



Policy brief | October 2020 | page 1 of 8

From regulated precarity to decent work

Improving conditions for migrant workers in Dutch agriculture

Summary

- Migrant workers in the highly productive Dutch agricultural sector experience unfair labour practices, including structurally poor wages and living standards, insecure contracts and hazardous working conditions. The Covid-19 pandemic has placed this precarity in the spotlight.
- The current Dutch legal framework and economic model enable structurally unfair labour practices that particularly affect Central and Eastern European (CEE) migrant workers.
- This policy brief proposes steps to move from precarity towards decent migrant work in Dutch agriculture. It is based on the Netherlands chapter of the comparative study “Are Agri-Food Workers Only Exploited in Southern Europe? Case Studies on Migrant Labour in Germany, the Netherlands, and Sweden”.

Keywords

Agriculture – Covid-19 – decent work – labour rights – migrant workers – the Netherlands – precarious work

Introduction - migrant precarity amidst high productivity

Migrant workers from countries in Central and Eastern Europe (CEE) such as Poland, Bulgaria and Romania suffer from structurally poor wages and living standards, insecure contracts and hazardous working conditions in Dutch agriculture. Though migrant workers' precarity has been a problem in the Netherlands for many years, it recently gained more widespread media attention when the country's meat-processing industry was identified as an epicentre of the Covid-19 pandemic. Cognisant of the urgency to address the issue, the Dutch government established the Migrant Worker Protection Taskforce in May 2020.

Migrant farmworkers' poor labour and living standards are, amongst others, reflected in the fact that about one fifth of them work at or below the minimum wage. These low standards contrast with the sector's high

economic productivity—the Netherlands is the world's second largest agricultural exporter, behind only the US. The size of the migrant workforce is estimated to comprise between one third to one half of the agrarian labour force, mostly employed indirectly via employment agencies. Despite the migrant workforce's significant size, their degree of unionisation is low.

This concise policy brief proposes steps to move from precarity towards decent migrant work in Dutch agriculture. It is based on the Netherlands chapter of the comparative study "Are Agri-Food Workers Only Exploited in Southern Europe? Case Studies on Migrant Labour in Germany, the Netherlands, and Sweden" authored by Karin Astrid Siegmann, Tyler Williams and Julia Quaedvlieg (Palumbo and Corrado 2020).

Causes - mechanisms that disempower migrant farmworkers

Our study documents various mechanisms that enable the precarity of migrant workers and weaken their bargaining position.

Institutional mechanisms

Flexibilisation of Dutch labour market | CEE migrants' precarity has been enabled by flexibilisation of the Dutch labour market. Since the 1999 Flexibility and Security Act, indirect contracts with employment agencies that provide workers with phased economic

and social entitlements have been legalised. During the first phase, the contract may be terminated at any time. Workers are only paid for the hours worked, while subsequently they gradually build up social rights, for example regarding notice periods, paid holidays and pension rights. In practice, the majority of migrant workers in agriculture remain stuck in the first phase even after years of employment in Dutch agriculture. This is legally achieved by dismissal before the conclusion of the first contractual phase..

“ I have been working here for 16 years, 11 years for a temporary work agency. I usually worked long hours, from 6 a.m. to 6 p.m., sometimes until 7 a.m. Say more than 12 hours. I receive a bare wage for this, according to the stipulated hourly wages and no allowances for working on public holidays, [...] on Saturdays or Sundays, [or] for overtime. ”

(male migrant worker from Poland)

Weak enforcement | The insecurities due to flexibilisation are worsened by the Dutch Labour Inspectorate's weak capacity to monitor and enforce

labour standards. In 2018, the Inspectorate aimed to monitor only 1 per cent of all companies where unfair labour practices were a potential risk.

Structural mechanisms

High dependency on employers | Migrant farmworkers' insecurities are shaped by the high degree of dependency on their employers. Growers usually hire farmworkers through employment agencies that offer interlinked employment, accommodation, transportation and medical insurance contracts. Such single-dependency constructions leave migrant workers

in an extremely vulnerable position. Due to the flexible contract system there is a constant risk of dismissal that not only implies income insecurity, but also the risk of homelessness. It induces fear that curbs complaints about abuses, such as unpaid vacation allowance or overtime payments, and more severely, dismissal threats when workers demand, for example, sick leave.

“ If you open your mouth, you get the boot and you are on the street. Because the two go hand in hand. ”

(social worker supporting workers experiencing labour exploitation)

Pressure from supermarkets | Migrant workers' insecurities are also shaped by the pressures that powerful actors in the agri-food chain exert. Major supermarkets in the Netherlands hold large market

shares in the retail sector. Using this economic power, they exert downward pressure on prices paid to growers. This is passed on to migrant workers in the form of low wages and insecure contracts.

Associational mechanisms

Weak associational strength | Associational strength is low among migrant workers in agriculture. Dutch trade unions' limited outreach to CEE migrant workers, among other factors, have resulted in CEE migrant workers lacking a collective voice in the labour market.

Missing coalition partners | Potential allies, such as groups lobbying for sustainable food systems, are commonly silent on labour conditions in agriculture.

“ Where do you go with these kinds of complaints? [...] You have the labour inspectorate, but well. You have the unions, but you can only approach them if you are a member. They can do something if it concerns large groups. Same with the Labour Inspectorate. Individual complaints are not actually processed. Only when people really get together. ”

(Coordinator migrant organisation)

Recommendations - steps towards decent migrant work in Dutch agriculture

The renewed attention to migrant farmworkers' precarious conditions opens a window of opportunity for intervention. For a range of actors, the heightened awareness about the lack of social and environmental sustainability of the agri-food sector constitutes an

opportunity for a new push to ensure decent labour conditions for migrant workers in Dutch agriculture. The steps proposed below to move from precarity towards decent migrant work in Dutch agriculture are informed by the Power Resources Approach (see Box).

How migrant workers can assert their interest: The Power Resources Approach

The Power Resources Approach can be used to assess workers' ability to assert their interests within a given economic and societal context. The approach enables the strategic analysis of current and future spaces for intervention, based on workers' ability to mobilise and use different forms of power.



1. Associational power results from the formation of workers' collective organisations.



2. Structural power depends on workers' location within the economic system, at the workplace and in the wider labour market.



3. Coalitional power relates to a workers' capacity to influence an employer's behavior by involving allies.



4. Institutional power lies in workers' ability to influence the behaviour of other actors by invoking formal or informal rules.



5. Discursive power is exercised through intervention in public debates to cultivate a positional advantage.

Sources: Brookes (2013), Schmalz et al. (2018), Wright (2000)

Strengthening migrant workers' institutional power

In order to strengthen migrant workers' **institutional power**, a legal and institutional environment is required that effectively guarantees living wages and inclusive social protection for the essential migrant workforce in Dutch fields:

- **Equal rights for migrant workers** | For the **government**, a key step from the current situation towards decent migrant work in Dutch agriculture would be to redress the possibility to stagger agency workers' economic and social rights. This would be in line with the 2008/104 EU Temporary Agency Work Directive that stipulates the equal treatment of agency workers and directly employed workers as regards working and employment conditions.
- **Licensing system for employment agencies** | The previous action point should be combined with the reintroduction of a public licensing system for employment agencies. This enables the government to specify and guarantee minimum requirements before employment agencies can operate. Such a licensing system existed in the Netherlands until 1998 and is currently in use in other EU member states.
- **More effective legal procedures** | Institutional innovation in the form of streamlined civil procedures to recover unpaid wages, overtime and holiday pay is another important step towards fair labour conditions for migrant farmworkers.
- **Strengthened labour inspection** | The implementation of labour rights guarantees can be bolstered through more rigorous enforcement of **labour inspection**. The ongoing increase in resources made available to the Labour Inspectorate for the monitoring of labour exploitation is a step in the right direction. More importantly, though, the Inspectorate's approach could be significantly improved through a reorientation towards workers as its most important stakeholders. This implies, for instance, a grievance mechanism that is easily accessible in workers' native languages and outside working hours, private conversations with workers during unplanned inspections and swift responses effectively addressing complaints. Here, the Fair Food Program can serve as an effective example inspiring a worker-centred grievance, monitoring and sanctioning mechanism (see Box below).

“ It is very important that the Labour Inspectorate has the opportunity to talk to the employees. Often that is not possible because the employer is right next to them and then there is of course no possibility to say something. ”

(male migrant worker from Poland)

Worker-driven rights guarantees in the Fair Food Program

The Fair Food Program (FFP) brings together farmworkers, consumers, food retailers, and growers in US agriculture to achieve humane labour standards and better wages. This is achieved through triangular contracts between the Florida-based migrant farmworker organisation Coalition of Immokalee Workers (CIW), food retailers and farmers.

These contracts stipulate a wage supplement, the so-called 'penny-per-pound', as well as adherence to a code of conduct that was developed based on farmworkers' own experiences and demands. To guarantee effective implementation of the programme, the FFP offers worker education, monitoring and a complaint resolution mechanism. A toll-free hotline is a key component of this mechanism. Complaints lead to investigation, corrective action plans, and, if necessary, suspension of a farm's participation in the FFP. Implementation is overseen by ongoing monitoring of participating farms through the independent Fair Food Standards Council (FFSC) in which CIW members represent half of the directors.

The FFP resulted from CIW's persistent and creative campaigns with allies from student, environmental and sustainable agriculture organisations; human and labour rights activists; indigenous groups as well as people of faith from various traditions. By now, 14 major fast food chains and food retailers have joined the FFP, including two subsidiaries of the Dutch retailer Ahold.

Source: FFSC (2018: 12), Siegmann (2015: 1), Siegmann et al. (2016: 120)

Strengthening migrant workers' structural power

The Fair Food Program (FFP) also offers a model for strengthening Dutch migrant workers' structural power:

- **Chain responsibility of supermarkets** | The FFP's payment of a 'penny-per-pound' redistributes value from powerful retailers to migrant farmworkers in the US. For the Dutch context, this model to improve farmworkers' wages could be adapted to involve **public-private partnerships** between supermarkets, labour and migrant organisations and, for example, the Labour Inspectorate. This would be an extension of the Taskforce's recommendation to hold different actors in the agri-food chain accountable for fair and decent working conditions. In addition, such a partnership would be in line with the objective of the 2018 Dutch Corporate Social Responsibility Platform (IMVO) agri-food covenant to guarantee living wages for workers in the agri-food chain.
- **Living wages through cooperation between farmers and migrant workers** | The association SOS Rosarno in Southern Italy goes further than the FFP's model of worker-driven redistribution. This collaboration between small **farmers and migrant farmworkers** has established an alternative agri-food chain in which living wages and prices of produce are determined around human needs (Iocco and Siegmann 2017). In the Netherlands, this model could be applied and scaled up. The **government** can play a role in setting minimum prices for agricultural products in which labour standards are a precondition for price determination. The increased awareness of the flaws in the current food system amid the Covid-19 pandemic offers an opportunity for a necessary paradigm shift.

Strengthening migrant workers' associational power

Strengthening migrant farmworkers' associational power forms the basis for the mobilisation and exercise of other forms of workers' power:

- **More attention to organising migrant workers** | **Trade unions** should shift more attention and resources towards outreach to, awareness-raising and organising of migrant workers. Strengthening their bargaining power through workplace-based organisation is a crucial step in the context of a changing labour market. The current labour market is characterised by a rising number of complex – often cross-border – contractual relations. In negotiations for collective bargaining agreements, these relations are difficult to regulate to the advantage of employees.
- **Take on board migrants' social identities** | Innovation in organising should be tailored towards migrants' social identities and cultural backgrounds. Agency workers' often changing workplaces as well as their interlinked problems faced at work, in their accommodation and in the wider society should be taken into account. The experience of trade union FNV with outreach to migrant workers in the southern provinces of Limburg and North Brabant offers an inspiring example in this regard (see Box below).
- **Positive spin-offs** | Reaching out to migrant workers where they are is likely to generate positive spin-off effects for the trade union movement's political role. Trade union renewal through effective outreach to currently underrepresented workers has the potential to stabilise and strengthen Dutch trade unions' traditionally strong role in political decision-making that de-unionisation has eroded in recent decades.

Organising through cultural mediators

The trade union FNV started organising regional events on issues such as occupational safety and health in the provinces of North Brabant and Limburg where open field horticulture is concentrated. Interested workers are trained as shop stewards to enable them to inform their colleagues about their rights and entitlements in their own languages. Such organising through cultural mediators has proven to be an effective way to incorporate workers' social identities into union outreach. Dutch trade unions' traditional focus is on tripartite bargaining in order to develop collective and social rights and institutional regulation. Against this backdrop, such new forms of outreach initiatives that build workers' awareness and associational strength from below are promising and should be scaled up.

Strengthening migrant workers' coalitional power

Migrant workers' alliances with other civil society groups can build the societal momentum necessary to move towards more socially and environmentally sustainable agriculture.

- **Join hands with other civil society groups** | The example of the FFP demonstrates that decent wages and working conditions in the conventional agri-food chain can be guaranteed effectively when workers join hands with civil society organisations that intervene in social, economic and political arenas beyond the workplace. In the Netherlands, **sustainable agriculture, migrants' and human rights organisations** all represent natural potential allies in campaigns for socially and environmentally sustainable agriculture.

- **Shorter chains enable win-win for workers & nature** | Initiatives that seek to shorten agri-food chains and stimulate sustainable agricultural practices represent an untapped source of support for migrant farmworkers. Such initiatives have seen rising demand since the outbreak of the Covid-19 pandemic. In case of the Italian association SOS Rosarno, conscious consumer groups act as distribution channels. This collaboration has ensured living wages to migrant farmworkers, decent prices to participating farmers and affordable organic food products for consumers. Inspired by these and similar examples, existing initiatives in the Netherlands such as the Taskforce Short Chains and Local Food The Hague could seek cooperation with labour migrants.

Conclusion – revaluing migrant work in Dutch agriculture

The steps proposed above will go a long way to empower migrant workers and to move from the current precarity towards decent migrant work in Dutch agriculture.

These steps must be accompanied by a shift in public debates and media discourse so that the important contribution of migrant workers to Dutch agriculture becomes visible and can be revalued. A 2020 study by

the Netherlands Interdisciplinary Demographic Institute (NIDI) and the Netherlands Central Bureau for Statistics (CBS) underlined that migrant workers are key to the Netherlands' social and economic future (NIDI and CBS 2020). This significance is mirrored in our report. It reflects that export success of agriculture and food security in the Netherlands hinge on their commitment. A male migrant worker from Poland who participated in our research expressed this as follows:

“ Ultimately, the employers have to think about this, because the agrarian companies exist thanks to us. We contribute to the survival of these agrarian companies. ”

More information

This Policy Brief is authored by Karin Astrid Siegmann, Julia Quaedvlieg and Tyler Williams. It is based on the Netherlands chapters of the comparative study [“Are Agri-Food Workers Only Exploited in Southern Europe? Case Studies on Migrant Labour in Germany, the Netherlands, and Sweden”](#) (Palumbo and Corrado 2020) and the supplementary report “COVID-19, Agri-food Systems, and Migrant Labour” that they authored.

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