

**WORLD BANANA FORUM – WBF
WORKING GROUP 03 on LABOUR RIGHTS
Coordinating Committee**

**Diagnosis on the labour rights situation in the global banana industry:
PAPER ON DISCRIMINATION**

Presentation to the 2nd World Banana Forum – February 2012. Ecuador.

Introduction

One of the problems that is most felt in worldwide banana production is that of discrimination, which is manifested in various ways and is influenced by different social, cultural and labour factors. Discrimination is about the separation of people for different reasons such as gender, culture, race or religion. In regards to the banana producing sector, said discrimination is manifested in the workplace and on hiring, thereby preventing a person from obtaining decent work, in respects to his/her work rights encompassing the right to a fair wage based on the principle of “equal work, equal pay”.

In the worker-employer debate, the claim of discriminatory practices surfaces often, primarily voiced by those who wish to become a member of, or are already a member of, a trade union.¹ Other groups stress that there is discrimination within the banana industry based on the following factors: gender (female banana workers), origin (as in the case of migrant workers) or cultural and ethnic motives.

The Working Group on Labour Rights decided to investigate and identify the claims that are most often voiced within worldwide banana production. Given the importance of adopting a conceptual framework and firm set of rules, the following Conventions of the International Labour Organization – ILO will be adhered to with regards to discrimination:

C100 Convention on Equal Remuneration, 1951

C111 Convention on Discrimination (Employment and Occupation), 1958

At the same time, the subject is being investigated in terms of social responsibility related business policies and corporate manifestos of the main actors in production and retail.

The objective of this Working Group 03 of the WBF is not only to look for the problem areas within the area of labour laws, but also to look for strategic areas where consensus exists or where there is a space for future debate and problem resolution.

This paper summarizes and structures a fairly large compilation of documents, assembled since 2010 by the Coordinating Committee of WG03, to put forward to the World Banana Forum with the objective of proposing different work initiatives.

1. Observed manifestations of discrimination:

This concept is based upon ILO Convention N° 111, Article 1, which states the following: *“For the purposes of this Agreement, the term **discrimination** includes: “ (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation; (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.”*

In the ILO Convention N° 100, Article 1 (b) *“For the purposes of this Agreement: the term equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex.”*

1.1 Gender-based discrimination

The part of the population which is most affected by discriminatory practices is the female banana worker. This conclusion is reached through the different documents and information collected.

From the questionnaire, which was completed by 55 union leaders – men and women – from 13 countries globally, it was reported that in the case of female workers, the discrimination is as follows:

1° Due to maternity and family responsibilities, particularly in the case of female headed households. Despite Latin America being one of the regions of the world which has ample protective legislation in this area, these continue to translate into costs of production. These costs put pressure on work practices and drive work reorganization which leads to the evasion of the employment of women. As a result, men are increasingly occupying the jobs that were traditionally performed by women.

2° Age. This is a factor closely related to yield and intensity of work. While this factor also affects men, it is more likely to affect the female workforce. It's unusual for women over 40 to be hired or re-hired, which aggravates their situation as homemakers, given that Latin American banana producing communities offer few employment alternatives to women.

3° Salary. It has to be pointed out that this form of discrimination depends on the size of the company or the existence, or not, of a trade union. Generally companies with transnational capital implement systems of mixed teams – men and women – on the selection and packing lines, where there are no problems of wage inequality. Also, the presence of a trade union or collective bargaining are elements which balance the wage difference between men and women. However, the situation is different in smaller productive units, generally the national producers, mixed capital – national and foreign – and medium-sized multinational companies. This is the type of productive sector which is increasingly becoming more common in the Latin American context, acting as

suppliers to transnational commercial brands and where there is less or no trade union representation.

Regarding this last item, it cannot be said that equal pay is synonymous to economic equality. The female banana worker has less options for accessing housing, social and health services, productive land, free time, recreation or education.

It is also important to note that there is discrimination which doubly affects the female banana worker, be it because she is: a woman and a migrant, a woman and indigenous, a woman and religious, just to quote some cases.

In the Dominican Republic, some international organizations are bringing attention to the escalating incidence of sexual violence, especially upon migrant Haitian women and they often refer to organic producers, as well as some fair trade producers in small to medium sized businesses.

In the Philippines, it is reported that there is a great difference in the way women are treated, even though they make large contributions to the small and medium sized production units.

In Africa, it is reported that sexual harassment is commonly practiced in banana producing firms, protected by religious, cultural, ethnic and social pretexts.

1.2 Age discrimination

Age discrimination, for both sexes, is linked to labour intensity and productivity, and this negatively affects wages, in the production sector. The establishment of production goals and rewards for their achievement, makes the working day more strenuous, not necessarily time wise, but in physical effort, thereby discriminating against groups of workers (male and female), who having reached a certain age, who could find themselves physically weaker or be more prone to illness. The information compiled shows that the subject is complex, being a problem that is affected by different variables; both social issues as well as production issues, like quality standards and efficiency, within the context of an increasingly competitive international market.

1.3 Origin-based discrimination

Some of the countries studied employ workers (male and female) who are migrants, many of which do not have any documentation or legal migrant status. In Costa Rica, it is estimated that between 60% and 65% of the jobs in the banana industry are held by migrants especially by Nicaraguans and indigenous people as well as Panamanians in the south of the country. Similarly to Costa Rica, in the banana farms in Belize, the majority of the workers come from neighbouring countries. Other Latin American countries where there is the presence of migrant banana workers are: Dominican Republic with people of Haitian origin and in Ecuador especially the areas bordering Peru, with workers from this same country.

Trade unions and human rights organizations have denounced the discriminatory practices against the employment of migrant workers, especially regarding wage, job stability and over their right to form trade unions, given that these countries place legal limitations on the participation of foreign worker in trade unions. Migrant workers are doubly vulnerable by not having a working visa or if their papers are not in order. This obliges them to work without legal contracts, be subcontracted or outsourced, without access to a decent wage, social security or other labour rights.

In Africa, it is observed that there is ethnic and cultural discrimination in the country, especially in Cameroon; a country divided into two regions each speaking a different language. This is also the case in Central American countries, such Panama where indigenous workers are subject to labour mobility and in Guatemala it is said that the banana companies will not employ indigenous people.

2. Corporate assurances against discrimination

The three largest companies that lead the international fruit market (Chiquita Brands, Fresh Del Monte and Dole Standard) widely manifest corporate assurances in work, social and environment issues. Their public policies are visible, via their websites and are expressed in Codes of Conduct and the application of private certification systems (e.g. SAI, SA8000, Rainforest Alliance and others), as well as the adoption of standards and norms of Ethical and Fair Trade. It is important to point out that these companies demand of their suppliers to take on and apply these corporate assurances as well as the mechanisms or certification systems.

Some smaller retailers also show these tendencies, where the supermarket as well as its suppliers are each time more pressured by consumers and civil society pressure groups to guarantee good production practices with regards to the legislation of the country of origin and of the international agreements on work and the environment.

To a lesser extent, but equally important, other smaller companies, for example Fyffes of Ireland and Rey Banpac of Ecuador, are adopting private certification and corporate social responsibility programmes. We must point out the existence of organizations which group together national producers in Latin America, such as CORBANA Costa Rica, AUGURA Colombia and AEBE of Ecuador, who manifest agreement with their unions and members on labour, social and environmental responsibility, via good productive practices, the adoption of certification and corporate welfare programmes.

In African exporting countries such as Cameroon and Ghana, those who wish to engage with the European market recognise that they need to improve their practices in regards to labour, social and environmental responsibility and more companies seek to adopt private certification.

It is difficult to engage in an assessment of compliance or non-compliance on behalf of the productive and commercial corporations, small retailers, certification initiatives, as well as ethical and fair trade. But the question is obvious: Why is there discrimination?

We refer to what was pointed out in Point One of this document: information compiled by trade unions, NGO's and human rights organizations.

3. Conclusions

One of the main conclusions that the Working Group 03 on Labour Rights regarding discrimination is that part of the problem lies in the fact that many of the mechanisms for corporate compliance do not cover or there is not enough effort to eradicate discriminatory practices or situations.

Many of the corporate commitments – referring to the extensive employer sector in the areas of production and trade - come from a demand from the consumer market, the actors that finally consume the banana, rather than as a response to social dialogue within the producing countries. This is mentioned just to indicate that many collective bargaining agreements have failed to advance the issue of discrimination on the ground.

4. Proposal from the WG 03 on Labour Rights to the World Banana Forum

The Working Group 03 on Labour Rights proposes to the World Banana Forum gathered in February 2012 in Ecuador, the adoption of the following strategies in the face of discrimination in worldwide banana production:

- 4.1 To call upon the employers in the banana production, small retailers and the sectors linked to independent certification, as well as alternative retailers, to integrate into and participate within the Working Group 03 on Labour Rights and to continue the debate over discrimination in the workplace. At the same time, it is necessary to motivate the link between the organised sectors in Africa and Asia.*
- 4.2 Motivate all the players in the worldwide banana production and retail to reflect upon and be proportional, amplifying and advancing the corporate assurances already in place with new measures to reduce discrimination in the workplace.*
- 4.3 To organize in productive regions (Latin America and the Caribbean, the region of Africa and the region or producing countries of Asia) meetings with all the players with the goal of developing a social dialogue strategy, national and/or regional, regarding the ways to overcome discrimination on the basis of gender, age and ethnicity. It is essential that in these initiatives, the labour authorities of the productive countries are included.*

The World Banana Forum recognises that the production and retail activity of bananas and its main actors make a great effort to advance good productive practices, in social dialogue and in the compliance of labour, social and environmental standards. Therefore, although situations of discriminatory practices still exist, they can be overcome by ensuring that all actors are involved.

¹ This subject is covered in greater depth in the paper on Freedom of Association and Collective Bargaining by the Working Group