



Q & A: the contribution of Fair Trade to securing human rights in agriculture

Background:

This Question & Answer paper was released on the occasion of World Fair Trade Day 2013 (11.05.2013) to take stock of the contribution of the fair trade movement to more just and sustainable food systems. The movement took root in the US and Northern Europe in the post-war period, and started to make inroads into retail markets from 1988, when the first Fairtrade certification initiative, Max Havelaar, was created in the Netherlands. This paper is based on an interview with the Special Rapporteur on the Right to Food, conducted by Marianne Wilschut for Stichting Max Havelaar (Fairtrade Netherlands).

In 1860 the novel 'Max Havelaar' shone a light on abuses of colonial power tied to the exploitation of commodity crops in the Dutch East Indies (now Indonesia). Are abuses of this sort still occurring today?

Fundamental rights at work are frequently violated in the agricultural sector, and with globalization and the important role played by the media and NGOs, these issues are getting the visibility they deserve. It is estimated that today, some 450 million people work as farmworkers, often on a seasonal basis. Less than 20 per cent of them have access to basic social protection. And since much of waged employment is in the informal sector, national labour legislation is unable to ensure the right to a minimum wage or to protect workers, particularly women, from discrimination.

Collective bargaining is crucially important for agricultural workers, both because knowledge and enforcement of the law tend to be weak in rural areas, and because labour legislation frequently treats the agricultural sector differently from other sectors with regard to issues such as working time, overtime pay, or leave. However, the reality is that worker protection in this sector remains insufficient. Although the International Labour Organization's Right of Association (Agriculture) Convention, 1921 (No. 11) has been widely ratified, collective bargaining and social dialogue are often entirely absent: farmworkers face considerable difficulties in organizing themselves, and in addition, subcontracting and outsourcing practices are widespread, the result of which is that the actual employer has no formal relationship with the worker.

As agricultural labour is increasingly casualized, as contract farming develops, and as small farmers increasingly work on farms or plantations to supplement their basic incomes, **the distinction between waged workers and farmers is breaking down**. Tenants and sharecroppers also form intermediate categories. Tenants pay a fixed rent in cash, in kind, in labour, or through a combination of these. Sharecroppers pay rent in kind consisting of an agreed share of the produce. Certain agricultural workers are remunerated by a share of the produce. The blurring of the distinctions between these different categories often leads to situations in which the legal framework applicable to the relationship between the food producer and the food buyer is difficult to determine, and in which the **rights and obligations of the parties are unclear**.

Whose rights are most at risk in developing world agriculture?

In recent years, the **specific difficulties women face as farmworkers** have become a particular concern. Agriculture is being increasingly feminized, as it is the men who exit agriculture first, seeking opportunities in the services and industry sectors in the cities, leaving women behind with the children and the elderly to take care of the family plot of land: because women have responsibilities within the household and face mobility constraints, they are increasingly in charge of the family farm, often for subsistence farming. But **women face multiple forms of discrimination as small-scale food producers** - in accessing land, in benefiting from extension services, in access to financial services, or in the design of agricultural research and development. In many countries, the law regarding inheritance of land still discriminates against women, and even when the discriminatory elements are removed, the laws are often circumvented under the pressure of social and cultural norms.

As a result **women are disproportionately represented in the "periphery" part of the workforce** in agriculture, particularly in the horticultural sector. This "periphery" segment of the workforce is made up of unskilled workers, often **without a formal contract of employment**, and their **work is often seasonal or temporary** (or classified as such even when it is in fact continuous). The reason why women are disproportionately represented in this segment is because they have fewer alternative options and are thus easier to exploit. The overwhelming majority of women employed as farmworkers have only a very low level of education. They are typically land-poor or landless, and have fallen short of options.

In addition, it is not unusual for the remuneration in this "periphery" segment to be calculated on a piece-rate basis, based on how much of the task has been accomplished. This mode of calculation of the wage is advantageous to the employer, because it generally means that the employer shall not provide benefits additional to the wage earned, or social security, and because it is a method of calculating wages that is self-enforcing and requires much less supervision: where the payment is made to a group of workers for a task, the workers themselves, as a collective, monitor the performance. Though the most efficient women sometimes benefit, when they can work harder or when they are particularly well suited to the tasks to be performed, **this mode of calculation of wages generally disadvantages women**, since the pay is calculated on the basis of male productivity standards. In addition, it encourages workers, especially women, to have their children work with them as "helpers", in order to perform the task faster: the result is that about **70 per cent of child labour in the world is in agriculture**, representing approximately 132 million girls and boys aged 5–14.

Is the Fair Trade method of guaranteeing a minimum price and premium for farmers, in exchange for meeting a series of social and environmental requirements, a good way to help small farmers compete in global commodity markets?

The Fair Trade movement has set a model that others should seek inspiration from, and that can ensure that global supply chains work for the benefit of small-scale farmers and thus contribute significantly to the alleviation of rural poverty and to rural development. This is not a meager achievement. It is a source of hope.

Fair Trade is therefore absolutely vital for the farmers' cooperatives who benefit: it should become the norm rather than the exception, and it should be better supported by fiscal incentives and in public purchasing policies, which constitutes a powerful food in the hands of public authorities. The May 2012 ruling by the Court of Justice of the European Union that "fair trade and organic agriculture criteria" can be included in public procurement must be applauded, as it paves the way for public authorities across the European Union to exercise a preference for "products of fair trade origin", which promises positive impacts for the fulfillment of human rights.

A report I presented in October 2011 to the UN General Assembly discussed the **lessons that Fair Trade could deliver to contract farming schemes** in general, with a view to making global supply chains more equitable for small-scale producers. Based on a range of studies and consultations, the report identified seven principles that echo the concerns of Fair Trade schemes, and should become the norm in global supply chains.

First, the arrangement must be **viable from an economic point of view**, for all the parties concerned. If it appears unviable to the buyer, the contract will be terminated or the buyer will renege on obligations when under financial stress, with detrimental consequences for the livelihoods of farmers.

Second, because small-scale farmers are in a comparatively weaker bargaining position, they should have the opportunity to **contribute to the wording of contract provisions**, ensuring that the contracts reflect the farmers' needs and that obligations are written in terminology that the farmers will understand.

Third, **contracts should be put in the woman's name**, where it is expected that the woman shall be the main person working on the farm, or in the name of both the man and the woman. It should not be automatically in the male head of household's name or of the male holder of the title over the land cultivated.

Fourth, the **pricing mechanisms should be clear and transparent** and show how prices incorporate production costs, risks and returns. While a variety of price models exist (price based on spot-market values, split pricing, fixed prices and flexible price model), the ideal pricing mechanism appears to be one replicating the formula used in Fair Trade schemes. The producer should therefore be guaranteed a fixed minimum price based on the need to meet production costs and to ensure a living wage for all the workers concerned (including family members, where applicable), but the prices paid by the buyer should be higher if the market prices increase.

Fifth, **quality standards must be clear and specific** so that firms cannot manipulate the application of vague standards. On the other hand, they should not be too complex, which also could allow firms to manipulate standards.

Sixth, contract farming should increasingly seek to **promote agroecological forms of production**, and provide adequate knowledge as well as biological inputs.

Seventh, contracts should facilitate communication between parties by appropriate management structures and **identify ways of resolving disputes**. It should be acknowledged that in the vast majority of cases where one of the parties fails to comply with the requirements of the contract, there will be no resort to courts because the sums involved will be too small and because, in many developing countries, courts are in practice inaccessible to the rural poor.

What are the main challenges for the Fair Trade movement?

Both retailers and Governments should do more to promote Fair Trade. **States should ensure that the definition of Fair Trade as laid down in the Charter of Fair Trade Principles is not watered down, and prohibit any labeling abuses**, because the current proliferation of labels related to environmental and/or social ‘sustainable’ practices has created confusion among consumers, who may not always be well informed about the specificity of Fair Trade and the strong guarantees behind the certification systems of Fairtrade International (for products) and the World Fair Trade Organization (for 100% Fair Trade Organisations).

The existing confusion among consumers surrounding the various certification schemes should be dispelled by **information campaigns which highlight the respective merits of the different schemes**. States could also develop incentives to encourage demand, such the lowering of import tariffs on Fair Trade certified products, and they could **support the creation of national Fair Trade networks or organizations** in order to ensure it can seize national and international opportunities. Finally, public bodies at all levels in both developed and developing countries could consider **favoring fair trade products in their public procurement schemes**.

Apart from the obvious challenge of scale - how can Fair Trade develop beyond the present retail share they occupy - there are two more specific challenges. One is the extension of Fair Trade (in particular the Fairtrade system) to plantations. Originally, Fair Trade aimed at supporting small-scale, independent food producers, who formed cooperatives. For certain commodities that are generally produced in large plantations (such as tea and flowers), **it has now expanded to include plantations on which waged workers are employed** but in which the land and means of production are in the hands of the employer. Compliance with decent work requirements is much more difficult to monitor as a result, and it also represents a choice not to give priority solely to small-scale, family farms, when it is known that support for small productive units is the most effective way of reducing rural poverty.

Another challenge is that while Fair Trade schemes seek to make global supply chains more equitable, allowing channels to develop between consumers in the North and producers in the South, **we need urgently to rebuild local agrifood systems, and to increase access to local markets for small-scale food producers** in particular. The Fair Trade movement must ask itself how it can support, rather than compete with, the current attempts at relocalizing food systems. It must use its considerable expertise and reputation to that end. While Fair Trade

can bring major benefits to producers of tropical products such as pineapple, bananas, coffee or cocoa, more must be done to encourage farmers to produce cassava, millet or sweet potato to meet the local communities' nutritional needs. What would Fair Trade mean in this context? **Could the core practices be transposed and applied in local markets?** The initial efforts of Fair Trade organizations in the North and the South must be built on in this regard.