



**REPORT SUMMARY:
AGRICULTURAL WORKERS
AND THE RIGHT TO FOOD**

A/73/164 (2018)

UN SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD, HILAL ELVER

Copyright 2018

INTRODUCTION

Agricultural workers play a critical role in achieving food security and fulfilling the universal human right to adequate food. They are, however, among the most food insecure, facing formidable barriers to the realization of their right to food, often working without labour and employment protections and under dangerous conditions. Despite this vulnerability to food insecurity and human rights violations, the right to food of agricultural workers has not been sufficiently addressed. Agricultural workers, defined as “any person hired to work in agriculture regardless of their contract type or payment arrangement,” comprise approximately one third of the world's workforce, or 1.3 billion people.

As part of the new global food system, global supply chains have surged tremendously in recent decades, fueling 80 per cent of world trade and 60 per cent of global production, yet they are often criticized for enabling slavery-like conditions for workers. Within supply chains, corporations can avoid accountability for violations of workers' rights resulting from the actions of those extraterritorial suppliers that are only contractually related to corporations. This poses a real threat to workers.

PROTECTIONS FOR AGRICULTURAL WORKERS paras 27-36

International human rights law. States bear the primary duty to respect, protect and promote the right to food of agricultural workers. Articles 6 and 7 of the ICESCR delegates to States the creation of a minimum wage, article 9 define parameters for the right to social security and article 12 provides for the right to the highest attainable standard of health. FAO Member States have also adopted the Voluntary Guidelines on Right to Food, which elaborate State responsibility to ensure an adequate standard of living for wage earners and which recommend adopting measures consistent with the ILO.

International Labour Law. The Declaration on the Fundamental Principles and the Rights at Work consolidates the four ILO conventions that address the fundamental rights of workers. ILO recognizes the particular challenges facing rural workers, including the right to freedom of association for agricultural workers. The Right of Association (Agriculture) Convention No. 11 (1921) was the first in a series of instruments developed and adopted by ILO to tackle the rights of agricultural workers. ILO conventions must operate in conjunction with human rights law.

STATE OBLIGATIONS paras 61-74

Monitoring Compliance. National labour legislation is only as effective as the enforcement mechanisms that States employ to ensure compliance with minimum standards. The ILO Labour Inspection (Agriculture) Convention 1969 (No. 129) requires Governments to establish an inspection system that includes a requirement to notify competent authorities of gaps in protection. Unfortunately, states are lagging behind with respect to the implementation of inspection schemes and often lack resources to effectively monitor widely dispersed and seasonal worksites, especially in rural areas. In the United States, for example, there is a ratio of approximately one investigator for every 170,000 workers.

Effective remedies for dispute settlement. Even when States implement mechanisms for investigated allegations of abuse or for resolving disputes, agricultural workers often lack access to effective remedies when their rights are violated. This is due to structural barriers, lack of information, or financial burden of dispute mechanisms. Informal employment arrangements further hinder ability to seek redress, and irregular and undocumented migrant workers are reluctant to enforce rights for fear of deportation and loss of employment.

BARRIERS TO ACHIEVING THE RIGHT TO FOOD

A. Right to a living wage paras 11-21

Wages and Contracts. Agricultural wages are generally low and paid late and are not periodically adjusted. Practices such as debt bondage based on wage advances and excessive charges for services in worksites further decrease workers' earnings. In rural areas of disadvantaged developing countries, nearly 8 out of 10 working poor earn less than \$1.25 per day. The dependence on farm owners for work opportunities perpetuates generational cycles of poverty (A/HRC/37/61/Add.1, para. 106).

Working hours and quotas. While ILO promotes minimum wages to protect workers from exploitation, workers without well-defined contracts lack minimum protections and mechanisms for resolving disputes if employers violate minimum wage agreements. Agricultural workers work long, unrestricted hours and the intensity of their labour allows for few opportunities for rest. Workers are often "paid by piece" and they must meet quotas unilaterally imposed by employers in order to earn a decent wage.

Informality. The agricultural sector features the highest level of informal employment, ranging from 60 per cent to 90 per cent globally. Informal and casual work arrangements (for example, part-time, short-term or temporary contracts, on-call schedules, multi-layered subcontracts or franchises, and self-employment schemes, etc.) further hinder opportunities for workers to form unions and establish bargaining power (A/71/385, para. 23).

Limited collective bargaining. Despite the high level of ratification of the ILO Convention on the Rights of Association and Combination of Agricultural Workers, 1921 (2011), agricultural workers face barriers to exercising their right to freedom of association. Consequently, collective bargaining in agriculture is quite limited. Agricultural workers lack opportunities to form trade unions owing to legal restrictions and hostile employers and because the labour force is geographically isolated, dispersed and often informal.

Lack of social protection. Approximately 20 per cent of agricultural workers have access to basic social protections, which include access to social security, health care and workers' compensation. Under international human rights law, States must establish social protections against the risk of poverty caused by sickness, disability, maternity leave, employment injury, unemployment, age, death of a family member and health-care or child-care costs. Still, the vast majority of agricultural workers lack such basic protections.

B. Working Conditions and Health Hazards paras 22-26

Pesticides. Agricultural workers are exposed to toxic pesticides via spray, drift or direct contact with treated crops or soil, from accidental spills or owing to inadequate personal protective equipment (A/HRC/34/48, para. 15). Annual acute pesticide poisoning affects nearly 1 in every 5,000 agricultural workers in developed countries.

Water and sanitation. Agricultural workers frequently do not have access to safe drinking water in their workplaces, nor are they guaranteed access to sanitary facilities in violation of their human rights. Lack of access to drinking water is particularly detrimental given the exposure of agricultural workers to prolonged heat and sun. Heat stroke is the leading cause of work-related death in the United States, yet there is no universal requirement to establish water and shade breaks for agricultural workers

SPECIALLY PROTECTED POPULATIONS

A. Women paras 37-42

Women play an essential role in providing food and nutrition security for their families and communities, but are increasingly left to carry the full burden of agricultural labour without proper protections or compensation. The Convention on the Elimination of All Forms of Discrimination against Women addresses women's rights to protection of health and safety, yet States have not provided adequate protections to women who are exposed to dangerous working conditions and societal biases in the agricultural sector. Ensuring that women have an opportunity to exercise collective bargaining rights may significantly resolve these issues.

B. Children paras 43-49

According to the latest ILO estimates, 71 percent of child labour (108 million children) occurs in agricultural industries of farming, fisheries, aquaculture, livestock and forestry. Children are particularly vulnerable to the dangers of agricultural work due to insufficient risk prevention and control measures as well as their physical and mental developmental stages. Child labour in itself is a human rights violation, but it is also a symptom and self-reinforcing cause of poverty. Many existing protections, including the CRC and ILO conventions that recommend a minimum working age, fail to protect children who are part of the informal and often invisible component of the agricultural workforce.

C. Plantation Workers paras 50-52

Plantation workers perform some of the most physically demanding labour--generally cultivating monocultures that are sold for commercial purposes--while experiencing exploitative conditions endemic to colonial agricultural systems. Despite ILO guidance on the rights of plantation workers, only 12 States have ratified these Conventions and many have been explicit in the exploitation of and violence against plantation workers. In 2007, for example, Chiquita Brands International, admitted to paying \$1.7 million to Colombia's paramilitary group to kill or intimidate union members seeking to promote collective bargaining on Chiquita's banana plantations.

D. Undocumented and Migrant Workers paras 53-59

ILO estimates that there are 150.3 million migrant workers; 112.3 million of these workers are in high-income countries in the Global North and many are irregular or undocumented. Migrant workers in all regions tend to face more severe economic exploitation and social exclusion than other agricultural workers as they lack the fundamental protections provided to citizens. States often fall short of fulfilling the responsibilities towards migrant workers set out in ILO conventions and the International Convention on the Rights of All Migrant Workers and Members of their Families.

Evidence of slavery-like conditions among migrant workers connected to caporalato in southern Italy, hostility towards migrant workers in the United States, and seasonal migration schemes promoted by the International Organization for Migration and used in Southern Europe demonstrate the failure to afford adequate protections for irregular and undocumented agricultural workers. There is also a need to better understand the connections between trafficking and forced labour of migrant workers.

PRIVATE SECTOR AND OTHER ACTORS

paras 75-87

EXTRA-TERRITORIAL OBLIGATIONS

In principle, States have the duty to regulate, monitor, and investigate the activities of State-owned and State-domiciled corporations and may hold those corporations accountable for human rights violations under national law or through intergovernmental instruments and voluntary codes of conduct. This is consistent with the Guiding Principles on Business and Human Rights (2011) and is particularly relevant for agricultural workers who participate in global supply chains where jurisdictional lines are often blurred. Unfortunately, holding transnational corporations responsible for extraterritorial actions, including those of contracted supplier remains a challenge for States.

CORPORATE SOCIAL RESPONSIBILITY

Some supply chain enterprises have adopted Corporate Social Responsibility to demonstrate commitment to sustainable practices and safety standards for workers. CSR does not, however, create cognizable rights for workers or enforcement mechanisms when rights are violated. In fact, CSR often falls short of achieving meaningful change due to its use of voluntary non-binding standards, lack of consultation with workers, and ineffective implementation.

FAIR FOOD PROGRAM

Agricultural workers are increasingly making their own demands with respect to the operations of supply chains. The Fair Food Program in the United States is a leading example of an alternative model to traditional CSR, one that promotes worker-driven social responsibility.

CONSUMERS

Consumers have the potential to influence the rights of agricultural workers by using market demands and purchasing power to promote increased protections and accountability. Advocacy campaigns that target companies' reputations have proven effective in holding companies responsible; calls for increased transparency into the supply chain, through labels, may also be effective, yet there is a need for States to impose mandatory labels that expose violations in the supply chain.

INTERNATIONAL ORGANIZATIONS

International organizations, including ILO, FAO, UNICEF, and the OECD have recently focused on increasing visibility into supply chains with the aim of guiding the private sector on how to implement and maintain responsible work practices. These initiatives have garnered private sector interest but tangible changes in behaviors are yet to be observed.

SELECT RECOMMENDATIONS

paras 91-111

The Special Rapporteur recommends that international organizations:

(a) Establish a fact-finding study group including ILO, FAO, relevant civil society organizations and corporate representation to examine whether States are implementing various categories of norms relevant to agricultural workers. The group could present findings to the World Committee on Food Security, the main international platform where recommendations and guidance on the status of agricultural workers globally are discussed and endorsed.

(b) Focus on increasing visibility into supply chains and guiding the private sector on how to implement and maintain responsible work practices.

The Special Rapporteur recommends that States:

(c) Improve human rights protection for informal agricultural workers, especially those in presently vulnerable categories, including: women and girls, members of indigenous groups, peasants, certain minorities suffering discrimination, those living in remote and backward areas, and migratory workers without normal citizenship rights and rule of law protection.

(d) Implement binding rules introducing due diligence mechanisms to allow the affected individuals and communities to hold accountable all supply chain enterprises that profit from the human rights abuses.

(e) Ratify all ILO conventions relevant to workers in the agricultural and food production sector and ensure their effective implementation.

(f) Implement the recommendations set out in the earlier report of the Special Rapporteur (A/HRC/34/48) on pesticides and their impact on the right to food. The Special Rapporteur further endorses the 2018 report "Toward principles on human rights and occupational exposures to hazardous substances" of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Baskut Tuncak, presented at the HRC.

(g) Guarantee the right to establish and encourage the free functioning of trade unions that facilitate dialogue and cooperation among Governments, employers and workers in the formulation of labour standards and policies, consistent with the principle of tripartism.

(h) Issue more non-restrictive residential and work permits to seasonal workers and condemn seasonal migration schemes that expel workers from countries after the season lapses.

(i) Collect reliable data on child labour, adopt policies to respond to the root causes of children entering the labour market, and withdraw those children currently working in the worst forms of labour from the workforce.

(j) Enact, implement and enforce national legislation that addresses structural violence and discrimination against women in the agricultural sector.