



Asociación de Trabajadoras del Hogar a Domicilio y de Maquila –ATRAHDOM-  
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### **CIVIL SOCIETY**

Focusing on the list of questions to the Guatemalan State, January 23<sup>rd</sup> 2017, Geneva Switzerland.  
Convention on the Elimination of all Forms of Discrimination Against Women  
–CEDAW-

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### **CONTEXTUALITION:**

#### **Social, economical and political situation in which working women live in Guatemala:**

Guatemala is considered to be one of the populous countries in Central America: according to the last census carried out by the Instituto Nacional de Estadística (National Statistics Institute), in 2014, the total population of Guatemala was 15.8 million habitants with a high number of young population. The main economical activities are agricultural crops for exportation: coffee, sugar cane, banana, cardamom and incrementing now the african palm, also the crops destined for the production of agro-fuels, and between the products of the export industry; textile and cibernetic maquilas and the mining exploitation.

More than 60% of the total population lives in the rural area, and a similar percentage if also indigenous population, which makes Guatemala one of the world's countries with most of it's population being indigenous. Constituting from four mayor ethnics; Maya, Xinka, Garifuna and Mestizo people. Guatemala is a country still in process of development, where it is estimated that 51% of the population are women.

Guatemala is also a country with an immigration flux of population that moves internally in the country because of violence and poverty, the lack of development opportunities, and the migrations to North America, seeking better economical opportunities, from which there have been more than 200 thousand deportations in the last two years. But this migrations have represented the second place of foreign exchange for the country, the family remittances are a substantial form of income for guatemalan homes.

The socio-political reality in Guatemala continues to evidence in the present that it is imposible to approach any analisis about the context and political conjuncture without taking in consideration the country's history, whether to approach the first order issues in the national scene; like the frailty of the democratic institutions in the country and the big obstacles that are found to make an effective, functioning and authentic Rule of Law as a solid structure for public life; or to analyse local conflicts, that respond to structural issues. The historical dimension is esencial. For many evident reasons, but, above all because it allows to tell with a complete and complex focus the causes and the consequences of the structural issues that keep the country drowning, the social processes that have evolved to fix them from a promotion approach and the defence of Human Rights and the threats and attacks that have been encountered in the way for said processes and the actors that are a part of it.

At 20 years since the Signing of the Peace Accords, it has been recounted the minimal or null advance that in the fulfillment of said Accords, in social, economical, political, legislative, Human Rights, and above all the development that the people demand. There was a cessation to the armed war, but no solution or remedy to the causes that started the war. Given that the economical power is still in hands of just a few, that centralize the economical power in the means of production and control the measures that the State Powers should exercise.

The violence situation has put the country on it's knees, getting worse in the last 12 months, even having a new government, that has not made any positive results in reducing violence or making the social and economical development that the country requires.



In 2015 Guatemala lived a series of social convulsions that it had not seen in more than 70 years, where all the social sectors, supported by the international community and the Comisión Internacional Contra la Impunidad en Guatemala –CICIG (International Commission against Impunity in Guatemala), with the Ministerio Público (Public Ministry) put in the Judicial Agenda the denounce of the government of the Partido Patriota, about serious and evil processes of corruption by Former President Otto Pérez Molina, Former Vice President Roxana Baldetti and a great part of their Presidential Cabinet, leaving the people in bigger poverty and debt.

### **The main difficulties and challenges of working women in Guatemala.**

In the public, private and service sectors they continue to be victims of rights violations because of the lack of attention from authorities and from the Tutelar of Work Policy, in this case the Ministerio de Trabajo y Previsión Social (Ministry of Labor and Social Provision).

- The lack of a living and decent employment opportunities.
- The lack of a efficient and functional employment policy.
- There is no control that monitors the mechanisms of qualification that corporations or private entities establish for an employment opportunity:
  - Not hiring people for being indigenous, being older than 30 years of age, for being women, physical appearance, for having HIV/AIDS, for having been deprived of freedom, not passing polygraph test, for appearing in databases of people that have sued former employees, for being part of a union, for being part of a political party, for living in a zone that might be considered dangerous (places with gangs and organized crime), for being pregnant, for being women that are head of the household, for having tattoos, etc.
- There is an evident discrimination and lack of interest in dialogue with Unions and Social organizations.
- An inefficient ability to monitor the fulfillment of the Right to Social Security from the State, since there is no efficient policy that protects the Occupational health of working women.
- The lack of a legislative agenda in favor of women, that improves the social, economical and political conditions to access development.
- The slow process in labor courthouses for the following and facilitation of the presented cases.

*“According to the ENEI 1-2016, the economically active population is composed of 6,605,276 people, where 64.8% are male and 35.2% are female; 33.3% indentify themselves as indigenous. The participation of men is 83.6% and women’s is 41.4%. Although in the last years women’s participation has grown it is still lower than men, women have presented lower rates in all academic skills, mainly in the national rural areas with a rate of 32.7.*

*It’s a highlight in this paragapgh that in the urban/metropolitan area the indigenous population showed a higher rate of participation.*

*According to the information of ENEI 1-2016, the economic activity that absorbs the major quantity of work force is Agriculture (28.8%), followed in order of importance by Commerce, Housing, Services (25.3%).*



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*At a national level, 68.4% of paid workers don't have a work contract, being the rural area that registers the highest percentage of paid workers in this condition (81.7%). The highest percentage of paid workers with a work contract for undefined time is located in the urban/metropolitan area. 22.9% of paid workers stated to be affiliated to the Instituto Guatemalteco de Seguridad Social –IGSS (Guatemalan Institute of Social Security); being the urban/metropolitan area which presents the highest percentages of affiliates (43.8%). The two remaining areas registered percentages between 23.4% and 13.4%.*

*33.4% of paid workers stated that they receive Bono 14 (14<sup>th</sup> salary). In the urban/metropolitan area 6 out of 10 paid workers receive Bono 14. Meanwhile in the rural area 2 out of 10 workers obtains said bonus. In regards of the Aguinaldo (Christmas bonus), it has been observed that at a national level, 3 out of 10 paid workers receive this benefit.*

*4,467,917 people were registered in the informal sector, which means that there was a rise of 2.2% of people in relation to the population that was registered in the same sector during the ENEI 2-2015, when it was reported that the population was 4,372,121 people.*

*The economical activity that absorbs the major percentage of occupied people in the informal sector is Agriculture, cattle raising and silviculture, with 36.9%; followed by Commerce, housing and food service with 27.0%; manufacturing industries with 12.2% and other services with 10.7%.*

*Disaggregated by gender, the rate of national open unemployment shows that women have a higher percentage (4.1%) more than men during the months of the survey.*

*At a national level, the average monthly income of workers (paid and independent workers) arose to Q2,131 being the urban/metropolitan area that presents the highest incomes (Q3,215). The rural average income is Q1,480, which is less than half of what is registered in the urban/metropolitan areas<sup>1</sup>."*

### **Support from the Optional Protocol and CEDAW:**

For the exposure of the present list of questions, we have focused the in legal frameworks, that cover us like, norms that have been violated for the fulfillment of the same.

### **From Convention on the Elimination of all Forms of Discrimination Against Women - CEDAW- Ratified by Guatemala on August 12<sup>th</sup> 1982.**

**Part I,** Article 2, Subsection e), f), g), Article 3, Article 4 and Subsection 2, Article 6.

**Part II,** Article 7, Subsection c).

**Part III,** Article 11 Point 1, Subsection b), Subsection c), Subsection d), Subsection e), Subsection f), Point 2, Subsection a), Subsection b), Subsection c)<sup>2</sup>.

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<sup>1</sup> Encuesta Nacional de Empleo e Ingresos – ENEI 1-2016. (National Survey of Employment and Income)

<sup>2</sup> **ILO: ILO Convention C100** Equal Remuneration Convention, **ILO Convention C103** Maternity Protection Convention, **ILO Convention C111** Discrimination (Employment and Occupation), **ILO Convention C118** Equality of Treatment (Social Security), **National: Decree No. 1794**, It is decreed that Mother's day will be on may 10<sup>th</sup> of every year, **Decree 10-96** It is decreed Woman's Week the second week of march of every year, Specific commitments and Women's rights in the Peace Accords.



## *List of Questions:*

*United Nations.*

*Convention on the Elimination of all Forms of Discrimination Against Women.*

*Final remarks from Committee for Elimination of Discrimination Against Women.*

*Guatemala. Committee for Elimination of Discrimination Against Women, 43<sup>rd</sup> period of sessions. January 19<sup>th</sup> to February 6<sup>th</sup> 2009*

*Main concerns and Recommendation*

*Parliament*

*Subsection 8.*

*Resonance of the Convention and the Optional Protocol*

*Subsection 11. (Final part of the paragraph)*

*Discriminatory Legislation*

*Subsection 14.*

*Violence against Women*

*Trafficking and Sexual Exploitation*

*Subsection 24. Urges the State.*

To the Legislative Power:

In the last 4 years, there has been no Legislative Agenda in favor of Working Women, in affairs related to Legislative bills and Legislative Reforms, as to:

1. Why there has been no ratification or legislation in favor of Domestic Workers? Legislative bill 4981, that pretends to Ratify ILO C189 and the Recommendation 201, convention concernig decent work for domestic workers, from the International Labor Organization, it has taken all the established and necessary consultations and right now has the Favorable Dictum from the Comisión de Trabajo (Labor Commission) of the said State Power, it has passed it's first and second readings in Congress, still pending the third one for it's ratification. It would come to improve the living conditions of Domestic Workers relating to: Salary, Work time, Social Security, Protection to Children and Migrants.
2. Why the Article 139 from the Código de Trabajo (Labor Code) Decree 330 has not been Reformed? About the condition of women in the countryside and rural areas, **Considered coadjutant of their Husband or Head of Family**, which should recognize the payment of Wives or the workers mate.
3. Why there has not been any consideration in creating a special regime that regularizes sexual work, withing the Código de Trabajo Decree 330, Reform 1441? As a labor of dependency, for women that work in brothels, bars, closed houses and similars, in labor conditions similar to an ordinary work.
4. Why are there laws that give privileges to the Maquila Industry and Export Industry with Tax Exemptions?

**Employment**

**Subsection 30.**



To the Executive Power:

1. Why it has not been considered the proposal of the Civil Society about the creation of a Joint Commission to analyze and define the Minimum Wage for Domestic Workers in its different categories? Taking into account that in the law that regulates the creation of Joint Commissions it allows the establishment of the necessary commissions, and there is evidence that the Asociación de Trabajadoras del Hogar, a Domicilio y de Maquila. –ATRAHDOM- and the Sindicato de Trabajadoras Domésticas Similares y Cuenta Propia –SITRADOMSA- have made proposals on August 30<sup>th</sup> 2016, and the same evidence shows the functionality of this Commission through Voluntary Employers.
2. There is no social dialogue with the Organized Civil Society of Working Women, to start a work plan for the monitoring and fulfillment of **Social Security, the right of maternity, the right of nurseries in work centers, monitoring and fulfilling the payment of minimum wages in the rural areas.** The no discrimination with employment mechanisms from corporations, factoring as discrimination; ethnicity, gender, age, sexual diversity, etc?
3. Has there been an advance in the process of implementing a labor policy in favor of Working Women in the Implementación del Eje 9 Laboral de la Política Nacional de Promoción y Desarrollo Integral de las Mujeres y Plan de Equidad y Oportunidades 2008-2023 (Implementation of the Labor 9 Axis of the National Policy for the Promotion and Integral Development of Women and the Equity and Opportunity Plan)
4. What policies, programs or processes are developed in favor of Working Women en the affairs of Protection to Migrants, children and youth, elderly, indigenous women and sexual diversity?
5. What policies, programs or processes are developed in favor of Working Women for the eradication of discrimination in the labor scope, stalking, mobbing, harassment and sexual harassment?
6. What means of coordination (bilateral or tripartite) are established with the Instituto Guatemala de Seguridad Social, to improve the Programa de Prevención para las Trabajadoras de Casa Particular –PRECAPI- (Program of Prevention for Particular House Workers), that improves the coverage regarding common disease, maternity, accidents, healthy children, disability, old age and survival of domestic workers?
7. What mechanisms, policies or processes have been implemented in coordination with the Organismo Judicial (Judiciary Power) and Ministerio Público, to guarantee the prosecution of Employers that unfulfill the labor sentences, to reinstate fired workers, unfulfillment of the labor norms, or close of business in an abruptly manner leaving workers in the street without their respective payments?
8. Why are the Export and Maquila Industries privileged with having lower wages than the minimum wage even though they are tax exempt? This doesn't allow workers to be able to cover the costs for their survival and their family's survival.



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Below is the chart of Minimum Wage for the year 2017

#### Minimum Wage 2017

Conforming with the Government agreement No. 288-2016 published in the Diario de Centroamérica (Central America Journal) on December 30<sup>th</sup> 2016, it is established the minimum wage that will govern on the first of January 2017.

### Salario Mínimo 2017

De conformidad con el Acuerdo Gubernativo No. 288-2016 publicado en el Diario de Centroamérica el 30 de diciembre de 2016, se establece el nuevo salario mínimo que regira a partir del uno de enero de 2017.

ACTIVIDADES ECONÓMICAS	HORA DIURNA ORDINARIA	HORA ORDINARIA JORNADA MIXTA	HORA ORDINARIA NOCTURNA	SALARIO DIARIO	SALARIO MENSUAL	BONIFICACIÓN INCENTIVO	SALARIO TOTAL
NO AGRÍCOLAS	Q.10.86	Q.12.41	Q.14.48	Q.86.90	Q.2,643.21	Q.250.00	Q.2,893.21
AGRÍCOLAS	Q.10.86	Q.12.41	Q.14.48	Q.86.90	Q.2,643.21	Q.250.00	Q.2,893.21
EXPORTADORA Y DE MAQUILA	Q.9.93	Q.11.35	Q.13.25	Q.79.48	Q.2,417.52	Q.250.00	Q.2,667.52

Forma de cálculo para determinación del Salario Mensual: Salario Diario X Días Año / 12 Meses(SDx365/12)