palm oil in northern Guatemala, the COCODEs also play a role as intermediaries in the process of hiring workers for palm oil cultivation.

21) In fact, the CNB barely mentions the fratricidal war that ruptured the country for 36 years.



Imagen: Consejos Comunitarios de Desarrollo (COCODEs) / Panorama Solutions, © IUCN @ Paul Aragón

Conclusions

The political crisis in recent years has brought maneuvers by sectors that benefit from the status quo to maintain it, while at the same time weakening the institutions and rule of law even more. Faced with these circumstances, the newly elected government, representing the conservative right and bearing shades of authoritarianism, will impose itself even more unfavorably against social organizing in general and union organizing in particular. The government has close public linkages to CACIF; as such, we can expect to see socioeconomic policies favoring management and a relaxation of laws relating to terms of employment.

The number of complaints regarding disobedience of judicial rulings received by the Public Prosecutor's Office for Crimes against Trade Unions in the Public Ministry indicates a particular institutional weakness on the part of the Ministry of Labor, in that it does not have either the material or political resources to make employers obey labor laws. The complaint process with the General Labor Inspectorate is ineffective undermines the defense of labor rights.

Anti-union violence is a phenomenon whose dimensions we do not yet know in full. Defining it requires efforts of analysis, discussion, and above all, data-gathering. All of the incidents of anti-union violence have overwhelmed the movement and there is not the capacity to record all forms of violence that labor rights defenders experience.

It is of the utmost importance to address the fact that much of the violence is committed by other workers, other peer organizations, neighbors, community members, or colleagues. This limits the field of action for the unions and they become entrapped in endless processes of denunciations that harm the social fabric within the working world, the labor union movement, and the general populace.

Institutional strengthening in the areas of protection, justice, and reparations to guarantee the freedom of unions and collective bargaining as human rights, comes from the adaptation of policies or laws that address the different and new forms of anti-union violence. Recording and analyzing the information reported is essential for making proposals on institutional strengthening.

Finally, it is concluded that the union movement has lost the necessary leadership to have a voice in the social dialogue. This weakening has been strategically generated as a parallel process to the undermining of institutions and relaxation of laws related to the terms of employment: the three large anti-union contexts in Guatemala. It is vitally important to perform an introspective analysis of the capacity and strategies in the area of communication with the bases of the unions, the working population, and society in general, in order to identify and strengthen the support provided to the younger generations in the eroding political space.

Recommendations

To the unions:

- Incorporate a gender-based focus and address intersectionality in the analysis of anti-union violence and violence against labor rights defenders, with an eye to ensuring cases of violence against women or other vulnerable groups are not rendered invisible, as well as demonstrating the impact on union freedom by discriminatory actions or measures on the part of employers or labor policies.
- Issue a call to report, record, and document cases of anti-union violence, as well as any violations of human rights in general, and labor rights in particular.
- Prioritize strategic communication as a way to expand the field of work in the defense of Guatemalans' labor rights.

To the Ministry of Labor:

- Update the processes of systematizing data on the reality of working in Guatemala, as well as access to public information.
- Assume its appropriate role in promoting and protecting labor union freedom, collective bargaining, and the defense of workers' interests.
- Strengthen its capacity to receive and respond to complaints at the national level.

To the Public Ministry:

- Train all public prosecutors, prosecution officers, and personnel in the Service Office in how to implement Instructive 01-2015 in order to perform complete investigations in cases against the free defense of labor rights.
- Implement Instructive 01-2015 in the investigation of cases of threats against the physical, mental, and moral integrity of labor rights defenders.
- Reactivate the *Mesa Técnica Sindical Permanente de Protección Integral* [Permanent Technical Labor Union Roundtable on Comprehensive Protection] that addressed cases of violence against labor unionists and whose operations have ceased with the current Public Ministry administration.

To the Ministry of Government:

- Strengthen itself in terms of capacity and resources, so as to ensure it is effective in following the *Protocolo de Implementación de Medidas de Seguridad Inmediatas y Preventivas* [Protocol for Implementing Immediate and Preventive Security Measures] in favor of labor rights defenders.
- Also reactivate the *Instancia de Análisis de Ataques contra Defensores/as de Derechos Humanos* [Agency for Analyzing Attacks against Human Rights Defenders] (Ministerial Agreement 09-2012)

MINGOB), as it represents a space wherein to make complaints, learn about the widespread situation, and implement security protocols.

To the Public Ministry, Ministry of Labor, and Judicial Branch:

- Follow up on and monitor cases of disobedience of judicial rulings by individuals and civil servants in labor-related matters.
- Strengthen the capacity for compulsion, so as to ensure adherence to judicial resolutions in **labor-related matters**.

Bibliography

- Álvarez, L. (October 4, 2019). CC suspende contratación a tiempo parcial [Constitutional Court Suspends Part-Time Hiring]. El Periódico [The Newspaper].
- Inter-American Development Bank. (March 2018). Índice de mejores trabajos [Index of Best Jobs]. Obtained from mejorestrabajos.iadb.org: <https://mejorestrabajos.iadb.org/es>
- International Trade Union Confederation. (2019). Índice global de los derechos la CSI 2019 (ITUC Global Rights Index 2018). Los peores países del mundo para los trabajadores [The Worst Countries in the World for Workers]. Brussels: ITUC.
- Political Constitution of the Republic of Guatemala. (1985).
- Dominguez, M. (July 29, 2019). Cifra de deportados podría superar los 35 mil esta semana [Number of Deportees Could Exceed 35,000 This Week]. Prensa Libre [Free Press].
- Fernandez, J. M. (October 4, 2019). Amparo frena oportunidad de empleo a tiempo parcial ['Amparo' Suit Halts Part-Time Employment Opportunity]. Prensa Libre.
- Government of Guatemala. (June 3, 2019). Regulations for International Labor Organization (ILO) Convention 175 on Part-Time Work. Acuerdo Gubernativo 89-2019 [Governmental Agreement 89-2019]. Guatemala, Guatemala.
- González, L. (October 3, 2019). CACIF demanda revertir amparo que suspende trabajo a tiempo parcial [CACIF Demands the Overturning of the 'Amparo' that Suspends Part-Time Work]. República [Republic].
- Instituto Nacional de Estadística [National Institute of Statistics]. (2019). XII Censo Nacional de Población y VII de Vivienda [XII National Population Census and VII Housing Census]. Guatemala: Government of Guatemala.
- Public Ministry. (2015). Instructions 01-2015: instructions for effectively investigating and criminally prosecuting crimes committed against workers, union members, and members of syndicates from organizations of workers and other labor and trade union rights defenders. Instructivo 01-2015 [Instructions 01-2015]. Guatemala.
- MINTRAB. (2017). Política Nacional de Empleo Digno 2017-2032 [National Policy on Decent Employment 2017-2032]. Guatemala: MINTRAB.
- Ramos, S., & Maldonado, J. (October 3, 2019). CC ampara a sindicalistas y suspende contratación a tiempo parcial [Constitutional Court Protects Unionists and Suspends Part-Time Hiring]. Publinews.

MAY 1ST IS MAY 1ST
WE CONDEMN AND REJECT
THE GOVERNMENT'S DECISION
TO CHANGE THE DATE.
1886-2019
LONG LIVE MAY 1ST



@redlguatemala



@redlguatemala



@RedLaborales



redlg.org

Text of banner on front cover during May 1st (Labor Day) march en 2019.

