

Food and Fairness Inquiry

Fair play

Inequalities of opportunity

A report of the second evidence hearing on
23rd October 2009

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1. Introduction

The aim of the Food Ethics Council's 'Food and Fairness Inquiry' is to put social justice at the heart of efforts to promote sustainable food and farming. To achieve this end, the Food Ethics Council has established a Committee of Inquiry, comprising experts from across the food sector. To aid the Committee's deliberations we have organised a series of three hearings to explore different perspectives on social justice in food and farming: *Fair shares* (equality of outcome); *Fair play* (equality of opportunity); and *Fair say* (autonomy and voice). This report summarises the proceedings of the second hearing of the Inquiry.

The Fair Play hearing heard evidence from four expert witnesses on different aspects of inequality of opportunity in relation to food and farming:

- Karolina Krzywdzinska, who gave evidence of *her experience as a fruit packer*
- Shayne Tyler, Manor Fresh Ltd, who gave evidence on *ethical trading*
- Ben Rogaly, University of Sussex, who gave evidence on *how food sector and agricultural restructuring affects suppliers and workers*
- Sophia Tickell, SustainAbility Ltd, who gave evidence on *the social justice implications of sustainability challenges*

This report draws out the main themes and issues that emerged from the evidence presented by our four witnesses, and from the discussions provoked by their presentations. However, comments are not attributed, and the report should not be taken as representing the views of the Food Ethics Council, or of any of the Committee members or witnesses.

2. Inequalities of opportunity

2.1. Working in the UK food sector

Much of the discussion at the second hearing focused on employment conditions in the UK food sector, particularly horticulture. The committee heard first-hand evidence about the reality of working life as a fruit packer for a major supermarket chain. The already low rates of pay (minimum wage of £5.81 per hour) are eaten into by a daily charge of £5 for the agency bus to work. The hours are long – nine or twelve hour shifts, with restricted breaks, for up to six days a week; yet they are also unreliable, because they are determined by what orders come through. The work is physically hard, and requires expertise in grading the fruit. And it is stressful, with the constant threat of dismissal for making a mistake – one employer operates a ‘three strikes and you’re out’ policy for packers who miss bruised fruit. Toilet breaks are limited to three minutes, talking is prohibited, and temperatures are often low.

UK horticulture is heavily dependent upon migrant workers. The fruit packer who gave evidence to the committee said that no English people worked “on the line”, but only as supervisors. The prevalence of migrant workers is directly related to the harsh realities of the work. Research into the horticulture sector shows that providers are increasingly looking for the right “quality” of worker, with the required work ethic. Foreign workers are valued not just as hard workers, but also as enforcers of tough workplace regimes. Uncertainties about employment rights and immigration status also leave migrant workers vulnerable to exploitation by unscrupulous employers.

2.2. Retailer consolidation

The committee discussed two structural factors that are key to understanding both the employment experience of agricultural workers, and the increasing dependence upon migrant workers. The first is the consolidation of the retail sector. In 2007, 85% of total grocery sales were made through large retailers, with 65% accounted for by the ‘big four’ supermarkets (Tesco, Asda, Sainsbury’s and Morrisons). It is argued that this amounts to an imbalance of power in the retailer-supplier relationship, enabling supermarket buyers to exert pressure on suppliers regarding costs and related contractual terms.

The vulnerability felt by suppliers was illustrated by the refusal of one supplier to provide even anonymised written evidence to the committee, because of the risks involved in jeopardising his relationship with his retail partner. The concentration of buying power within such a small number of retailers – an ‘oligopsony’ – means that suppliers are effectively dependent upon their retail partner for their survival. The pressures placed upon ‘first tier’ suppliers are passed down the supply chain, to ‘second tier’ farmers and growers, and result in the kind of intensified workplace regimes across the sector described by the fruit packer who gave evidence. Ethical Trading Initiative audits are increasingly being carried out at the second tier, as farmers become grower-packers; and these audits confirm the existence of problematic employment practices at this level.

An illustrative example of workplace intensification is the use of piece rates. Horticulture is often based on piece work, with different rates for different varieties, depending on what suppliers can charge for them. Although this variation means that workers are often unsure of the rate for their work, it seems that piece rates have declined in recent years, meaning that workers have to work longer and harder to earn the minimum wage.

2.3. Regulation

Employment conditions in the second tier tend to be even harsher than those in the first tier, not least because of the impact of state regulation of the agricultural workforce – the second structural factor that the committee examined. Two facets of regulation are relevant here: the raft of legislation regarding the employment of foreign nationals; and the establishment in 2005 of the Gangmasters Licensing Authority (GLA), whose purpose is to ensure that employment law is followed by suppliers of labour in the agricultural, horticultural, food processing and packing, fish processing and shellfish industries.

Legislative attempts to regulate migrant labour, and to tackle both illegal working and the exploitation of foreign workers, met with limited success until the establishment of the GLA. The rules are complex, and not only employers but some regulatory bodies struggle to understand them. This is one area where the GLA has had a marked effect – there is much less illegal working in their regulated sector than elsewhere. However, as even relatively well-resourced employers struggle to ensure that they only employ people entitled to work in the UK, and to adhere to the different requirements flowing from the various schemes, the problems may persist for small direct employers, including many growers and farmers. First tier suppliers are generally good, but although the GLA has had considerable success in improving working conditions it still has to deal with a small rump of labour providers operating at the second tier which use exploitative working conditions to enhance their profits.

The knock-on effects of regulatory measures extend beyond the employment experiences of workers in the food sector. Labour providers can no longer meet the required accommodation standards at the stipulated maximum rent for those on the minimum wage, and so withdraw from the provision of accommodation, placing increased demands on the private sector and so exacerbating local housing problems. Increased regulation of transport has similarly resulted in withdrawal or substantial reduction of agency-provided transport, leading to the use of uninsured vehicles and additional traffic on rural roads. Community cohesion is threatened by both these tendencies.

2.4. Sustainability challenges

Participation in the labour market is just one facet of equality of opportunity, and the issues outlined above can only be fully understood, and so addressed, in the context of wider, related issues around sustainability and access to resources. Take energy security, for example: whatever questions

remain about peak oil, there is now a clear consensus that we are nearing the end of the era of cheap, easy fuel. This raises pressing issues of social justice, such as who pays the extra costs of sustainable energy and carbon externalities – how do we make sure these costs aren't pushed down the chain in the same way as the pressure for ever-more 'cost-efficient' production?

Globally, we are already experiencing huge problems of water scarcity and restricted access to clean water. As is the case with food, access to water is constrained by income, compounded by the fact that people living in poor neighbourhoods often have to pay substantially more for water than those in high income areas. And, as with fossil fuels, we are currently depleting water at rates far in excess of the planet's capacity to replenish it.

2.5. Land grabs

Fair access to land is fundamental to the opportunity to produce food, and so to a socially just food system. The recent emergence of large-scale 'land grabs' shows how some countries' response to an uncertain and resource-constrained future threatens to diminish access to land for large numbers of the world's poorest people. During a period of just six months, 20 million hectares of land, mainly in Africa and South East Asia, has been sold or negotiated for sale. This is an area which is equivalent to half of all the arable land in Europe. The main protagonists have been Middle Eastern countries, and some in East Asia, who are at the sharp end of demographic pressure on food resources; and who experienced social instability when they were unable to source rice on the global markets.

Land grab deals provoke important questions of fairness: can such deals ever be ethical, and what might count as making the contracts more ethical? One key factor is the extent to which local populations are properly informed about the developments, and able to influence government decisions. We also need to recognise the complexities involved, for example the implications of contracts failing for the very poor, unstable, regions that are relying on them, and the fact that the deals can deliver foreign investment in agriculture in poor countries that are unable to make those investments, increasing productivity and global food availability.

2.6. Complexity and solutions

The structure of inequality of opportunity in the food sector is complicated. Employment issues are intimately linked to immigration policy, community relations, housing, etc. Measures to promote sustainable access to resources need to take account of population growth, climate change, biodiversity, and dietary changes, as well as access to water, land and energy. These complexities present formidable challenges when it comes to formulating proposals to address inequality: complex inter-relationships require holistic solutions. Yet this doesn't mean searching for the 'silver bullet' that will solve everything – we still need practical solutions to the myriad problems that we face. At the same time, we must not allow the complexity to obscure our understanding of the different degrees of power held by different stakeholders, and of their consequent responsibilities.

Proposals for tackling employment problems in the UK agriculture sector centred on the future role of the GLA: should it have extended powers (such as greater discretion to revoke the licences of labour providers with immediate effect); how can it extend its impact down the supply chain, to the second tier; and what is the scope for further improvements in the co-ordination of its work with agencies such as the UK Border Agency, the Inland Revenue and the Home Office? In order to tackle exploitation and illegal working effectively, should the GLA's remit be extended to other areas of the food sector, such as catering and transportation?

Another suggestion was for a more comprehensive registration scheme covering every worker in the UK. However, setting aside questions about the challenges involved in administering and enforcing such a scheme, two of the main outcomes would be detrimental to the very people it would be intended to help: agricultural workers in the UK. One outcome would be the increased mechanisation of agricultural production, (with a consequent reduction of employment) – because universal registration would reduce illegal working and so drive up labour costs, making mechanisation a more viable option; and a second would be for retailers and first tier suppliers to look elsewhere for their produce, as UK prices rise. The latter point is an example of the general issue of positive domestic measures having the effect of 'exporting unfairness'.

2.7. Supermarkets and supply chains

Effective action to address inequality in food and farming must take into account the significant conflicts of interest that exist between different stakeholders. The current debate over the proposed supermarket ombudsman is a case in point. It is equally important, though, to recognise and build upon areas of consensus that exist among stakeholders despite the different perspectives from which they approach the debate. There is, for example, a shared enthusiasm among retailers and suppliers for addressing problems of fairness and sustainability – including environmental and animal welfare issues – through supply chain management. Again though, this can only be a partial solution: how do you help dairy farmers who are not in dedicated supply chains, and whose fate is therefore determined by the vicissitudes of the commodity markets?

The application and effects of standards – in relation to quality, sustainability, and wider social factors – in the supply chain is another contentious issue. Standards such as the Assured Food Standard can facilitate access to market for farmers, but can also have the effect of excluding small farmers who do not have the resources necessary to comply with the standards. This in turn raises another contentious question, as to whether this is simply because small-scale farmers are inefficient when compared to their larger counterparts. Standards are more likely to work well when they are put together by the different stakeholders involved, and are coupled with partnership supply chains that sees each link in the chain properly remunerated. The positive impact of wider social and labour standards cannot be taken for granted either, with the IIED recently advising NGOs to be more circumspect about the knock-on effects of social standards on the communities that they are intended to help.

2.8. Getting the message across

The extent to which markets are driven by consumers is another fiercely debated issue, but there is no doubt that consumers have a crucial role to play in promoting a socially just food system. The relatively good performance of Fairtrade products during the recession constitutes grounds for optimism about the potential willingness of consumers to support wider sustainability objectives, and the success of the 10:10 campaign shows that people are willing to make significant lifestyle and dietary changes in the interests of sustainability. However, the complexity of the issues is seen as a major obstacle: in a competitive market, how do you sell paying more for sustainable practices in relation to carbon, water, and soil? Perhaps an all-encompassing 'sustainability standard' is the answer, but how feasible is it to combine so many diverse factors without losing credibility? Similarly, we need to find some kind of 'Fairtrade equivalent' to enable consumers to act on ethical concerns about employment practices in the UK labour market.

The complexity of the message also presents a challenge for communicating down the supply chain. If governments and large corporations are struggling to get to grips with their responsibilities and options, how is the small producer supposed to cope? Welsh dairy farmers, for example, are being told that they're part of the problem, using too much water, and contributing to obesity and climate change. So they experience increased regulation, such as prohibitions on the use of specified fertilizers, and are then faced with the further burden of working out what to use instead.

2.9. Political leadership

The issues are complicated, and there are substantial conflicts of interest across the different stakeholders. There is, then, a clear need for political leadership; but to date, this leadership has been conspicuous by its absence. For example, the Competition Commission investigation of groceries retailing identified problems in the relationship between farmers and first tier suppliers that went beyond its legal remit. They suggested that the Government consider taking action to address the problems, but the Government has been unenthusiastic about doing so.

As ever, the short-term horizon of politicians is seen as barrier to effective government action. It is, for example, generally recognised that the resources devoted to the public debate about plastic bags were disproportionate to the significance of the issue within wider sustainability concerns. A long-term, 'non-political' policy framework might have devoted those resources to more pressing issues.

There is another possible explanation for the inability or unwillingness of the government, and other influential stakeholders, to take or advocate the necessary action to address inequality in the food sector: these inequalities go the heart of government social and economic policy. Returning again to the role of the GLA, it is argued that increasing its scope and resources, and improving inter-agency co-ordination, can only have the effect of enhancing its performance in dealing with "residual bad gangmasters", whereas the fundamental explanation for the miserable working conditions in the UK agriculture sector is the government's commitment to an increasingly deregulated labour market. The same kind of consideration applies to the knock-on effects of the

regulation of gangmasters, such as pressure on local housing – where the solution to the tensions created by increased demand is greater provision of social housing.

Labour market ‘flexibility’, and the concomitant low level of unionisation in relevant sectors, contributes to another core policy objective: maintaining the low price of food. Cheap food is central to government policy relating to social welfare, minimum wage levels, and public procurement; and the present structure of the food sector – including the dependence upon cheap, migrant labour – is geared to keeping food prices down. Finally, if we take fairness to imply the sustainability of lives and livelihoods in the food sector, then shouldn’t we be talking about entitlement to a living wage, rather than more effective enforcement of minimum wages?

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