



# Certified Unilever Tea – A Cup Half Empty

*Follow-up study on working conditions in  
Rainforest Alliance certified tea  
plantations in India*



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## Colophon

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Glocal Research provides multi-disciplinary research and consultancy services to (state) governments, non-governmental organizations, corporate bodies and national and international development funding agencies. The organisation has expertise in the areas of agriculture, child labour, natural resource management, rural development and rural livelihoods. In these areas Glocal Research' multi-disciplinary team of professionals has undertaken several research, monitoring and evaluation studies and facilitates training workshops. Glocal Research is established in 2000 and based in Hyderabad, India.

Over the last 15 years Glocal Research has extensively contributed to policy and academic debates on child labour and agriculture in India. The research carried out by Glocal Research on child labour in cotton production has generated substantial debate among scholars, activists, seed companies and policymakers and contributed to the development of several proactive interventions to address child labour in the seed industry.

### **The India Committee of the Netherlands**

The India Committee of the Netherlands (ICN) is an independent non-governmental organisation campaigning and doing advocacy work on human rights issues. Central to the work of ICN are the issues of caste-based discrimination, labour rights and child labour & education. ICN co-operates with organisations in India and elsewhere in combating discrimination, poverty, oppression, exploitation and lack of education, focusing on the role of policy makers and companies. ICN is an active member of networks like the Stop Child Labour campaign, the Clean Clothes Campaign, the International Dalit Solidarity Network and the Dutch MVO Platform.

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## Executive summary

Civil society organisations express growing concerns about the dangerous and degrading working conditions of millions of tea workers around the world. In response, there is a growing trend of multinational tea companies trying to improve these working conditions, not only through the companies' own corporate responsibility policies, but increasingly through multi-stakeholder sustainability standard systems. Rainforest Alliance (RA) is the most important in terms of volume and is still growing. As RA is rapidly growing as reliable sustainability certification in the tea sector, it is increasingly important to assess the effectiveness of RA in improving labour conditions and working towards global sustainable tea production.

### Follow-up

This study is a follow-up research to the SOMO-ICN 2011 report titled *Certified Unilever Tea – Small Cup, Big Difference?*, a research on working conditions on eight large RA certified tea estates assessing the effectiveness of RA standards in the field. The SOMO-ICN 2011 report highlighted several issues of systemic non-compliance to the RA standards by all eight tea estates, in particular violations were found regarding casualization and unequal benefits for casual and permanent workers, freedom of association, and the use of personal protection equipment. Therefore, this follow-up study focuses especially on these three identified issues in two Indian tea estates (of the seven that were covered by the 2009-10 SOMO-ICN study), Havukal and Kairbetta, in order to assess improvements in working conditions of the labourers.

### Casualization

The casualization of the workforce particularly among native Tamil workers has increased quite significantly in recent years. Most of the casual workers are migrants or retired permanent workers. Many of the native Tamil workers started working as temporary workers, as they occasionally have other job opportunities with higher wages in construction work and other agricultural activities in the area. Due to increasing labour scarcity at the tea estates, migrant workers from Assam, where wages are even lower and conditions harsher, come to work in Tamil Nadu as temporary workers. The period of temporary status has gradually been reduced from 10 years to at least three years according to the study.

Temporary and permanent workers do not receive the same benefits. Temporary workers do not receive a contribution to the school fees of their children, provident funds, leave benefits, crèche facilities or other social security benefits. The festival bonus is only provided to temporary workers who used to work as permanent workers and have rejoined the estate, but other temporary workers do not receive this bonus. Furthermore, the advances they can get are a smaller amount than for permanent workers.

### Wages and overtime work

The workers are paid the legal minimum wages at both the estates, however the prevailing wages in the local area at agricultural farms and construction sites tend to be much higher than the wages paid in the Havukal and Kairbetta tea plantations. With a daily wage of 3.09 euro, with a maximum of 4.24 euro, the workers receive far less than the Indian living wage of approximately 7.50 euro per day. Overtime wages are illegally calculated and during peak

season, half of the workers reported to work more than 10 hours a day for 6 days a week with reduced rest hours. These hours of overtime do not appear in the official estate records, as overtime wage is disguised in incentive payment. The daily wage is fixed, but if the workers pick more than the day target (35 to 45 kgs depending on the season) they get extra pay calculated per kg. The estate records only show the extra kgs plucked, but the overtime is not registered. The risks of getting injured or sick remain high, especially for women workers. Thus, overtime working hours, workload, and overtime compensation are not in compliance with legal requirements and RA's own Sustainable Agriculture Standards (SAN) criteria.

### **Advance payments**

Both the estates have the practice of providing advance payments to the workers once in a year. Advances are generally taken by workers to meet educational expenses, marriage, building or renovating houses and meeting emergencies. The advance taken by temporary workers has to be repaid in full amount if they want to leave the estate and join in other estates or for other work.

### **Chemical handling practices and worker representation**

Only very recently chemical handling practises has been streamlined in both the estates in terms of regular medical check-up for chemical handlers, separate wash room for them, and provision of personal protective equipment (PPE). However, the use of PPE has not become a mandatory procedure for chemical applications in the estates. The chemical handlers are mostly migrant workers, who are particularly vulnerable due to their illiteracy. Generally, they end up working in hazardous jobs with low pays which the native workers might refuse or avoid to take up in the estate, like pesticide application. Trainings and other information, on occupational health and safety or sustainability standards, are given mostly in the local language Tamil, which they do not understand. Hence the migrant workers are more vulnerable to exploitative practices.

The restrictive and selective practices of collective bargaining observed in 2009-10 continued in 2015 as well. The existing trade unions are not very well known to the workers and had not contributed very much in improving their living conditions. Some workers reported that they are not free to choose any union, but could only join a union that is supported by the management. The current situation in the tea estates is not conducive for workers to realize their rights to freely associate with unions of their choice and bargain collectively for their rights.

### **Improvements and remaining non-compliances**

It could be concluded from the study that, in the recent years, scarcity of labour and better employment opportunities for native tea estate workers has brought some changes in the working conditions of the workers at Havukal and Kairbetta tea estates. Some improvements have been made in terms of the payment of minimum wages, setting up procedures for safe handling of chemicals and the provision of basic medical care and educational facilities for all temporary and permanent workers. However, still many serious non-compliances were found related to unequal benefits for casual workers, overtime wages and working hours, advance payments, chemical handling practices and worker representation.

## Chapter 1: Introduction

### 1.1 Introduction

Tea workers around the world are facing dangerous and degrading working conditions and civil society organisations continue to express their growing concerns. In response, there is an increasing trend of multinational tea companies trying to improve these working conditions, not only through the companies' own corporate responsibility policies, but increasingly through multi-stakeholder sustainability standard systems, like Rainforest Alliance, UTZ Certified and Fairtrade.<sup>1</sup> 'Standard-compliant' tea production has increased quite rapidly over the last few years. The global market share of sustainability certified tea has grown from 6 percent in 2008 to 12 percent in 2014.

About 85% of global tea production is covered by multinational corporations. One fifth of the market is controlled by three MNCs, namely Unilever 12%, Tata global beverages 4% and Twinings 3%. China, India and Kenya are the biggest producers of standard-compliant tea (black, green and instant) of the world.<sup>2</sup>

Rainforest Alliance (RA) is currently dominating the market, with close to 60% of all sustainability certified tea produced in 2011.<sup>3</sup> In 2012, Rainforest Alliance has seen the largest increase in one year with a growth of 190% in certified production volume and 365% growth in certified land coverage. Unilever, owner of Lipton brand tea and the largest tea company globally, plays a key role in driving the market for certification by committing to source all of its tea products from RA certified farms by 2020.

RA certification is achieved through the Sustainable Agriculture Network (SAN) standards. As RA is the most important certification standard in terms of volume, and growing rapidly, there is an increasing interest in the effectiveness of the certification system in improving working conditions and working towards global sustainable tea production.

The BBC documentary *The Real Cost of A Cuppa*, broadcasted September 2015, investigated the working conditions on Rainforest Alliance certified tea estates in Assam, India. The investigation's results were worrying. On these tea estates they found the living and working conditions to be so poor, and wages so low, that tea workers and their families were left malnourished and vulnerable to fatal illnesses.<sup>4</sup> They also found a disregard for health and safety, with tea workers spraying chemicals without any protection, and they discovered child labour being used on some estates. In response to the BBC report, RA said to take the allegations seriously and investigated the four estates included in the report, with a

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<sup>1</sup> Unilever sustainable tea-leading the industry: <https://www.unilever.com/sustainable-living/the-sustainable-living-plan/reducing-environmental-impact/sustainable-sourcing/sustainable-tea-leading-the-industry/> (accessed 2 October 2015); Tata Global beverages, sustainable sourcing: <http://www.tataglobalbeverages.com/sustainability/sustainable-sourcing/introduction> (accessed 2 October 2015)

<sup>2</sup> Measured in 2015 by the FAO IGG Secretariat: <http://www.fao.org/3/a-i4480e.pdf>

<sup>3</sup> The State of Sustainability Initiatives Review 2010: Sustainability and Transparency (2010), Potts, J., Van der Meer, J. and Daichman, J. published by IISD and IIED; <http://www.iisd.org/publications/state-sustainability-initiatives-review-2010-sustainability-and-transparency> (accessed 8 December 2015)

<sup>4</sup> The bitter story behind the UK's national drink (2015), by J. Rowlatt and J. Deith of BBC News: <http://www.bbc.com/news/world-asia-india-34173532> (accessed on 8 December 2015).

decertification of a group of farms as result. They also planned unannounced audits for 25 percent of all certified farms in Assam.<sup>5</sup>

## 1.2 Previous research: “Certified Unilever Tea – Small Cup, Big Difference?”

During 2009-10 SOMO and ICN conducted a research on large tea estates that are RA certified and are supplying to Unilever, in order to gain insight in the working conditions and assess the effectiveness of RA standards in the field. This research covered eight tea plantations supplying Unilever on which a hundred tea workers were interviewed. Seven of the suppliers were plantations in India and one was Unilever’s own tea plantation in Kenya.

The research results were published in the report titled “*Certified Unilever Tea – Small Cup, Big Difference?*” in October 2011.<sup>6</sup> This report highlighted issues of systemic non-compliance with the RA standards by these tea suppliers of Unilever. Issues were found with wages either including too few benefits or partly being paid in kind and not in cash, women workers being discriminated against (regarding promotion, benefits etc.), casual workers remaining permanently casual and workers applying pesticides without protective gear. The majority of these issues constitute violations of Indian labour legislation, ILO standards and Unilever’s own standards for suppliers. All the identified issues are breaching RA standards and should lead to decertification.

The report identified three important issues in violation with the SAN code, which directly affect the livelihood conditions and the health and safety of the workers: ***Freedom of association, casualization & unequal benefits for casual and permanent workers, and the use of personal protection equipment.*** RA and Unilever took the issues mentioned in the SOMO-ICN report up as a formal RA complaint and conducted research audits in the same plantations to verify the claims pointed out in the report. RA refused to acknowledge the violations stating that the information mentioned was not verifiable in the field. RA claimed that its own investigation (research audits) could not find any evidence in the field confirming the violations mentioned in the report. However, in response to the report and feedback of others RA revised its procedures related to human rights and both RA and Unilever put into place a range of measures to improve labour conditions.<sup>7</sup>

## 1.3 Follow-up research in 2015

This study describes a follow-up research to the SOMO-ICN 2009-10 study. Hence, this study focuses on labour conditions in two Indian tea estates (of the seven that were covered by the 2009-10 SOMO-ICN study) to see if the working conditions remained the same or have

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<sup>5</sup> The Rainforest Alliance and the Sustainable Agriculture Network launch an action plan to improve living conditions on farms in India and around the world (2015), Rainforest Alliance: <http://www.rainforest-alliance.org/about/integrity/improve-living-conditions-plan-of-action> (accessed 8 December 2015)

<sup>6</sup> ‘Certified Unilever Tea, Small Cup, Big Difference?’ (2011), S. van der Wal, jointly published by SOMO and ICN (<http://www.indianet.nl/CertifiedUnileverTea.html>).

<sup>7</sup> The Rainforest Alliance and SAN Plan of Action for Advancing Human Rights (2015): <http://www.rainforest-alliance.org/about/integrity/human-rights-plan-of-action>; Kericho Tea Estates, Responding to Challenges (2015) <https://www.unilever.com/sustainable-living/what-matters-to-you/kericho-tea-estates.html>



changed. The estates selected for this follow-up study are *Havukal* and *Kairbetta*. This research will focus on the three major issues identified in the SOMO-ICN study, being freedom of association, casualization and unequal benefits for casual workers and usage of personal protection equipment. The objective of this research is:

To assess changes, if any, in working conditions of the labourers with respect to freedom of association, casualization and unequal benefits for casual workers and usage of personal protection equipment (PPE's) in two RA certified tea plantations supplying to Unilever in Tamil Nadu, India. Additional evidence and information on working conditions, such as wages, overtime work and loans, will also be gathered to further substantiate the findings of the previous research.

## 1.4 Methodology

This follow-up study is based on both desk research and field research. The field research in India was conducted by Indian researchers and accompanied by feedback from the Netherlands. The results were analysed and integrated in this report by ICN.

The 2009-2010 research focused on seven tea estates in India, one in Assam and six in the Nilgiris. In Assam, the study was conducted on the Behora Tea Estate and in the Nilgiris the estates visited were Glenmorgan, Dunsandle, Glendale, Coonoor, Havukal and Warwick and Kairbetta. Due to time and resource constraints two out of these seven estates were selected for this follow-up study. The two estates that were randomly selected are Havukal and Kairbetta in the Nilgiris. The other four plantations at the Nilgiris are nearby at a distance of 10 to 50 kilometres.

### ***The BBC in Assam***

The Behora Tea Estate in Assam was also covered in the aforementioned BBC investigation on working conditions on tea estates in northeast India owned by Assam Company.<sup>8</sup> Thus, the findings of this BBC investigation, revealed in September 2015, can be regarded as a partial update on the working conditions at the Assam estate of the 2009-2010 SOMO-ICN research. The BBC specifically focused on housing conditions, sanitation and access to drinking water. Unfortunately, the findings indicate anything but improvements, as many workers were found to be living in leaking homes without electricity and, due to a huge backlog of repairs, many latrines had been blocked or broken for many years. The BBC found degrading working conditions and a disregard for health and safety on several tea estates of Assam Company. As a result, Twinings, Taylors of Harrogate and Fortnum & Mason – three of the UK's top brands - have stopped buying from Assam Company, while Harrods took the tea off its shelves after the investigation. The Rainforest Alliance has ordered improvements to living conditions and, as part of a broad action plan, adjusted its criteria to also include adequate housing, water supply and sanitation.<sup>9</sup>

<sup>8</sup> 'UK tea brands drop Indian supplier over work conditions' (2016), BBC News: <http://www.bbc.com/news/business-35235293>

<sup>9</sup> 'The Rainforest Alliance and the Sustainable Agriculture Network launch an action plan to improve living conditions on farms in India and around the world' (2015), Rainforest Alliance: <http://www.rainforestalliance.org/about/integrity/improve-living-conditions-plan-of-action>

Desk research has been conducted to gain insight into the current working conditions on the plantations. The secondary data of the two selected plantations, Havukal and Kairbetta, were also collected.

Primary data have been collected through worker interviews and focus group discussions in and around Havukal and Kairbetta estates. A total of 40 individual interviews were conducted with respondents working at Havukal and Kairbetta estates located in Kotagiri, Nilgiris. 23 workers were interviewed at Havukal estate and 17 workers were interviewed at Kairbetta estate.

Five focus group discussions have been conducted with 75 participants in total. The participants were both male and female workers, involved in tea plucking and chemical spraying. Migrant workers, supervisors and factory workers, living inside or outside the tea estates, were included in the focus group discussions (FGDs). The FGDs took place in small groups mostly at the road side. Furthermore, six workers were thoroughly interviewed to serve as more elaborate testimonies. The FGDs and case studies were done in order to verify the information collected with the individual workers interviews, so that errors of possibly rehearsed answers were minimized. The focus group discussions helped in understanding the prevailing practices in the tea plantations and the working conditions related to wages, conditions of employment, working hours, chemical handling practices and presence of trade union activities within their plantations. Individual interviews were conducted with two trade union members to understand the role of the unions in these estates.

To ensure that workers could speak freely and without fear for any form of punishment from the management, all interviews and discussions were conducted in full confidentiality and without any employer or manager present. Individual interviews and focus group discussions with the workers were conducted mostly on Sunday (their usual day off) at their homes. To guarantee the anonymity of the workers their identity will be kept confidential and names of the plantation workers mentioned in the report are changed. In addition to individual interviews and FGDs with workers the study also relied on other sources of information like review of records available with workers (wage slips, receipts of advance payments etc) and on field observations of production practices during plucking season.

### **Challenges encountered**

The study team took the assistance of a locally reputed Non-Governmental Organization (NGO) in Kotagiri for conducting individual interviews with the workers living inside the estates. It is difficult and risky for researchers and other third parties to enter the estate premises and conduct research without the knowledge of the estate management. Without the permission of the estate management one is not allowed to enter the estate. To overcome this difficulty, 8 staff members of a local NGO were hired, who either had relatives living on the estate or who were in close contact with the management and the workers through community development work. By referring to family visits or social contacts they could easily visit the residential areas on the tea estates and collect data.

After one day of preliminary ground work, the focus group discussions were held outside the estate premises, with the support of an external researcher and his team. The discussions were

held with retired permanent workers who were currently working as temporary workers, other migrant temporary workers and factory workers.

### **Research limitation**

The research was mainly limited to focus group discussions, individual interviews, review of available documents with workers and further discussions with other stakeholders like community leaders and trade union leaders. Due to fear of interruption from the estate management, the duration of data collection was limited to only a few days. The sample size from both the tea estates was, therefore, small. As the study was conducted without the knowledge of the estate management, the research team could not corroborate some information given by the workers with the management or other stakeholders. Hence, certain conclusions can only be made on the basis of focus group discussions, individual interviews with workers, review of available documentary evidence with workers and further discussions with other stakeholders like community leaders and trade union leaders.

### **Review of study findings**

A draft report with the study findings was shared with Unilever, the Sustainable Agriculture Network (SAN) and Rainforest Alliance (RA). SAN and RA shared in their official response that they take the findings of this report very seriously and SAN decided to immediately start the formal complaint procedure about the Havukal and Kairbetta plantations through IMO India, the certification body responsible for auditing these estates. Unilever shared the concerns raised in this report and informed us that they are in dialogue with both their suppliers and Rainforest Alliance. They state that they are pleased to hear that Rainforest Alliance planned un-scheduled audits of Havukal and Kairbetta estates and they await the results of those audits. The annex of this report includes the SAN and RA response with the findings of their research audits. Continuing the dialogue with SAN and RA in order to improve conditions of the workers on the tea plantations in India, we formulated our response and discussion points regarding the RA audits, which can be found in Annex I of this report.

## Chapter 2: Introduction to the Indian tea industry

### 2.1 Tea in India

The more than 150 year old tea industry holds an important place in the national economy of India in terms of its contribution in exports, income and employment. Since 1938, Indian tea production has increased drastically. Due to an increase in acreage and increased productivity per ha, total tea production in India went from approximately 0.02 million kilograms in 1938 to 1.2 million kilograms in 2013.<sup>10</sup> Currently, India is the second largest producer of tea in the world, just after China.<sup>11</sup>

The prominent place occupied by the tea industry in India has faded slightly due to the structural changes and the crisis that the tea sector is undergoing since the early 1990s. This crisis is manifested through stagnation in production, slump in exports and closure/abandonment of tea estates. As a consequence of estates being closed down and labour being cut down, tea workers are facing great misery.<sup>12</sup>

With a current export value of less than 584 million euro, tea is not among India's top 10 foreign exchange earning commodities anymore. However, domestic consumption of tea has increased very fast over the last decade and tea plantations continue to be the source of employment for over 3.5 million workers.<sup>13</sup>

Tea plantations in India are located in Assam, Anamallais high range, Kangra, Nilgiris and Wayanad, Darjeeling, Doars and Terai, Karnataka, Munnar and Travancore.<sup>14</sup> Table 1 provides an overview of the tea production in these regions.

**Table 1: Overview of tea production in India**

Name of the region	Production million(Kg) per year	Area (Ha)	Elevation(M)	Rainfall(mm)	Consumption domestic/ Export
Assam	507	312210	45-60	2500- 3000	Export
Anamallais	30	12625	900-1600	3000-3800	Domestic
Wayanad	16	5470	850-1400	2000-2500	Export
Darjeeling	9.8	17820	90-1750	3000-3000	Export
Doars and Terai	216	97280	90-1750	3500	Domestic
Karnataka	6	2140	750-1000	2000-3500	Domestic

<sup>10</sup> 'Chronology of Indian tea' (2008), by the Tea Board of India (<http://www.indiatea.org/chronology/chronologyoffT.pdf>).

<sup>11</sup> Sector overview: Tea (2011), M. Groosman, by IDH The Sustainable Trade Initiative:

[www.idhsustainabletrade.com/site/getfile.php?id=184](http://www.idhsustainabletrade.com/site/getfile.php?id=184)(accessed 9 December 2015).

<sup>12</sup> Unfolding Crisis in Assam's Tea Plantations: Employment and Occupational Mobility (2012), D. K. Mishra, V. Upadhyay, A. Sarma, Routledge ISBN: 978-0-415-52308-0

<sup>13</sup> 'Ashok Lahiri: Relook at tea garden labour. The costs imposed on tea companies by outdated labour laws hamper Indian exports (August 4, 2015), by A. Lahiri, published by Business Standard ([http://www.business-standard.com/article/opinion/ashok-lahiri-relook-at-tea-garden-labour-115080401732\\_1.html](http://www.business-standard.com/article/opinion/ashok-lahiri-relook-at-tea-garden-labour-115080401732_1.html)).

<sup>14</sup> Indian Tea Association, Tea growing regions: [http://www.indiatea.org/tea\\_growing\\_regions.php](http://www.indiatea.org/tea_growing_regions.php).

Munnar high ranges	27	13000	950-2600	1300-7000	Export
Kangra	0.8	2348	700-1000	2300-2500	Domestic
Nilgiris	135	66175	1000-2634	1000-1500	Export
Travancore	20	14000	750-1350	2000-6000	Domestic

## 2.2 Regulations in the Indian tea industry

In the beginning of the 19<sup>th</sup> century, together with the development of tea plantations, a start was made with regulating the living and working conditions of the workers in India. Though the Act XIII of 1859, or the Workman's Breach of Contract Act, tied the worker to the plantation for three years, the Act III of 1863 or Transport of Native Labourers Act aimed to reduce the mortality rate of labourers during transportation, as contractors, recruiters, steamers and boats required licensing. Act VI of 1865 included minimum daily wage rates of INR 5 for a man, INR 4 for a woman and INR 3 for a child. Furthermore, in order to maintain the workers, the planters provided government-approved concessions like accommodation, supply of drinking water, medical facilities, fuel-wood, rice, clothing and sometimes a plot of land for a kitchen garden.

After India became independent in 1947, these Acts continued to be an integral part of the employment conditions of the tea plantation workers in the two largest tea producing states of the country, Assam and West Bengal. This was further enhanced through the Plantation Labour Act (PLA). The Plantation Act 1951<sup>15</sup> is framed in order to regulate the conditions of work in plantations and provide for welfare of plantation workers. It mandates the plantations to provide among others medical facilities, necessary housing accommodation, recreational facilities, educational facilities, canteens and crèche facilities. This Act applies to tea, coffee, rubber, cinchona or cardamom plantations, being five hectares or more and in which 15 or more persons are employed. Traditionally most plantations provide subsidized food-grains to the workers.<sup>16</sup>

However, the working conditions and living conditions of plantation workers did not improve much. The workers and the labour unions say that the PLA did not lead to adequate improvements in their working conditions, while the plantation owners state that because of the PLA the production costs have increased. This different interpretation indicates the inefficiency of PLA's implementation and its lack of transparency.

The legal requirements under the PLA can be considered as social cost. In 2007, an inter-ministerial committee recommended the sharing of the social cost among three parties: 10% by the state government, 40% by the Central Government and 50% by the plantation owners. The 102<sup>nd</sup> Parliamentary Standing Committee of Commerce endorsed the recommendation in 2012, but it was not accepted by the Assam state government and the central government.<sup>17</sup>

<sup>15</sup> [http://www.teaboard.gov.in/pdf/policy/Plantations%20Labour%20Act\\_amended.pdf](http://www.teaboard.gov.in/pdf/policy/Plantations%20Labour%20Act_amended.pdf)

<sup>16</sup> Brewing Misery: Condition of Working Families in Tea Plantations in West Bengal and Kerala (2015). Centre for Workers' Management: <http://www.laborrights.org/publications/brewing-misery-condition-working-families-tea-plantations-west-bengal-and-kerala> (accessed 9 December 2015).

<sup>17</sup> 'Ashok Lahiri: Relook at tea garden labour. The costs imposed on tea companies by outdated labour laws hamper Indian exports (August 4, 2015), by A.Lahiri, published by Business Standard ([http://www.businessstandard.com/article/opinion/ashok-lahiri-relook-at-tea-garden-labour-115080401732\\_1.html](http://www.businessstandard.com/article/opinion/ashok-lahiri-relook-at-tea-garden-labour-115080401732_1.html)).

## 2.3 Minimum wage rates for tea workers in India

The Minimum Wages Act, 1948 empowers the Central and State Governments to fix and revise the minimum rates of wages to be paid to sweated and informal labourers in scheduled employment.<sup>18</sup> The minimum wage goes beyond guaranteeing bare subsistence and preserving efficiency, as it also provides for education, medical requirements and some level of comfort. However, under this law, wage rates differ across sectors, states, skills, regions and occupations. This means that there is not one uniform minimum wage rate across India and the structure has become overly complicated. Many issues have been reported regarding the implementation and enforcement of minimum wages in India and the Indian government has announced amendments to improve enforcement of the Minimum Wages Act.<sup>19</sup>

On July 29, 2015, the Government of Assam issued the draft notification that the minimum daily wage rate of daily wage workers in tea plantations would become INR 177.19, about 2.38 euro<sup>20</sup>, the same as the general minimum wage in Assam for unskilled workers as per September 1, 2014. Of the 2.38 euro, only 1.93 euro is the cash component of the wage and the remaining 0.45 euro is received in kind.<sup>21</sup> Through prolonged tripartite wage negotiations in February 2015, similar wage agreements were reached for tea plantation workers in the state of West Bengal.

In Tamil Nadu the minimum wage is determined by the minimum wage fixation committees, as the work on the tea plantations is scheduled employment, which falls under the Minimum Wage Act. The minimum daily wage for tea workers in Tamil Nadu is INR 230, which is about 3.09 euro.<sup>22</sup> This shows that the minimum wage for tea workers in both Tamil Nadu and Assam is very low. It is well below the living wage of 195.30 euro a month, approximately 7.5 euro per day, as calculated by the Asia Floor Wage Alliance, based on a 48-hour working week.<sup>23</sup>

It can also be seen that the (minimum) wages in Tamil Nadu, even though they are still too low, are substantially higher than the wages in Assam. The higher wages have attracted thousands of workers from tea plantations in Assam and West Bengal to migrate to Tamil Nadu and Kerala.<sup>24</sup>

## 2.4 Unilever and certification of tea in India

Unilever sources tea from 750,000 small holdings, mostly in Africa and Asia. In 2007, Unilever became the first company that committed to sustainable sourcing on a large scale. They are planning to have 100% of all types of Unilever tea sustainably sourced by 2020. Furthermore,

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<sup>18</sup> 'Report on the Working of the Minimum Wage Act, 1948 for the year 2013' (2015), Government of India, Ministry of Labour and Employment. ([labourbureau.nic.in/MW\\_2013\\_final\\_revised\\_web.pdf](http://labourbureau.nic.in/MW_2013_final_revised_web.pdf))

<sup>19</sup> 'Centre announces new measures, appeals to unions to call off strike' (2015), The Indian Express <http://indianexpress.com/article/business/business-others/centre-announces-new-measures-appeals-to-unions-to-call-off-strike/>)

<sup>20</sup> Exchange rate used as of 31 August 2015. (one Euro = INR 74.5)

<sup>21</sup> [http://www.business-standard.com/article/opinion/ashok-lahiri-relook-at-tea-garden-labour-115080401732\\_1.html](http://www.business-standard.com/article/opinion/ashok-lahiri-relook-at-tea-garden-labour-115080401732_1.html)

<sup>22</sup> INR 230 was the minimum wage for tea workers in Tamil Nadu during this study period. The wages get updated April 1st every year and each state government publishes a notification.

<sup>23</sup> Living Wage versus Minimum Wage (2014), Asia Floor Wage: <http://asia.floorwage.org/living-wage-versus-minimum-wage>

<sup>24</sup> 'Living Conditions of Tea Plantation Workers' (2015), S. K. Bhowmik for the Economic & Political Weekly: [http://dev.epw.in/system/files/pdf/2015\\_50/46-47/Living\\_Conditions\\_of\\_Tea\\_Plantation\\_Workers.pdf](http://dev.epw.in/system/files/pdf/2015_50/46-47/Living_Conditions_of_Tea_Plantation_Workers.pdf)

they aimed at having all their bags of tea 100% certified by Rainforest Alliance (RA) by 2015. It is not clear whether this goal has been achieved, but at least 87% of the Lipton Yellow Label tea bags are RA certified worldwide and 100% in North America.

In partnership with RA, Unilever works with suppliers in 14 countries in Asia and Africa to train smallholder farmers for certification. In 2006, Unilever supported RA in developing certification for sustainable tea, which had a galvanizing effect on other tea manufacturers. RA certified tea accounts for 17% of the global black tea sales.

In 2013, Unilever helped in establishing TRUSTEA, the Indian tea industry logo designed to guarantee the social, economic, agronomic and environmental performance of Indian tea estates, small holders and bought leave factories. Furthermore, in 2013, Unilever and the Sustainable Trade Initiative (IDH) agreed to invest 4 million euro over two years to scale up their sustainability initiatives in Africa, Vietnam and India. In February 2014, Unilever launched Tea 2030 with the *forum for the future* to tackle issues like climate change, water scarcity, competition for land and rapidly changing consumer markets. Tea 2030 will focus on issues like sustainable landscapes, market mechanisms and engaging consumers.<sup>25</sup>

## 2.5 Havukal and Kairbetta tea estates

The two estates this research focussed on, Havukal and Kairbetta tea estates, are located in the Nilgiris in South India. They are both RA certified and produce tea for European buyers, including Unilever. With support of the Tea Board of India, a training centre has been set up in the Nilgiris providing regular training courses on the modern aspects of crop husbandry and tea manufacturing processes for planters with large gardens as well as small growers in the region. Nilgiri tea accounts for about 92 million kg per year, which is about 10% of the total tea production of India. There are approximately 200,000 workers working at the Nilgiris on 66,156 ha of land. Many tea workers are migrants from other districts of Tamil Nadu and states of Jharkhand, Orissa, West Bengal, Assam and Bihar. Migrant workers form about 30% to 50% of the total workforce.<sup>26</sup>

### Havukal Estates

The Havukal plantation seems to be one of the most productive gardens in South India with an average yield of 4031 kg (1832.27 lbs.) of finished tea per hectare per year since 2009. According to the management their tea sells for around 26.81 euro/kg and 85 percent of the tea production is exported. Hence, export provides most of the income for Havukal. Orders come from Germany, Switzerland, the US, the United Kingdom, Poland, Russia and some Middle Eastern countries.<sup>27</sup>

The Havukal estates are RA certified since 2009. According to information provided by the workers and key informants there are about 400 workers in total at the estate. Out of these

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<sup>25</sup> Unilever sustainable tea-leading the industry: <https://www.unilever.com/sustainable-living/the-sustainable-living-plan/reducing-environmental-impact/sustainable-sourcing/sustainable-tea-leading-the-industry/> (accessed 10 September 2015); Rainforest Alliance, our work with Unilever: <http://www.rainforest-alliance.org/about/company-commitments/unilever> (accessed 10 September 2015).

<sup>26</sup> [http://www.indiatea.org/tea\\_growing\\_regions.php](http://www.indiatea.org/tea_growing_regions.php)

<sup>27</sup> <http://www.worldteanews.com/profiles/havukal-tea-garden-kotagiri-india#sthash.cwSbz2dJ.dpuf>

400 workers, there are 250 permanent workers, who mostly live on the estate premises. 150 temporary workers live in nearby colonies and commute through bus transportation provided by the estate. There are about 100 migrant workers belonging to both permanent and temporary categories. All migrant workers live on the estate with their families.

### **Kairbetta Estates**

Kairbetta Estates is one of the premium tea producers in the country. Already in the early 1920s, when Colonel G.A.R. Spain looked after the property, Kairbetta Estates was one of the first in implementing certain modern agricultural practices, management systems and welfare programs that are still widely used in the industry.<sup>28</sup>

Kairbetta Estates was the first RA certified tea plantation in India. Since 2008 Kairbetta Estates is said to be a pioneer in the field of social, economic and environmental innovation to ensure holistic development of the plantation and its people. As a RA certified plantation they should ensure welfare for their workers and their families. According to their website, Kairbetta Estates provide above national industry standard wages, additional extra benefits, and improved access to dignified living conditions, health care and education for the workers' children. They proudly state to also financially support and serve on the executive committee of the Nilgiri Planters Association Polytechnic for Higher Education, provide educational material on sustainable agriculture and environmental conservation along with trained staff to the community primary and middle schools, and provide free primary medical attention and basic medication to all nearby community members at the plantation dispensary.<sup>29</sup>

Both the Havukal and Kairbetta estates are RA certified since 2009. According to information from workers and key informants nearly one third of the combined workforce in these estates are casual labourers. Casualization of the workforce has increased recently particularly among Tamil native workers.

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<sup>28</sup> <http://www.kairbetta.com/>

<sup>29</sup> Ibid.



## Chapter 3: Employment and working conditions

### 3.1 Socio-economic profile of the tea estate workers

This section describes the socio-economic profile of the tea estate workers interviewed individually and of the workers who participated in focus group discussions or small group discussions. It includes information about their age, sex, caste, level of education and income. The socio-economic profile of the workers was found to be similar in both the estates.

#### Workers interviews

Most of the 40 workers interviewed were in the age group of 41-50 (45%). The other workers were between 31-40 years old (15%), 51-60 years (23%), or 60 years and above (13%). **Table 2** presents an overview of the data. These data indicate that the majority of the sample in this study is between 41 and 60 years old and very few interviewed workers are younger than 30 years. This is in line with the composition of the workforce of the two estates, where most workers are older than 40 years. There are only a few workers under 20 years old at the estate. The majority of the worker's children have migrated to nearby cities, like Coimbatore, for higher education and better job opportunities.

**Table 2: Age of interviewed workers**

Age group in years	20-30 years	31-40 years	41-50 years	51-60 years	60 ≤ years	Total
No. of workers	2	6	18	9	5	40
Percentage	4%	15%	45%	23%	13%	100%

Most workers belong to the lower castes of society. 80% (32 workers) of the estate workers belong to scheduled castes ('Dalits'). 10% (4 workers) of them belong to backward castes and 10% (4 workers) of the respondents are migrants who originate from Jharkhand. The workers from Jharkhand mostly belong to tribal communities.

About the same number of male workers (21) as female workers (19) were interviewed. In general, more women than men are found to be working at the tea estates. Gender division of labour is prominent in tea estates, as women are employed in unskilled jobs and mostly work as tea pickers. You will rarely find women employed as supervisors in these tea estates. The fact that we wanted the sample to include locals and migrants, permanent and temporary workers, supervisors and chemical applicators, led to an equal amount of male and female workers in the sample.

Except for three male workers – a watchman, a supervisor and a factory worker – all interviewed workers are farm workers. Women are mostly engaged in tea harvesting jobs and men in chemical application or tea pruning jobs.

Regarding the education of the tea workers, 33% (13) of the respondents never went to school, 35% (14) of the respondents have completed their primary education, 27% (11) of the respondents have completed secondary education and 5% (2) of them have completed higher

secondary and diploma education<sup>30</sup>. Generally, the level of education of the workers is low and a substantial number of workers in tea estates is illiterate. All the children of the respondents in the age group of 5–15 years were found to be studying. It is a general trend that the children of native Tamil tea garden workers do not want to work in the garden. From the individual interviews it appeared that the worker’s children of 15 years or older were completing higher education and/or were working in cities like Coimbatore. They mostly study diploma courses, like nursing and mechanical engineering, and they immediately find a job in big cities. Some of them are studying degree courses in colleges located outside Kotagiri. It is a notable trend that the younger generation mostly follows higher education and aspires a job in the city.

With regard to wage income, 23% of the respondents earn 699 euro in a year or less. The majority, 45% of the respondents, indicated that they earn 839 euro a year. Another 18% of them, mostly male workers involved in supervision and watchmen jobs, earn between 839 euro and 1666 euro a year. Some of the respondents (12%) did not share information about their income.

### Focus group discussions (FGD)

The respondents who participated in the focus group discussions were from local communities living in the surrounding areas of the two estates. **Table 3** provides an overview of the age of the workers that participated in the FGDs. The majority of the workers were found to be in the age group of 31-40 years<sup>31</sup>. Almost 60% of the respondents who participated in the focus group discussions were women. Most of these female workers were tea pickers and a few were factory workers. The male respondents (40%) were found to be working as factory workers, chemical sprayers and supervisors. The study covered migrant workers, permanent workers and temporary workers through these FGD. **Table 4** gives an overview of the tasks that the workers perform at the estates.

**Table 3: Age of workers who participated in the focus group discussions**

Age group in years	20-30 years	31-40 years	41-50 years	51-60 years	Total
Number of workers	14 (18.7%)	35 (46.7%)	22 (29.3%)	4 (5.3%)	75 (100.0%)

**Table 4: Occupation of workers who participated in the focus group discussions**

Occupation of Workers	No. of respondents	% respondents
Pesticide sprayers	6	8
Factory worker	25	33
Picking	38	51
Supervisors	6	8
<b>Total</b>	<b>75</b>	<b>100</b>

<sup>30</sup> Diploma is a one/two-year job oriented course like automobile engineering, electronics and communication etc.

<sup>31</sup> The focus group discussions were conducted with communities living outside the estates. Thus, these participants are mostly engaged in temporary work. Most of them are second or third generation tea workers or migrant workers, which is the reason why they fall under a younger age group.

The information described in the following sections derived from the individual interviews as well as the focus group discussions.

### **3.2 Casualization and unequal benefits for casual workers at Havukal and Kairbetta tea estates**

According to information provided by the interviewed workers in 2015, nearly one third of the total workforce in Havukal and Kairbetta estates are temporary/casual workers. Although exact figures are not available, the casualization of the workforce particularly among local workers has increased quite significantly in recent years.

Most of the casual workers are migrants or retired permanent workers. There are two reasons for the casualization in this region. Firstly, the native Tamil workers have better job opportunities with higher wages in construction work and on smaller tea farms in the area. Wages at the Havukal and Kairbetta tea estates are around 3.09 euro a day, but Tamil workers can earn around 6.32 euro a day in construction work, or they can earn 6.18 euro a day (by working two shifts of 6 hours that pay 3.09 euro) on smaller tea farms in the area. However, the construction work and the work on small farms is only occasionally available for them, which is why the native Tamil workers also work as casual workers at the Havukal and Kairbetta tea estates. Secondly, the younger generation of native Tamils do not want to work on the tea estates, which causes labour scarcity. Tea estate owners are therefore increasingly dependent on migrant workers to come and work as casual workers at their tea plantations. Due to the increased labour scarcity at the tea estates, migrant workers from Assam where the wages are even lower (1.55 euro a day) and working conditions are harsher - come to work at the tea estates in Nilgiris, like Havukal and Kairbetta estates. They work as casual workers, as they want to go back home during holidays and low season. Permanent workers do not have the flexibility to leave the estates for longer periods of time.

Most of the migrant workers (65%) joined the estate on their own. 16% of them have joined through friends, relatives, neighbours, family members, or found the job opportunity in the paper. Only one migrant worker has joined through a broker. It has been identified during focus group discussions at Havukal estate that these migrant workers who had worked for a number of years bring their family members and relatives from their village to work in these estates. They do not depend on brokers for joining the estate.

From the field research it appears that it takes a minimum of 2-3 years for tea estates to provide the workers a permanent status, which is in violation of the contract labour law. Previously, it was even more difficult to attain a permanent status, as it took about 8 years or more to become a permanent worker. The study reveals that 50% of the workers feel that hard work is the primary qualification for employment in tea estates. Also, they feel that hard work alone could provide them a permanent status in the tea estate.

**Daya (36) and her husband Kannappan (42): Two casual workers in the tea industry**

*Daya and Kannappan live at Kotagiri with their two children, a son and a daughter, and the younger brother of Kannappan.*

*Both Daya and Kannappan are not permanently employed in a specific tea plantation, agriculture farm or a factory. 'We work whenever a job is available and we manage to get employment for twenty days in a month. Since wages are higher for skilled native Tamil workers in other jobs in this area, we want to avoid getting stuck to one job as permanent worker at a tea estate, while we could earn more somewhere else.'*

*At some of the agriculture farms, they work an hour (8am – 9am) for 0.71 euro or two hours (7am – 9am) for 1.42 euro, as required by the farm. At the construction site, the wage for working eight hours a day is 5 euro, whereas in tea estates for eight hours work they are paid 2.84 euro per day and at agriculture farms it is 3.55 euro per day. Hence they get paid more than the permanent workers in the tea plantation and the factory. Therefore, they do not want to work in one tea plantation or factory. 'If we would work in the tea plantation or factory, we would not have the freedom to take leave or shift to another factory or farm.'*

*They are skilled in all the tasks to be done in the factory, like recognizing "A", "A+" and "B" quality tea leaves and separating them or separating the big and small particles of processed tea dust, and they work effectively.*

**Kavitha (28): Migrant worker from West Bengal**

*Kavitha lives in Kotagiri with her husband and three daughters, a twin of 4 years old and a baby girl. They live together with her husband's late brother's family. Seven years ago, they came to Kotagiri with the support of her husband's brother. She doesn't work now, as she has to look after her youngest daughter, but once she is one year old, she will continue to work again.*

*While living in West Bengal she didn't work. In Bengal, wages were low and it was difficult for them to maintain a family, which is why they decided to move to Kotagiri with her husband's brother. She feels that this was a good decision. There were seven other families from West Bengal living in Kotagiri. All of them were working in the factory. They work in a tea factory and working hours are from morning 8.30am to evening 4.30pm. With an hour break they are paid at 3.17 euro per day. If required they work overtime also. For an hour of overtime they are paid 0.24 euro and they work overtime as required for three to five hours in a day. While joining the factory they were taught all the tasks to be done in the factory, like recognizing "A", "A+" and "B" quality tea leaves and separating them or separating the big and small particles of processed tea dust, and they work effectively.*

**Unequal benefits for casual workers at Havukal and Kairbetta tea estates**

The SOMO-ICN 2009/2010 study report explained that estate owners prefer casual workers, because casual workers are not given social benefits like provident fund, medical care, leave

benefits, annual bonus, festival bonus and others.<sup>32</sup> According to the Plantation Act, 1951, all workers, whether temporary or permanent, should be treated equally. However, a lack of enforcement by government authorities of provisions of this act has given the estate management the chance to deny their workers the benefits they are entitled to. The workers themselves are not aware of their rights mentioned in the local laws. In this study it has been found that permanent workers still receive more benefits than temporary/casual workers.

The permanent workers at both Havukal and Kairbetta tea estates are entitled to several benefits. As permanent workers they receive provident fund, leave benefits, festival advance, employees' state insurance benefits and crèche facilities. The benefits at Havukal estate are better than at Kairbetta estate, as they include provisions like medical facilities at their own hospital, referral to and payment of medical care at the private hospital at Kotagiri, educational scholarships and educational loans for their children's higher education. All these benefits are not provided to the temporary workers. Furthermore, the permanent workers receive housing within the estates, subsidized food grains and they also receive an annual bonus dependent on the number of days worked in a year; 141 euro for 300 working days or more, 106 euro for 250 days and 70 euro for 200 days. Further, they can get an interest free advance up to 281 euro from the tea estate management. If they need higher amounts the management also assist them in getting a loan with a normal interest rate of 12% to 15% per annum from commercial banks.

Apart from the above benefits, one quarter of the respondents has reported additional benefits for permanent workers, like "accidental insurance, the possibility to work as temporary labourer after retirement, ambulance and first aid facilities, drinking water and toilet facilities at their homestead and support for health problems". In terms of providing these additional benefits to workers Havukal estate performs better than Kairbetta estate.

For medical care at the workplace, there is a dispensary at the estate premises, which is open for all workers. In case of emergencies, the permanent workers are referred to nearby private hospitals, while temporary workers are referred to the government health center. However, Tamil Nadu does have the best governmental medical care facilities of the whole country.<sup>33</sup>

There is a primary school at the estate premises which provides education to the children of all workers, both permanent and temporary. Usually, workers living on the estate premises use the facilities. For estates it is mandatory as per the plantation act to provide at least primary education to children of all workers in the estates. All children can study until class V in the estate schools. The language of instruction is Tamil, which can be difficult for migrant children, as their mother tongue is Hindi and a local language like Odishi or Bengali. Furthermore, the estates provide half of the school fees up to class VIII, but only for the children of permanent workers.

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<sup>32</sup> 'Certified Unilever Tea - Small Cup, Big Difference?' (2011), page 23, S. van der Wal, jointly published by SOMO and ICN (<http://www.indianet.nl/CertifiedUnileverTea.html>).

<sup>33</sup> Tamil Nadu- A Healthcare Paradise (2010), Express Healthcare: <http://archivehealthcare.financialexpress.com/201007/healthcareintamilnadu01.shtml>; In Tamil Nadu's footsteps (2013), The Hindu: <http://www.thehindu.com/news/national/tamil-nadu/in-tamil-nadus-footsteps/article5045284.ece>

Temporary workers do not receive a contribution to the school fees of their children, provident funds, crèche facilities or other social security benefits. Furthermore, temporary workers are not paid leave benefits. Casual workers are legally entitled for one day paid leave for every 20 consecutive days of work.

This non-payment for leave days for temporary workers was found at both tea estates. Though estates pay interest free wage advances to both permanent and temporary workers the amount of advance paid to temporary workers is small compared to permanent workers. Temporary workers get wage advances maximum up to 281 euro from the estate management Banks do not provide any loans to temporary workers.

In both the estates migrant temporary workers are provided housing facilities. The local temporary workers commute every day by trucks or other means of transport from their houses located outside the estate premises. They do not prefer to stay in the estate housing facilities.

We interviewed four temporary migrant workers from Jharkhand who worked for four years on the tea estate, but did not receive most of the benefits the native temporary workers get. This might be due to the on and off seasonal work they do.

### **3.3 Working hours and wages**

#### **Regular work days**

A regular working day for most of the workers in Havukal and Kairbetta estates starts between 7am – 9am and finishes between 4.30pm – 5pm, with a break of 30 to 90 minutes. On such days workers pick 30 kilograms. If they are not able to reach this target regularly, their daily wage can sometimes be deducted with 0.14 to 0.28 euro, depending on the reduced number of kilograms, but this is not a usual practice. Only if the workers continuously pick less than the targeted kilograms for 20 – 26 days in a month, this amount is deducted. However, if a worker picks less than the target kilograms for a few days due to their menstrual cycle or ill health the wages are not deducted.

The wages for the tea workers at both estates are just in line with the required minimum wages fixed by the local government. The legal minimum wage for a daily wage worker in tea estates in Tamil Nadu is INR 230, which is 3.09 euro, and most of the workers are paid 3.09 euro or above per day. Wages differ for different production activities. The daily wage for plucking is 3.09 euro, for chemical application it is 3.52 euro to 4.22 euro, and for pruning it is 3.51 euro to 4.24 euro.

#### **Peak season and overtime**

During peak season, between March and June, more tea leaves grow in the tea bushes and harvesting or picking is usually done by scissors instead of manual picking. The resting time is shortened from one and half hours to 1 hour in total and the closing time is extended to late evening hours. Tea and coffee is provided at the site in the morning and evening without break time.



### **3.4 Payments and advanced payments**

#### **Payment**

At both estates permanent workers are generally paid on a monthly basis and temporary workers on a weekly basis. The majority of the respondents receive their payments in cash. Pay slips are distributed to the workers, which clearly describe the breakup of the payments, like the number of days worked, number of leave days, wage earned, basic and dearness allowance, number of kilograms of tea leaves picked, extra kg of leaves picked, wage earned for extra kilograms of leaves, and deductions like advance, provident fund, electricity bill, festival advance, Cooptex<sup>35</sup> advance etc. The workers have good knowledge about the days they worked, the wage they earn and the deductions made. All these earnings are noted down in a small note book maintained by the worker.

Havukal estate has better management practices compared to Kairbetta estate in terms of payment methods, time and issuance of pay slips. Pay slips are issued by both estates, but advances and deductions are clearly mentioned in the slips provided by Havukal estate. The bank branch is located very far away from the estates and is not easily accessible by the workers. Hence the workers depend on banks only for availing loan facilities.

#### **Advances**

Among the interviewed workers, 70 percent has taken an advance, which is provided once in a year or on the basis of their needs. Estates provide interest free advances up to the maximum amount of 281 euro to both permanent and temporary workers. If permanent workers need higher amounts the management also assist them in getting a loan with a normal interest rate of 12% to 15% per annum from commercial banks.

Temporary workers cannot avail loans from the banks but they can take advances from the estates. The advance taken by the temporary workers has to be repaid in full amount if they want to leave the estate and join in other estates or for other work. Thus, they cannot leave the estate until their advances are fully repaid.

The amount of money provided to temporary workers is usually not more than three to four months of their total salary. Workers can also repay the amount in lump sum if they want. The estate management does not charge interest for the advances provided. In Havukal estate, the advance amount is normally deducted in instalments from the monthly salary as mode of repayment. Whereas in Kairbetta estate, the advance amount is deducted during weekly salary payments.

The workers do not have to depend on advances to meet their daily expenses, but they need it for major expenses like education, marriage, emergencies or building homes. They often avail the educational advance once in a year to pay the private school fees for their children.

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<sup>35</sup> Cooptex relates to cooperative textile stores promoted by the government of Tamil Nadu. The workers can buy clothes, towels, blankets from this stores during festival time by taking a loan from this stores. Later they can repay it from their monthly salary.



## **3.5 Chemical handling practices**

### **3.5.1. Usage of personal protective equipment**

The interviewed workers with knowledge about chemical application methods described that masks and hand gloves had been provided to workers for application of fertilizers and pesticides. They carry the fertilizer bags in their shoulders and apply it at the base of the tea plant. Separate rooms had been provided for handling chemicals in Kairbetta estate.

In Havukal estate, workers who had knowledge about chemicals replied that chemicals are stored in a separate place with a security. The personnel engaged in chemical application are provided with personal protective equipment. Mixing of chemicals is done under the supervision of at least two supervisors. Women are not allowed to mix the chemicals. One female tea picker reported that she was earlier used to work in herbicide application for over 10 years, but now she has stopped doing it because the management is now not allowing any women workers in spraying of pesticides and herbicides. The tea estate owner's association has taken a call to make sure that workers are not affected by chemical spraying and has insisted their members to follow all measures and procedures, like safe chemical handling practises. This seems to be a recent improvement at the estate.

Both the estates have a separate room for storage of chemicals, where the chemicals are mixed. Workers are provided with appropriate personal protective equipment (PPE) like coats, goggles, mask, and gloves. But the workers told that they are not comfortable wearing goggles and mask and prefer using only coats and gloves. The Management did not insist or enforce the workers to wear all PPE. However, the role of management could not be corroborated. The supervisors make sure that the workers wash their body with hot water and soap in a separate place. They keep the clothes used for spraying in a separate place before leaving home. The workers involved in chemical spraying undergo periodical medical check-up and spraying is usually done in areas where there is no harvesting or human activity could be found. Pesticide and growth regulator spraying is sometimes done by machines operated by tractor. Fertilizer application is done by hands without gloves and any other protective equipment.

### **3.5.2. Knowledge of chemical handling practices of migrant workers**

The mixing of chemicals is mostly done by immigrants from north India. The community feels that it is dangerous to them. The illiterate north Indian migrants revealed that they do not know the name of the chemicals, but could only relate to the red triangles, green and blue triangles. The management provides gloves and masks to the workers handling pesticides and trainings are given on chemical handling practices. However, the migrant workers do not always understand the ill effects of the pesticides, as the communication by the management is in Tamil (a language not known to the migrant workers). Due to their illiteracy, migrant workers have been found to be ignorant of chemicals used and any instructions given to them in Tamil. It is a common practice found in this region that migrant workers are employed in most hazardous tasks in these estates which native workers might not be willing to undertake. Hence the migrant workers are more vulnerable to exploitative practices like taking advances, using banned chemicals, no use of personal protective equipment's, no social security benefits due to their temporary status, no help from union activities as they do not understand the local language and use of country liquor during leisure which might affect their health.

***Raju, (52): A pesticide sprayer in Kotagiri***

*Raju lives in Kotagiri with his wife. He has two sons and both of them are married. They belong to Badge, a tribal community.*

*Raju does not work in one estate. He is called to work in different estates when needed for spraying chemicals to the tea plants or any vegetables. If he works for eight hours from morning 9am to evening 5pm he earns 5 euro. He is not employed in a specific estate or agriculture farm, but he gets employment opportunities for twenty days a month maximum.*

*As he is involved in chemical spraying for the last thirty years, he can identify the chemicals and he has good knowledge about its usage. Regarding the types of chemicals used in the tea plantation or agriculture farms, the chemicals used generally are marked with red colour triangles. He doesn't know the name of the chemical, but there is a chemical in powder form in a small packet and a chemical in liquid form. These two chemicals are very harmful and should be kept out of the reach of children. As per the need the chemicals are mixed and used. Some chemicals are used in order to get a good yield ("A" grade tea leaves), and others to control pesticides. Fertilizers are sprayed on the roots of the tea plants in the rainy season only and would be easily absorbed by the roots. Raju does not use any form of safety equipment, like a mask or gloves, when spraying fertilizer or chemicals. He thinks that he knows how to protect himself from chemical spills in other ways, like spraying to the direction of wind flow rather than using personal protective equipment. Also the estates management does not insist on using PPE etc. Neither the factory managers nor the agriculture farm owner have requested him to use the safety equipment's during the work. Since he is doing this work for the last thirty years, he himself takes self-safety measures.*

*After spraying chemicals, he knows that he should not put the fingers in his mouth or should not eat food without washing his hands with soap. Hence he takes a bath after working in the field. Raju knows that the chemicals are very poisonous and if unknowingly consumed by children they can be deadly.*

### **3.6 Forms of worker representation**

There are unions like the Communist Party of India (CPI) affiliated unions, All India Anna Dravida Munnetra Kazhagam (AIADMK) state political party (ruling party affiliated unions) and All India Trade Union Congress (AITUC). These unions do not have complete bargaining power as wages are negotiated by tripartite agreement, which also includes the government. Focus group discussions revealed that there are unions like the INTUC affiliated Nilgiri District Estate Workers Union (NDEWU), which is the dominant union in Nilgiris. Next in line come the Labour Progressive Front (LPF) and the Anna Labour Federation (ATP), both affiliated to the ruling political parties in the State.

Individual interviews revealed that, every year, the management deducts 1.42 euro from each worker's salary as union membership fees or annual subscription. But the workers are not free to choose any union. They have to choose the union supported by the estate management. Some of the workers interviewed did not know under which union their name was registered.

As per interview held with union representatives, at some companies the union supports the workers and fight for their rights. E.g. if they did not get their salary on time or the bonus, it would be looked after by the union. It happens that the estate management is not happy when a worker joins a different union, one that is not supported by the management.

At both estates, workers mostly remember the name of the unions they are associated with – for instance Indian National Trade Union Congress (INTUC) – and having paid annual subscription. However, they could not remember any notable activities taken by the trade union in their respective estates. Hence it should be noted that unions are not familiar with the workers and had not contributed in improving their working and living conditions to a great extent. The presence of a union could not be felt among the workers. Hence many changes could not be observed in relation to the previous study period in terms of freedom of association or union activities and worker's recognition of unions at both the estates.

### **3.6. Conclusion**

We can summarize the findings on the Havukal and Kairbetta tea estates concerning non-compliances related to casualization, unequal benefits, working hours and overtime payment chemical handling practices and worker representation, as follows:

Nearly one third of the total workforce in the sample estates consists of casual workers. The casualization of labour on the two estates has two causes: native Tamil workers often prefer to work temporarily, as they occasionally have other job opportunities with higher wages in construction work and other agricultural activities in the area, and, due to increasing labour scarcity, migrant workers from Assam (where wages are even lower) come to work in Tamil Nadu as casual workers so that they are free to leave during holidays and the low season.

As in the 2009-2010 study, there still are unequal benefits for casual workers. In short, permanent workers receive many benefits, like provident fund, leave benefits, festival bonus, employees' state insurance benefits, crèche facilities, housing within the estates, materials for painting of houses every year, food grains in subsidy, medical facilities, educational facilities, employee state insurance benefits, annual bonuses, a contribution to the school fees of their children and they can get an advance of maximum 281 euro from the tea estate and a bank loan facility for higher amounts.

The temporary workers are entitled to housing facilities, education facilities and medical facilities. However, they do not receive a contribution to the school fees of their children, provident funds, leave benefits, crèche facilities or other social security benefits. Though estates pay interest free wage advances to both permanent and temporary workers, the amount of advance paid to temporary workers is small compared to permanent workers. Temporary workers get wage advances maximum up to 281 euro from the estate management. Banks do not provide any loans to temporary workers.

The wages paid to the tea workers at Havukal and Kairbetta estates are at par with the legal minimum wage (for tea plucking) or higher (for other production activities like applying fertilizers and pesticides). However, when working overtime, workers are often paid the fixed daily wage and receive a piece rate pay per extra kg above the target, instead of estates paying

the legally required hourly wage for overtime (with a required minimum of 0.77 euro per hour). The overtime compensation is therefore a potential violation of Tamil state law. Furthermore, during peak season, half of the workers reported to work more than 10 hours a day for 6 days a week. These hours of overtime are also in violation with legal requirements, as they exceed the permitted 6 hours of overtime a week and one hour overtime a day. Additionally, in exceptional cases, wages are deducted with 0.14 to 0.28 euro when workers do not meet the daily target of 30 kg for multiple days in a row.

Both the estates have the practice of providing advance payments to the workers once in a year. Advances are generally taken by workers to meet educational expenses, marriage, building or renovating houses and meeting emergencies. Although the estate management provides advances, they have a certain limit for providing the advance. Only advances up to 281 euro are provided by the management to both temporary and permanent workers without interest and repayments are normally deducted from their monthly or weekly salaries. Workers can also choose to repay the amount in lump sum. The advance taken by these temporary workers has to be repaid in full amount if they want to leave the estate and join in other estates or for other work. Thus, the workers feel they cannot leave the estate until their advances are fully repaid. This might be a form of bonded labour, which is in violation with the ILO Forced Labour Convention and the Indian Constitution.<sup>36</sup>

Most of the workers, in particular the migrant workers, involved in chemical handling are not aware about banned chemicals and what kind of chemicals are being used in the plantations. Only few workers are aware of the personal protective equipment being used in the estates. However, it could be noticed that at both the estates, chemical handling procedures had been setup right from storage of chemical – storage area, mixing of chemicals, provision of personal protective equipment for application of chemicals. However, the practice of using personal protective equipment of workers could not be found among all chemical sprayers as it was not seen as comfortable practice rather than safety precaution among the workers. Workers generally use PPEs like coats and gloves but they are not comfortable with wearing goggles and masks. Due to their illiteracy or different language, migrant workers are ignorant of chemicals used and any instructions given to them.

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<sup>36</sup> Bonded Labour in India: Its Incidence and Pattern (2005), International Labour Organization, ISBN 92-2-117322-4

## Chapter 4: Comparison of the present study with study findings 2009-10 and the SAN criteria

### 4.1 Casualization and unequal benefits for casual and permanent workers

According to the SAN criteria of Rainforest Alliance (RA), RA certified estates should not avoid the direct hiring of workers and the thereby associated obligations with labour contracts. The RA farms must also offer equal pay, training, promotion opportunities and benefits to all workers for the same type of work. Furthermore, workers must receive a wage that is equal or higher than the regional average or the legally established minimum wage.

Regarding overtime, overtime hours must be paid at a higher rate than normal working hours. During peak season, there can be an exception period during which the maximum 60 hours per week can be exceeded, but workers must get at least one day off (24 consecutive hours) for every six consecutive days worked and the average hours per week must not exceed 60 hours during a period of eight weeks at the beginning of the exception period.<sup>37</sup>

#### 4.1.1 Improvements in comparison with the 2009-2010 study

In the SOMO-ICN 2009/2010 study it was found that the workers were deprived of a large amount in wage related benefits by manipulating the very basis of the minimum wage calculation. Statutory benefits, such as provident fund or gratuity, were illegally calculated on the basis of a part of the wage and not the full wage. This has improved, as none of the workers or union members interviewed in 2015 study reported this issue. We found that the legal minimum wage is paid and is correctly calculated. Workers are now paid minimum wage as noticed from the pay slips displayed and information collected during focus group discussion and from individual interviews.

In the 2009-10 study it was also reported that among the casual workers there were weekly-paid local non-resident workers who received no benefits at all and monthly-paid (migrant) workers living on the estates who received all benefits permanent workers get, except pension and gratuity. The situation has changed and actually improved a bit. We found that at least basic medical care and basic educational facilities are now provided to every worker.

#### 4.1.2 Improvements still needed to comply with legislation and SAN standards

The casualization of labour has accelerated over the years particularly among Tamil native workers and is problematic. It takes a minimum of 2-3 years for tea estates to provide the workers a permanent status, which is in violation with the contract labour law. As in the 2009-2010 study, casual workers receive meagre benefits compared to permanent workers. In short, the temporary workers have access to housing facilities, education facilities and medical facilities. However, as opposed to permanent workers, they do not receive a contribution to the school fees of their children, provident funds, leave benefits, crèche facilities or other social security benefits. The amount of wage advances paid to temporary workers is small compared to permanent workers. Banks do not provide any loans to temporary workers.

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<sup>37</sup> SAN Standard version 4 (2010), the Sustainable Agriculture Network. Retrieved from: <http://www.san.ag/biblioteca/documento.php?id=162>

As per the Plantation Act, 1951, there should be no marked difference between a permanent worker and a temporary worker. Hence the management has to implement the legislation and provide mandatory benefits as per law to all workers. It should not discriminate workers in terms of permanent and temporary workers in providing benefits.

The issues found regarding overtime working hours, workload, and overtime compensation are not in compliance with the legal requirements found in the Minimum Wage Act, 1948 or in the SAN criteria. Half of the tea workers reported to work for over 10 hours a day, 6 days a week during peak harvest season, which is in violation with legal requirements. The workload has not changed, which means that women workers still run the same risk of getting injured or sick. Overtime wages are often calculated per piece rate instead of the legally required hourly wage, with a required minimum of 0.77 euro per hour, as per the latest Minimum wages notification.

## **4.2 The use of personal protection equipment**

According to the SAN Criterion, all the workers in RA certified farms who come in contact with agrochemicals, including those who clean or wash clothes or equipment that has been exposed to agrochemicals, must undergo training and use personal protection equipment (PPE). RA certified farms must provide this equipment in good condition, and must provide incentives to workers to use the equipment. As per the SAN criteria, RA certified farms must have showers and changing rooms for all persons that apply or come in contact with agrochemicals. Also the clothes worn while applying agrochemicals must never be washed in the workers' homes. There must be a designated area near the changing rooms for washing application clothing. The spraying of agrochemicals should be carried out by only male trained workers between 18 to 60 years.

### **4.2.1. Improvements in comparison with the 2009-2010 study**

In the 2009-10 study, the involvement of women and adolescents was observed in spraying pesticides in some of the estates in the Nilgiris. It was also noted that masks, gloves and other safety gear were not used at any garden in the Nilgiris, except for one estate. This situation has somewhat improved now. The involvement of women and adolescents is not observed in the Havukal or Kairbetta estates. One female tea picker reported that she was earlier used to work in herbicide application for over 10 years, but now she has stopped doing it because the management is now not allowing any women workers in spraying of pesticides and herbicides. Both estates have taken steps to provide personal protective equipments like masks, safety gears, gloves to the workers for handling pesticides. However, not all workers are comfortable in using the complete personal protective equipment provided. They do not have awareness about the problems related to exposure to pesticides. Medical check-ups are done for workers at both the estates.

In the previous study it was also observed that, after handling pesticides, workers either wash their clothes at home or in the nearby streams and rivers. In the visited divisions of the estates in the Nilgiris, change rooms were available, but not used. The situation has now improved in both estates. None of the workers interviewed in 2015 reported the washing of clothes after pesticide spraying in the nearby streams or at home. Separate wash rooms are available at

both the estates. The workers are asked to take a bath in these rooms after work. Chemicals are washed in separate places. The workers can leave the clothes used for spraying at these wash rooms for separate washing.

#### **4.2.2 Improvements still needed to comply with legislation and SAN standards**

Both the SAN criteria as well as Indian law related to the handling of agrochemicals clearly stipulates that the persons involved in the handling of chemicals must undergo proper training on safe handling of chemicals and use appropriate PPE while applying them. It is the responsibility of the employer to provide their workers with required PPEs and training for chemical handling procedures. Though there is some improvement compared to 2009-10, this is one area where there still remains room for a lot of improvement. The use of PPE is still very inadequate.

Several workers interviewed reported that they feel uncomfortable in using the complete personal protective equipment provided by the estate. They are comfortable in wearing gloves and a full coat, but due to discomfort they avoid wearing glasses and masks. Mixing and spraying of chemicals is done mostly by migrant workers from North India. These illiterate migrant workers do not have clear awareness about the problems of exposure to pesticides and chemical handling procedures. They also do not know what kind of pesticides they use. Some of them reported that they sometime use red triangle chemicals but they cannot reveal the name of the chemicals. The trainings on safe handling of chemicals are conducted mostly in the local language and will be of little use to these migrant workers.

#### **4.3 Freedom of association**

As per SAN criteria, workers must have the right to freely organize and voluntarily negotiate their working conditions in a collective manner as established in ILO Conventions 87 and 98.

##### **4.3.1 Improvements in comparison with the 2009-2010 study**

The 2009-10 study identified several problems related to the freedom of association and collective bargaining rights of the workers in the Nilgiri estates. This was largely due to restrictive and selective practices of collective bargaining prevalent in tea estates. While there were different unions in the Nilgiris, negotiations were dominated by the INTUC affiliated Nilgiri District Estate Workers Union (NDEWU), which is the dominant union in the Nilgiris. Next in line come the Labour Progressive Front (LPF) and the Anna Labour Federation (ATP), both affiliated to the ruling political parties in the State. Both the Nilgiris District Workers Union (NEWU) and the Plantation Labour Association (PLA) leaders reported how in tea estates like Glenmorgan and Dunsandle, they were not allowed to do any union work and their members were driven out of the estates. The same story was narrated by the garden level union leaders of PLF and ATP in other tea estates.

Substantial changes could not be observed in relation to the previous study period in terms of freedom of association or union activities. We found that workers pay annual membership fees of 1.42 euro to the union. The management of the tea estate deducts these fees from their salary. At both estates, workers mostly remember the name of the unions they are associated with and to which they pay annual contributions. However, they could not remember any notable activities being done by the trade union in their respective estates. Thus, the trade

unions are not very well known to the workers and had not contributed in improving their living conditions to a great extent. Some workers reported that workers are not free to choose any union, as the estate management would not be happy about workers joining a different union that is not supported by the management.

#### **4.3.2 Improvements still needed to comply with legislation and SAN standards**

As mentioned above, compared to the 2009-10 study, not much has improved in the situation related to the freedom of association and collective bargaining rights of the workers in Havukal and Kairbetta estates. The restrictive and selective practices of collective bargaining observed in 2009-10 continued in 2015 as well. Hindrance to trade unions to carry out their activities violates article 19, the Right to Freedom, under the Indian Constitution. The current situation in the tea estates is not conducive for workers to realize their rights to freely associate with unions of their choice and bargain collectively for their rights. As per the SAN criteria and also Indian law it is the responsibility of the estate management to create an enabling environment for the workers in their estates to freely associate with organizations/ unions of their choice and bargain collectively for their rights.



## Chapter 5: Recommendations

Although the working conditions of the workers on both Havukal and Kairbetta estates have improved somewhat, there are still many areas that are not in line with the SAN criteria and require immediate attention. Based on the findings of this report we can make a number of recommendations to the estate management of Havukal and Kairbetta, and to RA and Unilever:

- The estate management should not discriminate workers based on the status of employment and provide all mandatory benefits as specified in The Plantation Act, 1951 equally to both temporary and permanent workers. All workers should be treated equally.
- The estate management should develop a policy and procedure to deal with freedom of association and collective bargaining in line with SAN criteria and should not restrict its workers to associate with the union of their choice by pressuring them.
- The estate management should look into ways for effective involvement of union/workers committees to promote worker rights, as unions were not familiar with the workers and had not contributed to improving their living conditions to a great extent.
- The estate management should provide training and capacity building for workers on safe chemical handling practices. The workers must be required to use personal protective equipment and awareness training must be given on health and safety risks. Especially for migrant workers it is important to make sure that they fully understand the trainings, as they often do not speak the local Tamil language.
- The calculation of wages (overtime) during peak season period and working hours do not comply with legal requirements in Indian conditions. Hence the estate management should calculate the compensation in line with legal requirements and working hours should be limited during season period.
- RA and Unilever should conduct more due diligence by thoroughly investigating the problem areas identified in this study: unequal benefits for casual workers, overtime wages and working hours, payment and loans, chemical handling practices and worker representation.
- RA and Unilever are advised to require auditors to be more critical of the information they collect in audits, ensure that they are better informed workers, but also non-dominant trade unions and local labour rights NGOs, and to be stricter in interpretation of standards in general.

## Annex I - Discussion

In their response to the findings of this report<sup>38</sup>, RA and SAN explain that their research audits - that took place in May 2016 in response to sharing of the draft report - did not find any non-conformity issues related to *Sustainable Agriculture Standard* critical except non-payment for paid leave days for temporary workers in Kairbetta estate. In this chapter we would like to briefly reflect on their study findings and consider how we best continue our dialogue with RA and SAN to work together towards decent working conditions for agricultural workers in tea plantations.

### Reflecting on findings of the SAN investigation

#### *Casualization*

The percentage of casual workers found by SAN does not differ much from the findings in this study, as SAN found that casual workers account for 25% of the combined workforce of the two estates, compared to the one third of the total workforce mentioned in this report. Our observation regarding increasing casualization of workforce is primarily related to native Tamil estate workers. Even though SAN describes a decrease in the proportion of casual labour among the total workforce between 2013-14 and 2016, our evidence relates to changes from 2009 to 2015 and finds the overall trend of increasing casualization particularly among native Tamil estate workers. Thus, compared to the situation in 2010, we find an increase in casual labour particularly among local workers at both Havukal and Kairbetta tea estates, corresponding with the general trend in the agricultural sector of growing casualization. Furthermore, during peak season many seasonal workers come to work at the tea estates, receiving daily payment, without a contract and without benefits. This temporary additional labour force seems not to be included in the RA figures on casual workers.

#### *Unequal benefits*

The SAN research audit conducted after sharing of this draft report found the non-conformity issue regarding the failure of calculating paid leave days for casual workers at the Kairbetta estate, and the Kairbetta management made the restitution right after the audit. We found this lack of paid leave days for casual workers at both Havukal and Kairbetta estate, as we described the missing of leave benefits for the casual workers in general. Thus, we would like to encourage the Havukal estate to examine the payment of resting days for casual workers and to make restitutions where necessary.

Further, the SAN audit concludes that no evidence was found that the estates discriminated with regards to benefits provided to workers, as it was found that casual workers receive the same pay as permanent workers as well as equal rate of bonus, medical benefits and access to housing facilities. In this report, we also describe that pay, housing facilities, education facilities and medical facilities are the same for casual workers and permanent workers. However, inequalities were found regarding contribution to school fees, leave benefits (as

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<sup>38</sup> Response from SAN and RA (14 June 2016) to the draft report of ICN: <http://www.indianet.nl/pdf/SAN-and-RA-response-to-LIW-report-June-14-2016.pdf>

discussed above), provident fund, gratuity fund, wage advance, and other social security benefits. The general problem remains that casual workers miss out on many important benefits that permanent workers do receive, while the casualization process continues.

### *Overtime and Wages*

The SAN auditors report that not a single worker worked overtime on any day at both estates. However, in this study half of the workers reported (in interviews and in the focus group discussions) to work overtime, 6 days a week for over 10 hours a day during peak season. These hours overtime do not appear in the official estate records, as overtime wage is disguised in incentive payment. The daily wage is fixed, but if the workers pick more than the day target (varied between 35kg and 45kg depending upon season), they get extra pay calculated per kg. The estate records only show the extra kgs plucked, but the overtime is not registered in the records.

### *Advances and Bonded Labour*

The SAN audit states that both estates do not withhold any part of the wages or benefits of the workers in order to prevent them from leaving the estate. They report that at Kairbetta estate 23 workers stopped working without fully paying back their advances. However, in general most workers feel obliged to stay at the same tea estate until their advances are repaid, as was reported by the workers in our study. Further, we found that 70% of the workers has taken an advance and they all feel that this advance has to be repaid in full amount if they want to work for another estate.

### *Freedom of association and worker representation*

The SAN audit claims that workers are free to join a union of their choice and that all permanent workers are member of INTUC, the only active union in Havukal and Kairbetta, who regularly visit the estates to collect grievances. These are, however, very different observations from what we found in this study. We found that workers pay annual membership fees of 1.42 euro to the union, which the management of the tea estate deducts from their salary. At both estates, workers could not remember any notable activities being done by the trade union in their respective estates. Some workers reported that workers are not free to choose any union, as the estate management would not be happy about workers joining a different union that is not supported by the management. These restrictive and selective practices are reported by the workers and should be highly valued by the estates, SAN and RA as feedback on the situation concerning freedom of association in the tea estates.

### *Pesticide safety and training*

SAN and RA, as well as their auditors, question our findings regarding pesticide safety, as they say we did not enter the farm to observe any production practices. However, our research team did enter the estates and were able to make observations of production practices. At the time of our visit there was no pesticide spraying activity at estates. Our observations related to chemical spraying and use of PPE were drawn based on our interviews with workers who were involved in chemical spraying activity. Several workers reported that they feel

uncomfortable in using the complete personal protective equipment, which makes the use of PPE very inadequate.

### *Response to methodology*

SAN moots the difference in methodology as a possible reason for the fact that the findings of their research are so different from ours. They emphasize their multi-faceted approach and cross verification of evidence from different sources and state that interviews alone are insufficient - hinting to our study. We would like to state that except interviews with estate management and verifications estate office records we have followed all other steps in data gathering and cross verification of evidence from different sources. In addition to individual interviews and FGDs with workers the study also relied on other sources of information like review of records available with workers (wage slips, receipts of advance payments etc) and on field observations of production practices during plucking season.

For studies of this nature workers voices are very important: what we found was reported by the workers and should be highly valued by the estates and RA as feedback on the working conditions.

- Perhaps workers voices are not fully reflected in the SAN study: interviews were held with workers at both estates, without presence of farm management and supervisory staff. However, it is not clear from the SAN report whether these interviews were held outside of the workplace and what precautions were taken so that the collected information cannot be linked to particular workers.
- Difficulty of research audits: they are unannounced, but the management will be alerted beforehand (in this case, as they received the draft report of our study). Technically the audits are unannounced, but it is known and the estates anticipate on that.
- The situation is not conducive to conduct the research freely in tea estates. We did not inform estate management about our survey, thinking that it will hamper the quality of our survey and also it requires lot of protocols and procedures, sharing of our work plan, methodology, survey tools etc. We actually contacted some members of the Tea Board located in Nilgiri district, a government body which provide support services to tea estates and discussed our study with them. We requested them to inform the estate management about the study without sharing the details of timing of study and exact locations. But they said it is better if we directly write to the concerned management. So we closed this opportunity.

## Annex II - RA, SAN and Unilever responses to ICN draft report

*May 16, 2016*

Re: Your request for review - follow up study on working conditions in Rainforest Alliance Certified tea plantations supplying to Unilever in Tamil Nadu, India

Dear Mr Oonk,

Thank you very much for sending us a copy of your draft report "Follow up study on working conditions in Rainforest Alliance Certified tea plantations supplying to Unilever in Tamil Nadu, India".

We appreciate your efforts to investigate the situation for workers on tea farms in India. We very much welcome having an open and constructive conversation, hence we are grateful for the opportunity to provide feedback.

While you have addressed your letter to Rainforest Alliance, this letter is coming from both the Sustainable Agriculture Network (SAN) and Rainforest Alliance. Since your previous research in 2009/2010, our certification scheme has evolved, which is important to note so our organizations' actions are placed in this context. The SAN, a fully independent non-profit, owns the Sustainable Agriculture Standard. Farms may use the Rainforest Alliance Certified™ seal after being determined compliant with the standard by one of the independently accredited certification bodies. The SAN manages the day-to-day oversight of the certification system.

With respect to the report, we were pleased to see that it recognizes that the working conditions of the workers on both Havukal and Kairbetta estates have improved since your last research.

Rainforest Alliance and SAN take the issues you describe in the report very seriously. While you note that you may consider using our procedures for complaints and appeals after publishing your report, the SAN decided to immediately start the formal complaint about the two certified plantations through IMO India, the certification body responsible for auditing these estates. IMO India has been investigating the findings of the report, by means of audit reports revisions and through evidence obtained from the farm and on-site visits. A detailed analysis by the SAN of your report has also been feeding into the investigation. The SAN has been working closely with the certification body during the investigation. The results of the investigation have just come in over the weekend, and the SAN needs a few more days to review and summarize the results.

Whereas your report addresses several topics that are out of the scope of the Sustainable Agriculture Standard (SAN Standard), our investigations focus on the areas you describe that are related to the SAN Standard. These include, but are not limited to:

- SAN Standard criterion 1.3 on farm management commitment to certification;
- SAN Standard criterion 5.2 on no discrimination in labor and hiring policies and

procedures;

- SAN Standard criterion 5.5 on worker remuneration;
- SAN Standard criterion 5.10 on forced labor;
- SAN Standard criterion 5.12 on the right to freely organize;
- SAN Standard criterion 6.3 on training for workers that come into contact with agrochemicals;
- SAN Standard criterion 6.13 on using personal protection equipment;

Lastly, we understand the research limitations you describe in the report, but it is quite unfortunate that after the focus group discussions you held with workers outside the estates' premises, there was no effort made to contact the estates' management to discuss your findings, verify documented facts and provide them with an opportunity to comment. SAN audits always include cross verification of evidence via workers interviews, farm documentation reviews, and the observation of farm practices and conditions in the field. Both SAN and RA believe that evidence from these three sources of information provides a better understanding of what are the actual conditions and practices on farms.

If you wish to discuss any of the matters raised in this letter before we get back to you with our investigation findings, please contact Tom Divney, Assurance and Support Director at the Sustainable Agriculture Network ([tdivney@san.ag](mailto:tdivney@san.ag)) or Martine Willems, Manager Sustainable Agriculture Relations at Rainforest Alliance in the Netherlands ([mwillems@ra.org](mailto:mwillems@ra.org)).

Kind regards,

Andre de Freitas Ana Paula Tavares  
Executive Director Executive Vice President  
Sustainable Agriculture Network Rainforest Alliance

See here the full response of SAN and RA of 14 June 2016:

<http://www.indianet.nl/pdf/SAN-and-RA-response-to-LIW-report-june-14-2016.pdf>

## Annex III - Letter by Unilever



23 May, 2016

**India Committee of the Netherlands**

Mr Gerard Oonk  
Director  
Mariaplaats 4e  
3511 LH Utrecht  
The Netherlands

Re: Review of the draft follow up study on working conditions in Rainforest Alliance Certified tea plantations supplying to Unilever in Tamil Nadu.

Dear Mr Oonk,

Thank you for taking the time to write and for giving us the opportunity to comment on the concerns you have raised in your recent study.

We share the concerns you have raised and we are in dialogue with both our suppliers and Rainforest Alliance.

Like you, we recognise that progress in the Indian tea industry is being made but there is more to be done and we are fully engaged with our suppliers and partners such as Rainforest Alliance and [Trustea](#) to improve labour, safety and housing standards.

Through the Unilever Sustainable Agriculture Code (SAC), we aim to drive sustainable development and responsible sourcing practices. In 2015 it was updated and expanded to align with the Unilever Responsible Sourcing Policy (RSP) which embodies our commitment to conduct business with integrity, openness, and respect for universal human rights and core labour principles. We expect all our suppliers to comply with, observe and fulfil the mandatory requirements outlined in the Responsible Sourcing Policy.

Together, the SAC and the RSP are the foundation for doing business with Unilever. You may already be familiar with our views on casualisation of labour, collective bargaining, wages and compensation in our [Human Rights Report](#).

In response to your two direct recommendations related to our partnership with Rainforest Alliance;

We are pleased to hear that Rainforest Alliance are conducting un-scheduled audits of Havukal and Kairbetta estates and await the results of those re-audits.

The Sustainable Agriculture Network (SAN) updated the Sustainable Agriculture Standard in January 2016 as a response to the issues raised in Assam in 2015. We welcomed the change in the Standards especially those relating to housing and sanitation conditions as well as tighter audit procedures on the use of Personal Protective Equipment.

Strengthening the audit protocols and the training of auditors, particularly related to social issues alongside trusted community-based grievance mechanisms, allowing workers to raise issues freely and obtain effective and transparent resolution and remediation, will increase the effectiveness of the audits too.

We believe that Certification plays a pivotal role in establishing capacity building in agricultural supply chains and in working to eradicate bad practices. We continue to support the strengthening of certification models and we have advised Rainforest Alliance on the improvements we expect to see and by when.

We acknowledge that certifications do not in themselves guarantee decent working conditions and we believe that transparency, multi-stakeholder dialogue and cross sector engagement is essential to drive meaningful and sustainable change in tea.

We believe that transparency, multi-stakeholder dialogue and cross sector engagement is essential to drive meaningful and sustainable change in tea.

We encourage you to engage directly with the Havukal and Kairbetta estates to enable an open dialogue of the issues you raise.

From our experience, it is only through open dialogue with all stakeholders, that we can come together to open a new chapter in the transformation of the tea industry in India.

If you need any further information, we would be happy to respond.

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With warm regards

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