



Bidirectional Communication
Pilot Project *in the* Agricultural
Sector of San Luis Potosí, Mexico

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About Polaris

Named after the North Star that guided slaves to freedom in the United States, Polaris is a leading NGO in the global fight to eradicate modern slavery. Founded in 2002 in Washington, D.C., Polaris has operated the U.S. National Human Trafficking Hotline since 2007, serving human trafficking victims and survivors within the U.S. 24 hours a day, seven days a week.

As a result of that work, assisting real victims in real-time, Polaris has compiled the largest known dataset on human trafficking in the United States. This dataset allows us to serve as a laboratory for a reimagined response to sex and labor trafficking—one that is driven by data centered on the insights and expertise of survivors and scaled to the magnitude of the tragedy—25 million people worldwide, robbed of the freedom to choose how they live and work. Our deep expertise supports research and analysis, advocacy and outreach, and innovative pilot projects and partnerships all aimed at making a systems-level change.

Why Study Agriculture Workers in Mexico

Analysis of cases reported to the National Human Trafficking Hotline shows that Mexico is one of the primary source countries for victims of labor trafficking and exploitation in the United States. With that in mind, Polaris has launched several long-term initiatives in Mexico to coordinate solutions with partners on the ground, provide a fuller understanding of human trafficking in Mexico, and work with stakeholders on strategies to combat this crime from a transnational perspective. Since 2015, that work has included strengthening the first Human Trafficking National Hotline (LNCTdP in Spanish) in Mexico and undertaking research projects that help stakeholders throughout North America better understand how trafficking operates in this country.

Existing information is sparse. Trafficking, exploitation, and forced work often go unrecognized in Mexico because poor working conditions are heavily normalized among certain groups. In Polaris's Landscape Analysis: Human Trafficking for the Purpose of Labor Exploitation in Mexico,¹ which was based upon on the ground information from civil society organizations, Polaris highlighted the need to collect more information about the risks and conditions that may lead farm-workers into a labor trafficking situation.

¹ Landscape Analysis: Human Trafficking for the Purpose of Labor Exploitation in Mexico, Polaris, 2018.

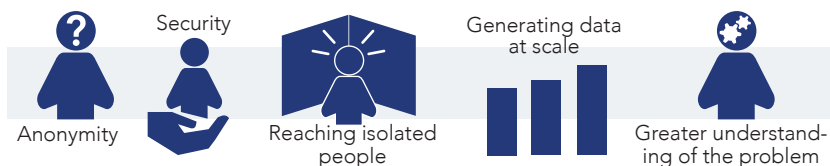


To address the lack of information, Polaris launched a project utilizing an SMS mobile phone technology platform, which allows isolated migrant workers² to share their experiences even while they are still working in systems where they are relatively powerless. In doing so, it offers these workers the opportunity to transform these power dynamics –breaking through the isolation, strengthening their voice, and, in doing so, protecting them against exploitation.

TOOLS USED:



ADVANTAGES INCLUDE:



The launch of the bidirectional communication project began with Polaris identifying a geographic area and local civil society partners for its pilot project to collect data using different channels of communication (SMS and interviews). The project was designed so that Polaris could provide suitable resources to users in response to information it received in real-time, as well as collect details about rights violations, vulnerabilities to trafficking, and requests for support.

The agricultural sector was chosen because of existing evidence of workplace abuse, the migratory nature of the workforce –a sizeable number of whom carry out seasonal work in both Mexico and the United States- and the fact that the vast majority of agricultural produce is exported. Choosing this sector also provides the opportunity to involve private sector stakeholders in the adoption of rules and regulations that root out trafficking and exploitation from supply chains.

Polaris chose to conduct the pilot project in San Luis Potosí and received on the ground collaboration from consultants, María Mayela Blanco and Andrea Gálvez; church community outreach group, Pas-

² Transformative Technology for Migrant Workers: Opportunities, Challenges, and Risks.
<https://www.opensocietyfoundations.org/publications/transformative-technology-migrant-workers-opportunities-challenges-and-risks>.



toral Social de Valles via the work of Javier Méndez, Bianca Estrada, Luis Eulalio Tovar, Jeremías Porfirio, Rosaura Félix and Juan González; Respuesta Alternativa, SEDHDEC -Servicio de Derechos Humanos y Desarrollo Comunitario, A.C., in collaboration with Pastoral Social de Matehuala members, Sanjuana Rodríguez, Ana Luisa Orozco and José Guadalupe Castillo. Due to their experience defending and promoting workers' rights and the level of trust they possess within local communities, these organizations were essential to the project's success collecting information about working conditions and labor trafficking, as well as to the sharing of information and resources with potential labor exploitation and trafficking victims. Prioritizing and ensuring these organizations' safety while conducting their work during this project was of utmost importance.

Polaris is grateful for civil society organizations' work –from conducting interviews and developing the technology, to the project's implementation– to help better understand existing agricultural labor conditions. Consultants and members of each team played a vital role in connecting with farmworkers to gather the information presented in this report, and coordinating services and responses to each case if required. Furthermore, Polaris appreciates the support provided by Casa de la Caridad Hogar del Migrante, Programa de Cáritas San Luis Potosí, A.C., in collaborating with a group of priests from the archdiocese of San Luis Potosí to provide awareness building at the leading seminary in the archdiocese. Polaris collaborated with the following civil society organizations that worked in different areas –some directly with farmworkers and trafficking victims– that were willing and able to share information from their work: Centro de Derechos Humanos Samuel Ruiz, Clínica Jurídica de Litigio Internacional de la UASLP, Maestría de Derechos Humanos de la UASLP, Casa de la Caridad Hogar del Migrante, Educación y Ciudadanía A.C., Observatorio Indígena, Centro Potosino de Estudios Migratorios, A.C., Ánimos Novandi A.C., Sembrar y Florecer A.C., and Otra Oportunidad A.C.

We also recognize the efforts made by Consejo Ciudadano de la Ciudad de México in identifying and helping expand services for potential human trafficking victims in San Luis Potosí. We also very much appreciate Mónica Salazar's contributions to the section regarding the Mexican legal context for this report. Lastly, we thank Sean McDonald and Alex Pitkin of FrontlineSMS, our technology provider during the project.



About the report

The report's analysis focuses on three critical moments in a trafficking situation –recruitment, subjugation, and exploitation– that, present in the same case, constitute human trafficking as defined by the third article of the Palermo Protocol and articles 10, 11, 12, 21 and 22 of Mexico's anti-trafficking law (*Ley General*).

CRITICAL MOMENTS IN A HUMAN TRAFFICKING SITUATION:

When these three elements coexist in the same situation



Project implementation occurred in two phases:

The first phase of the project lasted ten months (from September 2017 to June 2018) and focused on the documentation of recruitment conditions in Mexico (Appendix I) and identifying factors that make individuals vulnerable to labor trafficking. This phase took place in the following municipalities of the Altiplano region of San Luis Potosí: Cedral, Villa de Arista, Villa de Guadalupe, and Vanegas. Challenges related to low connectivity and participation prompted the team to include the following, mostly indigenous, communities of the Huasteca region in this phase of the project and survey: Tamazunchale, Axtla de Terrazas, Aquismón, and Xilitla.³ During the first phase, we collected 511 surveys.

The second phase of the project lasted eight months (from June 2018 to January 2019). Its objective was to document existing labor conditions and means of control used in labor trafficking. More specifically, we sought to identify critical indicators of a trafficking situation such as exploitation, force, fraud, coercion, and limited ability to leave a worksite, among others. This phase took place in the following municipalities of the Altiplano region of San Luis Potosí: Cedral, Vanegas, Villa de Guadalupe, and Villa de Arista. We covered certain municipalities in the central part of the state, including Ciudad del Maíz, Rioverde, Ciudad Fernández, Tamasopo, and Villa Juárez. Tamazunchale, Matlapa, Axtla de Terrazas, and Xilitla in the Huasteca region were also included in the survey.

³ These regions were included starting in December 2017.



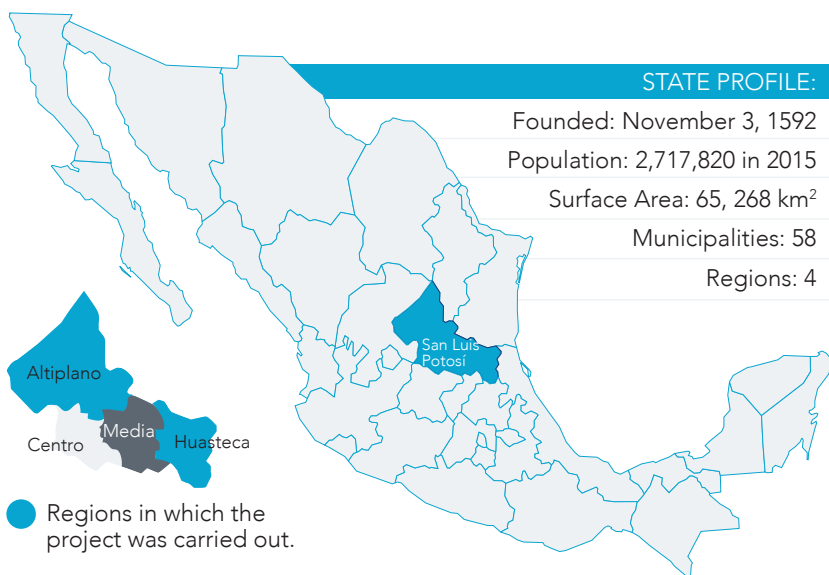
We designed two surveys for this phase:

The first survey used facilitators to document labor conditions. The survey with 47 questions (Appendix II) included three SMS message subscription options for workers from which they could choose from social events, news, and weather in their city (if they shared their cell phone number). We collected 635 surveys on labor conditions.

The second survey focused on identifying coercion through four questions about debt, restriction of movement/involuntariness, salary retention, and threats (Appendix III). These questions focused on situations that included elements of force, fraud, and coercion for forced labor or human trafficking. Our local allies emphasized the reluctance of farmworkers to respond to questions that might put them at risk, whether real or perceived. To avoid putting anyone at risk (both participants and facilitators), all the surveys were conducted through the SMS platform. We collected 112 surveys about coercion factors, which, in conjunction with the previous responses, totals 747 responses for phase two.

Due to connectivity issues and the use of cell phones, it was necessary to redesign and adapt strategies to conduct the surveys via facilitators. This was only used as a last resort and due to the impossibility of some farmworkers completing it directly from their phones.

The Respuesta Alternativa A.C. team worked in the Altiplano region and collected data in farmworker shelters, plazas, and street markets. The team introduced itself as human rights and labor rights defenders who also invited people to participate. They were supported by local Catholic churches that provided information on where and how to find farmworkers and advised on which communities to survey considering the volume of farmworkers in the area. They provided security for those who facilitated the surveys. The team on the ground never entered private farms, and there was no collaboration or communication with farm owners to avoid putting at risk workers who might be in an active human trafficking situation. The surveys were conducted in Spanish. In the Huasteca region, Pastoral Social de Valles took advantage of their pre-scheduled activities in rural communities to provide pastoral services (e.g., masses, community meetings, etc.). In the case of Xilitla and Aquismon, interviews were conducted in churches and community meetings. These surveys were facilitated in Spanish, Tének, and Náhuatl since three of the five team members spoke an indigenous language.



San Luis Potosí as a Pilot State

San Luis Potosí was selected as the pilot state for this project because it fulfilled specific criteria that made this inquiry possible. The factors considered included: the level of security in the state, a large enough agricultural industry, some preexisting documentation on the work conditions in the agricultural sector,⁴ and the existence of civil society organizations that would have the capacity to support any potential labor trafficking victims. One key component was also the strategic location that San Luis Potosí occupies during national labor migration cycles by representing a state of origin, transit, and destination for the internal movement of farmworkers.

Types of Crops

The pilot project did not concentrate on any specific crop but sought to document the sector-wide conditions in the Huasteca and Altiplano regions of San Luis Potosí. However, the participants in the second phase of the survey indicated working with the following crops⁵ in or-

4 70/2016 of the CNDH - linked to indigenous agricultural laborers in Villa Juárez, San Luis Potosí. Landscape Analysis: Human Trafficking For the Purpose of Labor Exploitation in Mexico (Polaris, 2018). Violation of the Rights of Agricultural Workers in Mexico, First Report (National Network of Agricultural Workers and Day Workers, 2019).

5 Two instances were reported in which the person that participated in the interviews worked in

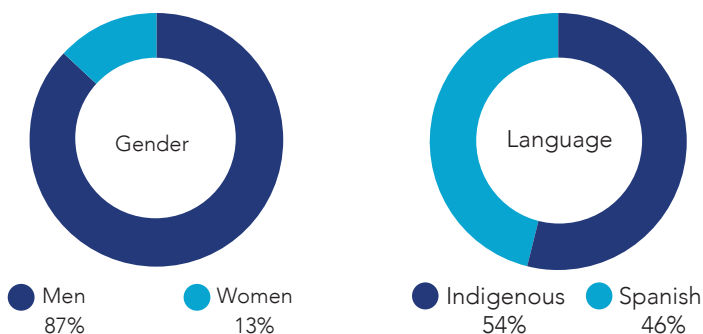


der of prevalence in the sample; tomatoes, chili peppers, cucumber, sugar cane, onion, limes, carrots, strawberries, seeds, oranges, pumpkins, potatoes, flowers, apples, melons, garlic, tomatillos, beans, and corn. Sixty-seven percent of those surveyed during the second phase worked with tomatoes, 28 percent with chili peppers, and 11 percent with cucumber. In a lower proportion was sugar cane with 7 percent and onion with 3 percent of the sample. Other crops represented 1.5 percent or less of the sample.

Sociodemographic Profiles and Migration Dynamics

Phase One

The majority of the participants identified as male (87 percent), and the remaining 13 percent identified as female. Fifty-four percent of the participants reported primarily speaking an indigenous language in interactions with family and friends, and 46 percent utilized Spanish as their first language. It is also possible that some respondents that speak Spanish as a first language also identify and belong to an indigenous community. The predominant indigenous language in the data set is Náhuatl, followed by Tének.⁶ For the purpose of this analysis, we will refer to speakers of any indigenous language as “indigenous language-speakers” and others as “Spanish-speakers.”



The average age of the surveyed individuals was 35 years old, with women usually being younger than men, averaging 31 years old. Four percent of the participants said they were minors, with the youngest being 11 years old. Additionally, three percent of the participants were older than 60 years old, with the oldest being 78 years old.

cleaning vegetables and not in growing or harvesting them.

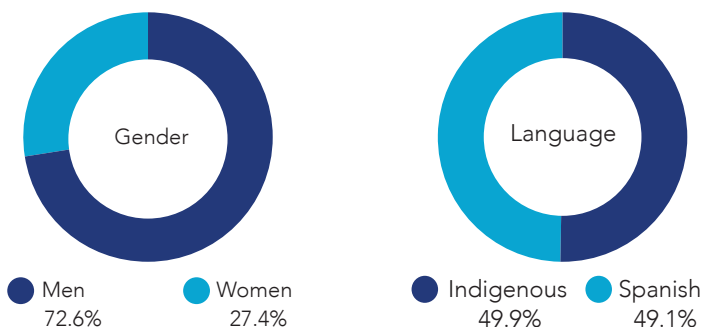
⁶ The response rate on these languages may have been particularly high because three of the facilitators spoke these languages.



Almost nine percent of the men were accompanied by their family as they traveled, compared with 33.9 percent of the women. Fifteen percent of the people that spoke indigenous languages moved with their family, compared to 8.8 percent of Spanish-speakers.

Phase Two

The sociodemographic profile of the phase two sample group was similar to phase one. The group was also primarily made up of men (72.6 percent) and culturally diverse —49.9 percent indigenous language-speakers and 49.1 percent Spanish-speakers.



The primary indigenous languages in order of prevalence in the sample were Náhuatl, Tének, Mixteco, and Pame. Low percentages of Huasteco, Totonaco, and Mazateco were also detected. More than 11 percent also reported that they spoke more than one language at home or with friends.

Regarding the age profile of the workers, the largest group was young adults between the ages of 18 and 24 years old, with 31.6 percent; next were those between 25 and 31 years old, with 22.7 percent and those 32 to 38 years old with 16.5 percent. The lowest representations were the 5.8 percent that were minors, and the 1.6 percent over 60 years old.⁷

San Luis Potosí was the predominant state of origin for survey participants, with 66.5 percent of the sample; followed by Veracruz with 9.6 percent; Guerrero, with 8.5 percent; Hidalgo, with 6.6 percent, and Tamaulipas, with 2.5 percent. Other states with participation lower than 2.1 percent were Oaxaca, Zacatecas, Puebla, Nuevo León, Baja California Sur, Durango, and Guanajuato. The language in relation to the state of origin provided interesting findings: more than half⁸ of the

⁷ The age range 39 to 45 years old represents 11 percent of the sample, 46 to 52 years old represent 7.4 percent, and 53 to 59 years old represents 3 percent of the sample.

⁸ 62.09 percent of the people in the sample from phase two were from San Luis Potosí.



participants from San Luis Potosí were Spanish-speakers; this percentage decreases with Veracruz, Guerrero, and Hidalgo.⁹ The predominant language was Náhuatl for Veracruz and Hidalgo and Mixteco for Guerrero,¹⁰ which confirms the tendency towards the internal migration of indigenous communities for work.

Representative Sample

To establish a statistically significant sample, we referred to the List of Regional Migrant Care Centers (SEDESOL, 2013), which calculated the total number of migrant workers in areas of origin and destination for 2012 at 59,642.¹¹ This figure can be disaggregated as follows: in the Altiplano, a total of 5,835;¹² for the Huasteca zone, a total of 48,341;¹³ and for the Centro zone, a total of 5,916 migrant workers.¹⁴ It is relevant to note that the sample in the Altiplano region was concentrated in the municipalities of Cedral, Vanegas, Villa de Guadalupe, and Villa de Arista, while that of the Huasteca included Aquismón, Tamazunchale, Ciudad Valles, Matlapa, Axtla de Terrazas and Xilitla.

Using this source of information disaggregated by region –albeit not by municipality– we established that in our sample of 511 interviews, for the first phase of the project out of a total population of 53,726 for the Altiplano and Huasteca regions, we obtained a level of confidence of 95 percent, with a confidence interval of 4.31.

For the second phase, with a sample of 635 interviews on labor conditions, the level of confidence was 95 percent, with a confidence interval of 3.87. The sample of 112 interviews on trafficking indicators was retained –despite having a confidence interval of 9.79 with a 95 percent confidence level– due to the difficulty of extracting direct data on such a sensitive issue, and for the light it shines on the phenomenon in the absence of other hard data.

9 Veracruz made up 26.2 percent; Guerrero, 16.7 percent; and Hidalgo, with 7.1 percent.

10 Náhuatl from Veracruz 26.2 percent, Mixteco from Guerrero 48.2 percent and Náhuatl from Hidalgo 78.6 percent.

11 We also considered the estimates of the General Directorate of Analysis and Prospective of the SEDESOL with information from the Module for Socioeconomic Conditions of the National Survey of Income and Expenses of Households for 2014 (MCS ENIGH) (SEDESOL, 2016) that established the number 55,448 as the total number of farmworkers in San Luis Potosí.

12 Including the municipalities of Cedral, Guadalcázar, Matehuala, Moctezuma, San Luis Potosí, Vanegas, Venado, Villa De Guadalupe, Villa De Arista.

13 Including the municipalities of Aquismón, Tancanhuitz, Ciudad Valles, Coxcatlán, Ébano, Huehuetlán, San Antonio, San Martín Chalchicuautla, San Vicente Tancuayalab, Tamasopo, Tamazunchale, Tampacan, Tampamolón Corona, Tamuín, Tanlajas, Axtla De Terrazas, Xilitla, Matlapa and El Naranjo.

14 Including the municipalities of Alaquines, Ciudad del Maíz, Ciudad Fernández, Rayón, Rioverde, San Cirilo de Acosta, Santa Catarina, and Villa Juárez.



Methodological Limitations and Identified Challenges

This pilot project sought to map out the elements and indicators that, in the process of recruitment, job placement, and employment, violate migrant workers' human rights and increase their vulnerabilities to further exploitation and labor trafficking. Initially, it delineates the migrant workers' sociodemographic profiles and analyzes their experiences with employment, indebtedness, housing, freedom of movement, access to health care, and child labor.

The project also served to examine the utility and efficacy of a technology platform for data collection and communication in regions that represent linguistic, geographic, and security challenges with agricultural migrant populations. The project was not intended to fully discern the prevalence of trafficking, nor to serve as a comprehensive mapping of recruitment and employment conditions in the San Luis Potosí agricultural sector. The information collected during this project reflects the reality of the Altiplano and Huasteca areas in San Luis Potosí and the interaction between an expanding agricultural industry and demand for labor. Therefore, the results cannot explain the trafficking phenomenon at the national level but instead can contribute to and inform the growing number of investigations that seek to understand and quantify it.

Garnering trust was critical to collecting information successfully. There are inherent risks in this type of work and geographic area. Therefore, unless there was a high level of trust, participants were generally reluctant to share potentially incriminating or sensitive information due to fears of reprisals. While the technology and anonymity of the SMS format may minimize these risks, the initial interaction with the workers was equally important. In this sense, it was vital to have a community-based and on the ground dissemination strategy.

The project location's level of security and connectivity played a critical role during the implementation phase. Direct collaboration with community leaders in small towns made facilitators assisting with the surveys highly visible and identifiable. A few times these facilitators received direct threats, which forced a suspension of project activities to avoid further risk. A final element to consider is the possibility that the information presented here underestimates the gravity of the phenomenon. For example, some in-person interviews were conducted in shelters for migrant laborers that did not guarantee absolute privacy. Facilitators reported several incidents in which the respondents changed the tone of their responses when they saw crew leaders or other colleagues pass by.



I. Introduction to the Subject

There is a lack of research and data available on the issue of human trafficking, both at the national and international levels. Polaris's Landscape Analysis: Human Trafficking for the Purpose of Labor Exploitation in Mexico, illustrates the issue from a broad and comprehensive view and addresses the need to fill gaps on vulnerabilities to labor trafficking that exist in different sectors. This report will focus and add to our understanding of one particular part of the agricultural industry, and subsequently, the particularly vulnerable population of migrant workers that participate in this sector. Mexico's agricultural industry is one of the most extensive, unfavorable, and intrinsically abusive sectors for the exploitation and potential trafficking of persons.¹⁵

Determining the prevalence of abuse and labor exploitation in the Mexican agricultural sector is a complicated task. Among the fundamental challenges is the lack of reliable and up to date statistical information on the industry. Depending on the source, the estimated number of agricultural workers in Mexico ranges between 2 and almost 6 million.¹⁶ The Mexican National Institute of Statistics and Geography (INEGI) reports that there are 3.89 million agricultural workers in the country, 2.5 million of whom are migrant workers (INEGI 2016). It is estimated that more than half of agricultural migrant workers come from municipalities with high to very high levels of marginalization.¹⁷ With this report, Polaris hopes to fill information gaps on human trafficking that exist inside and outside the agricultural sector. To develop effective strategies to prevent and combat the phenomenon, we must first diagnose the conditions that predispose vulnerable populations to trafficking schemes in Mexican agriculture.

For this project, it was vital to foster safe spaces that promoted direct participation from agricultural workers. From workers' experiences, we can learn about the practices, risks, and vulnerabilities that enable labor trafficking situations. Through a detailed analysis,

¹⁵ Landscape Analysis: Human Trafficking for the Purpose of Labor Exploitation in Mexico, Polaris, 2018.

¹⁶ The General Directorate of Analysis and Prospective from Undersecretariat of Planning, Evaluation and Regional Development (SEDESOL in Spanish) along with information from The Socioeconomic Conditions Module, annexed to the National Survey of Household Income and Expenditure (MCS-ENIGH in Spanish) estimate there to be 1,543,400 farmworkers out of a total of 4,412,489 including household members. At the same time, in the 2015 Population Survey, 1.8 million people said they were farmworkers or 4.1 percent of the Mexican population and 36 percent of the 4.9 million workers in the agricultural sector.

¹⁷ Landscape Analysis: Human Trafficking for the Purpose of Labor Exploitation in Mexico, Polaris, 2018.



this report demonstrates how recruitment, normalized control tactics, and risk factors associated with Mexico's agricultural sector, coupled with conditions of vulnerability, could result in situations of labor trafficking.



II. International Context: How to Distinguish between Human Trafficking, Forced Work, and Exploitation in the Context of Mexican Agriculture

Distinctions between human trafficking, forced labor, and labor exploitation established by the international regulatory framework help us analyze and unpack the information contained in this report.

The definition of human trafficking in the Palermo Protocol continues to be discussed and scrutinized, both at the international and domestic levels. However, it is crucial to provide critical elements of the global legal framework for this analysis. Human trafficking is a highly dynamic and complicated crime. It is not easy to understand owing to the historical inclusion of issues such as slavery, exploitation, forced labor, as well as the transnational nature of the crime and the involvement of organized criminal activity. In the case of labor trafficking, its complexity is closely linked to historical events, customs and traditions, and the abuse of people.

As a result, it is necessary to clarify what human trafficking is and differentiate it from other crimes and human rights violations. This, coupled with limited research on the subject and the deep confusion around the world about the interpretation of labor trafficking, the Palermo Protocol definition, and forced labor or services, was one of the main challenges encountered by Polaris while developing the project's framework in Mexico.

In 2000, the concept was defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which complements the United Nations Convention against Transnational Organized Crime, herein referred to as the Palermo Protocol.

Article 5 (1) of the Protocol declares that each State shall adopt the legislative measures necessary to criminalize the conduct outlined in the Protocol as a crime in its domestic law when committed intentionally. The same article established a definition of human trafficking to encourage States to integrate legal provisions that punish the crime, following their legal frameworks. Considering this and due to the great variety of positions issued, mainly around the element of exploitation, it is possible to construct the definition contained in Article 3 which is referenced in the Protocol:



(a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation outlined in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harboring or receipt of a child for exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

Certain essential elements established to facilitate the understanding of the crime are evident within the framework of this article. Among these, particular objective and subjective aspects are highlighted:

- a) Intent to commit the crime.
- b) That signatory States ratify the Protocol and codify the crime into their domestic law.
- c) That human trafficking is committed by resorting to the threat or use of force or other forms of coercion, abduction, fraud, deceit, abuse of power or a situation of vulnerability, or the granting or receipt of payments or benefits to obtain the consent of a person who has authority over another, for the recruitment, transport, transfer, or reception of people.

The development of these actions will be with the purpose of exploitation, in turn, the same Protocol indicates that exploitation is at least included in: the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices analogous to slavery, servitude, or organ removal.



For this document, we will focus on forced labor or services, which are framed in the context of the work that Polaris is implementing in Mexico, all this under the principle of progressive human rights.¹⁸ It should be noted that it was not a simple task to select the limits of the analysis, mainly due to the lack of consensus at the international and domestic level regarding the element of exploitation.

For some scholars, exploitation is considered the essence of human trafficking. For others, exploitation is understood as the purpose; however, for it to constitute human trafficking, it must be combined with the other two constituent elements of the criminal type: actions and means. If this is the case, it is necessary to understand what forced labor is, how this becomes included in human trafficking, and what we understand as exploitation. Exploitation is not expressly described within the definition of forced labor; however, within the *Travaux Préparatoires* (2008)¹⁹ of the negotiations for the elaboration of the United Nations Convention against Transnational Organized Crime and its Protocols, we can identify several occasions in which trafficking is defined as sexual exploitation and forced labor, and that in further discussions, these concepts were included as elements of exploitation.

Scope of Forced Services or Work

The International Labour Organization (ILO) defines forced labor as “all work or services demanded of a person under threat of any pain or harm and to which the individual does not voluntarily consent” in the Forced Labour Convention (C029).²⁰

Article 1.3 of the Protocol of 2014 to the Forced Labour Convention (P029) reinforces this definition and its three elements:²¹

- Work or services refers to all types of work that takes place in any activity, industry, or sector, including the informal economy.

18 The Mexican State has a constitutional mandate to carry out any necessary economic, social, political or cultural change in a way that guarantees the human rights of everyone. Mexican State authorities are therefore expected to promote, ensure, and increase the respect for human rights. It is also demanded of them to avoid the regression of human rights, that no decision be taken to decrease the level of human rights protections without full constitutional justification submitted to the legal order of the Mexican State.

19 United Nations against Transnational Criminal Organizations (2008). *Travaux Préparatoires* negotiations for the elaboration of the UN Convention Against TCOs and their Protocols. Taken from: https://www.unodc.org/documents/treaties/UNTOC/Publications/Travaux%20Preparatoires/04-60077_Ebook-s.pdf

20 International Labour Organization (ILO), Forced Labour Convention, C029, 28 June 1930, C169, retrieved from https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029

21 International Labour Organization. What are forced labor, modern slavery, and human trafficking? Retrieved from: <https://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm>



- Threats of any pain or harm which covers a wide range of penalties or methods used to force someone to work.
- Involuntary status: the saying “voluntarily offered” refers to freely signed consent and requires the worker’s knowledge that from the beginning, they can quit a job at any moment. This is not the case, for example, when an employer or recruiter makes false promises to make a worker accept employment that they otherwise would not take.

In practical terms, the concepts that make up human trafficking and forced work do share certain elements, especially related to their end goals.²² Human trafficking emphasizes the recruitment, acquisition, and transfer of people, while forced work is more focused on the end goal of exploitation, which in turn is also an element in the definition of human trafficking.

| SIMILARITIES AND DIFFERENCES BETWEEN HUMAN TRAFFICKING AND FORCED LABOR | | | |
|---|---|--|---|
| | Human Trafficking | Shared Elements | Forced Labor |
| Actors | Emphasis in groups of organized crime | Private agents | State and other public authorities |
| Actions | Advance, transport, transfer or reception | | Relationship with third parties in the workplace (final stage of trafficking) |
| Means | Confinement, receiving payments or benefits | Coercion (e.g. violence, deceit, threats, and fraud) | |
| Modalities | Forced marriage, false adoptions, organ trafficking | | All those who contemplate coercion and involuntariness in the work context |

Source: *Forced Labor and Trafficking in Persons: An Introductory Guide* (2019). Dignificando el Trabajo, A.C.

It is worth noting that differentiating one concept from another is not straightforward because some of their elements are closely linked. However, it is essential to point out that the concept of forced labor has evolved since 1930. In 2014, the General Conference of the Inter-

²² See *Forced Work and Human Trafficking: An introductory guide* (2019). Dignificando el Trabajo, A.C. www.ditrac.org.mx



national Labour Organization added the Forced Labour Recommendation (No. 203) to the Forced Labor Convention, 1930 (No.29), seeking to construct processes for the creation of prevention, protection of victims and prosecution of traffickers and eventually to establish means by which victims can seek reparations for damages to eliminate all forms of forced work.

The Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29),²³ recognizes that the context and the forms of forced labor have changed and that labor trafficking has provoked growing international concern and requires an urgent response. At the same time, considering that an increasing number of workers find themselves in forced labor situations in the private economy, there are specific economic sectors that are more vulnerable and certain groups of workers are more at risk, such as migrants, for example. Emphasizing the need to suppress forced work²⁴ will move markets closer to ensuring fair competition between employers and businesses and at the same time increase protections for the rights of workers.²⁵

23 International Labour Organization (2014). 2014 Protocol reporting the Convention on Forced Labor, 1930.ILO. Taken from https://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029

24 It is very important to note here that Mexico has not signed or ratified this protocol.

25 Preamble to the Protocol 2014 related to the Convention on Forced Labor that came into effect November 9, 2016, adopted in Geneva at the 103rd meeting of the CIT on June 11th, 2014.



III. Risk Factors for Labor Trafficking in the Agricultural Sector of San Luis Potosí

According to the Palermo Protocol, for human trafficking to exist, three elements must be present: action, means, and purpose. To interpret the crime in the appropriate context, this analysis focuses on three fundamental stages of the Mexican agricultural labor experience: recruitment (action), the schemes to control and retain labor (means), and the conditions of labor exploitation (purpose). This includes an examination of the dynamics at play between farmworkers and intermediaries²⁶ (e.g. recruiters), a fundamental piece of the agricultural labor landscape.

For human trafficking to exist, three elements must be present: action, means, and purpose.

The following findings describe risk factors in each stage of the agricultural migrant labor experience (recruitment, retention, and work conditions) that increase vulnerabilities for farmworkers to be victims of labor trafficking. The presence of these vulnerabilities in isolation is not a confirmation of the existence of human trafficking.

The report aims to understand the context and implications involved in workers having to accept work at the recruitment stage and their subsequent ability to leave at a later time. How do different situations interact to result, or not, in human trafficking?

Recruitment

Workers can be hired directly, but the use of recruiters is the more common practice.

Recruiters ensure the supply of manual labor through the dissemination of information about employment opportunities and the facilitation of transportation to employment sites.

Recruiters ensure employers' manual farm labor needs are met first and foremost. However, in some cases, recruiters exert control over farmworkers beyond the recruitment process by assuming workplace leadership and supervisory positions.²⁷

²⁶ The term means an intermediary 3rd party that helps fill gaps in agricultural employers' workforce.

²⁷ On some occasions, the recruiters can also be foremen, crew leaders, supervisors, etc.



In Mexican agriculture, the recruitment process is typically accompanied by a cash advance or *enganche*.²⁸ Labor intermediaries distribute this cash advance to farmworkers with the following objectives: 1) to incentivize farmworkers to accept the job offer, 2) to give farmworkers an immediate source of income that makes leaving their families or satisfying any urgent needs a viable option and, 3) due to its informal function as a debt, for the intermediary to retain the labor at the job or worksite until they consider the *enganche* paid off.

Findings on Recruitment

Agricultural Work Advertisements

Most respondents (45 percent) found their employment through someone they knew. This suggests that recruiters are individuals connected with and known to the communities from which migrant farmworkers are recruited. Only 9 percent of respondents were recruited by someone that they did not know beforehand. For respondents whose native language was Spanish, direct recruitment by employers was identified as a marginal practice and reported as an “other” method of recruitment.²⁹

45% of respondents found their employment through someone they knew. This suggests that recruiters are individuals connected with and known to the communities from which migrant farmworkers are recruited.

Respondents that spoke an indigenous language were more likely to discover an agricultural employment opportunity through radio. By contrast, Spanish-speakers were more effectively recruited by word of mouth. Although the Náhuatl-speaking population was the largest group recruited through radio, speakers of Tének were also overrepresented in this group, with 45.8 percent of Tének-speaking respondents reporting radio as the primary source of information that led to recruitment.

Anticipated Cash Advance or ‘Enganche’

Cash advances, or *enganches*, were significantly lower for women than for men. For respondents that spoke an indigenous language, especially Náhuatl-speakers, cash advances were higher in comparison with all other respondents.

²⁸ *Enganche* translates literally to hook and is used to mean the practice, by recruiters, of encouraging workers to accept a role by offering a cash advance.

²⁹ Other methods of recruitment included in the sample include radio and advertisements.



On average, men received 721 pesos, while women earned 529 pesos in cash advances. Respondents that spoke an indigenous language received 928 pesos, while respondents that reported only speaking Spanish received 441 pesos. Almost half of the Spanish speaking respondents did not receive an advance at all, while 90 percent of the population that spoke an indigenous language received an advance.

Cash advances were significantly lower for women than for men. For indigenous language-speakers, cash advances were higher.

Respondents that gained employment through radio advertisements or individuals they did not know beforehand received significantly higher advances than those that gained employment through someone they knew or through non-radio advertisements.

In regards to age, individuals between 39 and 66 years old received significantly higher advances, while those over 67 years old received lower advances.

Written Contract

Sixty-seven percent of surveyed participants indicated they had never received a written contract. Although the absence of a contract is prevalent among every demographic, women were identified as the sociodemographic category that was least likely to receive a written agreement when compared with men. By age bracket, the likelihood of receiving a written contract increases for workers between 25 and 52 years old. It decreases drastically in the case of minors, young adults, and those who were 53 years of age or older. More than 75 percent of minors, young adults, and those who were 53 years of age or older did not receive a written contract.

Project results revealed a variation in the percentage of farmworkers that received a contract based on the recruitment method. For example, 61.5 percent of farmworkers recruited via advertisements did not receive a written agreement. That number increases for respondents recruited by someone they knew. Seventy-one and a half percent of respondents recruited by someone they knew reported they did not receive a written contract. Nearly 67 percent of respondents recruited by someone that they did not know said they did not receive a written contract.

67% of surveyed participants indicated they had never received a written contract.



Many survey participants that indicated having “written contracts” described signing workplace agreements on-site and engaging in informal verbal agreements between the employer and employee in which the employee accepted particular conditions (hours of work, deferred payment to the end of the harvest, child labor, etc.).

Recruitment as an Element in a Human Trafficking Situation

The crime of human trafficking is perpetrated when the recruitment, transportation, transfer, sheltering, or reception of people takes place for exploitation, and those people are kept in that situation using threats, fraud, or coercion. The recruitment stage may be a critical precursor to a trafficking situation since it is directly associated with the actions that are included in the legal definition (recruitment, transportation, transfer, sheltering, or reception). In the context of Mexican agricultural work, the poor conditions in which migrant farmworkers are recruited to generate a high risk for labor trafficking. If recruitment happens under conditions where threats, fraud, or any coercion infringe upon the consent of the individual, the recruitment is a precursor to a trafficking situation.

It is important to note that the intention to exploit someone is inherent in the definition of human trafficking. As a result, it is necessary to analyze whether the absence of a contract and promised working conditions stems from a fraudulent scheme created by the recruiter or employer to subjugate an individual to an exploitative situation; whether individuals under precarious conditions and thus with more significant vulnerabilities, who are more susceptible to recruitment and *enganche* schemes, are deliberately targeted or if they are targeted to reduce costs; whether indebtedness acquired through the recruitment process forces an individual to continue employment resulting in their being exploited and subjected to poor working conditions, etc. Many farmworkers live in and have been navigating exclusionary societal contexts and vulnerabilities, which means that to detect human trafficking one has to understand the intentionality behind the abuse of these vulnerabilities to ensure –that through force, fraud or coercion– farmworkers accept employment that they usually or otherwise would not take.

Schemes to Control and Retain Labor

In Mexican agriculture, there are an abundance of schemes used to control and retain labor. These schemes vary in severity depending on the vulnerabilities of a susceptible workforce. For example, how em-



ployers and/or intermediaries hold on to local labor are different than those for farmworkers that travel from other parts of the country. This is due to the level of debt associated with recruitment costs and transportation. Because of this, it is crucial to analyze the individual context of farmworkers, taking into account the differences between each sociodemographic group and distinguishing which situations contribute to an increase in vulnerabilities, independent of normalized precarious labor conditions and abuse.

Schemes in which an employer withholds pay; restricts access to housing, health or education for children; generates debt for the worker by charging costs associated with recruitment, travel or living expenses; restricts movement; threatens termination or blacklisting are all consequential and extant risk factors of agricultural work in Mexico.³⁰ These labor retention schemes reduce employee attrition and can function as a further means of control or abuse of power over existing vulnerabilities.

The complexity of this issue requires an analysis of the survey responses, an assessment of work conditions to observe real power and dependency dynamics generated by institutionalized practices used to control and retain labor, and highlighting the way they infringe on the free will and consent of workers. To this end, the most relevant results are highlighted below.

Findings on Schemes to Control and Retain Labor

Debt

Forty percent of survey respondents reported having a debt and indicated that their debt came from multiple creditors. Of the participants that reported a debt, 53.9 percent indicated that this debt was due to the *enganche* they received during recruitment. Nearly 39 percent attributed their debt to loans received from their employer, while 14.6 percent owed their debt to the farm's on-site store. A small proportion owed their debt to other people within the farm or other stores not operated by the farm.³¹

40% of survey respondents reported having a debt. 53.9% indicated that this debt was due to the 'enganche' and 39% attributed their debt to loans from their employer.

30 Violation of farmworker rights in Mexico, First Edition. National Network of Farmworkers, 2019 http://cecig.org.mx/wp-content/uploads/2019/03/INFORME_RNJA_2019.pdf

31 This question was multi-select. Multiple respondents indicated multiple origins of debt. Thus, the percentages do not add to 100%.



In the smaller group of participants³² that received the survey via the SMS platform, a question was added investigating whether participants had to work to pay a debt to an employer, foreman, supervisor, or recruiter. Forty three percent of these respondents responded affirmatively.

Promised Work Conditions and Compensation

Sixty-two percent of survey respondents indicated having received the salary they were promised. Another 6.5 percent responded that they had received more than what they were promised, and 17.9 percent stated that they were not guaranteed a specific salary. Thirteen and a half percent of respondents reported earning less than what they were promised. Comparing responses by gender, 51.6 percent of women received the promised salary, compared with 63.8 percent of male participants. This discrepancy may be attributed to the large number of women that did not have a promised or expected salary (29 percent) versus 16.4 percent of men.

Respondents' primary language played a role in whether they received the salary they were promised or not. Indigenous language-speakers had an incidence rate of 16.9 percent in which they did not receive the promised payment versus 9.7 percent of Spanish-speakers, close to 60 percent of both groups received their promised pay. Once again, the difference may be attributed to a higher number of incidents where indigenous language-speakers were not promised any specific salary.

Of those that indicated they had a written contract, 75.5% reported receiving the agreed upon payment. In comparison, those that did not have a written contract only received the promised compensation in 56.3% of the responses.

In general, recruitment methods slightly affected the trends in compensation. A comparison between the methods of recruitment and promised pay reveals that 63 percent of workers recruited by someone they knew received the agreed upon wage and 16 percent received less than what was promised. Sixty percent of farmworkers recruited by someone they did not know received the agreed upon payment and 13 percent received less than what was promised.

Analysis of data shows that the existence or absence of a written contract was a significant factor in determining whether farmworkers received their promised salaries or not. Of

³² The sample size for these questions was 112 participants.



those that indicated they had a written contract, 75.5 percent reported receiving the agreed upon payment. In comparison, those that did not have a written contract only received the promised compensation in 56.3 percent of the responses. The data shows a substantial difference in the fulfillment of the agreed upon pay depending on whether or not workers had a written contract.

Retention of Payment

Wages were most commonly paid every week, followed by payments executed at the end of the contract or harvest.³³ Close to 35 percent of respondents reported that they received their payment at the end of their contract. Of this percentage, 110 people indicated that they could not quit at any time during their employment. Seventy-five percent of them reported they would lose all owed wages if they quit before the completion of the contract.

This percentage coincides almost entirely with the results obtained from respondents that participated via SMS message,³⁴ of which 36.2 percent confirmed that their salaries were retained until the end of the contract. These findings are crucial because they show how agreed upon pay periods can be used by employers to keep workers and abuse their vulnerable situations. This retention method increases vulnerabilities for poor migrant farmworkers who may be inhibited from leaving an abusive labor situation due to fear of losing earned wages.

Language and ethnicity play an essential role in these types of payment schemes. For example, the practice of retention of salaries until the completion of the contract is more common for those that speak an indigenous language (55 percent), in comparison with Spanish-speaking workers (15 percent). Sixty-eight percent of Spanish-speaking workers received their payment in weekly increments.

The inability to receive earned wages until the end of a contract has a direct effect on work conditions. Farmworkers employed under this type of payment arrangement are much more likely to be controlled by their employer or supervisor. More than 70 percent of respondents reported needing permission to leave work property and that someone monitored their movements. For farmworkers that were paid with higher frequency, this type of control was significantly lower.

³³ Federal Labor Law establishes types of farm work classifications: event-based (based on a specific task or period), stationary (those that work for periods less than 27 weeks a year), and permanent (those that work more than the 27 weeks). In all cases, payment is supposed dispersed in weekly increments (Arts. 279 Bis., 279 Ter., 280 y 283).

³⁴ The sample for these questions consisted of 112 participants. Refer to the project methodology at the beginning of the report.



Restrictions of Movement

Employers can leverage farmworkers' lack of knowledge about where they work and the details of their employment to restrict farmworkers' movement. Twenty-two percent of respondents reported not knowing the name or location of their worksite. Indigenous language-speakers were less likely to know the name or location of their worksite; 64.3 percent of those that answered that they did not know the location of their employment were indigenous language-speakers. In contrast, 33.6 percent of Spanish-speakers reported not knowing their employment location. The data shows that farmworkers' primary spoken language plays a considerable role in their knowing where they work and the details of their employment.

64.3% of those that answered that they did not know the location of their employment were indigenous language-speakers. In contrast, 33.6% of Spanish-speakers reported not knowing their employment location.

Freedom of movement depends mostly on the location of housing and the need for transportation between shelter and worksite. Nineteen percent of participants reported living at their worksite, and 52 percent said they were transported, without cost, from one place to the other. Only 10 percent reported being transported for a fee, while 11 percent traveled on their own.

More than half of the individuals interviewed reported needing permission to leave their worksite and, of those, 84 percent indicated that their ability to enter and leave the worksite was also controlled. In the SMS message sample of the second phase, 16

percent of participants reported that they were forced to stay at their worksites after they attempted to quit.

Threats and Retaliation

The survey included questions on coercion and incidents of violence (e.g. physical, psychological, and economic), sanctions (e.g. blacklisting), retaliation and intimidation, to trace the line between the three elements that, when present at the same time, constitute the crime of human trafficking. When respondents were asked if they had witnessed someone being punished for not obeying orders, 80 percent reported they had not. Of those that responded that they had witnessed punishment, the most frequently reported type was an individual being fired (29 percent), followed by blacklisting the worker or their family (27.4 percent). Blacklisting as retaliation for complain-



ing about working conditions was more predominant among Spanish-speakers. Of those who were blacklisted, 72 percent were Spanish-speakers.

Ten percent of farmworkers that responded via SMS message indicated that their employer, supervisor, or recruiter had threatened their families if they left their employment. This question did not specify what type of punishment or threat, if any, was mentioned.

The most frequently reported type of punishment was an individual being fired (29%), followed by blacklisting the worker or their family (27.4%).

Schemes to Control and Retain Labor as a Means of Subjugation in a Human Trafficking Situation

The Palermo Protocol identifies threats, abuse of a position of power or of a vulnerable situation, fraud, and the granting or receiving of payments or benefits to obtain the consent of a person that has authority over another as a means to subjugate someone, forcing them to take part in an activity or infringing on their consent (in cases where they had previously consented or signed contracts), as an essential element in differentiating a human trafficking situation from exploitation.

Fraud in the recruitment stage of agricultural employment is taken to be the means to convince people to accept work. The use of these means robs farmworkers of their ability to choose to stay or not after they have arrived at a worksite. To determine whether the mechanisms used to retain manual labor constitute a means of subjugation, it is necessary to focus on the types of labor relationships when they are known, whether that is employer-employee or employer-recruiter-employee.

If farmworkers are forced to stay in a job, they encounter some severe forms of exploitation, such as forced work or debt bondage. It is in the use of coercive means where human trafficking and forced work coincide. The main difference between the two involves how the victims came to be in that situation, considering that a forced work situation can exist when there is a restriction placed on leaving the worksite, even though the initial recruitment was voluntary.



Labor Exploitation Conditions

Any work that violates labor rights infringes upon people's dignity. Labor exploitation (i.e., when individuals work in unhealthy or dangerous conditions, are subject to discrimination, and lack access to social security and fair wages) is a breach of workers' rights and dignity. Decent work is not qualified as such solely through payment for work completed. Employers must comply with certain minimally acceptable conditions. The right to work should guarantee access to better protections and enable people to overcome low social, economic, and political conditions that exclude them.

Exploitation also occurs when an exploiter utilizes the work of others to obtain a personal and unjustifiable benefit through continuous abuse. This practice leads to the dehumanization of workers, lessening their value to the level of disposable workforce, and fulfilling the profit element of a human trafficking situation.

To better understand the exploitative nature of working conditions in the Altiplano and Huasteca regions of San Luis Potosí, survey questions focused on the following: wages (actual vs. promised), access to social security, job security, and housing. Survey questions were not tied to past experiences or the employee-employer relationship. Instead, they focused on the day to day work-related experiences that affect their quality of life.

Findings on Labor Exploitation

On average, farmworkers worked 50 hours per week. However, the maximum hours reported were almost double.

Wages and Worked Hours

On average, workers received a payment of 1,144 pesos per every 50.37 hours worked per week. The average number of worked hours was approximately 50 hours per week. However, the maximum hours reported were almost double—84 hours per week for work in tomatoes, 80 hours for chili peppers, and 93 hours for cucumber—the three most abundant crops in the sample.

On average, men reported working almost two hours less than women—49.95 hours versus 51.64 hours. Even so, on average, men earned approximately one more peso per hour, \$22.96 per hour compared with \$21.97. This wage discrepancy is the most significant within this category. Comparatively, the difference between Spanish-speakers and indigenous language-speakers was minimal, \$22.74 per hour versus \$22.66.



Worker Safety

Most respondents did not receive training or information before the use of pesticides or agricultural machinery. Male minors and those older than 30 years old were the least trained. Men were also less likely to use safety and protection equipment—79 percent of men reported not using safety equipment compared to 65 percent of women. There were no significant variations based on age. The sample also revealed that exposure to pesticides in the workplace was common.

79% of men reported they did not wear protective equipment, compared to 65% of women, without finding significant variations based on the age of the respondents.

Access to Healthcare and Social Security

Only 5.5 percent of participants reported working while sick or not receiving medical attention. There was no significant variation between the Spanish-speaking and indigenous language-speaking population or among men and women. However, there were substantial variations in the type of medical care workers received; 29.1 percent was covered by *Seguro Popular*,³⁵ 25 percent by the Mexican Institute of Social Security³⁶ (IMSS), 15.4 percent received no healthcare service, 13.5 percent attended a private medical clinic, 11 percent received care from a doctor employed by their employer, and 2.8 percent received care through a pharmacy. These figures highlight a practice employed by some agriculture sector employers who use *Seguro Popular* to tend to their employees' healthcare needs and consequently avoid registering their employees with IMSS, which impacts employee benefits such as pensions, maternity leave, and access to childcare, etc.

There was a considerable difference between the type of healthcare services used among Spanish-speakers and indigenous language-speakers. Spanish-speakers had higher levels of access to either IMSS (33.3 percent) or *Seguro Popular* (36.5 percent) compared to indigenous language-speakers, of which 18.6 percent were registered with IMSS, and 21.4 percent were registered with *Seguro Popular*. On average, 22.7 percent of the indigenous language-speaking population did not receive any medical attention, compared to 8.3 percent of Spanish-speakers. In the instances that indigenous people received medical care, it tended to be through private clinics, pharmacies, or employer-hired doctors.

³⁵ A public health insurance that covers a wide range of services without co-pays for its affiliates.

³⁶ System funded by the employee, the private employer, and the federal government.



Living Conditions

Close to 70 percent of respondents lived in a shelter. More than half of those were indigenous farmworkers. Women mostly lived in their own homes or “other” housing arrangements. About 9 percent of men traveled with their family compared to 33.8 percent of women; 15 percent of the indigenous language-speaking population went with their family, compared with almost 9 percent of Spanish-speakers.

Labor Exploitation as the Endpoint in a Human Trafficking Situation

There is no international legal act that defines labor exploitation. However, the Palermo Protocol distinguishes between sexual exploitation, forced labor, slavery, and servitude³⁷ –and makes clear that the signing (abiding) entities are obligated to include these as a type of crime in their respective national legislation. There may be other exploitative situations not included in the Palermo Protocol that States may include in their national legislation in response to their unique internal challenges. In the Mexican agricultural sector, certain labor conditions that are considered legal may infringe upon farmworkers’ dignity, given the social, economic, and political marginalization they face. Discussions should move past legal frameworks, and address unmet needs to secure the free and fair exercise of farmworkers’ human rights.

The difficulty in categorizing certain abusive labor conditions as exploitation requires an in-depth analysis that stems from a common understanding of the subject group’s context and the obstacles they face to exercise their rights. These complex realities may increase the subject population’s risk of forced labor or human trafficking. Decent working conditions should at least include free and safe housing, drinking water, staggered schedules that consider weather conditions, adequate access to health services, valid contracts, access to social security, on-time and guaranteed wage payment, overtime pay, proper transport, and in some cases, schooling and child care for farmworker children. Setting these standards could help define the boundary that distinguishes labor law compliance from a human trafficking situation, diminishing the obscurity that exists in differentiating a situation of labor exploitation from human trafficking.

³⁷ Some of these types of exploitation have their definitions under international human rights acts.



IV. Conclusions

The bidirectional communication project piloted in the San Luis Potosí agricultural sector identified normalized labor practices that contribute to and increase farmworkers' vulnerabilities for labor trafficking. To mitigate the risk of labor trafficking in this sector, it is necessary to intervene and improve farmworkers' labor conditions on the farm before any exploitation or trafficking occurs. Coordinating efforts to address this issue is a vital step toward creating decent work for every farmworker.

The practice and use of advances and *enganches* enable recruiters and employers to exploit the existing vulnerabilities of farmworkers in Mexico (poverty, marginalization, lack of opportunities, social and economic exclusion, etc.). The absence of work contracts removes guarantees of employment period completion and upholding conditions of employment. Such schemes diminish farmworkers' rights and, when examined through a human trafficking lens, help us understand how recruitment conditions can increase exploitation, including the risk for forced labor and human trafficking.

It is important to examine the schemes used by employers to hold on to workers to determine when they function as a means of coercion and abuse of power over existing vulnerabilities, and, when combined with certain recruitment conditions, they increase the risk of trafficking. How employers and intermediaries retain labor merit analysis and discussion in isolation from other risks even when these risks are not present. This allows for a better classification of a situation as forced labor and demonstrates how conditions of exploitation are essential to consider in shaping labor rights violations or identifying administrative failures. It is necessary to identify the use of labor retention schemes and explore how they affect the experience of farmworkers.

It is essential to evaluate labor conditions in Mexican agriculture through a human rights lens. In doing so, stakeholders will be better equipped to mitigate, and perhaps overcome, extant systemic vulnerabilities that affect the agricultural workforce. Consistent detection of exploitative labor conditions allows for better judicial intervention and punitive consequences for its most severe forms. Detection of exploitative labor conditions also illustrates the need for changes to improve labor conditions for all Mexican farmworkers, whether human trafficking victims or not.



Although the pilot project did not identify a clear prevalence of labor trafficking, this report intends to highlight an in-depth analysis on labor conditions in the sector, and the vulnerabilities that exist for the workforce that provides labor in this sector. While trafficking indicators were identified, it is clear that a case by case study is needed about how farmworkers encounter each part of the work process within their individual and structural vulnerabilities.

Finally, we hope this report helps address the debate about what constitutes human trafficking, forced labor and exploitation, and how they coexist within a trafficking situation. Making this distinction is essential to determine appropriate reparation for victims, which authorities should have jurisdiction, and what actions are necessary to combat labor trafficking, forced labor, and exploitation.

Finding common goals and intersections in our efforts helps civil society, government, and Mexican farmworkers advance the fight against human trafficking and other human rights violations.



V. Recommendations

The following measures should be implemented to mitigate recruitment abuses:

Maintain an up-to-date, publicly accessible registry of agricultural jobs and labor recruiters/contractors that facilitate the hiring of this labor type. All actors involved in the agricultural labor supply chain must be documented in this registry.

Decrease the asymmetrical relationship between employers and farmworkers by establishing mechanisms that hold employers accountable for abuses conducted by recruiters associated with the provision of their workforce.

Provide a written contract, in the farmworker's native language, to each individual hired by an employer or recruiter. If workers have to migrate to their place of employment, the contract must be signed and executed before travel. For local workers, employment contracts must be signed and completed before the start of employment.

Workers should not be required to pay any employment fees; this includes recruitment and travel expenses associated with that employment. Additionally, under no circumstances should any costs related to recruitment or travel be deducted from workers' wages.

Implement corporate social responsibility and due diligence measures to respect, protect, and guarantee workers' human rights. This includes an obligation by employers, growers, or any agricultural producers, to monitor the actions of recruiters involved in hiring their workforce in order to ensure transparent, equitable, and fair recruitment practices.

Monitor recruitment processes and labor supply chains, investigate adverse incidents, penalize recruiters who defraud or abuse workers and ensure access to remediation for affected parties.

Additionally, the following measures are also needed during employment:

Strengthen municipal, state, and federal capacity and resources to conduct regular inspections and assess the working conditions of farmworkers.



Train labor inspection authorities to better identify precarious labor conditions and human trafficking.

Develop inspection protocols for the prevention and detection of labor trafficking cases that are informed by recurring elements and existing vulnerabilities in the agricultural sector. Include measures that facilitate information sharing between labor inspectors and appropriate legal authorities to investigate and seek justice and provide access to remediation for victims of abuse.

Notify workers' rights defense authorities about labor exploitation cases or labor rights violations to initiate corrective procedures and/or impose sanctions on employers, growers, or agricultural producers that commit violations, and begin remediation for victims.

Provide access to information and resources on individual and collective labor rights to all farmworkers in their native language during the entire migration process. Facilitate access to resources and training for all farmworkers.

Create and implement accessible reporting mechanisms that allow direct participation of farmworkers, empower their agency, and take into account their economic, social, and cultural needs.

Respond to the particular challenges of collecting information on labor trafficking by harnessing available technology to conduct anonymous surveys of farmworkers and document inherent vulnerabilities in the sector including endemic local and abusive cultural practices.



Appendix I.

Phase One Questions

Welcome to the survey! Our goal is to improve the lives of farmworkers and would like to learn more about you. Your information will be confidential.

Where do you live?

1- San Luis Potosí, 2- Guerrero, 3- Oaxaca, 4- Chiapas, 5- Veracruz, 6- Other

In what community and municipality?

Just a few questions left - If you received any money when you were hired, how much was it? If you did not receive any money, respond with "0"

How long were you hired for your current job?

1- A day, 2 - A week, 3 - For the harvest, 4- Other

How did you first hear about your current job?

1- From someone you knew, 2- From someone you didn't know, 3- From a sign or advertisement, 4- Radio, 5-Other, 6 - I don't know

Last question - Will this person help you find your next job?

1 - Yes, 2- No, 3- I don't know

Did you receive a written contract before beginning your job?

1- Yes, 2- No, 3- I don't know

Do you currently earn what you were promised?

1 -Yes, 2- Less than, 3- More than 4- I was not promised a wage

Almost done - Where do you plan to work next? 1- Sinaloa, 2- Sonora, 3- Baja California, 4- BCS, 5- Veracruz, 6- Guanajuato, 7- San Luis Potosí, 8- Other

In what community and municipality?

When do you think you will move there? 1-In the next two weeks, 2- 2-4 weeks, 4- 4-6 weeks, 6- 6-8 weeks, 8- More than eight weeks, 9- I don't know

Ok, the last question.

In what language do you most often talk to your family?

1 - Spanish 2- Mixtec 3- Zapotec 4- Nahuatl, 5- Pame, 6- Tenek, 7- Other



Where are you currently living? 1- On the farm, 2- In a shelter for farmworkers, 3- In a rental property, 4- My own home, 5- Other

About how many pesos do you pay for housing per week?
If you do not pay anything, respond with '0'.

Great! Does the farm you're working on allow you to bring your young children? 1- Yes, 2- No

Have your children been in school or daycare since you started working at the ranch? 1- Yes, 2- No

Last question - What is your gender?
1- Female, 2- Male, 3- I don't identify as either Female or Male

Where are you currently located?
1- San Luis Potosí, 2- Sinaloa, 3- Sonora, 4- Baja California, 5- Guanajuato, 6- Veracruz, 7- Other

In what community and municipality?

In the last three months, about how many times have you visited a health clinic, hospital, or doctor?

In the last three months, about how many times have you visited a church?

About how often do you leave the ranch each month?
If you do not leave the ranch, respond with '0'.

Ok, last question - How old are you?
Enter your age in years



Appendix II.

Phase Two Questions

| Facilitator | Options |
|---|--|
| Please share the mobile number of the worker if they provided it. Send 'No' if they did not. | |
| Social events (masses, celebrations, balls, etc.) | (y/n) |
| Weather conditions | (y/n) |
| News about farmworkers (y/n) | (y/n) |
| City of employment | |
| Nearest city | Cedral, Villa de Arista, Matehuala, Tamazunchale, Xilitla, Aquismón |
| Would you like to receive push messages? | (y/n) |
| When was the date of the interview? | |
| When arriving at the workplace, how were the following conditions compared to what was promised? 0. It does not apply for 1. Worse 2. As promised 3. Better | |
| Wages | 0, 1, 2, 3 |
| Food | 0, 1, 2, 3 |
| Workload | 0, 1, 2, 3 |
| Housing | 0, 1, 2, 3 |
| What is the payment system? 1. Day, 2. Task, 3. Week, 4. Month, 5. Period, 6. Other | 0, 1, 2, 3, 4, 5, 6 |
| What is the payment in pesos for each? | Write quantity |
| How many hours per week do you work on average (numeric) | Calculate if unknown (e.g., Monday to Saturday from 7 am to 5 pm, Sunday from 7 am to 12 pm) |



| | |
|--|--|
| How much do you earn on average per week in pesos (numeric) | Calculate if unknown (e.g. they pay you 170 a day, and you work seven days a week) |
| How often are you paid? 1. Daily, 2. Weekly, 3. Biweekly, 4. Monthly, 5. At the end of the contract, 6. Other | 1, 2, 3, 4, 5, 6 |
| ONLY ANSWER IF YOU CHOSE ANSWER '5' IN PREVIOUS QUESTION If you are paid at the end of the contract - what's the amount of the cash advance that you receive weekly? (if you don't, text '0') | Calculate the advance pay |
| Are you paid on the dates you were promised? | (y/n) |
| Do you get a detailed receipt of your salary and deductions? | (y/n) |
| Are pesos deducted from your paycheck? IF NO, SKIP TO Q13 | (y/n) |
| How many pesos are deducted on average from your paycheck? (if you don't know yet answer 'don't know') | |
| What are those deductions? (Food, housing, services, daily transportation, debt, other) | If there is more than one deduction, list them separated by commas |
| If you have a debt, what is its origin? 1. Cash advance at recruitment, 2. Cash advance in the workplace, 3. Ranch store, 4. Cash advance from someone else in the ranch, 5. I don't recognize this debt; 6. I don't have debt, 7. Other | 1, 2, 3, 4, 5, 6, 7 |
| Has the employer kept your salary because you left or were fired before the end of the contract? | (y/n) |
| Did you get training for pesticides, herbicides, and machinery? | (y/n) |
| Did you receive and use free, adequate protection equipment? | (y/n) |
| Is the work stopped when they spray pesticides or herbicides or when they just sprayed? | (y/n) |
| Do you know the name of the place and ranch where you are working? | (y/n) |



| | |
|--|--|
| How do you get to your workplace? 1. I live there, 2. They transport me for a fee, 3. They transport me for free, 4. I Get there on my own, 5. Other | 1, 2, 3, 4, 5 |
| ONLY ANSWER IF YOU LIVE AT YOUR PLACE OF WORK Why do you live at the ranch? 1. It was less expensive, 2. I was not asked, 3. It is more convenient, 4. I don't mind; 5. There is no housing available; 6. Other | 1, 2, 3, 4, 5, 6 |
| Do you need permission from the employer/foreman to leave the premises? | (y/n) |
| If so, do they control the exit? | (y/n) |
| Have you been forced to work while sick or prevented from seeing a doctor by your employer/foreman? | (y/n) |
| Could you call your family whenever you need to? | (y/n) |
| When someone is sick or wounded, where are they taken? | IMSS, Seguro popular, pharmacy, private clinic, hospital, employer's doctor, no service at all |
| Do you do the type and quantity of work you were promised? | (y/n) |
| ONLY ANSWER IF YOU ANSWERED 'NO' TO THE PREVIOUS QUESTION What happens if you do not? 1. They would fire me, 2. They won't hire my family or me again, 3. They said they would hurt me/my family, 4. I owe them money, 5. I don't mind; 6. Other | 1, 2, 3, 4, 5, 6 |
| Do you know someone who expressed that they were unhappy at work and was punished for speaking up? | (y/n) |
| ONLY ANSWER IF YOU ANSWERED 'YES' TO THE PREVIOUS QUESTION If so, what kind of retaliation was it? 1. Jokes, 2. Threats, 3. Blacklists of worker, family or community, 4. Violence, 5. Termination, 6. Other | 1, 2, 3, 4, 5, 6 |



| | |
|---|--|
| Can you leave your job at any time? | (y/n) |
| ONLY ANSWER IF YOU ANSWERED 'NO' TO THE PREVIOUS QUESTION If not, why? 1. There are no available jobs, 2. Threats from the employer, 3. I am not free to leave, 4. I would lose the money they owe me, 5. I still have to pay my debt, 6. I have to pay the cash advance, 7. I don't know | 1, 2, 3, 4, 5, 6, 7 |
| Are kids working in the fields? | (y/n) |
| ONLY ANSWER IF YOU ANSWERED 'YES' TO THE PREVIOUS QUESTION If so, did they come alone? | (y/n) |
| Did you get here with your family? | (y/n) |
| If so, what do your children do when you leave for work? 1. They stay alone, 2. They stay with someone else, 3. They go to the childcare, 4. They go to school, 5. They come with us, 6. They work with us | 1, 2, 3, 4, 5, 6 |
| When the contract is over here, where will you go? 1. Other field same state, 2. Other field another state, 3. Back home, 4. Other | 1, 2, 3, 4 |
| Is the wage the same for men and women (y/n) | (y/n) |
| What is your home state? | |
| What is your gender? | (m/f) |
| What is your age? | |
| What crops are you working with? | Separate with commas (tomato, chili, potato) if there is more than one |
| What language do you speak with your family? | |
| Notes: If there is anything important you'd like to add that you weren't asked in the survey, write it here as briefly as possible | |



Appendix III.

Phase Two Questions for Human Trafficking Indicators

Are you an agricultural worker in Mexico? (y/n)

Thanks for your reply!
This survey is only for agricultural workers.
We wish you a good day.

We're a human rights non-governmental organization working to improve your working conditions. Your information will be confidential and will take you a few minutes.

We will send you 20 pesos for answering the following four questions.

Have you ever had to work to pay off a debt to your employer/boss/foreman/recruiter? (y/n)

Have you ever been forced to continue working after you tried to quit a job? (y/n)

Has your pay ever been withheld until you finished the contract? (y/n)

Has your employer/boss/foreman/recruiter ever threatened that something bad would happen to you or someone close to you if you tried to leave your job? (y/n)

Thank you for your answers; you've finished this survey. We will deposit \$20 of phone credit to your number this week.

If you need help or if you want to file a complaint, you can make a free anonymous call to 1800 553300



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**TO GET HELP, REPORT A TIP OR REQUEST INFORMATION, CALL THE NATIONAL HUMAN TRAFFICKING
HOTLINE AT 1-888-373-7888 OR SEND A TEXT TO POLARIS BY TEXTING
HELP TO BEFREE (233733).**