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## **EXECUTIVE SUMMARY**

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# **MOROCCAN WOMEN WORKING IN THE STRAWBERRY FARMS OF HUELVA PROVINCE**

**WORKING AND HOUSING CONDITIONS  
FOR WOMEN HIRED IN THEIR COUNTRY OF ORIGIN**

**2019**

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## Context of in-country hiring of Moroccan women for seasonal farm work in Huelva province

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**The Spanish province of Huelva is Europe's leading strawberry farming region.** The local strawberry industry is part of the globalized agri-food chain, which is controlled by big agricultural multinationals and commercial distributors.<sup>1</sup>

Strawberry farming is a **labor-intensive production model** in which reducing labor costs is one of the main strategies used by growers to increase profit margins. Since the 1990s, **the industry has increasingly turned to migrant labor, using a variety of different models and creating unsound working conditions.** The migrant workers with irregular immigration status who supplied this labor in the 1990s began to be replaced by migrant women hired in their countries of origin for seasonal work in 2000.<sup>2</sup>

**In 2006, the focus of in-country hiring shifted to Moroccan women,** because of the imminent admission to the European Union of Poland and Romania, the main countries of origin for seasonal workers until then. The availability of European financing through the Aeneas-Cartaya program, too, situated Morocco as a key source of labor.

In-country hiring in Morocco spiked between 2005 and 2008, then slowed sharply due to the high rates of unemployment in Spain in general, and in Huelva province in particular, in the context of the financial crisis. Between 2012 and 2017, only around 2,000 returning Moroccan seasonal workers were hired per year. Then, **the 2017/2018 season saw a return to in-country hiring in Morocco,** with 15,000 new work permits issued. This figure climbed to 19,179 for the 2018/2019 season.<sup>3</sup>

**In both Morocco and Eastern Europe, in-country hiring efforts have always been directed exclusively at women, leading to significant feminization of the labor force in the industry.** Meanwhile, through the Aeneas program, Huelva agricultural groups

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<sup>1</sup> Currently, Germany, France, and the United Kingdom consume 76% of Huelva strawberries (Freshuelva, 2018) and six chain supermarkets (Carrefour, Auchan, Leclerc, Intermarché, Systeme U, and Casino) account for 85% of retail sales in foreign markets. "Estudio del mercado mundial de la fresa y los frutos rojos," available in Spanish at [https://www.juntadeandalucia.es/export/drupalida/Consult\\_M\\_fresa\\_presentacixn\\_mod\\_ult.pdf](https://www.juntadeandalucia.es/export/drupalida/Consult_M_fresa_presentacixn_mod_ult.pdf). Driscoll's, the world's largest berry seller, is a prime example of the internationalization of the industry. Based in California, with operations in North America, South America, Europe, and North Africa, Driscoll's is the largest berry business in the world, with a distribution network that includes major chains like Walmart, Costco, and Tesco and total sales of over \$1.3 billion. Driscoll's began to market its products in Andalusia in 1994 through the company Alconeras, which in turn supplied other farmers with Driscoll's varieties. During the 1990s, and in association with Driscoll's starting in 2001, Alconeras developed a marketing system for Europe with offices in England, Germany, and the Netherlands. Driscoll's of Europe was founded in March 2009 by Driscoll's Strawberry Associates and Alconeras, with 80% and 20% of stock, respectively. For more information on other international corporations' involvement in these value chains, see: <https://www.buzzfeednews.com/article/pascalemueller/spain-farm-worker-investigation#.bf32wKYwN>.

<sup>2</sup> In Spain, collective management of hiring in countries of origin is regulated under Organic Law 4/2000, on the Rights and Freedoms of Foreigners in Spain and their Social Integration (Article 39) (BOE No. 10, January 12, 2000), Regulations for Organic Law 4/2000 (Articles 167 to 177) (BOE No. 06, January 7, 2005), and Order TMS/1426/2018, on Regulating Collective Management of Hiring in Countries of Origin (BOE No. 315, December 31, 2018).

<sup>3</sup> The total number of seasonal workers who actually arrive in Spain is always lower than the number of authorizations issued. For the 2018/2019 season, 14,411 women traveled to Huelva for work. See: "La contratación en origen para la fresa alcanza las 19.000 temporeras marroquíes," Huelva Información, October 20, 2019, available in Spanish at [https://www.huelvainformacion.es/provincia/contratacion-origen-fresa-temporeras-marroquies\\_0\\_1402060037.html](https://www.huelvainformacion.es/provincia/contratacion-origen-fresa-temporeras-marroquies_0_1402060037.html).

and Moroccan authorities agreed that contracts would be granted exclusively to married women or widows with dependent children under 14 years of age. These provisions are still in effect today.<sup>4</sup> **The nearly exclusive hiring of women aged 18 to 45 with minor children is contrary to non-discrimination provisions** of the Ministerial Order regulating hiring,<sup>5</sup> as well as Articles 14 and 35.1 of the Spanish Constitution.<sup>6</sup>

Although **in-country hiring has been held up as a model of “ethical and orderly migration,” it has serious flaws when it comes to ensuring workers’ rights.** This is largely due to the fact that the contracts provide workers with a work and residence permit tied to a specific geographical area, type of work, and employer, making workers dependent on their employers. Their opportunity to remain in Spain legally and obtain a contract for future seasons is entirely up to the employer.

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## **Changes in the perception of the industry and new measures implemented for the 2018/2019 season**

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The 2017/2018 and 2018/2019 seasons marked changes in trends and an increase in in-country hiring, but they also brought greater scrutiny to a system that had been in place for almost two decades, after a number of reports of violations of the rights of women seasonal workers in the Huelva strawberry industry.

In late April 2018, a German online media outlet published a report<sup>7</sup> detailing rapes and sexual assaults committed against Moroccan women during the 2016/2017 season and drawing national and international media attention to the working and housing conditions of seasonal workers hired in-country.

Subsequently, in early June 2018, ten Moroccan seasonal workers reported **workplace violations and sexual assaults at an Almonte farm.**<sup>8</sup> **The same year, other**

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<sup>4</sup> For the 2018/2019 season, the job offer published by ANAPEC (Morocco’s National Agency for the Promotion of Employment and Competencies) was directed exclusively at women. It stipulated that, in order to qualify, candidates must be aged 18 to 45, with dependent children under 14, from rural areas, and in good health (official translation of ANAPEC job offer for the 2018/2019 season).

<sup>5</sup> Article 9.1 of Order TMS/1426/2018 on worker selection provides that “Participation of workers in any stage of the selection process will be free of charge. Selection committee members shall ensure that selection is done in accordance with principles of equal opportunity, non-discrimination, and transparency, such that all candidates are fully aware of the terms of the employment offer, as well as the geographic location and work conditions associated with the work authorization.”

<sup>6</sup> Article 14 of the Spanish Constitution prohibits discrimination “on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance.” Article 35.1 provides that “under no circumstances may [Spaniards] be discriminated against on account of their gender” in the workplace. Available in Spanish at <https://www.boe.es/buscar/act.php?id=BOE-A-1978-31229>.

<sup>7</sup> See: “Violadas en los campos de Europa” by Pascale Müller and Stefania Prandi. BuzzFeed, May 18, 2018. Available in Spanish at <https://www.buzzfeed.com/pascalemueller/violadas-en-campos-europa> and in the original German at <https://www.buzzfeed.com/de/pascalemueller/vergewaltigt-auf-europas-feldern>.

<sup>8</sup> See: “El precio de denunciar los abusos en la fresa,” El País, March 25, 2019. Available in Spanish at [https://elpais.com/politica/2019/03/23/actualidad/1553361492\\_904277.html](https://elpais.com/politica/2019/03/23/actualidad/1553361492_904277.html). “Workers in Spain’s Strawberry Fields Speak Out on Abuse,” The New York Times, July 22, 2019. Available at <https://www.nytimes.com/2019/07/20/world/europe/spain-strawberry-fields-abuse.html>. “Nueve temporeras marroquíes denuncian abusos laborales y sexuales en una finca de Almonte,” El Diario, June 4, 2018. Available in Spanish at [https://www.eldiario.es/andalucia/huelva/temporeras-marroquies-denuncian-laborales-Almonte\\_0\\_778672920.html](https://www.eldiario.es/andalucia/huelva/temporeras-marroquies-denuncian-laborales-Almonte_0_778672920.html). “Revuelta de mujeres temporeras marroquíes en Almonte,” La mar de Onuba, June 3, 2018. Available in Spanish at <http://revista.lamardeonuba.es/urgente-mas->

**workers made similar complaints of workplace violations and sexual violence** occurring in another Huelva agricultural operation.<sup>9</sup>

**The 2018 season brought greater awareness of the realities faced by these seasonal workers, leading to changes for the next season.** In June 2018, an agreement for a new protocol relating to incidents of sexual assault and harassment of women working in the strawberry fields was reached by employers, labor unions, NGOs, and the Regional Government of Andalusia.<sup>10</sup> The protocol calls for training on gender perspective for farm managers and foremen, and contracting with intercultural mediators designated by NGOs to monitor compliance with work and housing condition requirements for workers. Several advocacy organizations have also redoubled their efforts and launched new projects in the province, focusing on contract seasonal workers.

In addition to these changes resulting from media coverage of in-country hiring of seasonal workers, a number of other changes were made to the Provincial Agricultural Labor Agreement (*Convenio Provincial del Campo*), and the composition of parties involved also changed. This will be addressed in greater detail in the following sections.

The 2018 Provincial Agricultural Labor Agreement, signed in October 2018 between Comisiones Obreras and Asaja-Huelva, includes a new article on “equal treatment and opportunity” (Article 35). However, this article is entirely incompatible with the in-country hiring process used in Morocco, in which highly discriminatory criteria are applied to the selection of workers. The agreement also includes a “Protocol for prevention and response to incidents of sexual and gender-based harassment” (Article 36), but the **prevention measures tend to place the onus of reporting on workers**, and the excessively weak internal corrective procedures appear to have been designed to mitigate the seriousness of potentially criminal behavior and discourage workers from filing complaints with the authorities.<sup>11</sup>

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[de-cien-temporeras-de-almonte-en-pie-de-guerra-denuncian-colectivamente-ante-la-guardia-civil-incumplimien-tos-de-convenio-y-graves-abusos-ver-video/](https://www.elpais.com/diario/2010/06/13/domingo/1276401156_850215.html). For more cases, see “Víctimas del oro rojo,” *El País*, June 13, 2010. Available in Spanish at [https://elpais.com/diario/2010/06/13/domingo/1276401156\\_850215.html](https://elpais.com/diario/2010/06/13/domingo/1276401156_850215.html).

<sup>9</sup> Women’s Link Worldwide represents four Moroccan women who suffered abuse during the 2018 strawberry harvest. See March 13, 2019, press release at <https://www.womenslinkworldwide.org/en/news-and-publications/press-room/women-s-link-represents-four-migrant-workers-who-suffered-labour-exploitation-and-sexual-harassment-while-harvesting-strawberries-in-spain>.

<sup>10</sup> See: “La Junta y el sector fresero consensuan un protocolo de actuación con las temporeras,” available in Spanish at <http://www.heconomia.es/volatil.asp?o=1284165534>.

<sup>11</sup> Article 35 includes the following provisions: (2) mandatory implementation of “equality plans” for companies employing over 250 workers; (3) creation of a Parity Commission on Equal Opportunity, including two union representatives and two Asaja representatives, charged with ensuring equal treatment in the workplace and housing facilities and monitoring selection criteria and employment offers; and (4) creation of the position of “Equality Agent” or “Intercultural Mediator with Gender Perspective” charged with facilitating integration of migrant women performing seasonal work, language learning, and awareness of rights and preventing social and cultural isolation. The Protocol established in Article 36 provides for a set of measures designed to “prevent and avert situations of harassment or potential harassment” as well as “establishment of internal corrective procedures for internal complaints or reports of harassment made by any worker.” The preventive measures are meant to educate staff on detection of cases of gender-based harassment or discrimination; create accountability for monitoring potentially harassing behavior; establish zero tolerance for such behavior; and encourage integration of new personnel through accompaniment of new-hires. The human resources department is charged with implementing the internal corrective procedures.

The new intercultural mediator position created under the new Labor Agreement was introduced to facilitate communication between women hired in-country, employers, and local government, when necessary. Mediators must speak both Moroccan Arabic and Spanish. Their duties include furnishing information and ensuring transparency for seasonal workers as they execute their contracts and perform the work.

**Two types of mediators have been introduced:** NGO mediators (funded by the Administration for Immigration Policy of the Regional Government of Andalusia, and mediators supplied by employers. While mediators supported by the Regional Government of Andalusia pay particular attention to sexual misconduct or labor violations by employers, those who work for employers do not place the same emphasis on these abuses. The mediation provided by NGOs exists in a context of public outrage and is established through an agreement between employers, unions, NGOs, and the Regional Government of Andalusia to hire intercultural mediators chosen by NGOs to monitor workplace conditions for seasonal workers. Meanwhile, Interfresa (the Interprofessional Andalusian Strawberry Association), made up of Asaja, Freshuelva, and Cooperativas Agroalimentarias de Andalucía (Huelva), has created a team of 14 people, mostly Moroccans living in Huelva, to act as integration consultants during the strawberry season, in accordance with the Ethical, Labor, and Social Accountability Plan (PRELSI) for the industry.<sup>12</sup>

Our investigation found that **mediators face significant obstacles in their role as advocates for the labor rights of seasonal workers.** Firstly, many workers are unaware of the existence of mediation services. If they are aware of the existence of this service, they are often reluctant to take advantage of it, due to the fact that some of the mediators are associated with employers. The services of independent NGO mediators are not promoted in the berry fields, so they must make an extra effort to reach workers. Finally, mediators' efforts are often ineffectual, because when women workers file complaints, there is no guarantee that they will keep their job or residence permit or get a new contract for the next season. In any case, the NGO does not have enough mediators to meet the need.

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<sup>12</sup> M.R. Font, "Así viven las miles de temporeras que recogen fresa en Huelva," ABC, February 19, 2019. Available in Spanish at [https://sevilla.abc.es/andalucia/huelva/sevi-viven-miles-temporeras-recogen-fresa-huelva-201902170828\\_noticia.html](https://sevilla.abc.es/andalucia/huelva/sevi-viven-miles-temporeras-recogen-fresa-huelva-201902170828_noticia.html). Several media outlets have also reported that the best practices protocol in the berry industry is still an empty promise: [https://www.huelvainformacion.es/huelva/Junta-elaborara-protocolo-practicas-laborales\\_0\\_1336066917.html](https://www.huelvainformacion.es/huelva/Junta-elaborara-protocolo-practicas-laborales_0_1336066917.html). With the new administration in place, the Regional Government of Andalusia seems inclined to seek an agreement with Interfresa: <https://www.europapress.es/andalucia/huelva-00354/noticia-ccoo-afea-acuerdo-junta-interfresa-optar-falso-plan-saltarse-convenio-colectivo-20191113102754.html>.

## Methodology

### Summary of interviews

Four key areas were identified for our analysis: the agricultural industry, social services, the healthcare sector, and the media. Within the agricultural industry, we differentiated between companies and unions. We further broke down the labor sector into more institutional unions (such as the Unión General de Trabajadores, or UGT) and an activist union (Sindicato Andaluz de Trabajadores/as, or SAT). These criteria guided our selection of interviewees, as shown in the following table:

**TABLE 1: Interviews with representatives of concerned sectors**

Profile	Interview	Reference	Date	Location
<b>Agricultural Sector</b>	SAT Union	SAT	7/06/2019	Cafeteria in Huelva
	UGT Union	UGT	6/11/2019	UGT offices in Sevilla
	Strawberry grower	GROWERS	7/02/2019	TARACEAS SCA offices in Sevilla
<b>Social services</b>	ASISTI	ASISTI	6/04/2019	Interviewee's home in Huelva
	Mujeres 24H	MUJERES 24H	6/21/2019	Interviewee's home in Huelva
<b>Healthcare Sector</b>	Clinic nurse	HEALTHCARE PROFESSIONAL	7/02/2019	Cafeteria in Huelva
<b>Media</b>	Local journalist	JOURNALIST	6/24/2019	Interviewee's home in the city of Huelva

Source: Created in-house

Once the necessary preliminary work was done to create spaces appropriate to the context and in which the women would feel comfortable and safe, interviews were carried out. The demographic information of the interviewees is summarized in the following table:

**TABLE 2: Women seasonal workers interviewed**

Interview No.	Interviewee No.	Age	Marital status	No. of Children	Season No.
<b>E1</b>	1	45-50	Married	3	3
	2	35-40	No data	1	3
	3	45-50	No data	2	3
	4	No data	No data	x	1
	5	No data	No data	x	1

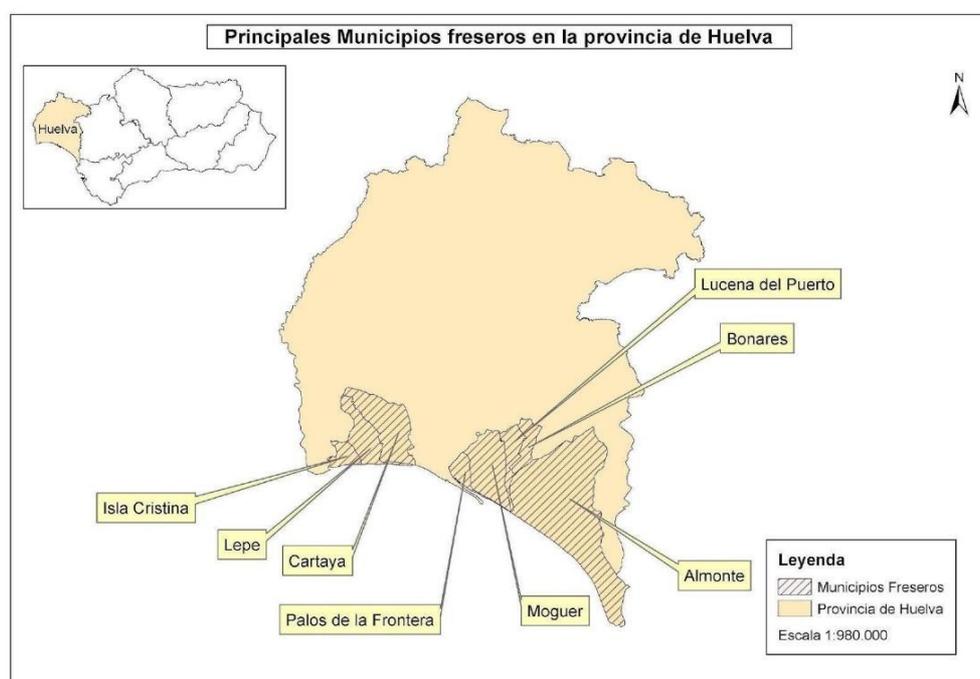
	6	No data	No data	x	1
<b>E2</b>	7	35	Divorced	1	1
<b>E3</b>	8	45-50	Married	2	1
	9	45-50	Divorced	3	1
<b>E4</b>	10	28	Married	2	2
	11	33	Married	4	2
	12	45	Married	2	4
<b>E5</b>	13	No data	No data	1	2
	14	27	Married	1	2
	15	No data	No data	1	2
	16	No data	No data	3	2

Fuente: Created in-house

## Geographical area of study

Strawberries are currently harvested mostly in four areas: the area around Doñana National Park, the west coast of Andalusia, western Andévalo, and Condado de Huelva. According to 2016 data, eight municipalities in these areas account for most strawberry production, and Moguer and Almonte alone account for almost half (47%) of the berry fields in the province, as shown on the following map:

### Strawberry-producing municipalities in Huelva province



Source: Created in-house with data provided by the Regional Government of Andalusia (2017)

## Violations of rights identified

During this investigation, we identified many situations that point to systematic and ongoing violations of rights during the in-country hiring process and the harvest

season in Spain. The following pages offer a summary of these situations. In some cases, violations begin during the selection process and continue throughout the later stages of the process.

## Violations of rights during the selection process

In the workers' country of origin, we identified frequent violations of the provisions of the Ministerial Order Regulating Collective Management of Hiring in Countries of Origin for Seasonal Farm Work.<sup>13</sup>

The 2018 Ministerial Order, like that of 2012, provides that candidates may participate in all stages of the selection process free of charge. It further requires selection committee members (employer representatives, consulate representatives, and ANAPEC staff) to ensure that selection is done "in accordance with principles of equal opportunity, non-discrimination, and transparency, such that all candidates are fully aware of the terms of the employment offer, as well as the geographic location and work conditions associated with the work authorization" (TMS/1426/2018, Article 9).

The principles of equal opportunity and non-discrimination are violated from the outset, with the **application of selection criteria that exclude certain workers** and grant contracts almost exclusively to women aged 25 to 45 with dependent minor children, as noted above. The women must present their family register as proof of their family status during the selection process. These discriminatory criteria are designed to ensure that the workers will return home after the season and to ensure that women with greater family responsibilities and in circumstances of greater vulnerability, often divorcees or widows, are selected; making it difficult or impossible for them to defend themselves against potential abuse or harassment.

Regarding transparency, **the information furnished in the country of origin is often inadequate. When any information is provided,<sup>14</sup> it often does not reflect the reality the workers will find on arrival in Spain.** Women are unaware of the precise terms of their work contracts or the rights that they enjoy under the Provincial Agricultural Labor Agreement. The precontracts signed in Morocco are written in French; a language which most of the candidates do not speak or read. Written translations are not provided. In most cases, the women are not even provided with a copy of the signed contract. Some parts of the contract are explained orally to the women, such as the approximate wage, their right to a weekly day off and breaks during the work day, and the opportunity to take Spanish classes; terms that are not always fulfilled once the workers reach Spain. They are shown pictures and videos of the

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<sup>13</sup> Order ESS/1/2012, of January 5, 2012, Regulating Collective Management of Hiring in Countries of Origin, went into effect in 2012 and was extended several times, until 2018. In December 2018, it was replaced by Order TMS/1426/2018, of December 26, 2018. More recently, it was replaced again by Order TMS/1277/2019, of December 23, 2019, Regulating Collective Management of Hiring in Countries of Origin for 2020 (BOE No. 314, December 31, 2019).

<sup>14</sup> ANAPEC provides the following information in writing: the duration of the work contract, a 15-day probationary period, approximate wages, length of the work day, number of work days per week, and the fact that the employer will provide housing and transportation. However, as the literacy rate in rural Morocco is extremely low, most seasonal workers must rely on the information provided orally.

housing they are supposed to live in once they reach their destination, but these do not reflect the true housing conditions.

Finally, while participation in the process is supposed to be free of charge, in practice, **candidates must incur multiple expenses in order to obtain a contract.** They must pay to get a medical certificate, passport, and visa. These documents, which are required in order to apply for a contract, represent a major expenditure for women living in rural Morocco, who must also take on the costs of traveling to the cities to fill out forms, apply for documents, and attend appointments with ANAPEC to sign up, participate in the selection process, and sign the contract. They must also cover the costs of food, clothing, and kitchen implements during their stay in Huelva. Since the women come from poor, rural backgrounds, they usually have to borrow money to cover these expenses.

## Violations of rights during the harvest season

Once they arrive in Spain, seasonal workers quickly discover that the work volume varies dramatically, picking up during peak harvest times and dropping off during slow times. Under this system, in which employers use in-country hiring as a **source of flexible labor**, multiple violations of workers' rights take place.

Inconsistencies relating to the process of worker signing employment contracts while in Spain have been identified. In addition to the contract signed in Morocco, which states that the workers will be assigned to a particular employer group, workers must also sign an additional contract when they reach Spain with the specific company they will be working with. This second signing may be delayed in order to accommodate the employer's desired start date. Were this not enough, workers are often informally transferred from one company to another in violation of the clause assigning the worker to a particular employer.

In another inconsistency identified in Spain, we observed frequent violations of Article 3 of the Ministerial Order Regulating Collective Management of Hiring in Countries of Origin for Seasonal Farm Work, which guarantees contractors steady work during 75% of the time they are authorized to remain in Spain.<sup>15</sup> While companies are not required to provide contractors with work throughout the time of their authorization, we have seen that during slow work times, seasonal workers may go days without working, or only work partial days. In these cases, **their total work time may be well below the legal minimum** and the working time they were led to expect, dramatically affecting their income and migration projects.

**Certain workday requirements under the Labor Agreement are often violated as well.** For example, workers do not always get their required half-hour break during the day. In other cases, workers are not allowed to take their weekly day off. In others,

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<sup>15</sup> Keeping records of hours worked was not a legal requirement until passage of Royal Decree 8/2019, of March 8, 2019, which went into effect on March 12 of the same year.

obligatory overtime is imposed on the workers through a system in which workers must meet a quota of boxes of berries per day, often forcing them to work days longer than permitted under the Agreement. Under this system, if they fail to reach the targets imposed, they face punishments and sanctions, usually in that future working days are taken away from them.

Another frequent form of sanction is **nonpayment of overtime hours or payment at the regular rate (rather than the higher overtime rate)**. Some workers report that when they work more than the six-and-a-half hours provided under the Agreement, their overtime hours are not counted. In addition to these overtime irregularities, **inconsistencies in payment** have been seen, including uncounted work days, improper deductions for costs of supplies, and lower daily wages paid for days spent harvesting “second-class” strawberries for industrial use.<sup>16</sup>

This particularly affects workers who are paid in cash, as it is even more difficult for them to prove or report payment errors or irregularities (indeed, this practice of paying in cash may suggest failure to report wages to Social Security), but it also affects those who are paid by direct deposit. Workers have reported delays and nonpayment that they have discovered because of inconsistencies between their wage reports and the amount appearing in their bank accounts.<sup>17</sup>

Finally, we were also able to identify **abuses related to firing and layoffs**. In some cases, employers manipulate contract terms to extend the probationary period from 15 days to 30, during which time they can terminate the worker's contract at will. In others, they have workers sign voluntary severance documents without explaining their content.

## Violations of rights related to housing and residency

Article 13 of the 2018 Huelva Provincial Agricultural Labor Agreement provides that housing will be provided to workers free of charge, specifying that no deductions may be made to wages for rent. The same information appears in the original employment offer published in Morocco, which clearly sets out that housing and travel between home and work will be provided by the employer. However, in many cases, **companies deduct water, electricity, heating, and rent expenses from workers' wages**. Deductions are taken directly and are not usually reflected on contracts or wage stubs. In other cases, workers' hours are manipulated to cover these expenses by adding a half hour of unpaid work to the work day for housing costs.

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<sup>16</sup> At season end, when industrial, or “second-class,” berries are harvested, workers are usually paid on a per-box basis. This often means a daily wage lower than that provided under the Agreement, in violation of its terms.

<sup>17</sup> In addition to these irregularities, payment by direct deposit presents a challenge for many workers in monitoring and managing their income. Workers who are not fluent in Spanish or familiar with the Spanish banking system face obstacles in inquiring about their accounts at bank branches, reading their statements, exchanging their wages for euros, or withdrawing money at automated teller machines.

Article 13 of the Agreement further provides that housing provided by companies, "such as in cases of migrant workers brought to the country to work the harvest, must in all cases comply with applicable health and hygiene regulations so workers may live in them in dignity." However, **cases of unsound housing conditions have been identified.** Most of the women we interviewed reported overcrowding, inadequate garbage and sewer services, or shortages of clean water for drinking, hygiene, cooking, or other consumption.

## Violations of healthcare rights

Our field study found that the lack of access to basic services was affecting worker health, and their access to healthcare services was often limited. From a legal standpoint, Moroccan women doing seasonal work enjoy the same healthcare access rights as any other foreign national residing legally in Spain. They are entitled to healthcare coverage and a medical card, or to be entered in the Andalusia Public Healthcare System database until their card can be issued.

However, multiple barriers to these rights have been identified, including lack of knowledge of the healthcare system, distance from medical facilities, difficulty obtaining a medical card, and language barriers. When workers must travel to healthcare facilities, they usually depend on employers or managers to drive them, which may not be in the workers' best interest.

Many health conditions suffered by workers are related to the type of work performed, but these conditions may be aggravated by the violation of workplace condition provisions under the Agreement, such as the mandatory day off per week or limits on the length of the work day, as well as unsound housing conditions.

## Sexual harassment

For purposes of this study, we have used a broad definition of sexual harassment that includes a range of behavior, such as inappropriate jokes, offensive sexual language, ogling, obscene gestures, invasion of space, discussion of sexual activity, pornographic images, sexual advances, inappropriate touching, kisses, blackmailing workers for sexual favors, etc.<sup>18</sup>

The unstable nature of seasonal work and the legal limbo that workers hired in their country of origin find themselves in places them at high risk of violence. When employers focus on hiring poor women, often divorced or widowed with dependent minor children, the women are forced to depend on the employers for contracts or

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<sup>18</sup> Under Spanish law, sexual harassment and sexual harassment in the workplace are defined as behavior of a sexual nature such as physical touching, advances, comments of a sexual nature, display of pornographic material, and sexual demands, whether by words or actions (Penal Code, Article 184). The Committee on the Elimination of Discrimination against Women (CEDAW) has noted that "[s]uch conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment" (Article 4.2.e ET and paragraph 18 of General recommendation No. 19 of the CEDAW Committee).

contract renewal. Furthermore, managers and supervisors have the power to send the women back to their country of origin. In addition, their isolation in housing facilities, lack of familiarity with the local environment, lack of fluency in Spanish, and limited social contact outside of the farms all contribute to placing workers in a situation of vulnerability. Finally, in many cases, workers face serious barriers to leaving the farm, so they must turn to people outside the farm to meet their needs, rendering them dependent once again.

Notwithstanding the changes that have taken place since several workers' complaints of sexual assault and other violations in the industry went public last year, our field study has shown that incidents of harassment continue to occur. These same women have explained to us how difficult it is for victims to confide in strangers, and that many women will deny having suffered harassment when in fact they have. However, the **seasonal workers we interviewed also distinguished between two types of harassment: gender-based harassment, as defined under the Labor Agreement, which most of them had experienced, and sexual harassment, which was less widespread.**

When it comes to gender-based harassment, almost all the women we interviewed reported having experienced sexist language and behavior such as insults, degrading attitudes, and in some cases, physical violence. This behavior usually comes from farm managers and foremen. Advocacy organization representatives, too, report degrading treatment on some farms where workers are shoved, insulted, not allowed to use the bathroom or lift their head, or have their boxes of strawberries knocked to the ground when they are not packed properly. Regarding sexual harassment, interviewees reported two cases on one farm of quid pro quo sexual harassment or coercion using promises of reward or threats of punishment. When one of the women refused the foreman's advances, he had her fired and the company tried to have her sent back to Morocco early.

Finally, many stakeholders have criticized a **lack of official data** that places serious limitations on efforts to address these issues. As noted by one of the interviewees, this lack of information hides the scope of the problem, and employer organizations take advantage of this to argue that these are isolated cases.

Through our field study, we were able to identify many factors tending to perpetuate sexual harassment in the workplace, including a workplace culture encouraging this behavior and a tendency on the part of the victims to respond with silence or by refusing to identify as victims. And we observed the presence of sexist and racist ideologies that explain away the phenomenon by stigmatizing the behavior of foreign men or of the victims themselves in an attempt to shift the responsibility from the employers.

## Violations of rights to access to justice

Many of the factors described above help to explain the structural limitations faced by seasonal workers who wish to go public and report the different forms of abuse they have been subjected to and access the justice system.

When workplace abuse occurs, there are a number of **practical and legal barriers to reporting**. Firstly, the lack of information provided to workers on their rights, and in particular, on the terms of their contracts (and the fact that they are usually not furnished with a copy of the contract, or it is provided when they are due to return to Morocco) makes it difficult or impossible to make any kind of complaint or claim.

Other forms of abuse, such as unpaid wages, are equally difficult to report for similar reasons. In addition to the fact that many of the women are not fluent in Spanish and cannot read their pay stubs or convert their wages to euros, the temporary nature of their residency poses additional challenges. When women do decide to contact the unions or other organizations to demand back pay, their imminent return to Morocco places limits on their chances of taking legal action against their employers. Lastly, their isolation, unfamiliarity with the environment, and fear of losing their jobs, being sent back to Morocco, or missing out on future contracts, keep many women from filing claims.

When it comes to sexual assault, the same factors of discrimination, dependence, and inequality that encourage assaultive behavior in the industry also make it impossible for women to report the behavior without risking serious consequences.

Although all the NGOs, unions, and other stakeholders working on this issue acknowledge that sexual assault is a problem in the industry, they do not agree on the scope of the problem or the best way to address it. The main explanations offered for the prevalence of sexual abuse and the small number of complaints made are the women's poverty and their dependence on the contract; pressure exerted on them by holding their passports or refusing them work; the fear that people in Morocco will find out and their honor or reputation will suffer, particularly if they are married; and the existence of "black lists" for women who complain that keep them from getting new contracts for future seasons.

In addition, **some interviewees pointed to complicity between local growers and government agencies to discourage workers from reporting abuses**, citing cases in which the Civil Guard helped illegally remove seasonal workers from the country or the Labor Inspectorate was unwilling to provide neutral oversight. The problem of impunity affects the judicial system as well, where many claims have been dismissed and few growers have been sanctioned.<sup>19</sup>

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<sup>19</sup> See: "Una juez archiva la segunda causa de un grupo de temporeras de Huelva," El País, April 24, 2019. Available in Spanish at [https://elpais.com/politica/2019/04/23/actualidad/1556017791\\_391419.html](https://elpais.com/politica/2019/04/23/actualidad/1556017791_391419.html). "El precio de denunciar los abusos en la fresa," El País, March 25, 2019. Available in Spanish at

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This explains why when cases of abuse are taken to court, the chances of achieving justice and correcting the situation are limited. These cases, which are usually filed at season end, **are usually resolved by returning workers to Morocco early**, an illegal practice if done without the workers' consent. There may also be other **consequences for the women workers**. Besides the fact that very few petitioners win their cases, they may lose their contracts, be passed over for the next season, or be shunned in their communities when they return home.

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## Recommendations

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In-country hiring as it exists today is a discriminatory labor management model based on gender, class, race, and nationality. Therefore, if we seek to improve conditions for Moroccan women performing seasonal farm work in Huelva without taking into account the multiple power relationships that shape their experiences, our efforts may be ineffective or even counterproductive.

For example, sending mediators to identify cases of harassment will not work if the women reporting these abuses must risk losing their jobs, residence permits, or future contract opportunities. Similarly, the inclusion of provisions on equal opportunity and harassment in the Labor Agreement will not be effective if the discriminatory nature of the current worker selection process is not explicitly denounced. Therefore, effectively combating abuse and inequality in the strawberry industry requires taking a hard look at immigration policy, globalized capitalist agriculture, and the patriarchal system.

Yet certain measures must be taken now to improve the situation of seasonal workers hired in-country in the medium term.

Firstly, **the terms of seasonal work contracts for foreign workers should be changed to ensure that these workers enjoy the same rights as other workers**. A good first step would be to eliminate workers' dependence on a single employer, allowing them to change jobs during their authorized stay in Spain or extend or modify their residence or work permits. This is compatible with current applicable law. The current selection criteria, too, should be eliminated. Also, the practice of blacklisting workers who make complaints or who are not rehired by the same employer should be prohibited. And finally, seasonal workers should be afforded the opportunity to change employers for the next season if they wish.

Secondly, divisions among different groups of workers based on immigration status, gender, and nationality (foreign resident workers, undocumented workers, Spanish nationals, etc.) must be addressed. **Issues related to seasonal workers hired in their**

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[https://elpais.com/politica/2019/03/23/actualidad/1553361492\\_904277.html](https://elpais.com/politica/2019/03/23/actualidad/1553361492_904277.html). "El SAT denuncia el intento de 'secuestro' a 400 temporeras de la fresa que acudieron a la Guardia Civil," Público, June 3, 2018. Available in Spanish at <https://www.publico.es/sociedad/sat-denuncia-secuestro-400-temporeras-fresa-acudieron-guardia-civil.html>.

**countries of origin must be approached from a global perspective**, taking into account the relationships between immigration and labor policy in the job market.

Thirdly, **all workers should be provided with clear information in their own languages on workers' rights and residency rights**, as well as contact information for independent organizations and agencies they can turn to in the event of workplace conflicts, harassment, or abuse. This information is a key first step to access to justice. When complaints are filed, the courts should act quickly, taking into account the particular vulnerability of seasonal workers. Special measures should be taken to allow petitioners to remain legally in Spain to ensure continuity of cases, and rulings should be issued quickly and consistently.

Fourthly, **oversight and inspection policies for workers' rights, sexual harassment, discrimination, and housing issues should be strengthened**. This requires increasing human and material resources for the Labor Inspectorate and performing inspections without prior notice. And union representatives and other advocates should be granted access to seasonal workers' housing and work sites. Their efforts should be supported by independent mediators fluent in Arabic and trained in gender perspective that workers may turn to in cases of violations of rights or sexual harassment.

Fifthly, **protocols should be put in place allowing healthcare professionals to provide appropriate services to women working in the strawberry fields**. These protocols should pertain not only to medical professionals such as doctors and nurses, but to administrative staff as well. This would help ensure that healthcare facilities respect women's right to appropriate care, rather than leaving the decision up to the individual providers who see the women at different times.

Finally, it must be made clear that these violations of workers' rights and cases of sexual harassment are not limited to the few victims who have come forward. As several interviewees noted, **the creation of a registry of cases** identified and reported, as well as rulings obtained, would be an effective tool, both for determining the scope and structural nature of the issue and for identifying the successes and failures of women who have come forward.

The necessary **resources for reporting** violations of rights should be made available both within and without strawberry companies. In addition, **decisive measures must be taken to prevent these situations** in the first place, including **effective training** within companies and **vigorous enforcement of non-discrimination provisions** under the Labor Agreement and laws and regulations regarding work and housing conditions for seasonal workers hired in their countries of origin.