

STUDY



Harvesting Hunger Plantation Workers and the Right to Food



Content

Content	2
Imprint	2
Foreword	3
Executive Summary	4
1. How plantation workers are ignored in food security debates	6
1.1 Plantation workers in the global food system	6
1.2 Invisible and ignored	8
2. The right to food and worker's rights violations – an overview	9
2.1 Wages and the right to food	10
2.2 Discrimination and the right to food	11
2.3 Working conditions, social protection and the right to food	12
2.4 The right to organise, criminalization and the right to food	13
3. The Case of tea plantation workers	15
3.1 The global tea sector	15
3.2 Wages and working conditions on tea plantations	16
3.3 Starvation and dying from hunger.	19
3.4 Laws and voluntary codes – failing to ensure the right to food and worker's rights	21
4. Conclusion and recommendations	24
4.1 The need for a human rights based agenda	24
4.2 Recommendations	24
4.2.1 States measures to respect, protect and fulfil plantation workers right to food	24
4.2.2 The right to food of plantation workers on the international agenda	25
4.2.3 A framework for transnational food companies to meet their responsibilities	26
Literature	26

Imprint

Published by:

Bischöfliches Hilfswerk MISEREOR e.V.
Mozartstraße 9
52064 Aachen
Germany
Phone: +49 (0)241 442 0
www.misereor.org

Contact:

Bischöfliches Hilfswerk MISEREOR e.V.
Benjamin.Luig@misereor.de

The International Union of Food, Agricultural, Hotel, Restaurant,
Catering, Tobacco and Allied Workers' Associations (IUF)
Rampe du Pont-Rouge 8
CH-1213 Petit-Lancy
Switzerland
Phone: + 41 22 793 22 33
www.iuf.org
Contact: Sue.Longley@iuf.org

FIAN International
Willy-Brandt-Platz 5
69115 Heidelberg – Germany
Phone: + 49 6221 65300-30
www.fian.org
Contact: Cordova@fian.org

Authors:

Roman Herre
Peter Hurst
Sue Longley
Benjamin Luig

Photo Front Page:

picture alliance / blickwinkel / R. Krawulsky

Graphic Design:

Visuell, Büro für visuelle Kommunikation Aachen

Published: October 2014

Disclaimer:

All opinions expressed in this publication are those of contributing authors and do not necessarily represent the views of the publishers. Contents of this publication may be quoted or reproduced, provided that the source of information is acknowledged. The publishers would like to receive a copy of the document in which this report is used or quoted.



Foreword

➤ That those who produce our food have the least resources to feed themselves and their families is one of the greatest scandals of the 21st century. Yet small scale food producers and agricultural workers make up a major part of the 805 million people globally who are chronically undernourished and suffer hunger throughout the year.

FIAN, IUF and Misereor share a common vision of the human right to food and have come together to focus on a specific group, plantation workers, whose right to food is routinely abused by employers and violated by governments. Many of the food products we take for granted are grown on plantations yet the workers who grow them could never afford to eat them.

They work long hours in challenging climatic conditions, often with little access to health and safety protection, sometimes even without potable water. Their salaries are low, often below poverty levels, their geographical isolation can mean they are dependent on the employers for not just their jobs but for their home, the schools their children attend, medical facilities or transport. Sexual harassment, unequal wages and lack of maternity protection is routine for many women plantation workers.

The challenge of ensuring the human rights of plantation workers, which includes labour rights, has long been recognised by the International Labour Organisation (ILO) which has a substantial body of standards to address the decent work deficits of plantation workers and rural workers more generally. Yet governments often ignore

these international standards and do not enact laws which ensure equal treatment for plantation workers (or enact laws which give plantation workers fewer labour rights than other workers). Employers exploit these lower standards, using them to deny or undermine workers' rights to join and be represented by a trade union thus depriving workers of their main tool to improve their working and living conditions.

This paper provides an overview of the discriminatory working conditions and human rights violations on plantations worldwide where the raw materials are produced for those food companies who control the world's food systems, and increasingly present themselves as champions of the fight against hunger and malnutrition. The paper then outlines ways to strengthen the power of plantation workers, and the trade unions that represent them, and proposes policy steps towards an agenda on rights for plantation workers that would ensure their human right to food. ◀

Flavio Valente
Secretary General,
FIAN International

Ron Oswald
General Secretary
IUF

Msg. Pirmin Spiegel
Director General,
MISEREOR





Executive Summary

► Although specific data on the nutritional situation of plantation workers is sparse, it can be estimated that roughly 200 million agricultural workers are chronically undernourished. Even though they are often integrated in global food chains, plantation workers form part of the larger group of agricultural workers affected by hunger.

Several factors have worsened the situation for plantation workers over the last twenty years: the declining terms of trade for agricultural commodities have led to casualisation and downgrading of working conditions; increased competitive pressure on plantation companies due to concentration of market power among food traders, processors and retailers; the weakening of trade unions; the expansion of the plantation sector in “low value” crops, and – paradoxically – food price inflation over the last years. In addition, plantation workers have been completely ignored by development policy in recent decades.

Miserable working conditions

Chapter 2 provides a broad overview over working conditions on plantations and how they affect the right to food. Poverty and hunger on plantations are not simply an economic problem (the level of wages) but the result of a highly discriminatory form of labour regime that dominates in plantation production. Although the ILO has a set of core principles and although workers’ rights and the right to food are laid down in the International Covenant on Economic, Social and Cultural Rights (ICESCR), they are frequently violated on plantations.

A legal definition of minimum wages and laws for its enforcement exist in many countries where important plantation sectors are located, but minimum wages are rarely met. They are often set according to piece rates. In-kind payments covering the bare necessities such as occupational health care are mostly deducted from the cash wage calculation. Minimum wages are usually out of date and ignore the rapid increase in food prices in recent years. The casualisation of working standards undermines the concept of minimum wages, and thus the stable economic access to adequate food.

Labour regimes on plantations are based upon strict hierarchies between workers, supervisors and management. Certain groups and minorities, women, indigenous workers, migrant workers and low-caste workers face discrimination as well as abusive or insalubrious working conditions.

Agriculture is often excluded from national occupational health and safety regulations or has lower standards, and where laws do cover agriculture they are often not enforced. Many plantations rely heavily on the use of pesticides, but workers are not adequately protected against toxic chem-

icals. Working time is another key gap in the protection of plantation workers, with many of them regularly being subjected to long working hours, often from sunrise to sunset. Housing of plantation workers is characterised by overcrowded installations, deficient sanitary facilities and lack of access to clean drinking water. Labour inspectors are too few, inadequately trained and lack resources. Plantation workers are rarely covered by social security schemes.

Collective bargaining, although it partly exists in the plantation sector, is often difficult due to moments of discrimination. Cases of workers that try to organise themselves in these contexts being murdered, imprisoned, criminalized, or facing intimidation are frequently reported.

The case of the tea sector

The impact of market dynamics on the working conditions of plantation workers and how this in turn leads to a violation of their right to food is examined in detail in the section on the tea sector (chapter 3).

This sector is characterized by the concentration of market power and in particular by a very strong vertical integration, with three companies controlling 80% of global tea trade. Two of these companies (Unilever and Tata) are also the main tea packers and thus cover the most profitable segments of the chain (apart from retail). Sourcing costs for packers and retailers have gone down in the last decades. For producers, downward price pressure of plantation crops, rising oil prices and in some countries the depreciation of the US dollar against their local currencies made the tea business difficult. The big companies stepped out of primary production and have concentrated on the profitable packing stages downstream the chain in the last decade. In India, Hindustan Unilever divested from the plantation business and laid-off 12,000 plantation workers.

Labour costs amount to between half and three quarters of tea production costs, hence wages are immediately under pressure when tea prices go down. A wage comparison of plantations in three important producing countries shows how low wages are in this sector: In Malawi, wages were 50% below the extreme poverty line as defined by the World Bank. In Indonesia, even with in-kind payment calculated in, wages were still under living wages and amounted to only 25% of national average income. In Assam, India, if in-kind payments are not included, incomes are far below the World Bank defined poverty line. Typical violations of workers’ rights on tea plantations in Assam, India and Kericho, Kenya, included denial of health care and subsidised food, inadequate provision of housing and water, and sexual harassment. Wages far below living wag-

es and bad working conditions in turn lead to widespread malnutrition in main tea producing regions. In almost all these regions, the rate of stunted children is above 30%. In tea regions in Sri Lanka and India, stunting rates are far above national average. In Malawi, the stunting rates in the tea regions are about 50%. In Nyanza, Kenya and West Bengal and Assam in India, child mortality rates are significantly above the national average.

However, the most dramatic cases of hunger, and the most scandalous violations of the right to food are taking place in regions and on plantations that had produced tea in the past, but were abandoned, due to the harsh restructuring of the tea sector. A team from the Right to Food and Work campaign of West Bengal visited Bundapani estate in mid-2014. They reported that 29 people had died from starvation. Another plantation, the Red bank tea garden in Darjeeling, was closed in October 2013. Reports in May 2014 said that 32 people died from hunger and hunger related diseases, and describe a disastrous food situation.

The systematic violation of tea plantation workers rights and of their right to food in particular shows that existing instruments to ensure even minimum standards are not enough. National legislation exists in all of the tea producing regions, for instance the Plantation Labour Act (PLA) in India. However, also under the PLA, minimum wages are set far too low and public inspection of compliance to law is undermined by understaffed, inadequate and weak state enforcement. The ILO's Plantation Convention (no. 110) and the Labour Inspection (Agriculture) Convention (no.129) have very limited coverage in the tea sector, accounting for 9% and 13.1 % respectively of world production between 2002 and 2004. The rise of private certification schemes cannot substitute for the gaps of implementation of ILO conventions, as they have so far clearly failed to ensure living wages.

Urgently needed: a rights based agenda

To ensure the human rights of plantation workers, one of the groups most affected by hunger, governments should act on three levels, as pointed out in chapter 4:

First, protect at home the workers' right to food in a larger framework of workers' rights :

- States should assess, in consultation with plantation workers and trade unions, existing legal frameworks, policies, budget allocations and practices relevant for plantation workers
- States should, based on this assessment implement policies that secure workers' rights, including among other points the extension of national labour laws to plantation workers; the freedom of association, the introduction of living wages and a policy on stable employment that ensure plantations cannot



Photo: picture alliance / Tone Koene

be closed on short term without access to compensation and alternative income sources for plantation workers.

- States should put in place administrative, quasi-judicial and judicial mechanisms to provide adequate, effective and prompt remedies
- Investigate and counterbalance monopsonies of buyers in key plantation sectors through competition policy and through appropriate standards of business to business relationships.

Second, all governments should engage internationally to get the rights of plantation workers on the agenda:

- donor governments should -shift their focus from PPPs (Public Private Partnerships) with food corporations to assisting plantation workers and their trade unions.
- States and intergovernmental organisations should work together to agree on a universally agreed methodology to define living wages
- Governments should take up the issue of the right to food of plantation workers in the UN Committee on World Food Security (CFS)
- Human rights based monitoring of plantation workers right to food should be strengthened.
- FAO (Food and Agriculture Organisation) and ILO should assess the role of voluntary codes of conduct and their impact on the human rights of plantation workers.

Third, Governments should further develop the framework that ensures that transnational companies meet their responsibilities:

- Business enterprises must respect human rights; they should conclude international framework agreements (IFAs) with global unions, support government labour inspection and conduct their own due diligence to ensure compliance with ILO standards in the supply chain
- Governments should develop implementation guidelines for human rights due diligence of food companies sourcing from plantations and legally prescribe compliance with these guidelines, including their subsidiaries, suppliers and distribution channels. ◀

1

How plantation workers are ignored in the food security debates

► The global agricultural workforce is estimated to be between 1 billion to 1.3 billion of which 30-40% (i.e. 300-400 million) are ‘waged’ workers.¹ Many of them work on plantations, producing short-rotation crops, vegetables, salad crops, spices, pineapples, cut flowers, cotton, and sugar cane, and tree crops such as bananas, coffee, nuts, rubber, tea, and oil palm. Plantation worker’s jobs and terms and conditions of employment vary tremendously, creating diverse and sometimes overlapping categories: permanent (full-time), temporary/casual or seasonal workers. Rural “jobs” are often difficult to categorise. Lack of accurate data, especially as national employment registration schemes for waged agricultural workers are often weak or absent, hinders efforts to raise the economic and social conditions of these workers.²

- The increasing dominance of transnational corporations (TNCs) and the rapid concentration process in the global food system increase the pressure for concentration and consolidation at the level of agricultural production. In particular large scale land grabs, mostly linked to plantation-type of production models, are on the rise in recent years. This makes plantation workers not only a large group of hungry, but also a group of increasing significance for global food production.

Plantations are usually managed by companies or owners that operate on formal markets and produce for formal value chains. Formalisation and regulation of working conditions through the state are technically much more possible than for example working relations of smallholder farmers in remote areas that hire a small number of casual workers for their peak harvests. Plantation companies as well as powerful food traders, processors and retailers have much more capacity than smallholder farmers to improve the situation of workers in their formalised and integrated value chains.

This paper therefore focuses on plantations, bearing in mind that many of the realities described apply to rural workers as a whole and that many small farmer households today depend on additional seasonal work on plantations.

1.1 Plantation workers in the global food system

Plantations exist since the early colonial era, from the 16th century onwards, when establishment of colonies was motivated both by the search for natural resources and for cheap labour by slaves or indentured workers. In the 17th to the early 20th century, the export-oriented plantation model was the dominant colonial labour regime in particular in Central America, in the West African coastal regions, in parts of Central Africa and in South East Asia.³ In Asia and Africa, in the aftermath of decolonisation in the mid-20th century, plantations were often nationalized and considered by governments to be an important asset for development strategies.



Photo: Bettina Filtner, 2007

Tough working conditions: a sugar cane harvester in Brazil

The situations of workers on plantations depend on many factors, such as the terms of employment and contracting, the crop characteristics and farming practices, the legal and policy institutions, the local context or the role of migrant employment. While it cannot be stated that the situation of plantation workers per-se is worse than that of other rural workers, this paper will focus on plantation workers for two reasons:

- While plantation workers are a major group of people suffering from hunger, the underlying cause, processes and developments have never been addressed in a systematic and human rights-based way. Particularly in recent decades since the 1990s, the existence and the working realities of plantation workers have to a large extent been ignored in policy circles (see 1.2).

¹ Hurst (2007), 23 and 32.

² An overview is provided in: ILO (2003) and FIAN (2014b).

³ Bernstein (2010), 53.

Box 1: Definitions of plantations and plantation workers

The Plantation Convention of the International Labour Organisation (ILO) defines plantations as “any agricultural undertaking regularly employing hired workers which is situated in the tropical or subtropical regions and which is mainly concerned with the cultivation or production for commercial purposes of coffee, tea, sugarcane, rubber, bananas, cocoa, coconuts, groundnuts, cotton, tobacco, fibres (sisal, jute and hemp), citrus, palm oil, cinchona or pineapple.”⁴

The Convention’s Protocol gives States the right to add crops to the list and the possibility to exclude holdings of less than 5 hectares and which employ not more than ten workers at any time during a calendar year from its provisions. The definition, along with the provisions of the ILO Convention, reflect the epoch and agriculture systems current at the time when it was adopted. We therefore stick to a broader definition to ensure that today’s plantation workers outside the tropical and subtropical region and in “new” plantation crops like tomatoes and flowers, are covered and protected:⁵

Plantations

- grow one main crop (sometimes including basic crop rotation),
- require substantive capital investment,
- are larger than average sized holdings (although some land may be left uncultivated),
- rely on hired labour, often including migrant labour,
- are centrally managed

Plantation workers

- Do not own or rent the land they work on and typically do not own the tools and equipment they use.
- Work on every sort of plantation – from highly capitalised and mechanised to manual harvesting
- Work for a wage, whether cash payment, in kind payment or combination. Wages are usually very low, often below the poverty line.
- Work within an ‘employment relationship’ – employer-employee (though often without a formal or written contract) – directly with the plantation owner/company, or through labour contractor or sub-contractors.
- Are hired casually, part time or full time on plantations.

⁴ ILO Plantations Convention 110, 1958.

⁵ Our definition is based on Smalley (2013). For the need of this broader understanding see also Lincoln (2010), 65f.

At the same time, food companies, including many of the traditional colonial plantation companies, started a strategy of “substitutionism.” The food industry divested from plantations and primary production to concentrate on processing and marketing of final food products, distancing itself from its agricultural base. These companies also diversified their sourcing strategies to partly substitute classical crops with industrial materials, such as high-fructose corn syrup or artificial sweeteners (instead of sugarcane), soy and canola oils (instead of palm oils), or synthetic fibres (instead of cotton).⁶ Although this did not reduce the global harvest of plantation production, it made it less “formal” or “visible”, and distanced the food companies from the commodities they used, thus making them appear less responsible for how those commodities were produced in the last three decades, the supermarket revolution, with retailers taking the dominant position as “gatekeepers” between food production and handling on the one hand, and consumers on the other hand, increased the pressure on food processors to further rationalize their production.

Today, we have a food system which is highly concentrated at all levels, where a hand full of transnational seed, bio-tech and agrochemical companies control the global commercial input market, where the international trade of many plantation crops and agricultural commodities in general is controlled by large commodity buyers and wholesalers, and where large food processors and retailers control whole consumer markets. Markets are organised in integrated value chains, where wholesale traders like Cargill (e.g. in the grain trade), food processors like Unilever (e.g. in tea trade) or retailers such as Tesco, Wal-Mart or the Schwartz Group (e.g. in tropical fruits) define how and where the food is produced. The resulting market structures give buyers considerable bargaining strength over their suppliers with potentially severe implications for the welfare both of producers and consumers.

This does not at all mean that plantation agriculture has lost its significance. Rather the opposite. While contract farming has gained importance in the production of high quality fruits and vegetables, organic products, spices, flowers and other commodities over the last decades, large-scale, plantation type investments in “land intensive crops” such as soy, palm-oil or sugar are on the rise, not just for food and fodder production, but increasingly for energy- and material use. Some of the most important plantation companies today are based in the South, such as Sime Darby Bhd, Wilmar, Olam or SLC Agricola. In times of high and volatile food prices, also major traders such as Cargill are increasingly investing in food production directly. In particular since the financial crisis in 2008,

⁶ Wilkinson (2001), 4; and Weis (2007), 102.

land grabbing – mostly for the purpose of plantation type agriculture – has become a global and controversial phenomenon.

Many of the above mentioned factors, the declining terms of trade for agricultural commodities during large parts of the 20th century, the “substitutionism” of food companies, the increased price pressure through retail chains, the expansion of the plantation sector in “low value” crops, are factors that have had negative impacts on wages and working conditions for plantation workers. The

more comprehensive estimates do not exist. So if we stick to this data in the context of the current FAO number of chronically undernourished people (805 million), we can roughly guess that there are about 200 million hungry agricultural workers that would constitute a large share of the 300-400 million agricultural workers. However the exact numbers might be; it is obvious that we talk about a specifically affected social group that constitutes a major part of the hungry.



Photo: picture alliance / blickwinkel / Blinkcatcher

A banana plantation in North Kivu, DR Congo

globalisation of the food system increases the competitive pressure on suppliers, lowers plantation and farm prices, pushing suppliers to lower wages, downgrading other working conditions, and weakening the ability of trade unions to resist this downward trend. At the very end of these value chains are plantation workers. The impact on working and living conditions of plantation workers in the recent decades can be summarized in one word: casualisation. Chapter 2 examines the impact of this casualisation of plantation workers. Despite the value chains they work in being core areas of global food production, plantation workers are one of the groups most strongly affected by malnutrition and hunger.

Specific data on the hunger situation of plantation workers is sparse. The UN Task Force on Hunger estimated that 25 percent of the hungry are rural landless peoples, most of them employed as farm workers.⁷ More recent or

1.2 Invisible and ignored

As a reaction to the deepening global food crisis, a consensus has emerged in the last ten years that massive under-investment in agriculture is a central problem in many regions. In the media, in public debates and conferences of policy-makers and scientists, the key role of food corporations is increasingly debated. Food corporations portray themselves and are portrayed as contributing to development and food security and nutrition by sourcing from smallholder farmers, feeding growing populations in cities, creating jobs by market expansion, even improving diets through food fortification. Instead of regulating food corporations and demanding strict transparency from them about the working conditions along their supply chains, governments instead establish public-private partnerships with the corporations, expecting a direct positive impact on food security from the investments of the food industry.

As many experts have pointed out, many of those social groups most strongly affected by poverty and hunger are paradoxically actors in the food system. Plantation workers and their representatives should be one of the group at the center of current strategies against hunger. In fact, plantation workers are largely invisible to policy-makers and decision-makers in governments, agricultural and rural development agencies, intergovernmental organisations, science and research institutions, agricultural banks and credit institutions as well as many civil society organisations and groups. They are hardly ever mentioned in United Nations documentation outside of the International Labour Organization (ILO). In particular two sets of questions are never asked:

- How can their needs as a major group of the rural poor be adequately identified and programmes developed/ implemented to eradicate their poverty and hunger?
- How can their contributions – actual and potential – to the realization of the right to food, to food safety, sustainable agriculture, rural development, and environmental protection be assessed and strengthened? ◀

⁷ Millennium Project Task Force on Hunger (2004), 46; An additional word of caution must be articulated here. The FAO hunger numbers (concretely the number of undernourished people) are based on the calories requirements of a person with a sedentary lifestyle (e.g. office work). This is not the case for plantation workers who are involved in arduous manual labour.

Right to food and worker's rights violations – an overview

“Not just in Africa, but close to universally, pay, health and safety, training and conditions of service on farms and plantations have been worse on average than in industry in the same locations⁸.” What Peter Gibbon concludes for the plantation sector in Africa holds true globally. Low

companies, outsourcing work i.e. relocating outside of the enterprise the production processes previously carried out in-house. Contractors in turn often use casual and/or migrant labour. Conditions of employment are generally insecure and the labour contractors frequently abuse their

Box 2: The human right to adequate food

► Pursuant to article 11.1 of the ICESCR, States parties recognize “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”. Article 11.2 recognizes “the fundamental right to freedom from hunger and malnutrition”.

The normative content of Article 11 is further clarified through General Comment 12:

“The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.”⁹ ◀

quality jobs are a common feature of the plantation sector. Usually, plantation owners control not only the land but also other assets needed by their workforce. Typically this would be housing, water supplies, electricity, the company shop, credit, schools and health care facilities, transport. Complex interlocking relationships that can involve wages, barter and other types of exchanges between employers and workers can reinforce workers' dependence.¹⁰ For example, many plantations provide lunch for their workers but the quality and nutritional value of the food is often very poor and does not fulfil the right to food demand of being adequate for hard physical work. Production sites in remote areas with lack of infrastructure and public services, markets and transport in combination with low wages mean plantation workers are extremely dependent on their employers.

As a result of the dynamics described in Chapter 1.1, many plantations have drastically reduced their permanent core workforce. Levels of labour protection are being further weakened by agricultural employers, often large

Box 3: International labour standards for plantation workers

► The ILO has a set of core principles covering freedom of association and the right to bargain collectively (Conventions 87 & 98), forced labour (Convention 29 & 105), equal treatment (Conventions 100 & 111) and child labour (Conventions 138 and 182). The principles are contained in Declaration of Fundamental Principles and Rights at Work which all members states of the ILO are expected to respect regardless of if they have ratified the Conventions

In addition the ILO has a significant body of Conventions and Recommendations addressing the decent work deficits of all agricultural workers and one specific convention, Convention 110 adopted in 1958, addressing plantation workers. C110 is a comprehensive Convention reiterating the core principles of the ILO on freedom of association and the right to bargain collectively and then going on to cover wages, housing, medical care, contracts and holidays.

Other relevant Conventions include:

- Convention 11 right of association in agriculture
- Convention 99 minimum wage fixing machinery in agriculture
- Convention 129 labour inspection in agriculture
- Convention 141 rural workers organisations
- Convention 184 on safety and health in agriculture ◀

⁸ Gibbon (2011), 45.

⁹ Committee on Economic, Social & Cultural Rights, General Comment 12, E/C.12/1999/5.

¹⁰ The former UN Special Rapporteur on the right to food is convinced that the relationships between the actors concerned cannot any longer be based solely on their relative bargaining strength. Instead, they must be collaborative, and based on other modes of communication than price signals.” See UN Special Rapporteur on the Right to Food, 5, Paragraph 9.

authority over the workers by asking for commissions, over-charging for transport, housing and food, holding back wages.

Historically, plantation labour regimes were characterised by forced labour. Only in the 19th and 20th century, forms of recruited labour (still under authoritarian supervision, but linked to the payment of wages) and “stabilized labour” (the definition of regulations that ensure minimum standards for plantation workers through newly independent governments) were introduced. Even today, forced and bonded labour, and labour recruitment practices play a crucial role in the relation between plantation workers and plantation companies. In 2007, Brazilian authorities reported that they had “‘liberated’ nearly 6,000 agricultural workers, more than half of whom toiled in sugar cane plantations, from slave-like conditions, which under Brazilian law...[include] debt servitude, forced labour, and a ‘degrading’ work environment.”¹¹

Workers’ rights and human rights are frequently violated in plantations. In this context, it is important to understand that no human right stands on its own. Human rights are interdependent. This was confirmed by the Vienna Declaration and Program of Action in 1993: “All human rights are universal, indivisible and interdependent and interrelated.”¹² This is also the case for the human right to adequate food (hereafter: right to food) and labour rights. Among others, both sets of rights form part of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The right to food is laid down in its Article 11, the labour rights respectively in Articles 6, 7 and 8. Interdependency refers to the fact that the enjoyment of one right (or group of rights) requires enjoyment of others. As we will see below, this means that the full enjoyment of labour rights forms a necessary precondition for the realization of the right to food of plantation workers. Hunger among plantation workers is not simply an economical problem of insufficient wages, but is the result of multiple forms of discrimination and violation of human rights.

2.1 Wages and the right to food

The human right to adequate food entails different dimensions including availability, access, adequacy and sustainability. For plantations workers, access to food is predominantly realized through wages that ensure they can purchase food in the local market. This “economic accessibility” implies that personal or household financial costs associated with the acquisition of food for an adequate diet should be at a level such that the attainment and satisfaction of other basic needs are not threatened or compromised.¹³ Article 7 of the International Convention on Economic, Social and Cultural Rights (ICESCR)

► In 2009, the Plantation Workers Support Group (PWSG) strongly disputed the data of the Government of Malaysia which showed that oil palm harvesters and rubber tappers earned approximately 1,700 RM (500 USD) and 870 RM (257 USD) a month respectively. According to the PWSG, the oil palm workers’ average wage was 700 RM (207 USD), and thus far below the international poverty line as defined by the Worldbank.¹⁴

recognizes “the right of everyone to the enjoyment of just and favourable conditions of work which ensure [...] among others] remuneration which provides all workers, as a minimum, with [...] a decent living for themselves and their families”.

In many countries with significant plantation sectors there are laws defining and specifying minimum wages. However it is widely acknowledged that in the plantation sector these laws are ignored.

First, in fact “in-kind payments”, which usually means the provision of basic necessities such as food rations, healthcare, housing facilities, access to schools, are

► In 2012, research on banana plantations in Cameroon found that half of the 120 workers interviewed were “subsisting on less than half of what they needed”. Debt was a common survival mechanism with 60% of the workers interviewed borrowing money every month and a further 22% borrowing money every two months.¹⁵

included in the wage calculation. In addition, wages are often set low for the purpose to count in addition payment according to piece rates. This is in reality accepted by most governments. Given the lower productivity per head in the

¹¹ LA Times, Human Cost of Brazil’s Biofuels Boom, Los Angeles Times, June 2008.

¹² Vienna Declaration and Program of Action, adopted by the World Conference on Human Rights, 1993.

¹³ Committee on Economic, Social & Cultural Rights, General Comment 12, E/C.12/1999/5.

¹⁴ Mongabay.com: Malaysia Oil palm workers still below poverty line, despite Minister’s statements, 19 /11/2009.

¹⁵ Skalidou / Labouchere (2012).

plantation sector compared to industrial sectors, wage gaps as in Kenya, where registered agricultural workers earn not even 40% of the average wage countrywide, are no exception.¹⁶

Second, the level at which minimum wages are fixed at is mostly outdated. Given the strong food price inflation in recent years, minimum wage levels have no relation to current prices of the food baskets of workers households. Following a visit to Malawi in July 2013, the UN Special Rapporteur on the right to food stated that with the minimum wage currently fixed at Malawian Kwacha (MWK) 371 per day (US\$ 1.12), the country had one of the lowest national minimum wages worldwide. The current estimate for the cost of the food basket of an average family is MWK 1,900 per day.¹⁷

Third, governments tend to calculate minimum wages based on the assumption that at least two family members, father and mother, have an income. In reality this is often not the case. Poor families with many children, and in particular female workers that are single mothers who have to care alone for their children, are not adequately reflected.

Fourth, short term contracts undermine the whole concept of minimum wages. The IUF report on sugar sector workers gives many examples of the problems of short term contracts in countries as diverse as Guyana, Jamaica, Kenya, Malawi, the Philippines, and Mauritius. The

► **In Cameroon, female banana workers earned less than XAF 30,000 (equivalent to £39.33 UK) whereas male workers earn around XAF 40,000 (£52.44 UK). Women workers also reported that if they didn't give sexual favours to supervisory they did not receive their productivity payments.**¹⁸

report concludes that sustainable development is directly dependent on the creation of long term, decent jobs.¹⁹

In numerous cases, low wages force plantation workers to borrow money (often at exorbitantly high rates of interest) to feed their families and send their children to school, building up debts as a result. Non-payment or deferred payment of wages, inappropriate deductions from wage packets and other abusive practices not only deepen their poverty but are abusive practices that violate their right to food.

These cases show that plantation wages often tend to be far below the national minimum wage. This leads to situations where plantation workers cannot afford

sufficient, adequate and nutritious food for themselves and their families. As plantation workers typically do not have the means to feed themselves from productive land, these low wages lead to a violation of the right to food.

2.2 Discrimination and the right to food

The ICESCR states that there should be “equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions

► **More than 80% of Costa Rica's banana plantation workers are migrants from Nicaragua, usually without any written contract. When protesting against bad working conditions and discrimination, they are often denounced to the immigration office by their employers. Within twenty years, their wages are estimated to have been reduced by 40%.**²⁰

of work not inferior to those enjoyed by men, with equal pay for equal work”. Despite this concrete provision in the Covenant and the basic human rights principle of non-discrimination and ILO Conventions No. 111 on Discrimination and ILO Convention No. 100 on Equal Remuneration, many countries don't have legislation on equal treatment and equal remuneration for plantation workers.

To ensure a certain level of discipline in a harsh working environment, a “social distance” between the management of plantations, the supervisors and the workers is created. Most affected groups and minorities, namely women, indigenous workers, migrant workers and lower-caste workers face certain forms of discrimination as well as abusive or insalubrious working conditions.

Women workers often get lower wages than the legal minimum in other sectors, even the legal minimum in their sector and the wage gap between men and women workers in rural areas also remains a key issue.²¹

Lack of maternity protection for women agricultural workers is a problem in many countries due to the casual, temporary or seasonal nature of their employment. The ILO Convention No 183 on Maternity Protection, 2000 applies

¹⁶ Hurst (2007), 40.

¹⁷ UN Special Rapporteur on the Right to Food (2013), 9f.

¹⁸ Skalidou / Labouchere (2012).

¹⁹ Chullen (2008).

²⁰ Misereor (2012), 27.

²¹ ILO Committee for Rural Employment (2008).

to “all employed women” thus including female plantation workers. Under C 183, pregnant and breastfeeding women should be protected from health hazards at work and women are entitled to maternity leave and cash benefits and breastfeeding mothers are entitled to nursing breaks. They are also guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of maternity leave and their employment is not



Photo: picture alliance / dpa

Transport of acacia wood in Quang Nam, Vietnam

to be terminated during pregnancy or maternity leave. Female plantation workers face violence and aggression at work, including physical, mental and sexual harassment. Violence can include systematic or occasional harassment by managers and supervisors, by fellow workers or by clients and members of the public. Sexual harassment instils fear into victims, making them afraid to claim their rights in other areas like wages or hours of work.

Traditionally plantation workers’ trade unions have been male dominated and this has resulted in women workers’ demands not being adequately addressed in collective bargaining. Women remain in the lowest paid jobs, are most likely to be laid-off and are often unaware of or unable to access maternity rights. There has been some progress, many unions now have women’s committees and women are starting to enter leadership positions for instance, but more needs to be done.

Migrants constitute an important part of the plantation workforce in many regions. Whole crop sectors depend on migrant workers. Their access to rights is often significantly reduced by the simple reason that they are even more dependent on their employer than local workers and often have no social or familiar ties in the region where the plantation is located.

The described forms of discrimination can either result in reduced incomes, or in job losses if women or migrants protest against their discrimination. This in turn may lead to a violation of their right to food.

2.3 Working conditions, social protection and the right to food

The ICESCR enshrines in Art. 7 the right to “safe and healthy working conditions”. The ILO has set an appropriate frame in Convention 184 on safety and health in agriculture. Despite these international norms, agriculture is often excluded from coverage under national occupational health and safety regulations, and where laws do cover agriculture they are often not enforced. As a result, agriculture is one of the three most dangerous occupations to work in along with construction and mining, with an estimated minimum of 170,000 fatalities annually.²² Widespread under-reporting of deaths, injuries and occupational diseases in agriculture means that the real health and safety picture for farm workers is likely to be worse than official statistics indicate.

Plantations are major users of chemicals, including pesticides. In many cases workers are not adequately protected against these toxic chemicals which affect the health of workers even more if they are malnourished. Studies show that the health and development of children of cut flower workers who are routinely in contact with highly hazardous pesticides are negatively affected.²³ Some plantation owners want workers to pay for their own protective equipment, further reducing their already limited capacity to afford food. Also, in the absence of adequate social safety nets, health problems or accidents lead to a reduction or complete loss of income. This then results in hunger and malnutrition, further reducing the capacity to recover in case of injuries or sickness.

Closely linked to the question of wages, is the issue of overtime work. Working time has a great impact on workers’ day-to-day lives and general well-being. Working time is one of the main gaps in the protection of agricultural workers, with many of them regularly working long hours, often from sunrise to sunset according to the seasons, weather, crops and livestock.²⁴ Apart from that national laws often exclude agricultural workers from provisions concerning maximum working; which in addition limits their working time for alternative coping strategies (for instance gardening for home consumption).

Because plantation workers and their families live on the plantations, their lives and occupations are inseparable. Housing of agricultural workers is characterised by inadequate and overcrowded installations, no heating, poor ventilation, deficient sanitary facilities and non-potable drinking water, which enhance the spread of communicable diseases such as upper respiratory tract infections, influenza and tuberculosis. Living conditions on

²² ILO (2000), 5.

²³ Del Prado-Lu (2007), 9.

²⁴ ILO (2005).

many farms and plantations remain inhuman, with workers living in tents, plastic shacks or hostels for long periods. Casual workers are rarely provided with housing. Many are migrants who live in shanties near the plantation estates without even the most basic sanitary facilities. Labour authorities often do not have the legal basis for inspecting housing and living conditions or, if regulation exists, the labour inspection visits are infrequent or absent.

► **One third of the interviewed packers at Peru Frut Tropical (a Mango Producer) indicated that they worked “12 hours a day in high season”. Some even said that they had working days “up to 15 hours”. At another Peruvian exporter, Tropical Fruit Trading, some employees pointed out that they “worked up to 15 hours a day”.**²⁵

The single most important obstacle to the enforcement of labour legislation and the reason for the continuing existence of high levels of informal employment is the absence, or weak capacity, of labour inspectorates to monitor employment conditions on plantations²⁶. ILO Convention No. 129 on Labour Inspection in Agriculture (1969) requires governments to establish a system of labour inspection and describes the main functions of labour inspection, including that of playing a proactive role by bringing gaps in protection to the attention of the competent authorities and making proposals as to how to bridge those gaps. However, although some progress has been made on this front in recent years, more political will is needed in this respect: Convention No. 129 has been ratified by significantly fewer States than Convention No. 81 on Labour Inspection in Industry and Commerce (1947).

Even where labour inspectorates exist and are competent to monitor employment in rural areas generally, there are often too few, poorly paid and inadequately trained labour inspectors, who lack transport and basic resources to visit farms and plantations.²⁷

Fewer than 20% of the world's agricultural wage-earners are covered by one or more of the nine contingencies mentioned in ILO Convention No. 102 on Social Security (Minimum Standards) medical care, sickness and maternity benefits, family benefits, unemployment benefits, employment injury, invalidity and survivors' benefits and old-age benefits. In some countries, the general systems

of social security may cover payment mainly in case of sickness and accidents and sometimes include pension schemes. More often, social security arrangements are informal and may be restricted simply to voluntary payments of employers to workers who suffer from temporary or permanent disability for work due to accidents.

As a consequence, accidents at workplace or diseases caused by working conditions remain untreated and leave the workers incapable of working, workers who lose their jobs are immediately left without social protection, and if plantations are closed down due to lack of competitiveness, whole communities of workers may be left behind without any social security or compensation. As pointed out in Chapter 3, this can lead to the most dramatic cases of hunger.

2.4 The right to organise, criminalization and the right to food

Freedom of Association (FoA) is a human right, enshrined in the ICESCR (Art.8) and the ICCPR (Art. 22). It is a key precondition for collective bargaining and organizing, and

► **In Cambodia, a woman was killed by a cane harvester. The family was left with USD 250 payment for the funeral. The sugar cane company explained that they “did not have a work health and safety policy for employees.”**²⁸

► **In Zimbabwe, a one-year-old child died after spending a night on the roadside in the rain because its family was among the farm workers summarily evicted for daring to organise.**²⁹

thus for empowerment of workers to address low wages, lack of adequate social protection and other human and labour rights violations efficiently.

FoA is the right of workers (and employers) to (i) establish and join organisations of their own choosing without previous authorisation – and without being liable to be

²⁵ Oxfam (2013), 9. “In a written response, Peru Frut Tropical denies these allegations while highlighting that extra working hours are done on a voluntary basis at the request of the workers to increase their wages and that the company's practices are in accordance with regulations of the Peruvian Ministry of Labor.”

²⁶ See also for this issue: ITC/ILO (2011), 6.

²⁷ ITC/ILO (2011), 8.

²⁸ ABC Australia, Cambodian woman run over by harvester at ANZ-linked Phnom Penh Sugar development, 28/4/2014. „While in one press report the company explained to “give the family more”, a written reply from the company Phnom Penh Sugar Co. Ltd. did not clarify on this. In the reply the company also highlighted that they are “working on health and safety policies”. The authors would like to note that the woman's death occurred more than 4 years after starting the plantation operations.”

²⁹ See ITUC (2012).

dissolved or suspended by administrative authority; and (ii) establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers. These principles are enshrined in several conventions, namely the ILO Right of Association (Agriculture) Convention, 1921 (No.11); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87); ILO Rural Workers' Organizations Convention, 1975 (No.141).

➤ **“At supplier plantations of Noboa [in Ecuador], 50% of the interviewed workers said they had lost their job at least once because of being absent from work due to illness, refusing to work overtime or being a member of a labour union. Plantation owners continue to oppress the formation of labour unions by dismissing employees and even using physical violence.”³⁰**

Collective bargaining rarely takes place in the agricultural sector. This absence of bargaining is directly linked to the difficulties agricultural workers face in organising, when rural sites are widely scattered.³¹ However, these technical difficulties are much less an issue for plantation workers compared to other agricultural workers; but of course, the nature of their “low-skilled” jobs and the fact that unemployment is high in most rural areas, sets plantation workers generally in a weak bargaining position.

In addition, legal and administrative barriers are often placed in the way of workers wishing to exercise their basic human right to freedom of association by becoming unionised and joining the union of their choice. ILO Con-

➤ **In 2006, Musim Mas, an Indonesian palm-oil company, fired over 700 union members in retaliation for a strike, evicting the workers and 1000 family members from their homes, and expelling their children from school.³²**

vention 11 calls on governments to “secure to all those engaged in agriculture the same rights of association and combination as to industrial workers, and to repeal any statutory or other provisions restricting such rights in the case of those engaged in agriculture” but some countries

still maintain restrictions on the right to unionise. In other countries plantation workers are excluded for labour legislation or have lower standards of protection. Waged workers engaged by labour contractors or subcontractors often face particular difficulties in registering as union members.

➤ **On 21st March 2013 in Mato Grosso state, Brazil, a hired killer entered the office of the Rural Workers Union in Bela Vista Municipality, and shot dead the union’s president, Eugênio Benites, his wife and son. Commenting on the tragic murders, the Secretary of Agrarian Policy of the National Confederation of Agricultural Workers (CONTAG), stated that whilst, “Normally assassination of trade union leaders was not common in Mato Grosso, threats and intimidation by landowners and companies happened very frequently.”³³**

Until today, labour regimes on many plantations still contain elements of feudal relations and of forced labour. Hence, plantation workers, their representatives and trade union leaders – and sometimes their families – that try to organise themselves in these contexts are regularly murdered, imprisoned, criminalized, or regularly face intimidation and death threats. Often, the management of plantation companies creates so called “black lists” collecting the names of organised workers, and use them as control instruments.³⁴

These fundamental violations of human rights are well documented. Reports of the ILO’s Committee on Freedom of Association find that violations of this right in agriculture are frequent ranging from legal restrictions, practical and financial impediments, to physical assaults and the assassination of trade union leaders and officials in rural areas. Similarly, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) regularly examines cases of forced and bonded labour in agriculture.

The lack of collective bargaining for plantation workers is directly related to the low wages that lead to violations of the right to food. In addition struggles for the right to organise often lead to punishments which can affect the right to food as well, for example when basic services or access to nutritious food is denied to workers and their families. ◀

³⁰ Oxfam (2011), 3.

³¹ ILO (2009).

³² World Rainforest Movement (2008).

³³ IUF REL-UITA: “Mato Grosso assassination”, March 2013.

³⁴ See for instance Misereor (2012), 27.

The Case of Tea Plantation Workers

► Right to food violations of plantation workers are not insular cases. To better understand the systemic dimension of the problem we need to take a closer look at the position of plantation workers within the food system. This chapter discusses the case of tea plantation workers. It describes their situation within a plantation sector in crisis, the way their wages are set, and the dimension of right to food violations, they suffer from.

3.1 The Global Tea Sector

Tea is the second most consumed beverage after water, and global production is constantly growing, up to 4.819.000 t in 2013.³⁵ The importance of the tea exports differs among the major producing countries. For the tea giants China and India, the majority of production is consumed domestically. In 2013, China exported 332.000 t out of its 1.85 Mio t harvest, while India exported 209.000 t out of 1.2 Mio t. The situation for the other major producer countries is quite different. With 413.000 t, Kenya is the largest tea exporting country in the world, and tea export earnings account for 35% of total agricultural export revenues, and therefore covers the country's entire food import bill. The situation is similar for Sri Lanka, which exported 318.000t of tea in 2013, amounting to 50% of the agricultural export earnings and covering 60% of food import costs.³⁶

The global export market is quite diversified, with 50% of global tea exports being destined to the Middle East, North Africa and former Soviet Union countries.³⁷ Apart from traditional forms of green and black tea consumption, there is growing consumer demand globally for non-traditional tea products such as lemon-tea, iced-tea or herbal infusions as life-style beverages and "more healthy" alternatives to coffee or soft drinks. According to the American Tea board, roughly 85-90% of US tea imports were destined for ice-tea consumption in 2011. Market analysts in Europe expect tea consumption to rise strongly in the future.³⁸ Beverage giants Coca Cola and PepsiCo have heavily invested in tea brands such as Fuze, Honest Tea and Brisk.³⁹

The global tea sector is characterized by the concentration of market power and in particular by a very strong vertical integration. About 80% of global tea production

is marketed by three multinationals, of which two companies, Unilever (12%) and Tata Global Beverages (4%) also dominate the profitable packaging stage. In addition, these companies are downstream key players at the consumers markets, have a strong influence on transport companies and source a certain amount of their supplies from their own plantations. Germany, where blenders like Teekanne (35%) and Ostfriesische Tee Gesellschaft (25%) dominate the market, is an important site for re-exports of blended tea to other European countries. Out of 55.000 t tea imports, mainly from China, India and Sri Lanka, 47,4% were re-exported.⁴⁰

Unlike for other classical "soft-commodities", there is no stock or futures market for tea. Instead, almost three-quarters of global tea harvest is marketed through



A tea picker in Udapalatha, Sri Lanka

auctions, with the three most important auction centers (Kolkata, India; Colombo, Sri Lanka,; Mombasa, Kenya) being the major references for the world market price.⁴¹ The fact that prices seem to be set at regional level has led some analysts to suggest that individual transnational companies had almost no impact over price setting.⁴² This view has to be questioned. Although multinationals companies depend on brokers when buying at auctions, the strong vertical integration of their product chains gives multinational companies enormous power. According to Van der Wal, there is a consensus among stakeholders in

³⁵ Deutscher Teeverband (2014).

³⁶ Groosman (2011), 9 and Deutscher Teeverband (2014), 11.

³⁷ Groosman (2011), 7.

³⁸ Groosman (2011), 7.

³⁹ Los Angeles Times, "Human Cost of Brazil's Biofuels Boom", June 2008.

⁴⁰ TCC (2010), 12 and 14 as well as Deutscher Teeverband (2014).

⁴¹ TCC (2010).

⁴² Ethical Tea Partnership (2013).



Photo: GEPA – The Fair Trade Company

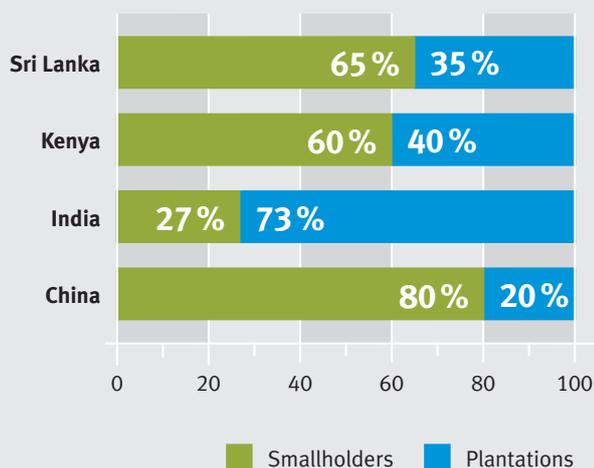
India that there is a “high degree of collusion that prevails in auctions in order to keep the price down.” In individual markets like Indonesia, one packer, Unilever, accounted for more than 70% of Indonesian tea exports. There can be no doubt about the power to strongly influence prices in this market.⁴³ At the same time, specific auction centers seem to be dominated by a few intermediary firms. In Kolkata, for instance, only four brokers are registered (J. Thomas & Co, Carritt Moran & Co, Paramount Tea and Contemporary Target). The first one of these, J. Thomas handles around one third of all tea auctioned in India.⁴⁴ Obviously, the weakest party by far in the auctions is the tea sellers, who are mere price takers. Although countries such as China, India, Indonesia and Kenya are the major primary production regions, the lucrative segments lie

downstream in the value chain, in packing and further processing. Usually only the first steps of primary processing, drying, fermenting or cutting of tea leaves, takes place in processing plants near or on the plantations in the exporting country.

In the late 1990s, the prices for tea leaf dropped remarkably in the major tea regions. This fall of prices combined with rising oil prices led many plantation companies to cut wages and reduce their investments. In particular in Sri Lanka and India, plantations of limited productivity with old bushes and infertile soils were closed or abandoned in the following years. In India, there were more than a hundred cases of abandoned plantations in all major tea regions, leaving tens of thousands of workers in destitution (as further described below). What is remarkable about this tea crisis is that it never reached retail level. The opposite, prices paid by consumers for packaged tea rose steadily through this same period. An independent report commissioned by the Indian government identified “cartelization in the tea industry due to the dominance of big corporations in the tea trade” as one of three major causes of the crisis. At that time, the two tea giants, Hindustan Lever (now Hindustan Unilever) and Tata Tea were vertically integrated operations with vast plantations in West Bengal and Assam. Together, they represented more than 60% of the domestic consumer tea sales in India.⁴⁵ The tea crisis in India deepened, when exactly these two actors stepped out of plantation production and concentrated on the profitable packing and blending stages downstream the chain. In the mid 2000s, Hindustan divested from plantation business and laid off 12.000 workers; Tata tea as well divested strongly and shed 24.000 jobs.⁴⁶ Today, although tea production has increased over the last years and prices remained stable due to even higher increases in demand, there remains a huge gap between wholesale and retail prices in India, and stiff competition still leads to the abandonment or closure of plantations, which is further described below.⁴⁷

Low productivity of plantations, coupled with market liberalization at the same time encouraged smallholder farmers to get into tea production. Today, in several countries smallholder production accounts for a larger share of tea harvest than plantations. The comparison of productivity between plantations and smallholders depends on many factors. While in Kenya, plantations clearly outperform smallholders, in Sri Lanka, smallholders were more productive in 2007.⁴⁸ It is estimated

Figure 1: Ratio of smallholders to plantations in tea production
(Grossmann 2011, 3)



⁴³ Van der Wal (2008), 42.

⁴⁴ Groosman (2011), 4.

⁴⁵ CEC (2007), 84 . and Columbia University Law School (2014), 22.

⁴⁶ Van der Wal (2008), 51. In a written reply, Tata Global Beverages (TGB, then Tata Tea) states that workers became employees of the newly formed plantation companies.

⁴⁷ ONICRA (2014), 5-8.

that out of 13 million workers involved in tea production globally, 9 million are smallholder farmers while 4 million are plantation workers.⁴⁹

3.2. Wages and Working Conditions on Tea Plantations

Similar to other classical tropical commodities, tea work has historically been considered unskilled, remains very labour intensive and therefore tends to pay low wages. Given this, wages are immediately under pressure, when tea prices go down. According to an estimate from 2006, labour costs amount to 55-73% of tea production costs, and three quarter of these costs are costs for tea picking.⁵⁰ Tracing back a tea value chain for the consumer market in the UK for example, where more than 80% of tea is sold in supermarket chains, packers and retailers together captured 86% of the value added per cup of tea, compared to 7% remaining in the producing countries and below 1% remaining with the tea picker.⁵¹

As with other plantation workers, tea pickers are in a dramatically weak position vis-à-vis their employers. In different regions, wages are set in different forms. Fully functioning representation through unions is the exception rather than the norm. In some regions of Assam, India, one recognized Union (Assam Chah Mazdoor Sangha, ACMS) has the union “monopoly”, and has been strongly criticised by workers who feel not represented. In Malawi, the tea employers association TAML sets the wages unilaterally without any union involvement, while in West Java, Indonesia, wages seem to be set from plantation to plantation.⁵²

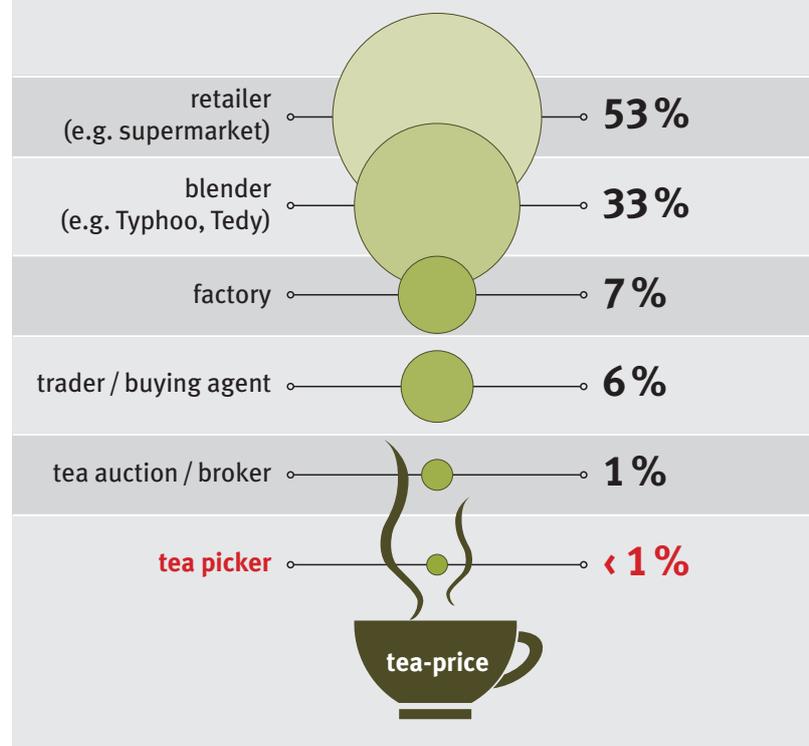
The wage reality of tea workers is mostly not based upon a long term labour contract, but on less stable conditions, characterized by the following elements:

- To a large degree, casual work is the norm in tea production today. SOMO estimates that in the Indian tea sector about 50% of workers are casual. In Malawi, a report from CARER assumes that from 70.000 workers, the majority are temporary and mostly without any contract.⁵³
- Although most of the countries have defined minimum wages, for pickers, cash wages in the tea sector are still typically determined based on piece-rates, i.e. determined by the amount plucked, instead of working time.⁵⁴ Often basic cash wages are set at such a minimum level that in fact the payment is calculated according to harvest.
- Although tea workers are entitled to receive wages in monetary form under national law, “in-kind payments” are a common practice in all major tea producing regions. Thus, statutory and fringe benefits

such as housing, fuel, firewood, or subsidized staple food are given a cash value. According to the Indian minimum wages act this is illegal but it nevertheless is common practice on the Assam tea plantations that deliver to Unilever.⁵⁵ Often the level of the defined minimum wage is too low, as regulations are outdated, in particular given the food price inflation in recent years.

A study by the “sustainable tea initiative” has developed “wage ladders”. Based on extensive desk research and interviews with workers and plantation managers, wages of

Figure 2: Shares of price margins along the tea chain (War on Want 2010)



pickers on several plantations were identified and related to existing minimum wage and poverty line definitions.

At all plantations visited in the three countries, “wages” were only to a limited degree monetary payments based on working time. A large share of wages paid are “productivity payments”, which are only paid to pickers

⁴⁸ Van der Wal (2008), 50.

⁴⁹ Groosman (2011), 12.

⁵⁰ Lines 2006.

⁵¹ War on Want (2010), 5.

⁵² Ethical Tea Partner Ship (2013), 17.

⁵³ CARER (2008), 16.

⁵⁴ Ethical Tea Partner Ship (2013), 13.

⁵⁵ Van der Wal (2011), 29.

when they harvest above a fixed amount of kilograms. In addition, basic facilities such as housing or medical treatment are considered as “in kind-benefits” and are included in wage calculations by employers.⁵⁶ In Malawi, the average piece rate wage of tea pickers over 12 months was found to meet the defined national

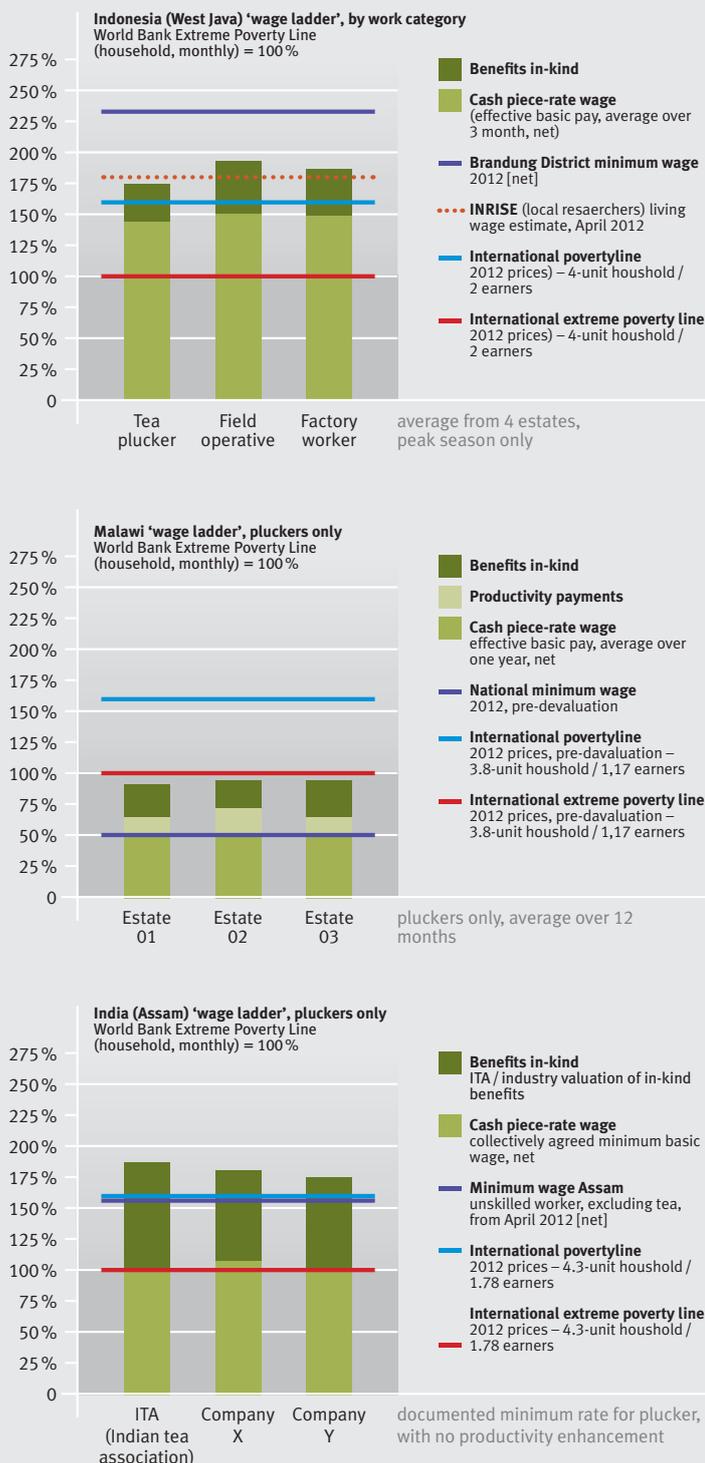
minimum wage. However, this minimum wage constitutes only 50% of the necessary income to pass the international extreme poverty line as defined by the World Bank. Based only on cash payment, not on in-kind payments, tea pickers at the three visited plantations remained below the national poverty line. Given however the high level of poverty in Malawi, tea pickers on the estates earn around 90% of the national average income. This is in line with findings from 2008, that found that the basic wage for timework for all daily rated employees was US\$ 0.72, per day and minimum wage in tea estates was 25 US\$ and maximum was 35.7 US\$ per month.⁵⁷

In Indonesia, wages are only above the international poverty line if “in-kind” payment is calculated in. They are far below a living wage estimate that was defined by local researchers (“Inrise”), and amount to only one-quarter of the national average income. In Assam, India wages are far below the international poverty line, if in-kind “payments are not counted in, although wage data does not include productivity payments. In relative terms, the wages amount to 40% of the Indian average income level. Comparing the results from the three countries, the report concluded that even clearly defined minimum wages at country level are not adequate tools to cover the needs of workers.

Extremely low cash wages supplemented by “social benefits” are one of the enduring legacies of the colonial system, which has defined many aspects of plantation work and life. Workers are entirely dependent on the plantation for their basic needs, and rudimentary government services that are the norm in other regions of the country are usually not accessible for plantation workers. Another colonial hangover is the strict hierarchy between management and staff, and often among different categories of workers. Usually, management and staff do not directly interact, they live in different houses and use different facilities. This hierarchy often is also based on ethnicity or caste.

This colonial heritage of the plantation system partly explains the high degree of bad working conditions and discrimination on plantations. What was explained in chapter 2 is dramatically true for the tea sector. In Assam and West Bengal, workers are often Adivasi, Dalit or descendants of migrants from Nepal. A recent report found problematic working conditions on 17 of the APPL plantations, partly owned by Tata Tea. It found denial of health care and subsidized food for thousands of casual workers and their families. Those workers who sprayed hazardous chemicals wore highly inadequate protective

Figure 3: Wages at tea plantations in Indonesia, Malawi and India
Source: Ethical Tea Partnership (2013), 20



⁵⁶ Ethical Tea Partner Ship (2013), 21f. Field research was only conducted in Malawi and in Indonesia. In India, productivity payments could therefore not be highlighted separately.

⁵⁷ CARER (2008), 24.

clothing, on many plantations protection was nonexistent. Provision of potable water and housing was also found to be inadequate.⁵⁸ It is important to keep in mind here that price pressure is one key factor that hinders plantation companies to ensure adequate standards. One former manager of tea plantations in Kerala, India, stated in 2007,

► In Kenya, at Unilever's first ever Rainforest Alliance certified plantations, in particular the up to 4000 casual workers face harsh working realities. They were found to live in bad housing conditions. They were usually contracted for two months intervals with short breaks in between over years. Several cases of sexual harassment and gender discrimination were reported by workers. Involuntary overtime work was even fixed in written form.⁵⁹

that plantation companies would need to get an auction price of 70 rupees to break even, if provisions of the Indian Plantations Labour Act (PLA) should be implemented. But the auction price at that time stood at 55 rupees.⁶⁰ Even on certified plantations, problematic working conditions were indicated by several researchers.⁶¹

Not only on social terms is the tea plantation production brutal, but it is also unsustainable in environmental terms. In North East India, large areas of biodiverse forests have been replaced by monoculture in the past, and a similar process is still taking place in East Africa. Land clearance at large scale often alters the flow of water and increases soil erosion. As in other monocultures, tea plantations provide perfect conditions for pests. The application of pesticides impacts the local and the wider environment. Finally, tea processing is very energy intensive. Given these issues and keeping in mind the specific character of a plantation as pointed out in Chapter 2, one could imagine that global standards should regulate the tea sector.

3.3 Starvation and dying from hunger

Malnutrition is widespread in the core regions of tea production. This is the direct result of the fact that tea pickers, mostly women, are severely discriminated against such as through dramatic underpayment which results in wages that do not allow them and their families a decent living. The situation has become so perverse that corporations of the tea packing industry themselves are increasingly worried about the productivity of malnourished work-

ers.⁶² According to findings of scientists in Sri Lanka, iron supplementation in the food of tea workers significantly improved the amount of tea picked, in particular of "those subjects suffering from moderate anemia."⁶³ Hunger is a continuum that leads from the instability of access to healthy and culturally adequate food to brutal



Photo: IUF

and visible starvation. In policy circles, there has been an increasing awareness in the last years that under-nutrition is not just caused by a lack of energy intake, but with lack of access to various micronutrients, i.e. vitamins and minerals. To confirm that under-nutrition and right to food violations on tea plantations are not just single exceptions, but are the status quo in many of the core tea producing regions in the world, we take a look on the rate of stunted children under the age of five in these regions (See Figure 4).

Children are stunted if they are not growing enough and are too short for their age due to chronic malnutrition. A stunting prevalence above 25% is an indicator for systemic, wide spread malnutrition. Figure 4 shows the prevalence of stunted children as well as the child mortality (age under 5) in core regions of tea production, i.e. regions that produce more than 100.000 t of tea per annum. The maps show that shockingly, in almost all the core production regions, the rate of stunted children is above 30% percent. In Sri Lanka and in India, these rates in the core tea regions are also far above national average. This does not hold for Kenya, where the eastern and northern regions, dominated by arid and semi-arid land and pastoral communities, have higher levels. In Malawi, the stunting rates in the tea regions are about 50%.

⁵⁸ Columbia University School Law School (2014), 70.

⁵⁹ Van der Wal (2011), 13-20.

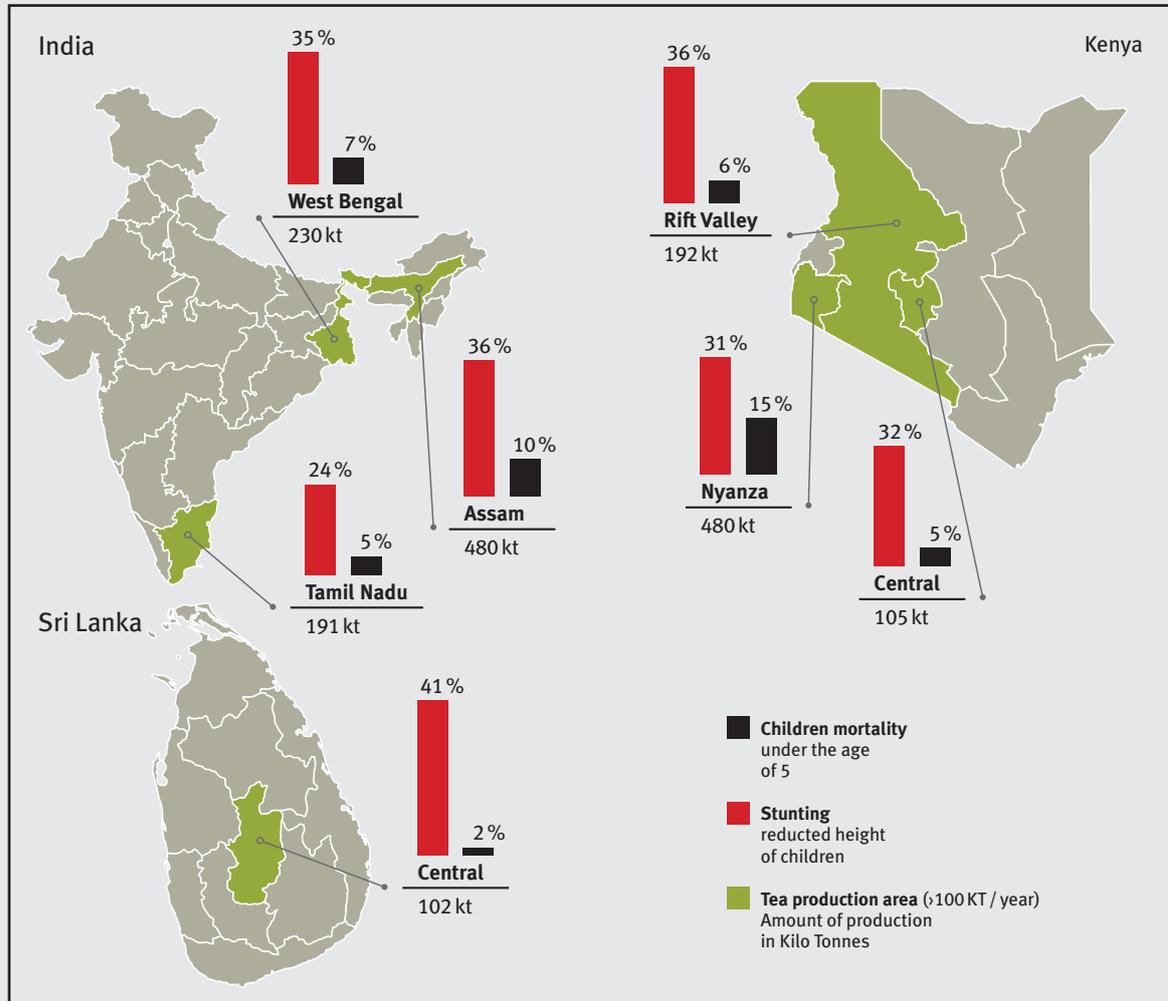
⁶⁰ CEC (2007), 85.

⁶¹ Van der Wal (2011).

⁶² GAIN (2014 b), 4; see also GAIN (2014a).

⁶³ Freeman et al. (2014), 6.

Figure 4: Malnutrition in core regions of tea production in Kenya, India and Sri Lanka (GAIN 2014b)



A second indicator for chronic under-nutrition is the rate of child mortality under the age of 5. Because under-nutrition exposes the body to infectious diseases, as much as 53% of child deaths have to be related to under-nutrition. Worldwide, the average rate of child mortality is around 5.1%.⁶⁴ Again, the core tea producing regions, in particular Nyanza in Kenya and West Bengal and Assam in India, are dramatically above the average.

Chronic malnutrition among tea plantation workers is widespread in different countries. However, the most scandalous violation of the right to food takes place in regions and on plantations that produced tea in the past, but are closed or abandoned, as described above.⁶⁵ In particular in India, many companies divested from their plantations and searched for exit options, out of the low-margin segment of primary production including the giants Tata and Hindustan Unilever, as described above.

In 2004, 21,000 permanent workers were affected by the closure of 22 plantations in Dooars and Darjeeling. An IUF study reported in detail about the situation of malnutrition of workers on 15 reopened plantations. Using WHO criteria for body mass index (BMI), the survey found that workers in the reopened gardens were in the state of “starving communities” or at “critical risk of mortality from starvation.” The report also pointed to severe problems of access to water for the workers families.⁶⁶

⁶⁴ GAIN (2014b), 4.

⁶⁵ In India, many tea producers do not declare the plantations as closed but „conveniently“ abandon them, as the closure is a formal process where companies have to pay their dues to workers, banks and the state governments. A very problematic feature is that companies speculatively reopen the gardens only for peak harvest seasons and then close them again, see CEC (2007), 4f.

⁶⁶ PBKMS/IUF (2005), 20.

The West Bengal executive authorities only took action when instructed to do so by the Supreme Court. In some of the tea gardens, an Operating Managing Committee (OMC), constituted by trade unions, Labour Commissioner and District Administration, continued to run the closed plantation. However, mismanagement through these OMCs has been reported several times. In addition the Indian government set up different funds to support the reopening of gardens.⁶⁷

Workers receive insufficient rations, 5kg of rice, 5kg of flour and 5 kg of pulses per months. People fed themselves from rats and snakes, tea flowers and wild leaves.⁷¹

The case of Bundapani shows that the dramatic crisis in the tea sector has never stopped. Since 2010 it was run by Sarada Pleasure and Adventure Ltd. According to a media report, “Sarada had no experience in tea and allegedly came to make quick bucks ... (it) defaulted on workers provident

► **A report from the Department of Census and Statistics of Sri Lanka revealed that country wide micro nutrient deficiencies such as Vitamin A deficiency, anemia and iodine deficiency disorders were much more prevalent on plantations than in other rural areas. The rate of stunted children on plantations was at 33.8% compared to the rural average of 12.8%. The infant mortality rate on plantations was at 4.75% compared to 1.74% in other rural areas. And the rate of children with low birth weight stood at 20.8% on plantations compared to the rural average of 17.0%.⁶⁸**

► **“29 deaths have taken place after closure since 13th July 2013. Three persons are on death row. They are: A. J., aged 23 years, suffering from malnutrition and barely able to walk. The family has shown him to the National Rural Health Mission clinic being run by an NGO, MANT, for the last one year, but it has not helped. (...) N. S. (aged 60 years) no family, husband has already died. No ration card or any other benefits. Abha Soren, a neighbor, feeds her occasionally – one meal a day. M. G. (23 years) suffering from diabetes according to his widowed mother. No earning member in the family.”⁷²**

One could imagine that such dramatic events could never happen again, with governments and the tea industry ensuring this. But still today, again and again, plantation workers lives are put at risk through the abandonment of tea plantations. Within the last months, starvation has returned to the tea plantation. In Jalpaiguri, where over 25% of the CTC tea in India is produced, seven out of 195 plantations have been closed or abandoned, putting 25,000 working families at risk within the last year.

At Bundapani Estate, one of these plantations, eight people died in the five months after the closure in July 2013, according to a coordination committee of labour unions. Six of the victims were males of working age. Anuradha Talwar, advisor to the Commissioners of the Supreme Court pointed to the urgency of the situation in a letter to the district magistrate: “They [the plantation workers] have no fat deposits in their body and no cash deposits in their pocket. As soon as the garden closed, they began starving.”⁶⁹ A team from the Right to Food and Work campaign of West Bengal visited Bundapani estate in mid-2014. They reported that 29 people had already died.⁷⁰ Another plantation, the Red bank tea garden, was closed in October 2013 in Darjeeling. It has a population of workers families of 8000 people, mainly Adivasis and partly Nepalis. Reports in May 2014 said that 32 people died from hunger and hunger related diseases.

fund deposits and bank loans.”⁷³ It is important to understand that this issue is only partly the result of ruthless speculators that took over plantations in crisis, tried to profit from government subsidies and then leave the plantations overnight. Fundamental violations of worker’s rights in this region are rather the result of a whole sector in crisis. Already in 2012, the labour department of West Bengal had conducted a survey on its 273 tea plantations, including 81 plantations in the famous Darjeeling hills. Over 1.1 million people live in these plantations. The survey, which was not officially released, but leaked, reported that 116 of the plantations have been run by different managements in the last 10 years (showing the degree of the crisis of the plantation sector in the whole region), that food rations were due in 35 of the plantations, and 8 tea estates owed wages to workers.⁷⁴ This indicates, that the tea crisis is a

⁶⁷ CEC (2007), 5.

⁶⁸ Aheyaar (2006), 9.

⁶⁹ Down to Earth, “Crushed and torn”, 15/4/2014.

⁷⁰ Right to Food and Work Campaign, forthcoming.

⁷¹ Reuters: “Malnutrition deaths in Indias tea gardens highlight worker abuses”, 1/8/2014.

⁷² Right to Food and Work Campaign, forthcoming.

⁷³ Down to Earth, “Crushed and torn”, 15/4/2014.

⁷⁴ Down to Earth, “Crushed and torn”, 15/4/2014.

systemic issue. It is not only the government and often badly managed, speculative plantation companies, but also large buyers being responsible for the shocking violations of human rights. However, more detailed research on how purchasing practices affect production and lead to divestment, and how power asymmetries (monopsonies) in the tea chain are impacting on the price setting, are urgently needed.

3.4 Laws and voluntary codes – failing to ensure the Right to Food and worker’s rights

National legislation exists in all of the tea producing regions. In India, the Plantation Labour Act, 1951 defines standards not just for working conditions, and minimum wages, but also for schools, housing and health facilities. The general problem however is twofold: minimum wages are set far too low. In wage calculations, it is the norm, not the exception to calculate in “social costs”, i.e. the above mentioned basic services. Government staff in India for instance calculates the wage needs of plantation workers as 50% less than the needs of workers from other sectors.⁷⁵ The second key problem is that public inspection of compliance to law is very often undermined by understaffed, inadequate and weak state enforcement.

As pickers’ wages are the major component of the tea production cost at plantations, any improvement in wages and working conditions directly means a loss of competitiveness in a harsh competition at the domestic and the global market. In addition to national regulation, it is therefore key to have international instruments at hand. First of all, there are ILO defined standards that relate to tea plantation workers. However, these standards in the last decades did not have any impact on tea workers realities, as their scope is limited. The ILOs Plantation Convention from 1958 had never more than 10 signatory countries until today. And while the share of global production coverage of the Plantation Convention signatories by the early 2000s had some significance in cocoa (40% of global production), in coconut (33% of global production) and global banana production (22%), the coverage of tea is different. Only one of the signatory countries, Sri Lanka, was a significant tea producer, accounting for 9% of world production between 2002 and 2004. Similarly, the second most relevant ILO convention, the Agricultural Labour Inspection Convention, suffered from very limited outreach in the tea sector and covered only 13.1% of global tea production between 2002 and 2004.⁷⁶

⁷⁵ Columbia University Law School (2014), 27.

⁷⁶ Lincoln (2010), 59 and 65.

With global conventions being ignored in the last decades, many actors set hope voluntary code of conduct schemes in the last years. In particular the Rainforest Alliance label, but also Fairtrade, IFOAM and UTZ certified tea production has grown considerably in the last years. Standard compliant tea production grew 33% per year between 2009 and 2012, and now accounts for 12% of global production and 9% of global exports. Obviously, the most powerful

Box 4: The “Ethical Tea Partnership” and “Tea 2030

➤ ETP (formerly Tea Sourcing Partnership) was established in 1997 by corporations such as Tetley, Twinings, Unilever and Finlays. Its Global Standards are oriented on some aspects of the ILO Conventions, and at the same time try to serve as a “step up” to the voluntary sustainability initiatives such as Rainforest, UTZ and Fairtrade. ETP offers workshops and training for producers towards the adoption of these standards.

TEA 2030 is an initiative of both the major packers such as Unilever, Finlays and Yorkshire and of Initiatives such as Fairtrade and Rainforest. It was started in 2011 and “aims to explore how the tea industry could change over the next 17 years.” The major challenges the initiative identifies are climate change, competition for land use and increased demand for water. It formulates ambitious principles such as a Principle to ensure “Sustainable livelihoods and empowered producers”, and argues: “A central feature of a sustainable network for tea must be that it is not produced through any exploitation, dangerous conditions or unreasonably low wages, and profits and value creation are not concentrated in small pockets of the value chain...”

This statement is remarkable, as the small pockets referred to are the pockets of those companies that formulated the statement. What is missing at TEA 2030 however is a clear strategy of how to get to the vision and a clear commitment by the companies to democratize the tea chains and to ensure living wages for tea workers. ◀

Source: IISD 2014, 305, Forum For The Future (2014), 25.

packers like Unilever, Tata Tea and Twinings cannot ignore the disastrous impacts of the global tea sector on people and the environment. They have set themselves goals to

source their whole range sustainably in the future. Unilever plans to have all of their Lipton tea bags rainforest alliance certified by 2015 and all of its tea, including loose tea, “sustainably sourced” by 2020. Tetley (Tata) plans to have all of its branded tea certified by rainforest alliance in 2016, similar strategies are followed by Twinings and Yorkshire. As a result, IISD expects more than 80% of global tea exports to be standard compliant by 2020.⁷⁷

Box 5: Living wages on Fairtrade certified plantations

► Fairtrade published its revised plantation workers standards early in 2014. In the earlier version of the standard, Fairtrade demanded to ensure the payment of the national, regional or sector specific minimum wages and the approximation to a living wage without setting a timeframe. The reformed standard now sets a clear timeframe for introducing a living wage. Given the lack of existing, evidence based and broadly accepted definitions of living wages in most countries, Fairtrade is currently identifying the living wages in 23 countries, including through consultations with trade unions. Further reforms of the new standards are:

- the plantation owner must actively support the building of a workers representation
- the workers decide alone upon the use of the fair-trade premium
- workers can use up to 20% of the fair-trade premium in monetary terms ◀

The “sustainable sourcing” strategies of the most powerful packers is based on Rainforest Alliance certification. This certification, by its very purpose is limited. It is first of all an eco-label, that seeks to save natural habitats in between plantations, and that tries to improve some of the facilities for workers, schools, and basic medical health-care. What the standard does not contain per definition is the guarantee of a living wage for plantation workers.

Second, a code of conduct certification does not per se ensure that the fundamental discrimination of workers is stopped. At Unilever Plantations in Kenya, sexual harassment, ethnic and gender discrimination and the fact that workers were applying pesticides without protective gear, constituted violations against labour legislation, Rainforest Alliance certification standards, as well as Unilever’s own standards for suppliers. Even on issues that



Photo: picture alliance / Robert Harding

Only paid according to piece rates: a tea picker carrying the basket on head band in Assam, India

seem to be less complex to guarantee for the manager of a plantation, namely health and safety, and decent housing and sanitary conditions, were not ensured.⁷⁸

Third the spread of voluntary standards has entirely been limited to export-oriented markets. Domestic markets, which remain the more important ones in the major producing countries China and India, have so far not worked at all.⁷⁹ And of these export-oriented markets, only a small, although growing, fraction is going to high price markets. Also in these high price markets, consumer awareness seems to be low. In 2012, only 6% of tea produced under fair trade standards was sold under that label.⁸⁰

Wages are not higher in certified plantations compared to non-certified ones. Even Fairtrade standards contain as core demand of minimum wages and are only oriented towards living wages. Plantation companies are under tremendous price pressure, keeping in mind that real tea prices at auctions have actually halved in the last three decades. Although significant fair trade price premiums were paid they are usually used for funding certain development projects, like schools or hospitals. In Malawi, fair-trade premiums are used for food security purposes of the workers: they were invested to buy bulk maize when market prices are low so that workers can buy at a discount during the dry season when prices are high.⁸¹ Generally, all the voluntary codes of conduct, including Fairtrade, are designed for the coverage of production stage only, but not of the whole supply chain. Thus they should not be considered as appropriate tools to rebalance power relations or market concentration in the tea chain. ◀

⁷⁷ IISD (2014), 301 and 304 f.

⁷⁸ Van der Wal (2011).

⁷⁹ IISD (2014), 319.

⁸⁰ IISD (2014), 303.

⁸¹ IISD (2014), 318.

Conclusion and recommendations

► This paper has pointed out that fundamental violations of human and labour rights on plantations worldwide are rather the norm than the exception. The examples further highlighted the indivisibility of labour rights and the human right to food, both enshrined in human rights treaties, especially the ICESCR.

It is highly disturbing that both the key contribution of plantation workers to global food production as well as their discrimination and vulnerability to malnutrition and hunger is largely ignored in the current debates on food security and rural development. Although internationally agreed conventions (Human rights treaties and ILO Conventions) and related defined standards exist for a long time, they have been largely ignored in rural development schemes in the last decades. On the one hand, existing wages and working conditions on many plantations are at such detrimental level that malnutrition among plantation workers is a widespread phenomenon. On the other hand, the fundamental dependency of plantation workers households from plantation companies in the provision of basic necessities (food, housing, health etc.) can create immediate cases of hunger and other human rights violations in cases where workers lose their jobs or where whole plantations are closed down or abandoned.

This implies the urgent need of States and multilateral bodies to act. The following set of recommendations shows concrete and feasible steps towards the progressive realization of plantation workers' right to food.

4.1 The need for a human rights based agenda

The human right to food like any other human right imposes three types of **obligations on States**. They have the obligation to respect, protect and fulfil the right to food of plantation workers and their families.

Agricultural **employers** have a responsibility to respect the right to food, even where laws are insufficiently protective of agricultural workers or where the existing labour legislation is inadequately implemented and monitored on plantations and farms.⁸²

Agribusiness **companies** – commodity buyers, food processors and food retailers – have a responsibility to respect the right to food of agricultural workers in their supply chain and market sourcing, and in their pricing and wage policies.⁸³

Thus, a human rights based framework and agenda demands that States enact, implement and enforce national legislation that addresses structural violations

of and discrimination against plantation workers. After decades of restructuring in the global food system that increased competitive pressure on suppliers, corporate social responsibility approaches that leave it up to the companies (employers and buyers) to act on a voluntary base are simply not enough and sometimes even increase dependency structures. A human rights based agenda instead addresses power imbalances that are a central underlying cause of the violation of the right to food of plantation workers.

4.2 Recommendations

To meet their obligations and responsibilities, States should act on three levels: they should protect workers' right to food in a larger framework of workers' right at home (4.2.1), engage internationally for an appropriate agenda (4.2.2) and further develop the framework that ensures that transnational companies meet their responsibilities (4.2.3).

4.2.1 State measures to implement the right to food of plantation workers

States should assess, in consultation with plantation workers and their trade unions, the economic and social situation, including the degree of food insecurity and its causes, the nutrition situation and food safety.⁸⁴

- Special focus should be given to the labour conditions of female workers, migrants and other discriminated groups with repercussions for the right to adequate food and nutrition of themselves, their families and their communities.
- The assessment should cover existing legal frameworks, policies, budget allocations and practices relevant for plantation workers as a specific affected and food insecure group.⁸⁵ The assessment should identify potential regulatory gaps that make it more difficult to ensure effective protection against human rights abuses by private business enterprises.

States should, based on these assessments, implement policies to secure workers' rights.

- ensure the extension of national labour laws to agricultural workers.⁸⁶

⁸² UN Special Rapporteur on the right to food, 2009, Paragraph 21.

⁸³ UN Special Rapporteur on the right to food, 2009, Paragraph 3.

⁸⁴ See FAO Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security, Guidelines 2.2 and 13.

⁸⁵ See FAO Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security Guideline 7.2.

⁸⁶ ILO Committee for Rural Employment (2008) paragraph 78.

- guarantee the freedom of association⁸⁷ and the right to collective bargaining of plantation workers and ensure that trade unions are legally able, and have the capacity, to organise agricultural workers.
- in particular, States should adopt policies that encourage stable employment.⁸⁸ They should ensure that plantations cannot be closed on short term without access to compensation and alternative income sources for plantation workers, and hold investors accountable accordingly. A first step towards achieving this is to establish schemes for making the registration of plantation workers (including on a currently casual employment basis) compulsory.⁸⁹
- establishing a minimum wage in legislation that is a living wage, and that compliance with this requirement is adequately enforced and monitored.⁹⁰ Governments must ensure that diminishing returns are no justification for plantation companies to dilute existing labour standards and living wages. Governments should encourage plantation companies to reinvest a reasonable amount of profits in the plantations. At the same time governments should consider introducing minimum prices for plantation crops, to allow for the payment of living wages.
- promote safe and healthy workplace conditions, especially by legally empowering agricultural workers to select their own safety and health representatives and representatives in workplace safety and health committees, without interference from employers/management.⁹¹ Ensure that trade unions can promote occupational safety and health on plantations and farms and in rural communities.⁹² Stable access to diverse, healthy and culturally appropriate food for workers must be an inherent part of a safe and healthy workplace.
- ensure that plantation workers are progressively protected by the same social security schemes as workers of non-agricultural sectors and make sure that plantation companies fully compensate plantation workers in cases where plantations are closed or abandoned.
- ensure that women workers as well as migrant workers, ethnic minorities and other discriminated groups have equal employment and promotion rights, including equal pay. There should be clear commitments to zero tolerance of sexual harassment. Maternity leave for at least 4 months and breastfeeding breaks upon return to work should be guaranteed to all pregnant women.
- for monitoring compliance with labour legislation States should provide appropriate resources for an effective functioning of labour inspectorates in agriculture.⁹³
- put in place administrative, quasi-judicial and judicial mechanisms to provide adequate, effective and prompt remedies accessible, in particular, to members of vulnerable groups.⁹⁴
- investigate and counterbalance monopsonies of buyers in key plantation sectors through competition policy and through appropriate standards of business to business relationships.

4.2.2 The right to food of plantation workers on the international agenda

The casualisation of working conditions and the payment of wages far below living wages are caused by power imbalances in food chains. Although host governments of plantations are the primary duty bearer to protect the right to food, living wages cannot be guaranteed at national level alone in sectors, where plantation crops are produced for global markets. As wages for workers are often the most important cost factor for plantation companies, it is difficult for them to pay living wages without losing market shares if they go alone. Hence, there is also the risk of a downwards regulatory competition between the host governments.⁹⁵ Governments and other actors should therefore cooperate at international level to bring the right to food of plantation workers back on the agenda.

- Instead of facilitating the market expansion of food corporations through PPP initiatives such as the G8 New Alliance for Food Security and Nutrition, Scaling Up Nutrition (SUN) or other PPPs, donor governments should re-shift their focus on plantation workers and trade unions in their sustainable development and food security strategies, and ensure the participation of plantation workers and their trade unions in key policy processes.
- States and intergovernmental organisations should work together to agree on a universally agreed methodology to define living wages which is adoptable to varying realities in countries, but transparent at the same time. It should define hourly wage rates that full time workers should earn. This should be advanced inter alia through the elaboration of a General Comment on Article 7 of the ICESCR by the CESCR.⁹⁶ This initiative should also build up upon existing experiences and initiatives to define living wages in the plantation sector.⁹⁷
- Governments should take up the issue of the right to food of plantation workers in the UN Committee on World Food Security (CFS). This could include starting

⁸⁷ ILO Committee for Rural Employment (2008) paragraph 71 C.

⁸⁸ See FAO Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security Guideline 7.2

⁸⁹ UN Special Rapporteur on the Right to Food, 2009, Paragraph 18.

⁹⁰ The minimum wage should be, at least, a "living wage" that provides an income allowing workers to support themselves and their families, as required under articles 6 and 7 of the ICESCR. Fix a minimum wage which should be periodically revised, in order to protect the lowest paid workers and to ensure decent standards of living to workers and their families.

⁹¹ ILO Convention No. 184 on safety and health in agriculture 2001, Article 8.1 (b).

⁹² ILO Committee for Rural Employment (2008), Paragraph 73 as amended.

⁹³ ILO Committee for Rural Employment (2008), Paragraph 79, as amended.

⁹⁴ See FAO Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security, 7.2

⁹⁵ UN Special Rapporteur on the Right to Food (2009), Paragraph 14.

⁹⁶ See FIAN (2014a).

⁹⁷ See for instance the work of Wageindicator.org and Fairtrade.

a process with its HLPE to get a clearer picture of the situation of plantation workers with a perspective on structural challenges for plantation crop sectors. It should consider power asymmetries in the supply chain (monopsonies) on price setting, the social and economic impact of restructuring of sectors and the impact of purchasing practices on production.

- Human rights based monitoring of plantation workers right to food should be strengthened. This could include stronger focus of existing monitoring mechanisms on plantation workers (State reports to the CESCR, including parallel reporting by the civil society, Universal Periodic Review mechanism at the Human Rights Council) and should in particular integrate analysis of (potential) human rights violations of workers on closed plantations. In addition the role of the CFS, FAO and ILO in monitoring the right to food of plantation workers should be discussed.

FAO and ILO should assess the role of voluntary codes of conduct and their impact on the human rights of plantation workers, considering the questions: 1) In how far do they go beyond minimum requirements?; 2) Do they avoid shifting all the burden of compliance to the supplier? 3) What type of accountability mechanisms exist in case of lack of compliance?

4.2.3 A framework for transnational food companies to meet their responsibilities

Businesses must respect human rights. This means that they must not infringe on the human rights of others and should address adverse human rights impacts in which

they, their subsidiary and their suppliers are involved. In order to meet their responsibility to respect, companies must undertake an on-going process of human rights due diligence whereby they become aware of, prevent, and mitigate adverse human rights impacts: companies should “not only ensure compliance with national laws but also manage the risk of human rights harm with a view to avoiding it”.⁹⁸

In their relationships with agricultural workers, food corporations should use their influence on suppliers to ensure that wages and working conditions improve, rather than degrade, as a result of their suppliers joining global value chains, by:

- seeking to conclude international framework agreements (IFAs) with global unions, guided by the principles stated in this report;
- support government labour inspection and conduct their own due diligence to ensure compliance with ILO standards in the supply chain, while supporting their suppliers in achieving compliance.⁹⁹

States have the responsibility to ensure that business enterprises comply with this norm. They should meet their extraterritorial human rights obligations.

- Ensure that their national policies (e.g. trade, investment, agricultural policies) or the policies of international organisations do not cause violations of the right to food abroad.
- Develop implementation guidelines for human rights due diligence of food companies sourcing from plantations and legally prescribe compliance with these guidelines. Corporate obligations should also refer to human rights risks in relation to their subsidiaries, suppliers and distribution channels. ◀

Literature

Reports and Publications

Aheyaar, M. (2006), Preliminary Investigation on the Issues Related to Poverty and Marginalization of Estate Sector Communities in Badulla an Nuwara Eliya Districts.

Bernstein, Henry (2010), Class Dynamics of Agrarian Change.

CARER (2008), Malawi Tea Research Project. Study Commissioned by SOMO.

CEC (2007), Behind Closed and Abandoned Tea Gardens – Status Report of India.

Chullen, George (2008), Short Stumps, No Cabbage: Why the social content is crucial for the future of the cane and sugar sector. A perspective from decent jobs, sugar workers and their unions.

Columbia University Law School (2014), „The More Things Change...”. The World Bank, Tata and Enduring Abuses on India's Tea Plantations.

Del Prado-Lu, Jinky (2007), Pesticide exposure, risk factors and health problems among cutflower farmers: a cross sectional study, *Journal of Occupational Medicine and Toxicology*, 2007 2/9.

Deutscher Teeverband (2014), Tee als Wirtschaftsfaktor. Aktuelle Zahlen, Stand Mai 2014.

Ethical Tea Partnership (2013), Understanding Wage Issues in the Tea Industry. Report from a multi-stakeholder project.

FIAN (2014a), Das Menschenrecht auf einen Existenz sichernden Lohn – keine Selbstverständlichkeit für LandarbeiterInnen (FIAN Fact Sheet 2014/4).

FIAN (2014b), Women agricultural workers and the right to adequate food and nutrition.

Forum For The Future (2014), The Future of Tea. A Hero Crop for 2030. Steps towards a sustainable future for the tea industry.

Freeman, Matt et al. (2014), Building healthier Supply Chains: The Business Case (GAIN White Paper 1).

⁹⁸ UN Special Rapporteur on the Right to Food (2009), Introduction and paragraph 2.

⁹⁹ See UN Special Rapporteur on the right to food (2009), Paragraph 53 (b).

GAIN (2014a), Leveraging Agricultural Systems to Improve Nutrition Security. Investigation of 10 supply chains and entry points for nutrition.

GAIN (2014b), Increasing Tea Productivity through improved Nutrition. A Call To Action – Concept Brief.

Gibbon, Peter (2011), Experiences of Plantation and Large-Scale Farming in 20th Century Africa (DIIS Working Paper 20).

Groosman, Michael (2011), Tea Sector Overview.

Hurst, Peter (2007), Agricultural Workers and their Contribution to Sustainable Agriculture and Rural Development. Study for FAO, ILO, IUF.

IISD (2014), State of Sustainability Initiatives Review.

ILO (2009), Collective Bargaining – Sixty years after its international recognition.

ILO (2005), General Survey – Hours of Work: From fixed to flexible.

ILO (2003), Decent Work in Agriculture. Background Paper for the International Workers' Symposium on Decent Work in Agriculture, Geneva 15-18 September 2003.

ILO (2000), Safety and Health in Agriculture.

ITC-ILO (2011), Managing labour inspection in rural Areas. Building modern and effective labour inspection systems. Module 14.

ITUC (2012), Zimbabwe. Annual Survey of Violations of Trade Union Rights 2012.

Lincoln, David (2010), Plantation Workers by Definition: The Changing Relevance of the ILO's Plantation Convention, *International Journal of Sociology of Agriculture and Food*, Vol. 17/1, p.51-71.

Lines, Thomas (2006), Sustainable Livelihoods for Indian Tea Workers. The international Dimension.

Millennium Project Task Force on Hunger (2004), Halving Hunger by 2015: A Framework for Action, Interim Report – Millennium Project.

Misereor (2012), Das krumme Ding mit der Banane. Soziale Auswirkungen des weltweiten Bananenhandels. Die Macht von Supermarktketten in Deutschland.

ONICRA (2014), The Indian Tea Industry. Financial Year 14-15: Healthy Domestic Demand to Keep Tea Prices Firm.

Oxfam (2013), Mangos mit Makel. Die Marktmacht deutscher Supermarktketten und unfaire Arbeitsbedingungen in Peru.

Oxfam (2011), Bitter Bananas. Exploitative working conditions in Ecuador and the value chain of German supermarkets. Summary.

PBKMS / IUF (2005), Study on Closed and Re-opened Tea Gardens in North Bengal.

Right to Food and Work Campaign, West Bengal (2014, unpubl.), Report

Skalidou, Dafni / Labouchere, Harriet (2012), Living and Working Conditions in the Banana Sector in South West Cameroon. Report for BananaLink.

Smalley, Rebecca (2013), Plantations, Contract Farming and Commercial Farming Areas in Africa: A Comparative Review (Land and Agricultural Commercialisation in Africa, Working Paper 55).

TCC (2010), Tea Barometer 2010.

Van der Wal, Sanne (2011), Certified Unilever Tea. Small Cup, Big Difference?

Van der Wal, Sanne (2008), Sustainability Issues in the Tea Sector. A Comparative Analysis of Six Leading Producing Countries.

War on Want / IUF / UNITE (2010), A Bitter Cup. The exploitation of tea workers in India and Kenya supplying British supermarkets.

Weis, Tony (2007), The Global Food Economy. The Battle for the future of Farming.

Wilkinson, John (2001), The final foods industry within the changing face of the global agrofood system: Up against a new

technology paradigm and a new demand profile. Paper presented at the "Rethinking food Production / Consumption Workshop; November 30-December 1, 2001.

World Rainforest Movement (2008), Indonesia: Harsh conditions for women workers in oil palm plantations. WRM Bulletin 134, September 2008.

Official Documents

FAO Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security, adopted by the 127th Session of the FAO Council November 2004.

ILO Committee for Rural Employment: Promoting rural employment for poverty reduction, Conclusions. International Labour Conference, 97th session, 2008.

ILO Convention Nr. 110, Convention concerning Conditions of Employment of Plantation Workers, 1958.

ILO Convention Nr. 184, Safety and health in Agriculture Convention, 2001.

Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights. ETO Consortium 2013.

UN International Covenant on Economic, Social and Cultural Rights, adopted by the UN General Assembly 1966.

UN Human Rights Council, Committee on Economic, Social & Cultural Rights, General Comment 12, E/C.12/1999/5

UN Special Rapporteur on the Right to Food, Mission to Malawi – End of Mission Statement, Lilongwe July 22, 2013.

UN Special Rapporteur on the Right to Food, Agribusiness and the Right to Food. Report of the Special Rapporteur on the right to food (A/HRC/13/33), 2009.

Vienna Declaration and Program of Action, World Conference on Human Rights. Adopted 25 June 1993.

Articles and News¹⁰⁰

ABC Australia, "Cambodian Woman run over by harvesters at ANZ-linked Phnom Penh Sugar Development", <http://www.abc.net.au/news/2014-04-28/cambodian-woman-run-over-by-harvester-anz-linked-sugar-developme/5416524>

Cambodia Daily, "Second Death Confirmed on Kampong Speu Sugar Plantation", 18/3/2014, <http://www.cambodiadaily.com/archives/second-death-confirmed-on-kompong-speu-sugar-plantation-54417/>

Down to Earth, "Crushed and torn", 15/4/2014, <http://www.downtoearth.org.in/content/crushed-and-torn>

IUF REL-UITA Website, "Mato Grosso Assassination", March 2013, <http://www.rel-uita.org/index.php/es/derechos-humanos/item/3172-un-nuevo-caso-de-violencia-contra-dirigentes-rurales->

Los Angeles Times, "Human Cost of Brazil's Biofuels Boom", June 2008 <http://www.latimes.com/news/nationworld/world/la-fg-biofuels16-2008jun16,0,7750754,full.story>

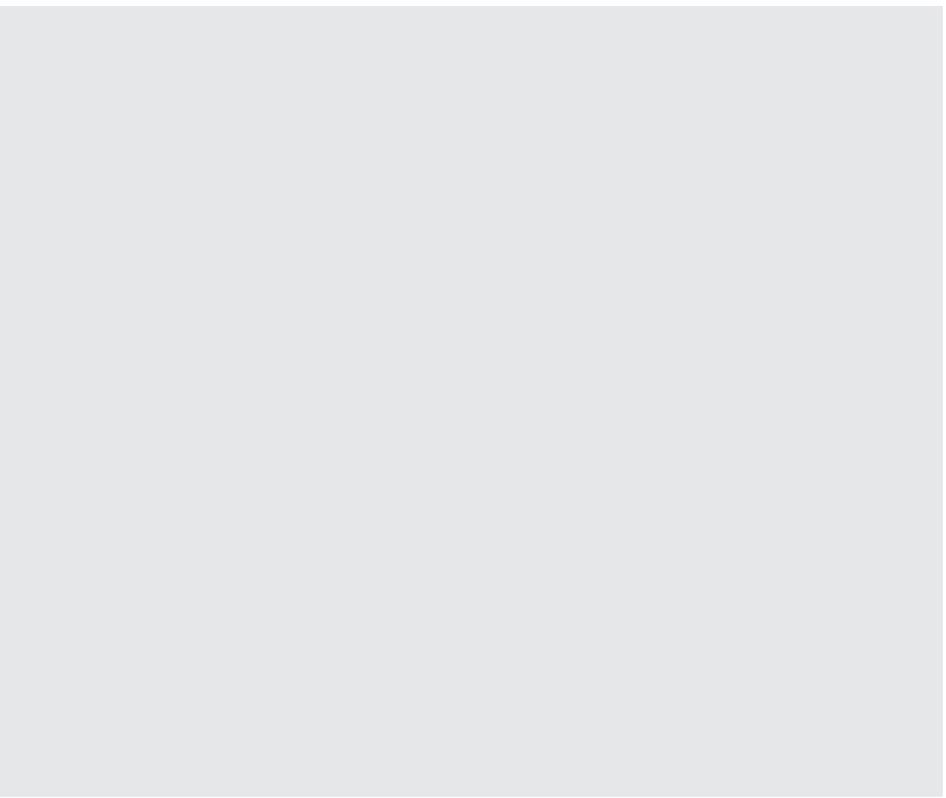
Merinews, "A tea garden worker may die every week in Red Bank tea garden due to starvation, 14/5/2014 <http://www.merinews.com/article/a-tea-garden-worker-may-die-every-week-in-red-bank-tea-garden-due-to-starvation/15897656.shtml>

Mongabay.com, "Malaysia Oil Palm workers still below poverty line, despite Minister's statements", 19/11/2009 http://news.mongabay.com/2009/1119-hance_oilpalmworkers.html

Reuters: "Malnutrition deaths in India's tea gardens highlight workers abuses", 1/8/2014 <http://www.trust.org/item/20140801120753-lmv68/?source=leadCarousel>

Reuters: "World Bank probes Tata tea project over worker abuse in India", 13/2/2014 <http://in.reuters.com/article/2014/02/13/india-tata-tea-humanrights-idINDEEA1COGG20140213>

¹⁰⁰ All weblinks lastly accessed at September 20th 2014.



MISEREOR
• IHR HILFSWERK