



WORKERS

IN

SPOs

***Executive
Summary***

I. Executive Summary

This operational assessment, commissioned by Fairtrade, examines the working and living conditions of cocoa and banana workers, including hired labourers, in smallholder settings for cocoa production in West Africa and banana production in Latin America and the Caribbean that are part of Fairtrade certified Small-scale Producer Organizations (SPOs). This study covered the production of two crops in five countries: cocoa in Ghana and Côte d'Ivoire and bananas in Colombia, the Dominican Republic and Peru¹.

By providing evidence that would be useful for Fairtrade's strategy development, this assessment was conducted with the ultimate aim of enabling Fairtrade to develop a system-wide strategy concerning workers in SPOs.

Research Methodology

The authors carried out a survey of key informants and cocoa/banana workers associated with SPOs to better understand the nature of their working and living conditions, and the relevant perspectives of workers, including hired labourers, and their employers. Ten SPOs – two per country – were surveyed. In each of the participating countries, the following interviews were carried out: approximately 60 interviews with cocoa/banana workers, including hired labourers (30 per SPO). In addition, 87 key informant interviews were completed with employers, SPO leadership, Fairtrade and Producer Network representatives, as well as members of the Fairtrade Workers' Rights Advisory Committee.

In terms of methodology, the study took the form of a non-equivalent case comparison design. Non-equivalent refers to an analysis in which researchers do not seek to control variables or conditions that would make the groups under study equivalent. Case comparison designates the approach of comparing individual cases, which, in this study, involves ten SPOs. The analysis described the working and living conditions of cocoa/banana workers associated with the ten selected SPOs and focused on comparing SPOs, countries and crops as well as the differing perspectives between the stakeholder groups.

Limitations

Notable study limitations need to be highlighted.

1. Although this study used randomizing procedures within the individual SPO populations, and the degree of consistency among the data gathered from multiple sources suggests that this study reflects accurately conditions in the SPOs surveyed, the results, strictly interpreted, only represent those individuals being surveyed. Generalizations about all the SPOs surveyed or all SPOs in general are problematic given the small sizes of the selected samples.
2. The research did not pursue in detail the matter of power dynamics between commodity supply and demand, which do affect the general context underpinning the value of commodities and their production, and the feasibility and responsibilities of burden share in terms of offering protection to all workers.
3. Since SPOs vary greatly in size and capacity, this study does not purport to be representative of SPOs in the Fairtrade system (see Point 1).
4. This study did not investigate the hidden or embedded nature of recruitment and post-recruitment practices of temporary workers and, as such, does not assess risks based on dependencies faced by temporary workers.
5. This research did not examine youth labourers up to the age of 18, although they are a vital component of family labour.

¹ While Ecuador was originally included in the assessment as a fourth banana-producing country, it had to be dropped from the analysis due to operational delays and the emerging COVID-19 epidemic.

Summary of Findings

There was overall agreement between the interviewed workers, including hired labourers, and the key national informants (producers, SPO representatives) on conditions of work; the types of employment contracts being used; the number of working hours typically performed; the types of labour-saving equipment and personal protective equipment (PPE) available, and the associated costs, if any. There were few differences between cocoa/banana workers in the five countries with regard to their experiences of discrimination, mistreatment and sexual harassment, which were only infrequently reported by the workers. Similarly, a great majority of respondents in all countries did not report having been forced to work, having been refused payment, or having been denied access to benefits. The right to freely associate was also rarely denied. However, incidental cases were reported by Latin American workers, likely reflecting the larger degree of unionization among Latin American banana workers. The analysis showed some differences between the Latin American countries with labour rights violations most frequently reported in Peru and least evident in Colombia. The Dominican Republic emerged as a special case due to its large labour force from Haiti, resulting in a population of agricultural workers that was largely undocumented and vulnerable due to their lack of formal status according to some respondents.

The in-country key informants who were interviewed were less likely to report labour rights violations compared to the interviewed workers, and they were more likely to believe that existing protections were adequate. They were also much more likely to report that there were available mechanisms for redress.

The key international informants agreed that intensified efforts were needed to improve working conditions for hired labourers on Fairtrade certified farms. Specific issues raised by this group of respondents included low wages and the lack of access to a living wage for some workers; the availability of and access to benefits; the continuing violation of certain workers' rights; the lack of mechanisms for redress, and the state of unionization. To address some of these concerns, various measures, including specific improvements to relevant Fairtrade Standards, were suggested by key informants.

Comparing crops, the banana workers in Latin America had, on average, a higher standard of living compared to the cocoa farmers in West Africa. The Latin American workers were more likely to report access to reliable sources of water and electricity. They also less frequently reported shortages of food. Their types of employment also differed. While more than half of the cocoa workers interviewed in Africa were sharecroppers, most of the workers interviewed in Colombia and the Dominican Republic were employed on a permanent or regular basis, and most of the workers in Peru were contracted by their respective SPOs. Overall, the banana workers in Latin America were much more likely to have a written contract than the cocoa workers in Africa. The banana workers in Latin America also reported working more hours; they were more likely to be paid for performing extra work, and they earned considerably more. The Latin American workers also enjoyed better protection of workers' rights. They frequently benefited from union representation and reported having more frequent access to redress mechanisms. Workers in Latin America also had much better access to PPE and labour-saving equipment. This included protective boots, gloves, and a nose/gas mask when spraying. Unlike the West African cocoa farmers, the Latin American banana workers were generally provided with access to this PPE free of charge. They also more often reported having received training on how to stay safe and how to use the equipment, and they had better access to hygiene facilities such as showers.

Key Recommendations

Based on the data collected and, taking into account the specific recommendations made by study respondents, the authors of this study have the following recommendations to make.

A. Freedom of Association / Collective Bargaining / Unionization



Secretariat, Standards, PNs, SPOs, FLOCERT

The study identified cases of clear labour violations (mistreatment, sexual harassment, forced work, refused payment, denied benefit, and discrimination).² Some respondents also reported that freedom of association and collective bargaining was discouraged or forbidden in some of the SPOs under study. These 'negative freedoms', in some cases suppressed locally through social norms, communal policies, and/or SPO policies, must be upheld through Fairtrade Standards, enforcement and programming.

Furthermore, Fairtrade is inconsistently applying its principles: while it actively promotes the right of workers to organize and bargain collectively at plantations certified under the Hired Labour Standard, it does not promote that principle with the same commitment under the SPO Standard.

a) While Fairtrade already features three relevant criteria at the Core level in the SPO Standard (3.3.13 Freedom to join a workers' organization; 3.3.14 Allowing trade union representatives to meet with workers, and 3.3.15 No discrimination against unionized workers), they are insufficiently respected. Fairtrade also has a fourth criterion encouraging unionization and collective bargaining above the 'significant workers' threshold (3.3.16 Electing a workers' organization) but this is classed as a Development criterion along with the associated consequences. This criterion could be escalated to Core in order to promote Fairtrade's principle of worker representation through unionization and collective bargaining.

b) A system-wide policy of support for unionization and collective bargaining would involve parallel sensitization of SPO members and hired labour on workers' rights in tandem with ethical and long-term productivity objectives (see discussion in Section 1. Productivity under B. The economic dimension of labour rights).

B. SPO Function (to improve Employment Conditions)



Secretariat, Standards, PNs, SPOs

Regulating and strengthening the human resources capacity of SPOs would allow Fairtrade to build more effective control systems. A professionally-run human resources department within each SPO would notably support auditing, elementary forms of Human Rights and Environmental Due Diligence, and human resources service delivery, as well as promote greater efficiency and effectiveness in dealing with workforce issues, including those that affect industrial relations. In order to reach uniform outcomes, the human resources function should be clearly defined in the SPO Standard. Implementation would require considerable capacity building but could be rolled out over a number of years.

² These instances were reported to Fairtrade under the Fairtrade International Protection Policy and thus triggered follow-up.

C. Central Hiring



Secretariat, Standards

Standardizing the terms and conditions of employment at SPO level in line with the Fairtrade Standards, Peru's *cuadrilla* system, featuring central hiring of workers, serves as a model to be replicated. In doing so, the employment relationship between farmer and hired labour would transition to a more formal relationship with the SPO. A dedicated criterion in the SPO Standard would be needed to codify this.

D. Grievance Mechanisms



Secretariat, Standards, FLOCERT

For organizations certified under the Fairtrade Hired Labour Standard, grievance mechanisms for workers are provided for (3.5.27 Grievance procedure). For the most part, this was reportedly not the case for SPO workers investigated in this study, who reported a whole host of non-Fairtrade complaint avenues. A "locally governed and run"... "complaint management process" in Peru was, however, cited as a "best practice" by one key informant.

Offering a dedicated grievance channel to workers in SPOs would also serve as a valuable management and quality control tool and give Fairtrade the chance to pre-emptively engage on issues before they take on other dimensions. Fairtrade should either strengthen existing mechanisms or introduce wholly new ones, also in view of compliance with UN Guiding Principles. FLOCERT recently offered complainants the opportunity to submit allegations via WhatsApp. In SPOs with geographically dispersed farms in particular, Fairtrade and FLOCERT should work to inform workers about the new allegation procedure.

Grievance mechanisms for SPOs also need to be actively designed and supported by trade unions and apply a gender lens, otherwise they are bound to be ineffective.

E. Living Conditions



Secretariat, Standards, SPOs

Where SPO members are supplying housing to workers as part of the latter's compensation, living conditions also need to be certified along with working conditions. The finding, for example, that some respondents did not have access to clean drinking water is problematic (this may soon be remedied by the new 2019 criterion 3.3.27 Drinking water for all workers). Furthermore, if the most basic living conditions are not provided, where housing is part of worker compensation, there may be a need to leverage the Fairtrade Premium to cover minimum living conditions.

F. SPO Membership and Governance



Secretariat, Standards, SPOs

By not systematically recognizing and involving workers in SPO governance, Fairtrade is structurally disempowering them. A case of positive deviance in this regard was one SPO in Ghana, which was reportedly achieving superior results due to labour participation in elections and SPO governance. In order for Fairtrade to better balance, in a systematic fashion, the legitimate positions of labour demand vs. labour supply, a form of corporate governance co-determination is advised (which is, for example, successfully practiced in Germany – see 6. Corporate governance co-determination under B. The economic dimension of labour rights). By doing this, not only would SPO membership be extended to certain classes of workers – notably sharecroppers, tenant farmers and permanent labourers – but also one-third of the SPO Board would be represented by the labour supply side. To that end, criteria 4.1.14 Participation of workers in the General Assembly and 4.2.2 Defining membership and member information would need to be revised.

G. SPO Voting Mechanisms



Secretariat, Standards, SPOs, FLOCERT

A number of SPO members complained about not being able to input on, for example, the type of phytosanitary to be purchased and when they should be delivered. Where this occurs, and to counter an opaque and centralized manner of SPO executive decision-making, transparent internal SPO voting mechanisms (General Assembly/Board), communication to members, management and control mechanisms need to be introduced and audited. In addition, further clarity and definition of what constitutes ‘major decisions’ would be required concerning Fairtrade’s new SPO criterion 4.2.1 regarding an SPO’s organizational and voting structure, which specifies that the General Assembly is ‘the highest decision-making body where all major decisions are discussed and taken.’

H. Injury Frequency



Secretariat, Standards, SPOs

To address injury frequency, the formation of Health and Safety Committees, in part led by workers, should be mandatory for each SPO. To incentivise participation in such a committee, members should be compensated. Such committees would be in charge of sensitizing and educating workers on the relevant work hazards, and also carry out a monitoring function. To this end, criteria 3.3.35 Health and safety issues representative and 3.3.36 Workplace safety should be modified.

I. PPE



Secretariat, Standards, SPOs

As Fairtrade's PPE requirement for chemical spraying is not stipulated before Year 3 according to the new (2019) SPO Standard (3.2.5 Personal protective equipment use), evidence that PPE is not provided – as this study finds – is, therefore, not in contravention of the current Standard. However, aside from chemical exposure, there are also other potential health hazards present on the farm, and workplace-based adverse health incidents were indeed recorded in this study. While criterion 3.2.5 only covers chemical application, criterion 3.3.34 Provision of personal protective equipment applies more broadly to PPE. Yet since criterion 3.3.34 is subject to the 'significant workers'/'ten workers' threshold, ostensibly thousands of workers are still not being supplied with basic occupational PPE.

If, in the future, FLOCERT were to find an absence of PPE provision, Fairtrade could consider that a dedicated amount or percentage of Premium funds be stipulated for the purchase of PPE at SPO level each year. This intervention would replace the practice of this expense being the duty of the farm owner, which in the case of some SPOs is being neglected.

J. FLOCERT Audits



FLOCERT

To better capture incidents of non-compliance with Fairtrade's labour rights provisions, FLOCERT auditors would need to undertake field visits during audits (requiring more auditing time); they would have to be equipped with labour-specific audit methods, and a pool of specialized auditors would need to be created.

K. 'Significant workers' / 'ten workers'



Secretariat, Standards, FLOCERT

If it is acknowledged by Fairtrade that SPO farmer-members also hire labourers, and, as such, are employers, it follows that SPO farmer-members are not only rights-holders but also duty-bearers. Therefore, the central concept of 'significant workers'/'ten workers' needs to be revisited from a human rights and labour rights perspective to ensure that minimum requirements apply to all workers. The fact that the threshold allows a producer to use equivalences of 15,600 hours per year exposes a large number of regular workers to a loss of basic rights and unacceptable risk.

In Section 3 Production of the SPO Standard, the presence of the 'significant workers'/'ten workers' provision means that 20 criteria do not apply to farms in which labour demand falls below the threshold in three sub-sections:

1. Freedom of association and collective bargaining: the two Development criteria do not apply;
2. Conditions of employment: none of the criteria apply;
3. Occupational health and safety: criteria 3.3.28 – 3.3.36 do not apply.

As a matter of priority, for the sake of upholding the most basic human and labour rights, Fairtrade should review the arguments against introducing all occupational health and safety criteria for all workers, regardless of farm size. Thereafter, Fairtrade should conduct a review of the criteria in the sections Conditions of employment and Freedom of association and collective bargaining to see what the impact and cost would be to make those available to all workers.

Furthermore, ineffective enforcement of the 'significant workers' provision was reported by a number of key

Fairtrade informants. In the absence of an SPO-level worker registry and the practice of verbal contracts, necessary accounting and enforcement of the 'significant workers' provision would indeed be difficult. Fairtrade had reportedly recognized that it has an issue with 'significant workers' enforcement and has conducted a review that, inter alia, addressed the issue of organizations skirting the threshold. Escalating non-respect for basic Fairtrade Standards to an automatic, suspension-grade offence would be advised, also considering the reputational risks involved.

L. Verbal Contracts



Secretariat, Standards, SPOs

In the study, some workers complained of adverse working conditions, some of which were associated with not having a contract (e.g. issues with compensation and benefits). A near consensus among respondents emerged that, in the case of a dispute, the practice of verbal contracts would be to the detriment of the hired labourer. The resulting fallout would, in many cases, violate Fairtrade's core values and interests, it was argued. While the newly introduced 2019 criterion 3.3.22 Employment contracts requires written and signed labour contracts, it also features a loophole in its Guidance ("If national legislation accepts oral contracts, then this is also accepted as long as the oral contracts provide the same benefits of a written contract."). This loophole needs to be closed, as oral contracts do not function in the same manner as written contracts.

Furthermore, offering contract documentation services to farmers and workers, either on the part of the SPO or a third party, is advised. Fairtrade could take an active role in providing template contracts per type of worker and requirements. In addition, Fairtrade's previous training on formal contracting in Ghana had been reported by workers as being highly useful.

M. Cocoa Weighing Scales



Secretariat, Standards, SPOs

The illegal practice, reported by a number of respondents in Ghana, of Purchasing Clerks (PCs) weighing cocoa beans at 67kg (small SPO) and 70kg (large SPO) a bag, but only compensating for 64kg, should be immediately abolished. To this end, Fairtrade should (1) empower producers and their cooperatives to insist on proper scales and possibly verify the weights and scales being used to measure weight, and (2) have a reporting system in place to report perpetrators. Raising this issue with the Government of Ghana and relevant Licensed Buying Companies (LBCs) would also be necessary.

N. Cost-effective Support for SPOs and Workers



Secretariat, PNs

Apart from programmes that would support the respect of negative freedoms, i.e. support the absence of obstacles, barriers or constraints externally placed on SPOs and workers, relatively low-resource but intensive interventions cited by key informants included marketing support for SPOs, insurance support, worker registries and social dialogue. Costing and ranking intervention options, as well as their respective rates of return (or utility) at the Standard as well as the programmatic level, would be advised.

O. Formalization



Secretariat, PNs, SPOs

Formalization, which was considered by most key informants to be associated with significant economic costs to Fairtrade, employers, and SPO members was, however, seen as clearly in Fairtrade's core interests.

By devising a policy to facilitate a transition from the informal to the formal economy for hired workers, Fairtrade would be aligning itself with ILO lessons. As notably laid out in the 103rd session of the International Labour Conference, the ILO recognized that the "persistence of a large informal economy is incompatible with substantial progress in achieving decent work and undermines the ability of enterprises to become more productive." Respondents in Peru especially affirmed that their most valuable benefit was social security and health insurance - a testament to the importance of their formalized work relationship. A 'gateway' to formalization was the written contract.

P. Labour Brokers



Secretariat, Standards

Contracts between labour brokers and SPOs were also advised. These contracts would need to have specific conditions attached concerning workers' rights. Also, the identity, location, etc., of a labour broker's 'clients' would need to be reported to Fairtrade.

Furthermore, one could conceive of the SPO providing a template for written contracts between the labour brokers and workers and requiring to receive a copy for its administration. Compliance with a related set of requirements in the SPO Standard would be a condition for labour brokers to do business with the SPO and its members.

Q. Formalization Advocacy



Secretariat

In countries where the prospect of formalization presents major obstacles, one could look to Peru and Ecuador, which have effectively lowered the entry barriers to the formal economy. A strategy for transitioning workers from the informal to the formal economy is needed, including the need for concerted engagement by governments through a programmatic collaboration with the ILO, which, as a tripartite system, is well placed to help bring in governments.

R. Annual Government Labour Inspections



Secretariat

Advocacy for governments to undertake annual labour inspections of each certified SPO is also recommended.

S. Resource-intensive Interventions



Secretariat

To fund relatively resource-intensive interventions, consumer engagement is needed. Respondents emphasised that Fairtrade's Minimum Price and Premium payments were critical economic interventions. If living wages are an actual objective, the consumer will need to be sensitized to what a 'living wage banana' or 'living wage cocoa' actually means. To that end, working out an economic roadmap to achieve specific wage minimums will be necessary.

T. Premium Benefit



Secretariat, Standards

The Premium expenditure is used in part to benefit entire communities, including workers. Hired labourers are also, at times, direct beneficiaries of the Fairtrade Premium. While Fairtrade also has a criterion that requires that workers benefit from "at least one activity in your Fairtrade Development Plan" (4.1.13 Activities for workers in the Fairtrade Development Plan), a threshold for the value of such activity is not defined. Hired labourers rarely participate in defining the content of the activity in line with their needs and priorities. Fairtrade should, therefore, require that a certain percentage or portion of the Premium benefits hired labourers directly/collectively and that workers are consulted on their needs and the content of the activity.

U. Worker Registry and Modelling



Secretariat, Standards, PNs, SPOs, FLOCERT

Fairtrade has an estimated 1.1 million smallholder farmers in its system. Yet Fairtrade does not know how many hired labourers, in turn, support these farmers.

A requirement for every SPO to operate a worker registry is advised, also taking into account the type of labourer (e.g. permanent, casual, regular, seasonal, rotational, etc.). Furthermore, as the 'significant workers'/'ten workers' threshold is premised on the number of person-hours worked, in the absence of rigorous labour bookkeeping, this threshold could be easily surpassed. While such a programme is devised, Fairtrade should consider modelling the extent (population size) of hired labourers in SPOs. Once Fairtrade knows how many workers support and, in turn, benefit from the system, Fairtrade could demonstrate that its overall development value is much greater than previously considered.

V. Symmetry of Information



Secretariat

To avoid a one-directional flow of information, and per the request of study respondents, it is suggested that this report (or an abridged version thereof) be shared with SPOs, key informants, and stakeholders at large.



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Cover picture: "Kuapa Kokoo" by Emilie Persson

Back cover picture: "Fairtrade Bananas" by Cesar David Martinez

