

Ripe to be Heard: Workers' Voice in the Fair Food Programme

Fabiola Mieres and Siobhan McGrath

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Abstract

Freedom of Association is widely seen as a prerequisite for workers' collective voice within global value chains (GVC). The Fair Food Programme (FFP) provides an alternative mechanism through which agricultural workers' collective voice is expressed, heard and responded to within the GVC. The programme's model of Worker-driven Social Responsibility (WSR) presents an alternative to traditional Corporate Social Responsibility. We identify the programme's key components and then demonstrate its resilience through tracing how issues faced by a new group of migrant workers – recruited through a 'guest worker' scheme - were incorporated and addressed presenting an important potential for addressing labour abuses across transnationalised labour markets while considering early replication possibilities.

1. Introduction

A key feature of the contemporary global economy is the complexity of supply chains, in which production has become increasingly fragmented and dispersed, often across borders

(WDR 2020; Cattaneo et al 2010). The literature on Global Commodity Chains (GCCs), Global Value Chains (GVCs) and Global Production Networks (GPNs)¹ has advanced the knowledge of the drivers and actors that shape and organise production in different sectors and across geographies. While much of the early literature on the globalisation of production centred on ‘outsourcing’ and ‘offshoring’ production – particularly from locations in the Global North to locations in the Global South – it has become clear that international labour recruitment mechanisms comprise another key dimension of transnationalisation.

The specific issue of labour rights and working conditions within globalised production has received greater attention in recent years (Carswell and De Neve 2013; McGrath 2013; Azmeh 2014; Mezzadri 2016; Pye 2017; Baglioni 2018; Hemerich et al 2020; Pun et. al. 2020), with GVC scholars frequently framing this as a question of how economic upgrading might be translated into ‘social upgrading’ (Gereffi and Lee 2016; Barrientos et al 2011).

Considering the example of the poor effectiveness of corporate reactions since the Rana Plaza disaster in 2013, many would argue that the private compliance paradigm has failed to guarantee fundamental labour rights within GVCs. The ‘cooperative paradigm’ has also been critiqued as unlikely to bring about genuine change (Lund-Thomsen and Lindgreen 2014), with neither Codes of Conduct nor Multistakeholder Initiatives (MSIs) ensuring that workers are able to exercise freedom of association (FoA) rights (Egels-Zandén and Merk 2014; Anner 2012). In the ILO discussion on Global Supply Chains, a ‘synergistic governance’ approach that includes public, private and social actors was encouraged to overcome decent work deficits (ILO 2016).

Migrant workers are amongst the groups of workers whose rights are most often denied, and they often face exploitative and abusive conditions of work. In the US, according to the

¹The different terminologies reflect in part different intellectual origins and theoretical commitments but with significant overlap (see Bair 2009). We use the term GVC in this paper for simplicity, but it can be taken to refer to the broader body of literature analyzing the fragmentation and dispersion of production.

National Agriculture Workers Survey (NAWS), approximately 75% of farmworkers are migrants (Hernandez and Gabbard 2018).

Farmworkers in the US are accorded basic constitutional protection for FoA but are excluded from the scope of the National Labour Relations Act (NLRA) for organising a trade union or engaging in collective bargaining. In addition, guest workers under the H2-A programme are tied to the particular employer who sponsors them to obtain the H2A visa. Evidence of labour abuses and instances of forced labour has mounted -- with workers' identification retained by their employers, the incurrence of high debts, and other abuses (Guild and Figueroa 2018; Smith 2016; SPLC 2013). Despite frequent exploitation, the disparity in bargaining power stemming from legislation makes legal actions for guest workers hard to prosecute (Johnston 2010).

Abusive recruitment practices have traditionally been analysed in the context of migration studies. The concept of 'labour chains' (Barrientos 2013) demonstrates how, in many places and sectors, migrant workers and labour market intermediaries are key to the functioning of globalised production. This article contributes to this body of knowledge by analysing the Fair Food Programme (FFP) in the US at the centre of migration regimes and GVCs to reflect on its potential to improve working conditions for workers at the transnational dimension of labour markets, transcend restrictive regulatory frameworks that curtail mechanisms for voice, and achieve collective voice within GVCs. With this in mind, we build on Pike's (2020, 914) call to develop a *broader* understanding of voice.

We analyse the case of the FFP in Florida: A governance scheme pioneered by the human rights organization Coalition of Immokalee Workers (CIW) through which historical campaigning, building of alliances and engagement with industry actors secured a comprehensive system of binding agreements with buyers and growers that includes various mechanisms for workers' voice. As such, the model of Worker-Driven Social Responsibility

(WSR) emerged, representing an alternative paradigm to corporate social responsibility (CSR). Through the FFP, decent working conditions have been achieved for farmworkers in Florida's tomato sector.

We outline five key interrelated components that overcome the pitfalls of the private compliance paradigm that together create an incentive structure where workers' voice becomes a reality. We then examine the resilience of the FFP when a new group of migrant workers were recruited and employed through a 'guest worker' programme. These components include: i) worker-informed standards, ii) worker education within an integrated approach to the supply chain, iii) a thorough complaint resolution system, iv) independent monitoring, and v) market consequences for non-compliance with legally binding agreements.

Our contribution investigates the factors that lead to worker-driven initiatives that change power dynamics in a value chain structure, even when the workers involved have little 'structural power' (Wright 2000) as they are at the bottom of the supply chain and have been historically marginalised through labour law, and silenced because of migratory precarious status stemming from guest worker programmes. We also speak to industrial relations debates for the potential of worker-led initiatives beyond trade unions that could revitalize workers' voice mechanisms through a new 'WSR paradigm', regionally and transnationally.

At the beginning of 2020, the outbreak of the COVID-19 pandemic affected agriculture workers who are amongst those re-labelled 'essential' in many parts of the world, yet whose conditions of work remain unchanged or worsened. In this vein, the WSR model and its expansion and potential replicability represent a light of optimism for better governance mechanisms to address the needs of workers at lower tiers of supply chains.

The paper is structured as follows: In the next section, we provide a brief description of worker voice in GVCs. Then, we describe the methods that underpin this study. Section 4 provides a brief background on the development of the FFP that led to a structural

transformation in the GVC. Meanwhile, Section 5 focuses on the transnational dimension of the integration of labour markets through the five interrelated components that make WSR a reality while teasing out implications for further transnational issues such as replicability across borders and the reform of temporary migration schemes. Finally, Section 6 concludes.

2. Workers' Voice in Global Supply Chains: Expanding understandings

Workers' voice can be defined as a 'process that includes any means through which workers express discontent with their working conditions and engage in processes to effect change' (Josserand and Kaine 2016, 745 based on Wilkinson et al. 2014). Industrial relations scholarship has examined workers' voice mainly in developed economies with well-established industrial relations systems where trade union representation, collective bargaining, and work councils in Europe have been identified as genuine mechanisms to provide workers with a collective voice (Hayter and Visser 2018; Tapia, Ibsen and Kochan 2015). Seen this way, guaranteeing FoA rights is a crucial precondition for workers' collective voice.

The private compliance paradigm, however, has performed particularly poorly on this aspect. The emerging consensus in the literature is that the private compliance paradigm has failed to deliver progress specifically on *enabling rights* such as trade union rights² (Stroehle 2017; Oka 2015; Locke 2013). Global buyers have been critiqued as simply paying 'lip service' to FoA, as well as treating workers as 'passive objects' of regulation within these codes (Egels-Zandén and Merk 2014).

Activist pressure has pushed corporations to include FoA in their benchmarks, especially in the garment and apparel sector (Fung, O'Rourke and Sabel 2001; Rodríguez-

² The ILO Declaration on Fundamental Principles and Rights at Work, which mentions migrant workers, established that FoA and the right to collective bargaining as well as the other fundamental rights to be binding even without national ratification (ILO 1998). The ILO Social Justice Declaration recognizes that FoA and the effective recognition of the right to collective bargaining are particularly important to enable the attainment of the fundamental principles and rights at work as 'enabling rights' for all other rights at work (ILO 2008).

Garavito 2005). This has gone along with the shift from corporate codes to MSIs characteristic of the ‘cooperative paradigm.’ Despite the plethora of MSIs, which aim to address FoA, Anner (2012) shows the limited impact of the Fair Labour Association (FLA)’s audit regime on trade union rights.

Collective voice through workplace-based unions is central with regards to the regulation of labour standards in GVCs (Josserand and Kaine 2016; Anner 2012; Riisgard and Hammer 2011) and FoA must be defended and advanced as a fundamental right. However, the failures of the private compliance to address FoA as a vehicle for workers’ collective voice raises the question of whether we might examine a broader understanding of voice and the mechanisms that allow it. This is particularly crucial for workers who have been effectively denied fundamental labour rights for decades, such as farmworkers and ‘guest workers’ in the US. The globalised nature of production means rethinking beyond ‘traditional’ vehicles for collective voice: beyond national labour market institutions, and beyond ‘standard’ forms of work. We therefore examine the case of FFP in which workers have achieved an alternative vehicle for collective voice as a promising example in this regard.

3. Methodological note

Material for this paper was collected as part of a wider research project which looked at the demand-side of policies and measures to address human trafficking and forced labour in GVCs in 2014-2016 (Mieres and McGrath 2017). The project mapped initiatives that address trafficking forced labour and modern slavery at the global level, and studied selected initiatives ‘on the ground’ through field research. For the FFP, this included site visits in Immokalee and Sarasota (where the Fair Food Standards Council, FFSC, is based) that were conducted in March and April 2016 facilitated by the Coalition of Immokalee Workers (CIW). In-person and telephone interviews were carried out with buyers (2), growers (4), FFSC staff (5), CIW

staff (4) and a policy officer (n=16). It also included participant observation through attending a FFSC audit, a worker-education session at a grower's farm and visited the truck that functions as the moving Slavery Museum of the Anti-Slavery Campaign run by the CIW (thereby accessing archival material). We also reviewed public, media, industry and academic reports.

We chose a case study as a 'whole' (De Vaus 2001) because the ultimate goal was to analyse whether the logic(s) of the FFP was well suited to address labour abuses in and through supply chains, by attending to the experience of the actors involved. We found that the issue of workers' voice came out prominently in the FFP case. The qualitative methodology (Mason 2002) allowed us to investigate social reality in all its complexity, and to provide an ontological depth to enhance both the causal-explanatory and the *emancipatory* potential of social science research (Iosifides 2012). This latter point is important, as we are interested in the policy implications of the WSR paradigm and its potential to influence social change.

4. Planting and harvesting structural change

Voluntary codes of conduct limit the chances of institutional change vis-à-vis workers' voice because FoA is created as a benchmark for a 'ticking the box' exercise. This becomes more acute in countries where these voices are not guaranteed by the national law. Thus, what are the alternatives? Our findings support the notion that in the case of the FFP, genuine workers' voice mechanisms emerge from the historical development of CIW's engagement and campaigning, whose learning from successive trials and errors, managed to change the power structure in the supply chains of tomatoes in Florida. This has represented a structural shift in the history of labour relations in one of the most difficult states of the US for attaining labour rights (Sellers and Asbed 2011).

As an approach, WSR was developed by the CIW, a civil society organization that emerged in the early 1990s to address and contest the harsh working conditions of farmworkers in the tomato industry in Florida. It is important to highlight that the work of CIW is the result of more than 25 years of campaigning, developing the capacity to campaign, create alliances with students' movements and engaging the communities in Immokalee where farmworkers toil and live. The history of the campaigns and successive engagement with industry actors is well documented (Marquis 2017; Brudney 2016; Giagnoni 2011) and therefore not fully recounted here, however, it is important to recognise that the different tactics and evolution can inspire movements in other parts of the world. The UN Special Rapporteur in Trafficking in Persons in 2016 after visiting Immokalee stated that 'it should be considered an international benchmark'.³

CIW's early attempts to organise workers focused on growers as the immediate employers, but it became apparent that growers lacked power within the buyer-driven tomato GVC. The CIW began to formulate strategies which targeted more powerful supply chain actors through a careful and analytical engagement with the structure of the industry and the involvement of consumers as activists (Marquis 2017). In 2001, CIW launched the Campaign for Fair Food, beginning with a boycott of Taco Bell, having a key demand of paying growers 'a penny per pound' more, to be passed on directly to workers' wages. The Taco Bell boycott in 2005 ended when parent company YUM Brands! signed the first Fair Food Agreement. Legally binding agreements were subsequently signed with an additional 13 companies, comprised of fast food chains, supermarkets and institutional food service providers. These agreements were institutionalised through the FFP in 2011. Growers are also party to these agreements and according to the CIW, 90% of Florida's tomato growers are part of the FFP.

³ See OHCHR, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21049&LangID=E>

Participating members in the FFP commit to the Fair Food Code of Conduct. Participating buyers agree to purchase covered produce only from farms that meet the standards in the Fair Food Code of Conduct. They also pay their suppliers the ‘penny-per pound’ passed through to farmworkers principally to augment wages with a small portion being used to sustain the FFP. The Fair Food Standards Council (FFSC) is the dedicated independent monitoring organization responsible for enforcing the Code and overseeing the FFP (FFSC 2017; 2018). The FFSC, based in Sarasota, does not become involved in campaigns and deals with the governance aspect of the programme in terms of audits, financial audits and managing the premium among other key activities.

The underlying tenets of the FFP inspired the design of the Accord on Fire and Building Safety in Bangladesh (The Accord), and the programme ‘Milk with Dignity’ run by the organization Migrant Justice in the dairy sector in Vermont in the United States as well as an agreement in Lesotho’s apparel industry to address sexual harassment and gender-based violence⁴. It is important to highlight that neither Bangladesh nor Lesotho have a constitutional tradition of protecting FoA, and repressive national regimes are capable of stifling workers’ capacity to campaign for WSR. Yet these two successes, albeit provisional, reflect how the FFP tenets can help generate this worker capacity even in less fertile soil.

Since 2015, the Worker-Driven Social Responsibility Network⁵ has served as a vehicle for advancing WSR in different contexts. It is important to highlight that the CIW is not a trade union: farmworkers are historically excluded from the NLRA. In addition, FoA rights are not incorporated in the Code developed under the FFP, as the exclusion of farmworkers from national legislation led the CIW to conclude that ‘a traditional union model would have been impossible in the Immokalee case’ (Fine and Bartley 2019, 267).

⁴ Authors’ correspondence with CIW members.

⁵ <https://wsr-network.org/>

5. Worker-driven social responsibility (WSR) and transnational labour markets: addressing labour recruitment

This section reflects on the experience of recruitment of Mexican farmworkers through the H-2A programme in the FFP as an example of the transnational dimension of its operationalization. It briefly describes the evolution of inclusion of guest workers and then reflects on the key role of the five interrelated elements in this process.

During the season 2014-2015, H-2A migrant workers were employed on FFP farms for the first time. FFSC audits identified illegal fees and extortion from Mexico-based recruiters, affecting a significant number of H-2A workers from Mexico. Under the FFP, a Working Group was set up composed of the CIW and several Participating Growers, and authorised by the FFSC to vet possible solutions to the exploitative recruitment practices identified in the H-2A programme. To that end, and based on suggestions from workers in the FFP, the FFSC conducted a fact-finding trip to Mexico, and held a series of discussions with the U.S. Embassy, the Mexican Secretary of Labor and Welfare's National Employment Service (SNE), and various NGOs, including the Project on Organizing, Development, Education and Research (PODER) and the *Proyecto de Derechos Económicos Sociales y Culturales (PRODESC)*, and the Commercial Workers International (UFCW).⁶ As a result, new-mandatory agreements between SNE and Participating Growers were incorporated into the FFP. These designate SNE as the sole FFP recruitment channel for H-2A workers from Mexico. This created a 'clean channel' recruiting mechanism that operates transnationally, and it has been incorporated in the FFP Code of Conduct and implemented as of January 2017. The FFP Code of Conduct applies equally to domestic and H-2A workers. However, the code has been adjusted to incorporate elements that directly affect H-2A workers. It is intended to eliminate the endemic

⁶ Based on author's correspondence with Steve Hitov from the CIW.

illegal recruiting fees, as well as protect workers against discrimination, retaliation and any other abuses in the H-2A recruitment and retention process. In taking up the suggestions of workers in the FFP, the requirement stipulating the SNE as the sole recruitment channel for H-2A workers was worker-driven and worker-informed from its inception and remains like that, as it moves forward over the next years.

This case of ‘clean channels’ of recruitment provides an example of a systemic solution in which labour recruitment issues are aligned with guaranteeing sustainability in working conditions in the host farms in the US. It also provides migrant workers with a voice as any concerns raised by workers regarding their rights in the recruitment process, as well as wages and working conditions while on the FFP farms are addressed through the regular, retaliation-free FFP dispute resolution mechanisms. In addition, following the FFP’s focus on worker education, the FFSC has been working with the SNE to ensure that in areas with significant numbers of indigenous populations, pre-departure education on their rights is provided in the languages that workers understand best, in addition to Spanish. Another important impact in Mexico is the suspension of recruitment in areas in which illegal recruitment conduct is detected from reports from workers, and then referral of perpetrators to federal authorities for prosecution.⁷

The engagement with Mexico in cross-border recruitment is an important example of a private governance mechanisms (through the FFP) influencing public governance in the field of labour and migration regime in the context of increasingly transnational labour markets. This illustrates an important case for rethinking the design and implementation of temporary labour migration schemes that can include workers’ voice mechanisms, and ensure that workers are able to exercise their rights in the workplaces where they are employed. Workers in temporary schemes feed agro-food global supply chains but these connections are not always

⁷ Based on author’s correspondence with Steve Hitov from the CIW.

made across the overlapping governance schemes set up by nation-states, albeit employer-led, as they sponsor the visas that would bring them to the US. In the next section we expand on the key components of the FFP as a genuine alternative to the compliance paradigm with potential to rethink reforms in temporary migration schemes in developed economies and provide preliminary thinking on expansion to other sectors of the global economy where workers share similar vulnerabilities as farmworkers in the US.

5.1 The future of workers' voice: Global production and temporary migration

Temporary schemes influence labour intermediation and recruitment channels, and in their design, they limit prospects for workers' voice and representation (Wright, Groutsis and van den Broek 2017), and in cases where workers can join trade unions on paper, enforcement is low due to fear of deportation (see Vosko 2018 for the case of Canada). Therefore, under a well-established programme, such as the FFP, the progressive inclusion of H-2As can represent a potential to mitigate and even eradicate abusive recruitment practices that have been historically embedded in the agriculture sector while linking this to the provision of decent working conditions once workers are on the job. We focus our analysis on the case of the US, but most of the elements apply to other temporary schemes in developed economies (Boucher 2019; Howe and Owens 2016; Lenard 2012; Gibson, McKenzie and Rohorua 2013).

In this section, we analyse the FFP through five interrelated governance components which we highlight to realise workers' voice⁸, namely: i) worker-informed standards; ii) worker education within an 'integrated approach' to the supply chain; iii) complaint resolution system; iv) independent monitoring and v) market consequences for non-compliance through legally binding agreements.

⁸ The FFSC identifies worker-to-worker education, complaint resolution, audits & transparency and market-based enforcement (FFSC 2017).

Worker-informed standards aligned with the realities of the workplace. Workers actively participate in the design, monitoring and enforcement of the codes that aim to regulate their wages and working conditions. Workers are in touch with the everyday realities of production and are therefore, in a better position to craft the codes that regulate their work activities. The incorporation of workers in the design of the codes will move them from this position of passive objects of regulation (Egels-Zandén and Merk 2014) to real architects of the human rights structures that are supposed to regulate them. Also, in order to be factual and aligned with the realities of the workplace, the codes need ongoing revisions to capture (as best possible) the dynamics of workplace organisation and the social relations within. For example, the introduction of H-2A workers in the farms of the FFP allowed modifications on issues specifically pertaining to these workers, such as ‘workers must not report application fees or other recruitment costs, the company must notify the FFSC in advance of its decision to use H-2A workers and provide the FFSC with a complete list of all H-2A workers and their company ID numbers’, among other measures (FFP 2018, 29).

The design of temporary migration schemes as they pertain to seasonal agriculture workers could take a leaf from this book by creating mechanisms of consultation with workers’ representatives of the sector as well as employers’ organizations. The visas under these schemes are employer-led as they act as sponsors of these workers, and in principle, workers cannot leave the employment relationship⁹, creating a source of vulnerability for them on top of the challenges to occupational health and safety characteristic of agriculture work. An active participation of workers through institutional design embedded in programmes in relation to the dynamics of production to the industry have potential to overcome these historical hurdles.

⁹ As an exceptional measure, during the COVID-19 pandemic, the Department of Homeland Security allowed H2A extensions with new employers as part of the National Emergency to secure a steady supply of workers and avoid further disruptions in the food supply chains (see DHS 2020).

Worker education within an integrated approach to the supply chain. Workers at FFP farms are continually educated on their rights and in a language they fully understand *at* the sites of production. This takes place ‘on the clock’ without deducting pay for this time. As of October 2018, 775 education sessions had been completed reaching almost 60,000 workers. Augmenting this is worker participation in health and safety committees. This substantive and ongoing education not only empowers workers but also transforms them into *enforcers* of the code – or front-line auditors. In this way, workers have a means to become key agents in sustaining better workplace practices. For example, the time keeping system is designed so that is directly controlled by the workers as, in the past, crew leaders used to manipulate the times in order to reduce pay.

The high numbers of workers educated and activated must also be understood in the context of the industry’s high turnover and its seasonality: FFP-educated workers also influence other non-participating farms positively when they go to other states. A CIW policy officer shared that they received calls from workers in faraway states from workers who had experience in the FFP. As the FFP has not yet been established in all states of the US, they refer such complaints to the Department of Labor.

Another important element of worker education is that the FFP put workers and farm labour contractors ‘at the same level’ through the employment relationship, as both workers and contractors are now classified as employees of growers and are registered on the payroll. Breaking away from the previous triangular format of employment brought a huge change in the power dynamics of the supply chain as crew leaders acting as contractors lost ‘hire-power’ and had to adapt their behaviour (Interview FFSC Investigator, 2016). This is one way in which worker education is embedded within an integrated supply chain approach.

Complaint system that responds. The FFP has set up a 24-hour toll-free complaint line providing workers 24/7 access to multilingual FFSC investigators. These are independent and no retaliation is guaranteed therefore building trust and allowing workers to use the line at their convenience. In addition, the community-centre location in Immokalee is also open to receiving information and providing guidance to new workers who might not feel confident using the complaint line. However, the relative speed with which complaints are resolved is an important element for building confidence in the hotline. During Season 7 (2017-2018) 49% of all cases received were resolved in less than two weeks, and 27% were resolved in less than one month. Over the life of the FFP, 52% of all cases have been resolved in less than two weeks, and 79% of all cases have been resolved in less than a month (FFSC 2018, 10).

Workers subject to temporary schemes may have access to a complaint system on paper, but in reality, these workers do not complain. Their precarious status –tied to an employer because of a visa system – and in some cases, the prospects of returning for another season (also known as ‘circular migration’) precludes them from exercising their voice. In FFP farms, not only workers are empowered to exercise their voice, growers who act as employers also accept this as a common practice. As an illustrative case, during Season 6 (2016-2017), the FFSC received three worker reports of having been charged illegal recruitment fees by individuals who presented themselves as ‘official recruiters’, as well as similar practices by returning H2-A workers or their family members. The SNE carried out an investigation in the locations named in the reports as a result of this complaint. They identified the recruiter who had no connection to the SNE and was reported to the authorities, including the US Embassy’s Anti-Fraud Office. In turn, the returning workers identified as attempting to charge fees for information concerning available recruitment channels were banned from eligibility for rehire by the Participating Grower and SNE. This also prompted the SNE to carry out an information

campaign in those locations alerting potential workers that they should not pay for information and should only be recruited by SNE staff (FFSC 2018, 28).

Independent monitoring. FoA benchmarks within CSR compliance mechanisms exacerbate a ‘ticking the box culture’ which becomes even more problematic in countries where FoA has a limited meaning due to repressive regimes (Anner 2017). In many instances, the FoA detection mechanism is also linked to the type of assessment in factories from where retailers source products. Also, distinct MSIs partner with different auditing bodies which present different methodologies. Under temporary schemes, monitoring mechanisms rarely exist, and when evaluated, they fall under immigration laws, not necessarily connecting to (global) supply chains as they feed production structures and dictate labour market needs.

In the case of the FFP, the FFSC conducts audits in farms participating in the programme. Interviews are held with a minimum of 50% of the workers in the farms, and also with crew leaders and management. Another strand of auditing is financial to guarantee that the premium is passed on to workers. When guest workers were incorporated in 2014-2015, the FFSC conducted interviews with H-2A workers and many of the endemic problems in temporary labour migration schemes were found, such as illegal recruitment fees charged by unscrupulous recruiters, incurrence of debts, extortion and threats of retaliation for reporting these abuses. The measures put in place to address these problems were described above.

Market consequences. As discussed above, the private compliance paradigm has arguably failed workers, with labour abuse scandals unfolding in spite of regular audits of corporate Codes of Conduct. Some scholars have even identified perverse incentives in sourcing relationships, with more orders placed to factories with more labour violations (Amengual et al 2019).

The FFP gains authority because there are strict market consequences for non-compliance. When growers are found to breach any of the conditions of the Fair Food Code, they are suspended, meaning that retailers cannot source from growers found in violation. Time is given to put in place corrective action plans but the market consequence of stopping sales has real teeth. The source of these market consequences lies in legally binding agreements that retailers and growers sign with the CIW to be members of the Programme giving it a *contractual* approach to the enforcement of labour standards. This is an important aspect, because in countries with repressive regimes, contractual approaches could provide a second-best solution to ‘decent work deficits’ as the legislative approach might not suffice. In a context where labour rights are curtailed, compliance with national law becomes meaningless and corporations are called to go beyond in their exercise of good governance (Tan 2013).

An integrated framework. Overall, the economic logic of (global) supply chains has a profound impact on workers’ voice mechanisms. These problems exacerbate when the local context does not contribute to raising the bar in terms of workers’ voice. The FFP functions as a ‘framework’, as expressed by one of the lead investigators at FFSC: ‘it cannot be understood by taking one piece of the programme and to look at it in isolation’ (Interview FFSC Investigator, 2016). Therefore, the five components described here show that for a worker’s voice mechanism to deliver, it needs to cover an ‘integrated view of the supply chain’ and an ‘industry-wide’ perspective rather than just ‘providing training to workers’. As Steve Hitov, General Counsel for CIW, pointed out:

‘no amount of training or education can succeed in a vacuum. No matter who provides it, training and awareness will not eliminate human trafficking or other human rights abuses without these other elements.

At best, even assuming the training is good; it will simply frustrate the workforce.’

Hitov’s reflection shows a key aspect of structural change in GVC. Training provided to workers is seen as a solution to labour violations, but this is often implemented in isolation. In contrast, worker education in the integrated FFP framework is embedded within a programme in which standards are worker-informed, there are real market consequences for unwanted behaviour, there is independent auditing and oversight, and there is a worker-initiated complaint resolution system that is available and known to the workers as making a difference. Education within this context has the potential to shape the supply chain, not only in a particular jurisdiction but across states of the US. As farmworkers are highly mobile and follow the crops, the CIW and the FFSC have received complaints from violations beyond Florida. As of the research period, the FFP was expanding to Georgia, and calls on violations were received from other states where the FFP was not in operation, so staff from CIW referred the calls to the Department of Labor so that investigations could be conducted. This is an important way in which training that empowered workers triggered a spillover effect to other workers too.

5.2 Beyond the United States: transnationalisation and early thoughts on replication

We showed how the key components of the FFP contribute to better working conditions along transnational labour markets between Mexico and the US. Brudney (2016, 373-376) explores prospects for replication of the FFP in sectors such as electronics, footwear and garments. He identifies commonalities along three important lines in applying the FFP model: workers in these sectors share vulnerable situations, they are subject to precarious legal rights (and precarious status when migrants), and market consequences have the potential to play an important role in bringing about change. In a review of multi-party bargaining agreements in GVCs, Blasi and Bair (2019) concluded that best possible outcomes for decent work could be

achieved when mechanisms compel lead firms to incentivize and financially support labour standards, as in the case of the ‘premium’ that it is passed on to the workers; and broad sectoral coverage makes for stronger agreements while commitments from key lead firms can be an important first step (for example, when the CIW negotiated its first agreement, other key players followed suit, a similar case is found in the Bangladesh Accord when H&M first joined and others followed). They also document that civil society through pressure and alliance building has influence, while precedents are equally relevant – as agreements take time to evolve and mature into more formal arrangements – and most importantly, mutually beneficial outcomes are possible.

With this in mind, we are aware of the challenges of replicability of the WSR model owing to variegated local contexts, position of countries in the global economy, supply chain dynamics, will of local actors and socio-legal contexts among other variables that affect social processes. However, we explore potentials for expansion of the WSR model through adaptation of temporary labour migration schemes that are prominent in different sectors. They also take different forms (from unilaterally designed, such as the H2A programme, to bilateral labour migration arrangements, such as those signed between Gulf countries and South East Asian nations, and some are concerted agreements, such as the Canadian Seasonal Agriculture Worker Programme, SAWP). The FFP is an alternative to the dominant private compliance paradigm that has been developed and implemented on the ground - resulting in significant improvements in working conditions within a sector notorious for abuse and exploitation. Thus, the argument that challenges involving global supply chain workers are inherently more daunting than those faced by farmworkers in the US is less than persuasive (Brudney 2016, 373).

The experience of slowly incorporating H-2A agriculture migrant workers in the FFP farms, provides an opportunity to rethink the design and implementation of temporary labour migration schemes. These schemes are prominent in countries such as Canada, the United

States, Spain, Austria, New Zealand and Australia among many others, and despite variation in implementation and design, these programmes share the fact that workers' rights are restricted and, in some instances, situations of forced labour have been found (Strauss and McGrath 2017; Vosko 2019; Martin 2016).

While agricultural workers have been relabelled as 'essential' in the context of the COVID-19 pandemic, and there has been growing interest globally in 'responsible recruitment,' there are few signs that either of these has given migrant farmworkers greater opportunities to improve their conditions. They continue to face highly exploitative conditions in many parts of the world. In contrast to programmes which tend to fail in providing mechanisms to workers' voice and representation, the FFP provides a template which has successfully incorporated 'guest workers' while guaranteeing good recruitment channels and sustained working conditions.

6. Conclusions

We showed that when FoA rights are curtailed owing to the exclusion of farmworkers from national legislation, a transformational approach inspired in the FFP is possible to render worker's voice a reality through the five interrelated components analysed. These components shifted the power structure of the supply chain by allowing workers to negotiate for better working conditions in ways that are heard, and responded to by buyers.

Workers' collective voice was heard in the FFP as much as they contributed to the ongoing design, implementation and enforcement of the code which 'governs' their conditions of work. Buyers who have committed to a legally binding agreement with market-enforced sanctions are bound to hear these voices and respond. This is an expression of worker power in an industry historically riddled with labour abuses. We have further shown that the model

was demonstrably resilient and able to respond to the introduction to the workforce of a new group of structurally vulnerable migrant workers through the H2-A visa program.

The COVID-crisis has highlighted that a human-centred approach (ILO 2019) is needed to rethink ‘recovery’ from the economic and social impacts of the pandemic and should include robust and genuine mechanisms for workers’ voice in global production that guarantee the protection of fundamental rights. Compliance with national laws in countries where these laws do not provide the meaningful channels for workers to exercise their voices, especially vulnerable categories of workers, needs to be completely rethought within the private compliance paradigm. We observe industry inertia despite years of pitfalls and public denouncements.

During the pandemic, agriculture workers have been re-labelled as ‘essential’ and key to food security. While this essentiality has been historical and is not new, the pandemic has been used as an opportunity to expose this to justify certain policy options through the provisional measure for H2As to change employers under the US National Emergency. However, this essentiality needs to be translated into mechanisms for strengthening associational and structural power so that ‘voice’ becomes a ‘collective voice’ and leads to ownership of improved working conditions and access to labour rights as shown by the WSR model.

Finally, our case study suggests a reconceptualization of workers’ voice through the WSR paradigm, which also incorporates labour chains, as key drivers of transnationalisation of labour markets. In this vein, the model of WSR could revitalise the trade union movement and work as a complement to collective bargaining approaches, especially in countries where the potential for these institutions is severely limited.

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