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Fairtrade and Human Rights in the Kenyan Cut Flower Industry

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Abstract

This study investigates what impact Fairtrade has on labour and human rights development in the Kenyan cut flower industry, by discerning developments and comparing conditions between Fairtrade and non-Fairtrade farms. The developments sustainability and Fairtrade in relation to previous research is also brought up and discussed. The study is mainly based on interviews with people knowledgeable about Fairtrade or the Kenyan flower industry, all conducted in Kenya and Tanzania during 2008.

Fairtrade farms had superior conditions in certain areas, but more systemic changes, like prevailing social norms were more difficult to change. The union was stronger on non-Fairtrade farms. Remuneration was similar between the two categories of farms, but considered to be too low. The workers on the Fairtrade farms were empowered by knowing about their rights, a knowledge which to some extent had spread to neighbouring non-Fairtrade farms.

The sustainability of Fairtrade is uncertain, due to concerns relating to oversupply, reduced price premiums and doubtful intentions of joining. Access is limited and benefits do not reach the community. Fairtrade is privatisation of the law and may thus hinder law enforcement. Fairtrade leads to development in certain areas, which could constitute sustainable labour and human rights development, but not independently.

Key words: Human rights, Labour rights, Kenya, Fairtrade, Flower industry

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Abbreviations

ATO	Alternative Trade Organisation
CBA	Collective Bargaining Agreement
COTU	Central Organisation of Trade Unions
CSR	Corporate Social Responsibility
FLO	Fairtrade Labelling Organizations International
FLO-cert	Fairtrade Labelling Organizations International Certification
HIV	Human Immunodeficiency Virus
IFAT	International Fair Trade Organisation
ILO	International Labour Organisation
JB	Joint Body
KES	Kenyan Shillings
KFC	Kenya Flower Council
KHRC	Kenya Human Rights Commission
KPAWU	Kenya Plantations and Agricultural Workers' Union
NGO	Non-Governmental Organisation
SCCROEA	Swedish Cooperative Centre Regional Office Eastern Africa
SEK	Swedish Crowns
SIDA	Swedish International Development Cooperation Agency
UNCTAD	United Nations Conference on Trade and Development

1 Introduction

The Kenyan cut flower industry began in the 1960s and Kenya is today a major flower producing country on the international market. It is the fastest growing sector in the Kenyan industry and cut flowers are one of the major export products. With half the Kenyan population of 37 million living under the poverty line, the flower industry with its estimated 5 000 farms is an important employer.¹ The industry has however at several occasions been seriously criticised for its faulty adherence to labour and human rights standards. Harsh working conditions like extensive working hours, sexual harassment and exposure to dangerous chemicals are still the reality for many of the workers employed in the industry, and the government has failed in implementing existing labour laws. This is a problem addressed by different certification initiatives, which, in exchange for profitable market access, puts demands on the producers. Fairtrade is one of those initiatives, and is considered to be the most far-reaching initiative when it comes to labour and human rights realisation.

The fair trade movement evolved in different countries at different times and thus in various contexts. It started in the post-WWII era, at first as a trade link between northern non-profit importers and southern small-scale marginalised producers. Fair trade offered a more direct trading link, bypassing the intermediaries, and improving the chance for farmers of gaining money for their own livelihoods. In 1988, one of the ATO²s created a label, Max Havelaar, in an attempt to move the fair trade sales into the mainstream market, which would lead to a higher level of labour and human rights conditions for a greater number of marginalised producers. Other similar labels started to emerge in different countries, and in 1997, all independent initiatives jointly established the umbrella organisation FLO³, also called Fairtrade, in order to coordinate and harmonise the different standards, and to inspect and certify disadvantaged producers in the global south.⁴

Fairtrade is certifying Kenyan producers, and cut flowers are the most recent products on the Kenyan Fairtrade market⁵, with its 18 certified flower farms throughout the country.⁶ Considering the initiative's offensiveness when it comes to labour and human rights

¹ http://www.fairtrade.org.uk/producers/flowers/finlay_flowers_oserian_ravine_roses_kenya.aspx, 2008-12-16.

² ATO – Alternative Trade Organisation.

³ FLO – Fairtrade Labelling Organizations International.

⁴ http://www.fairtrade.net/about_fairtrade.html, 2008-09-25.

⁵ Kenya also have Fairtrade certified coffee, tea and sugar.

⁶ <http://www.flo-cert.net/operators.php?id=10>, 2008-12-16.

realisation, the presence of Fairtrade presumably has an impact on the faulty working conditions at the Kenyan flower farms as well as the broader labour and human rights development. What this impact looks like is now to be investigated.

1.1 Statement of Purpose

The purpose of this study is to examine in which ways Fairtrade has had an impact on labour and human rights development in the Kenyan cut flower industry. The aim is to discern the actual development of working and human rights conditions at the flower farms, how this is interpreted by the people involved in the industry and how Fairtrade farms differ from non-Fairtrade farms. The labour and human rights development will also be studied in the broader perspective, including a discussion whether the presumed improvements are likely to be sustainable and how Fairtrade in general function in the Kenyan flower industry context. Focus is on the southern producer perspective, and not the commonly investigated consumer perspective, why it is of central value to conduct the study in the context where developments are supposed to appear.⁷

1.2 Research Assignment

Following research questions are in focus in the study:

- Which Fairtrade demands are made for the realisation of labour and human rights?
- What are the Fairtrade and non-Fairtrade certified producers' and workers' interpretations of Fairtrade and their labour and human rights situation?
- What impact has Fairtrade had on certified farmers and their workers, concerning the realisation of labour and human rights, and how does this differ from non-Fairtrade farms?
- In which ways can Fairtrade be said to make a difference for the sustainable labour and human rights development in the Kenyan cut flower industry?

1.3 Theoretical Framework

The theoretical background is based on analysis of literature, reports and articles about Fairtrade and its strengths and weaknesses in the broader perspective, and is not necessarily focusing on the Kenyan flower industry context or the labour and human rights perspective.

⁷ The ability to conduct the study in East Africa was made possible by the awarded Minor Field Study Scholarship, distributed by SIDA, the Swedish International Development Cooperation Agency.

Fairtrade is established in order to create a different way of doing business and to avoid exploitation of southern marginalised producers and workers. UNCTAD⁸ argue that sustainability labels, as for example Fairtrade, have an increasing impact on commodity chains, due to the organisations recent expansion and development into mainstream markets. This has led to a number of impressive direct benefits, like improved living and working conditions and enhanced organisational structures, but it has also led to less desirable consequences.⁹ The system is thus not impeccable, and criticism has been raised by different stakeholders, which will be further described below.

Sally Smith and Stephanie Barrientos, from the Institute of Development Studies at the University of Sussex, believe the recent developments of the fair trade movement's entrance on the mainstream market lead to greater volumes of fair trade products produced, which result in more benefits and greater probability of adherence to the labour and human rights standards, for a larger number of marginalised producers in the developing countries. It is also suggested that producers and workers outside fair trade programmes gain indirect benefits; as a result of the impact fair trade may have on local, national and international trade norms and practices.¹⁰ This suggested impact on the Fairtrade certified farmers as well as the potential broader and overreaching impact will be studied and put to test in the Kenyan cut flower industry context.

William Low and Eileen Davenport, researchers from the Department of Management and Employment Relations at Auckland University, however highlight the dilemma of the emergence into the mainstream market by arguing that "it is vital for the fair trade organisations to remain central to the principles and practices of fair trade. Isolation from the mainstream risks irrelevance, and will not deliver the extent of change that is necessary to meaningfully assist producers. Uncritical engagement with mainstream business risks absorption and dilution of the movement."¹¹ This is an aspect which is important for the actual impact on the labour and human rights situation, which will be further discussed.

Andy Redfern and Paul Snedker, authors of an ILO¹² working paper on companies and fair trade¹³, argue that one of the challenges for Fairtrade is that the supply far exceeds the

⁸ UNCTAD – United Nations Conference on Trade and Development.

⁹ UNCTAD, *Commodities and Development*, 2007, p. 1ff.

¹⁰ S. Smith & S. Barrientos, "Fair Trade and Ethical Trade: Are There Moves Towards Convergence?", *Sustainable Development*, 2005, p. 197.

¹¹ W. Low & E. Davenport, "Postcards from the Edge: Maintaining the "Alternative" Character of Fair Trade", *Sustainable Development*, 2005, p. 152.

¹² ILO – International Labour Organisation.

¹³ A. Redfern & P. Snedker, *Creating Market Opportunities for Small Enterprises: Experiences of the Fair Trade Movement*, 2002.

demand for the products, which means some producers have received very few or no orders via Fairtrade channels.¹⁴ Peter Taylor, Douglas Murray and Laura Reynolds, sociologists at Colorado State University, find it problematic when more Fairtrade producers emerge and larger volumes are produced, since the price premiums will be reduced and the large commercial actors will demand for lower prices. The certified farms only get the minimum price and Fairtrade premium for products sold under the Fairtrade label, which lead to a reduction of income, premiums and long-term contracts as less Fairtrade labelled products are sold.¹⁵ The marginalised producers do thus not in practice always benefit from their membership in the organisation; in some cases farmers actually benefit the least from Fairtrade certification, which is a contradiction to the core of the concept of having them benefit the most.¹⁶ Redfern and Snedker further believe that certification is too costly, especially for small-scale producers.¹⁷ It is not only a cost of certification, compliance with the standards and change of working methods is also considerable expenses for the certified producers.¹⁸ The problem areas of oversupply, reduced Fairtrade premium and cost of certification will be further discussed and examined in relation to the Kenyan cut flower context.

Sustainability initiatives like Fairtrade believe governments and other regulatory mechanisms could or would not control prevailing social and economic inequalities. As a result, these organisations have developed independently, which have allowed them to effectively respond to the changing market, but also to grow uncontrolled. To be able to implement the programmes, the organisations had to create their own producer support networks, which was much more problematic in absence of a national-level support system. UNCTAD further argue that it is extremely difficult for small producers to enter the programmes, especially without those services. Due to a higher number of farms in need of assistance and the organisations' limited resources for support services, the producers are forced to meet the standards for certification independently. As a consequence of reduced income and premiums and lack of support, it is likely that the Fairtrade standards are not adhered to in the desired extent, why a Fairtrade membership may thus not be as effective as

¹⁴ A. Redfern & P. Snedker, *Creating Market Opportunities for Small Enterprises: Experiences of the Fair Trade Movement*, 2002, p. 27.

¹⁵ P. L. Taylor et al., "Keeping Trade Fair: Governance Challenges in the Fair Trade Coffee Initiative", *Sustainable Development*, 2005, p. 205.

¹⁶ B. Kilian et al., "Is sustainable agriculture a viable strategy to improve farm income in Central America? A case study on coffee", *Journal of Business Research*, 2005, p. 329.

¹⁷ A. Redfern & P. Snedker, *Creating Market Opportunities for Small Enterprises: Experiences of the Fair Trade Movement*, 2002, p. 27.

¹⁸ C. Dolan et al., *Gender, Rights & Participation in the Kenya Cut Flower Industry*, 2002, p. 65.

it could for the labour and human rights development. UNCTAD thus argue that this might not be a viable and sustainable strategy. Further, UNCTAD questions the initiatives homogenous standards, which are supposed to be applicable to a variety of products, regions and socio-economic contexts. The programmes also need to be transparent, inclusive and not characterised by a top-down organisational structure. Support to producers is highly important, and the organisations should be careful not to create barriers to potential new members, especially the small-scale farmers.¹⁹ Some aspects relating to the complexity of implementation of the Fairtrade programme will be highlighted in this study, and the sustainability of the Fairtrade method will be discussed.

Taylor, Murray and Reynolds also identify problems with the producers' formal governance. Many Fairtrade farmers lack a complete understanding of the fair trade system; which may be a result of faulty information and contact with the organisation. FLO has also been criticised for having unclear organisational and decision making structures; producers express uncertainty about who participates in different levels of the organisation and do not know where to turn for consultation. FLO has also been accused for faulty producer representation in the decision making process and for favouring northern interests.²⁰ This criticism has also been highlighted by Redfern and Snedker, who argue that it is a lack of producer representation in the decision making process concerning Fairtrade standards and inspection procedures.²¹ Catherine Dolan, Maggie Opondo and Sally Smith, researchers at the American Northeastern University, University of Nairobi and Institute of Development Studies, and authors of a report²² about workers' rights in the Kenyan cut flower industry, state that "the motivation for adopting codes was to satisfy the requirements of the Northern market rather than to effect substantive changes in employment practices and working conditions."²³ Concerns relating to producers understanding and devotion to the Fairtrade system as well as the northern interest perspective will be further discussed in relation to the actual context of the study.

Dolan, Opondo and Smith conducted their research in 2002, and at that time they recognised improvements in employment practises in the Kenyan floriculture, as a consequence of the presence of initiatives such as Fairtrade. They believe that the presence of

¹⁹ UNCTAD, *Commodities and Development*, 2007, p. 12ff.

²⁰ P. L. Taylor et al., "Keeping Trade Fair: Governance Challenges in the Fair Trade Coffee Initiative", *Sustainable Development*, 2005, p. 203f.

²¹ A. Redfern & P. Snedker, *Creating Market Opportunities for Small Enterprises: Experiences of the Fair Trade Movement*, 2002, p. 27.

²² C. Dolan et al., *Gender, Rights & Participation in the Kenya Cut Flower Industry*, 2002.

²³ C. Dolan et al., *Gender, Rights & Participation in the Kenya Cut Flower Industry*, 2002, p. 66.

codes like the Fairtrade standards are effective to promote some rights, but when it comes to more systemic changes the situation is more complicated. They raise concerns relating to gender and social norms, with problems like sexual harassment, discrimination and occupational segregation, which they relate to the patriarchal employment context in Kenya. Another concern is hierarchical organisations, which with its vertical channels, among other things tend to uphold the conservative social norms.²⁴ It is interesting to compare the results from the beginning of the decade with the situation in the cut flower industry today, in order to discern if improvements still occur.

Previous research about Fairtrade studied from a human rights perspective are thus conducted, however to a limited extent. What this study adds, is thus a focus on the producer perspective as well as a comparison between Fairtrade certified and non-Fairtrade farms. This kind of comparative study between Fairtrade and non-Fairtrade farms, where the workers and managers voices are heard, is an area which to my knowledge has not been covered before, which thus gives this study a high level of research value.

1.4 Method and Material

The study is approached from a labour and human rights perspective. Focus is strongly characterised by the southern producer and worker perspective, and not from the commonly investigated northern consumer perspective of Fairtrade. In order to discern the actual impact of Fairtrade on the labour and human rights development, it is essential to conduct the research in the environment where the development is supposed to appear, and by interacting with people with experience from Fairtrade or Kenyan floriculture. For this reason the study is predominantly based on interviews with East African people working in, or in another way involved or knowledgeable about the Kenyan cut flower industry.

Interviews have been conducted in Kenya and Tanzania during September, October and November 2008. Interviews from three Fairtrade farms are included in the study, and to be able to discern differences in labour and human rights realisation, also two non-Fairtrade farms. Three to four persons have been interviewed at each farm; at least two workers, one of each sex, and at least one manager representative.²⁵ This procedure was used in order to make the data comparable and to try to reach an adequate variation among the interviewees,

²⁴ C. Dolan et al., *Gender, Rights & Participation in the Kenya Cut Flower Industry*, 2002, p. 65f.

²⁵ With exception from one non-Fairtrade farm, where manager representatives would not let me interview them. Shop steward representatives, with close connection to the management, where however interviewed.

something which Anne Ryen, author to a methodological book about qualitative interviews,²⁶ emphasises.²⁷ The conception of *worker* in this study involves general workers up to the level of department or shop steward representatives. *Management* includes farm owners, managers for smaller divisions in the farm as well as Health and Safety and Fairtrade Officers. The selection of interviewees at the farms was, when possible, conducted randomly without interference of a manager representative or another employee. This was however sometimes difficult since not all of the workers could speak English, and at a few occasions help was needed to select workers to interview. Interviews have also been conducted with people from various NGOs²⁸, ILO, Fairtrade's auditing body FLO-cert²⁹, the union KPAWU³⁰ and a researcher at the University of Nairobi; all knowledgeable about either Fairtrade or the flower industry.

The geographical location for the interviews differed; they were conducted mainly in Kenya, but also Tanzania, and both in cities and in rural areas. In most cases, the interviews were conducted separately, in a quiet and secluded place in the interviewees own environment; this for the purpose of trying to create a relaxed and conducive atmosphere where the interviewee felt secure and comfortable. Ryen emphasises, especially while interviewing people from a different culture, the importance of establishing trust in the interview. This makes it easier to capture the reality as it is for the interviewee, which is central in the naturalistic qualitative interview.³¹ This procedure felt particularly important when talking to workers at the flower farms, since they needed to feel trust to talk about sensitive and sometimes controversial subjects. When it for some reason was difficult to conduct the interview in the interviewees' own environment, it was on a couple of occasions placed at a neutral location as for example a café. Apart from separate interviews, focus groups were also used on a few occasions. This was the case when talking to the FLO-cert, ILO and a group of shop stewards on one of the non-Fairtrade farms.

All interviews were held in English and semi structured naturalistic qualitative interviews were practised. A few fundamental beforehand chosen subjects and questions were used, from which interesting topics could be further discussed. Subjects discussed with the interviewees included for example their interpretation of Fairtrade and human rights, how they understood the labour right situation for the workers in the flower industry and whether

²⁶ A. Ryen, *Kvalitativ intervju – från vetenskapsteori till fältstudier*, 2004.

²⁷ A. Ryen, *Kvalitativ intervju – från vetenskapsteori till fältstudier*, 2004, p. 78.

²⁸ NGO – Non-Governmental Organisation.

²⁹ FLO-cert – Fairtrade Labelling Organizations International Certification.

³⁰ KPAWU – Kenya Plantations and Agricultural Workers' Union.

³¹ A. Ryen, *Kvalitativ intervju – från vetenskapsteori till fältstudier*, 2004, p. 182.

Fairtrade was likely to be sustainable for labour and human rights development in Kenya. Ryen advocates different courses of action in the naturalistic qualitative interview, but states that a too structured interview could make the interviewer static, and risk to misinterpret important aspects or concepts. No structure at all makes it difficult to compare data and risks to involve unnecessary information.³² The methodology was adapted to the actual interview. Interviews which needed to be compared, predominantly the interviews at the farms, were more structured than those with for example NGO representatives where the exact area of knowledge was not always known beforehand. The possibility to anonymity was voluntary and offered to all interviewees, but only chosen by the two representatives from the FLO-cert and by one of the non-Fairtrade farms.

1.5 Limitations and Criticism of the Sources

The representativeness of the visited flower farms may be discussed. Several farms were contacted, but participation was voluntary and only a few accepted. It is likely that the accepting farms have a comparatively good compliance with labour and human right standards, and that the conditions could be worse on other farms. Access to non-Fairtrade farms was difficult; Peter Otieno, Branch Secretary in the union KPAWU helped with these contacts, why the non-Fairtrade farms included in the study might be more union friendly than the average non-Fairtrade flower farm.

When it comes to objectiveness, it could be in the farm owners' interest to describe a more favourable picture than the reality and try to conceal uncomfortable aspects. The workers on the other hand, might not answer the questions openly if they thought the manager would find out about their testimonies. Separate interviews and the possibility to anonymity however reduced this concern. To actually visit the farms and observe the conditions, also provided a greater possibility to determine and understand the situation. The information was further compared between different sources, which gives the study a higher level of reliability.

The FLO-cert representatives possibly have a favourable interpretation of Fairtrade and its impact while the NGOs, ILO, the KPAWU representative and the university researcher could, of course influenced of their respective organisations, be considered to be more objective in their statements. They do not have anything to gain by giving a false testimony, why their opinions are of great value for the study.

³² A. Ryen, *Kvalitativ intervju – från vetenskapsteori till fältstudier*, 2004, p. 44ff.

Kenya's history as a British colony, tend to still affect the view of white people as rich and in a higher position of power. Kenya further has a comparably traditional and conservative gender structure. To be a white female researcher might thus affect the study; it may have been easier to get in touch with interviewees, but some information may also have been left out due to my sex and heritage.

1.6 Disposition

The study begins with a brief explanation of the Fairtrade standards; both the general and the product specific standards are mentioned as well as applicable ILO conventions. The report is after that continued with a description of the labour and human rights situation on the Fairtrade farms, built on interviews with managers and workers. This is followed by an equivalent chapter concerning the situation on the non-Fairtrade farms. The next part contains other peoples' views of Fairtrade and its impact on labour and human rights development in the Kenyan cut flower industry. These interviewed people include representatives from different NGOs, ILO, FLO-cert, KPAWU, and a researcher from the University of Nairobi. The study is thereafter completed with a chapter where the theoretical framework is connected and compared with the information gained from the interviews. This chapter also includes conclusions of the research assignments and a discussion of interesting areas for further research.

2 Fairtrade Standards and Auditing Mechanism

There are two different set of Fairtrade standards; one for small farmers and another one for hired labourers on plantations and in factories, which is the one applicable for the flower industry. Further there are two sets of standards, *minimum* and *progress* requirements. The minimum requirements must be met by the producers, while the progress requirements are desired goals.³³ The standards are based on internationally recognised standards and conventions, for example those issued by the UN³⁴ and the ILO. The producers must also abide with the applicable CBA³⁵ and national legislation in the country.³⁶ In case of differences, the regulation most profitable for the workers will be followed. The Fairtrade standards for hired labour is divided into three categories; social, economical and environmental development. Mainly the social development, but to some extent also economical and environmental development will be examined. There are also product specific standards, and the standards for flowers and plants are the most detailed and contextualised sector specific standards among the Fairtrade products. Both generic Fairtrade standards and the flowers and plants standards need to be followed, and compliance with the standards is annually audited by FLOs auditing body FLO-cert.

2.1 Fairtrade Standards for Hired Labour

According to the ILO convention 110³⁷, all workers and workers' representatives should be able to communicate freely to auditing parties. The minimum requirements ensures that the benefits of Fairtrade reach the workers, the company and workers have the potential for development, and that Fairtrade can lead to development that could not be achieved without the presence of Fairtrade.

³³ R. Mares, *Business and Human Rights – A Compilation of Documents*, 2004, p. 204.

³⁴ UN – United Nations.

³⁵ CBA – Collective Bargaining Agreement.

³⁶ R. Mares, *Business and Human Rights – A Compilation of Documents*, 2004, p. 207f.

³⁷ ILO Convention 110 – Plantation Convention (1958).

Regulations on discrimination are based on the ILO Convention 111³⁸, which stipulated that workers should not be exposed to “any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation”. The producer should ensure that any such discrimination will not occur in connection to recruitment, promotion, access to training, remuneration, allocation of work, termination of employment, retirement or other activities. The employees should not be exposed to corporal or other inappropriate punishment, or sexual harassment of any kind. The workers should be able to go through with a grievance procedure without interference in terms of disciplining actions from the management.³⁹ It is further not allowed to dismiss women as a consequence of pregnancy or of them using their maternity leave.⁴⁰

The Fairtrade regulations concerning freedom of labour follow the regulations in ILO conventions 29⁴¹, 105⁴², 138⁴³ and 182⁴⁴ about forced labour and child labour. Any kind of forced and bonded labour is prohibited. Forced labour include work which is exacted under the menace of penalty or if the employee has not offered to work voluntarily.⁴⁵

The central ILO regulations concerning freedom of association and collective bargaining are convention 87⁴⁶ and 98⁴⁷ and recommendation 143⁴⁸. Workers have the right to establish or join a workers’ organisation and to negotiate their working conditions, without interference from the management. Unions, whether based on the company or not, should be allowed to share information with the workforce on agreed times and places. Discrimination or disciplining of workers or union representatives, as a consequence of them practising union activities, should not occur. The employer is not allowed to interfere with the workers’ right to freedom of association.⁴⁹

Fairtrade standards regarding conditions of employment follow the ILO conventions 100⁵⁰, 111⁵¹ and 110⁵², concerning equal remuneration, discrimination and specific standards

³⁸ ILO Convention 111 – Discrimination (Employment and Occupation) Convention (1958).

³⁹ Generic Fairtrade Standards for Hired Labour, 17.12.07, p. 10f.

⁴⁰ Fairtrade Standards for Flowers and Plants for Hired Labour, 01.03.07, p. 6.

⁴¹ ILO Convention 29 – Forced Labour Convention (1930).

⁴² ILO Convention 105 – Abolition of Forced Labour Convention (1957).

⁴³ ILO Convention 138 – Minimum Age Convention (1973).

⁴⁴ ILO Convention 182 – Worst Forms of Child Labour Convention (1999).

⁴⁵ Generic Fairtrade Standards for Hired Labour, 17.12.07, p. 11f.

⁴⁶ ILO Convention 87 – Freedom of Association and Protection of the Right to Organise Convention (1948).

⁴⁷ ILO Convention 98 – Right to Organise and Collective Bargaining Convention (1949).

⁴⁸ ILO Recommendation 143 – Protecting the Rights of Workers’ Representatives (1971).

⁴⁹ Generic Fairtrade Standards for Hired Labour, 17.12.07, p. 13ff.

⁵⁰ ILO Convention 100 – Equal Remuneration Convention (1951).

⁵¹ ILO Convention 111 – Discrimination (Employment and Occupation) Convention (1958).

for workers on plantations. Conditions of employment, in particular salaries, should be at least the same as in the existing CBA, regional average or official minimum wages for equivalent occupations. Any discrimination in remuneration is against the Fairtrade standards. Working hours should not exceed 48 hours a week, overtime should be voluntary and not more than 12 hours, and at least 24 consecutive hours of rest every seventh day is obligatory. Exceptions are though allowed during a limited period of time.⁵³ Workers have right to at least three weeks of paid leave each year. A progress requirement is that the employer should provide housing or free transportation to the workplace.⁵⁴ Maternity leave should be at least eight weeks of full pay, which according to the progress requirements gradually will be increased each year until it reach 12 weeks. Thereafter breaks for breastfeeding during the working day must be assured. Local, migrant, permanent and seasonal workers should have equivalent working conditions for the same work performed.⁵⁵

The Fairtrade Standards regarding occupational health and safety follows the ILO convention 155⁵⁶, and its aim “to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.”⁵⁷ The workers should be trained in occupational health and safety practises, and there should be access to drinking water and adequate first aid equipment in the work place. The company is also responsible for providing the employees with adequate personal protective equipment, especially to those employees handling dangerous chemicals. Spraying with chemicals should be carried out in a safe manner, and specified re-entry regulations strictly followed. Class 1 chemicals cannot be used, due to human safety as well as environmental protection.⁵⁸ In case of work-related illness the company should treat or compensate the employee.⁵⁹

The Fairtrade Premium, which is part of the money the producers get for their products, is to be used for improvements of the socio-economic infrastructure for the workers, their families and the local community. A JB⁶⁰, consisting of democratically nominated workers’ and management representatives, decide how to invest the premium. The administration of the

⁵² ILO Convention 110 – Plantations Convention (1958).

⁵³ Generic Fairtrade Standards for Hired Labour, 17.12.07, p. 16.

⁵⁴ Fairtrade Standards for Flowers and Plants for Hired Labour, 01.03.07, p. 6.

⁵⁵ Generic Fairtrade Standards for Hired Labour, 17.12.07, p. 16ff.

⁵⁶ ILO Convention 155 – Occupational Safety and Health Convention (1981).

⁵⁷ ILO Convention 155 – Occupational Safety and Health Convention (1981), article 4:2.

⁵⁸ Generic Fairtrade Standards for Hired Labour, 17.12.07, p. 20ff.

⁵⁹ Fairtrade Standards for Flowers and Plants for Hired Labour, 01.03.07, p. 8.

⁶⁰ JB – Joint Body.

premium should be handled in a transparent manner, and it could not be used to cover running costs in the company.⁶¹

2.2 Auditing Mechanism

FLO-cert is an autonomous unit within FLO, which is responsible for certification and auditing of the producers. It follows the ISO Standards for Certification Bodies, ISO 65. Over 60 independent auditors perform the inspections, where after they report to the FLO-cert. The Certification Committee, consisting of producer representatives, traders, labelling initiatives and other experts, agree on the certification decision.⁶² By annual inspections of already certified producers, FLO-cert makes sure that they comply with the Fairtrade standards and that the Fairtrade premium is handled and used in a proper way.⁶³ Prior to the annual audit, the producer is informed about which issues are particularly important and which documents they need to prepare. The inspection at the producer starts with an opening meeting, followed by auditing of relevant documentation and interviews with people at different levels of the producer organisation. Physical inspection of the facilities is conducted, where after the audit ends with a closing meeting where the strengths and weaknesses can be discussed. After this procedure a report is sent to FLO-cert for evaluation, where after a decision concerning continued certification status is made.⁶⁴

⁶¹ Generic Fairtrade Standards for Hired Labour, 17.12.07, p. 26ff.

⁶² <http://www.fairtrade.net/introduction.html>, 2008-09-25.

⁶³ R. Mares, *Business and Human Rights – A Compilation of Documents*, 2004, p. 205.

⁶⁴ <http://www.flo-cert.net/flo-cert/main.php?id=81>, 2008-09-25.

3 The Labour and Human Rights Situation on Fairtrade Flower Farms

The study has been conducted on three different Fairtrade farms. Waridi Ltd. in Athi River employs around 350 workers and is considered to be a medium size flower farm, and the company has been a Fairtrade farm since 2003. Magana Flowers Kenya Ltd. is situated in the outskirts of Westlands, outside Nairobi. The farm, with its 400 employees, is also characterised as a medium-scale farm, and has possessed its Fairtrade certification since 2004.⁶⁵ Longonot Horticulture Ltd. is situated in Naivasha, the major flower producing city in Kenya.⁶⁶ It is a large-scale farm with 1 200 employees, and the company has been in Fairtrade since 2004.

3.1 The Fairtrade farms' Interpretation of Human Rights and Fairtrade

Not all of the management representatives understood the concept of *human rights*, but those who did described it as minimum basic requirements for decent living, access to basic needs like water, freedom of expression, freedom of speech and good working conditions.⁶⁷ Pauline Kamau, Nurse and Health and Safety Officer at Longonot, explained human rights as the right to life, food, education and security.⁶⁸ The interpretation concerning *labour rights* were more homogenous among the producer representatives. Jack Wahome, Post-harvest Manager at Magana, referred to the ILO and international standards,⁶⁹ while most of the others mentioned national labour laws or minimum standards according to the CBA. Elizabeth Maloba,

⁶⁵ At the time of the study all farms held a Fairtrade certification. Magana Flowers Kenya Ltd. is however, according to the east African department of FLO-cert, currently suspended. The reason for this is unknown due to confidentiality.

⁶⁶ Naivasha is Kenya's major flower producing city with its 57 flower farms, of which four are Fairtrade certified. The flower industry in Naivasha employs around 50 000 workers.

⁶⁷ J. Kigamba, Internal Audit and Fairtrade Officer, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

⁶⁸ P. Kamau, Nurse and Health & Safety Officer, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

⁶⁹ J. Wahome, Post-harvest Manager, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

Fairtrade Officer at Waridi, described labour rights as a privilege a worker was supposed to get from the employer.⁷⁰

A couple of workers described *human rights* as basic benefits for the human being; like shelter, clothing,⁷¹ access to medical services⁷² and not to be exposed to sexual harassment.⁷³ Other workers were focusing on the rights more directly related to the workplace and described human rights as “to be kept in a good way as employee”⁷⁴, to be able to communicate with the management,⁷⁵ that you should not be mistreated or overworked and that they should be paid according to the law.⁷⁶ Moses Ogweny, worker and Packer Representative at Longonot, interpreted human rights more as rules that had to be followed instead of rights for the human being.⁷⁷ A few of the workers connected *labour rights* with ILO, labour laws and the CBA, and most of the examples concerned regulations about working hours, overtime, salary and maternity leave. The absence of forced labour and access to medical services was also mentioned. A few did not know what it was, and one worker, Francis Maluti at Magana, referred to the labour laws and explained that there were certain limits were you as a worker could not be pushed beyond.⁷⁸

The producer representatives at the farms described *Fairtrade* in different ways. Most of them considered Fairtrade to be a fair trading relationship, where no parts of the selling-buying chain were exploited and where producer, exporter, middlemen and consumer all benefit equally.⁷⁹ Only two mentioned the workers; Wahome referred to the Fairtrade premium,⁸⁰ and Julius Kigamba, Fairtrade Officer at Magana, also mentioned the training the workers had access to through Fairtrade.⁸¹ When it comes to *fair*, the concept was described as openness,⁸² as transparency, no exploitation and distributed benefit,⁸³ or as including

⁷⁰ E. Maloba, Fairtrade Officer, Waridi Ltd./Athi River, personal interview 080918.

⁷¹ F. Maluti, Worker Harvest, Waridi Ltd./Athi River, personal interview 080918.

⁷² I. N. Githaiga, Worker Quality Control, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

⁷³ M. N. Weresa, Worker and Union Representative, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

⁷⁴ J. Inyanje, Worker Post-harvest, Waridi Ltd./Athi River, personal interview 080918.

⁷⁵ I. N. Githaiga, Worker Quality Control, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

⁷⁶ P. Kibe, Worker Field Department, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

⁷⁷ M. O. Ogweny, Worker and Packer Representative, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

⁷⁸ F. Maluti, Worker Harvest, Waridi Ltd./Athi River, personal interview 080918.

⁷⁹ J. Kigamba, Internal Audit and Fairtrade Officer, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

⁸⁰ J. Wahome, Post-harvest Manager, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

⁸¹ P. Kamau, Nurse and Health & Safety Officer, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

⁸² J. Wahome, Post-harvest Manager, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

⁸³ J. Kigamba, Internal Audit and Fairtrade Officer, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

everyone, not leaving anyone out.⁸⁴ Maloba interpreted the concept as equal treatment and no exploitation of the workers. She emphasised the importance to remember that we are all human beings and that we all have the same needs, feelings and longings, and therefore have to be treated equally.⁸⁵

Overall the borders between *fair* and *Fairtrade* seemed to be somewhat diluted among the workers. Margaret Weresa, a Union Representative at Longonot, described Fairtrade as an organisation which sometimes came and audited the farm. If something was wrong they had to correct, all of this according to the standards.⁸⁶ Irene Githaiga, worker in the Department for Quality Control at Magana, described the concept as a fair trade between buyers and sellers, whereby the fair price favoured both the producers and the workers.⁸⁷ The buyers assist the producers, which improve the working standards at the farm as well as the situation in the nearby community. Other workers had a narrower interpretation of Fairtrade; Jacklyne Inyanje, worker in Post-harvest at Waridi, saw Fairtrade as a benefit she got as an employee, and gave examples on what they had done with the Fairtrade premium⁸⁸, and Peter Kibe, worker in the Field Department at the same farm, explained the concept of Fairtrade as a way for producer and workers to benefit equally. He described *fair* as “Being fair is just being fair. You are just fair. You care about let’s say good working conditions, you are paid a very good salary, or just enough salary, your working conditions, there is no mistreatment, everything is just, according to the law.”⁸⁹ Ogweny described fair as something balancing, it did not exploit the company, the workers or the community; it was a balance between them.⁹⁰ Most interviewed workers considered the Fairtrade standards to be fair, and that the standards had made a difference for them as workers. Maluti however thought the workload in the greenhouses was too extensive, he had to work hard and long hours, and wanted the management to add more people to his department.⁹¹

⁸⁴ P. Kamau, Nurse and Health & Safety Officer, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

⁸⁵ E. Maloba, Fairtrade Officer, Waridi Ltd./Athi River, personal interview 080918.

⁸⁶ M. N. Weresa, Worker and Union Representative, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

⁸⁷ I. N. Githaiga, Worker Quality Control, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

⁸⁸ J. Inyanje, Worker Post-harvest, Waridi Ltd./Athi River, personal interview 080918.

⁸⁹ P. Kibe, Worker Field Department, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

⁹⁰ M. O. Ogweny, Worker and Packer Representative, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

⁹¹ F. Maluti, Worker Harvest, Waridi Ltd./Athi River, personal interview 080918.

3.2 Labour Rights Situation

It is a unanimous consent among both managers and workers, that Fairtrade has benefited the workers; both through the use of the premium as well as improved working and living conditions. There is also a widespread opinion that Fairtrade can lead to further development and that the development seen could not have happened in the absence of Fairtrade. “It was when Fairtrade came, it was when we started see so many changes”⁹², as Weresa put it.

Both managers and workers considered the farms to be free from discrimination. They did not report any different treatment of women and men, permanent and casual workers, migrant workers or others. All farms were however overrepresented by women and there were typical female and male occupations. Spraying and building were for example typical male occupations and harvesting was mostly employed by females; spraying because the chemicals may affect women’s reproductive capabilities, but the divisions within the areas of building and harvesting was just a consequence of tradition. The basic remuneration for these different female/male occupations was however the same. The female majority in the workforce was increasingly reflected in the promotions to the middle management, but for the top management there was still a considerable majority of men at all farms.

One case of discrimination was recognised at Magana during Fairtrade’s last audit. It was a member of the workers’ committee who got dismissed after being absent from work for 12 days. It was in line with the company’s policy, but the Fairtrade auditors considered it to be discriminating since the incident happened during the post-election violence; an aspect which the company should have taken into account.⁹³ Sexual harassment appeared to be rather uncommon. One case occurred at Longonot, where a supervisor asked for favours, sometimes sexual, from his subordinates; if they obeyed he would give them occupational privileges like for example a permanent employment and if not, he would give them a hard time. An investigation started, all involved were heard, and the supervisor was thereafter dismissed since he was found guilty for the allegations.⁹⁴ Workers and managers at the other farms told they had similar grievance procedures in place, and no one reported inconvenience in bringing up problems to the management; no subjects were reported to be too controversial.

⁹² M. N. Weresa, Worker and Union Representative, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

⁹³ J. Kigamba, Internal Audit and Fairtrade Officer, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

⁹⁴ P. Kamau, Nurse and Health & Safety Officer, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

HIV⁹⁵- and pregnancy tests were not conducted on the Fairtrade farms as part of the recruitment process.⁹⁶ Kamau, the Nurse and Health and Safety Officer at Longonot, states that these practices still occur at some other flower farms; one nearby farm requires a blood sample in connection to the recruitment process, and in case of either HIV or pregnancy, the person would not be recruited.⁹⁷

No bonded labour occurred on the Fairtrade flower farms, and such cases on non-Fairtrade farms were not reported either. Both workers and managers stated that no workers in the flower farms were under the age of 18; the employees needed to prove their age by showing their identity card when recruited. When it comes to forced labour workers report that it occurred before Fairtrade certification, but now they are allowed to go home when they should.⁹⁸ Overtime is voluntary and compensated by either salary or leave.

The workers in the Kenyan cut flower industry can only choose from one union to belong to, the KPAWU, which is part of the Kenyan central organisation of trade unions, COTU⁹⁹. On the majority of the Fairtrade farms more than half of the employees were members of the union. At Magana there was however only one member. Kigamba, Fairtrade Officer at that farm, thought the low membership rate was a consequence of already good working conditions and a functioning system with workers' committees.¹⁰⁰ The workers at the farm confirm that there have been union meetings, and state that there has been no interference from management in practising their freedom of association and right to join the only existing union.¹⁰¹ Maloba, the Fairtrade Officer at Waridi with a higher union membership rate than Magana, said she understood the workers who decided not to join, since it cost them a considerable part of their income.¹⁰²

Members of the union, consider it to help them when needed. Maluti describes that union activities before Fairtrade certification were poor, a situation which now has improved.¹⁰³ Harry Milbank, Manager at Longonot, states that the relationship with the union has improved after certification. He however thinks that the union in theory is modern and

⁹⁵ HIV – Human Immunodeficiency Virus.

⁹⁶ J. Wahome, Post-harvest Manager, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

⁹⁷ P. Kamau, Nurse and Health & Safety Officer, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

⁹⁸ M. N. Weresa, Worker and Union Representative, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

⁹⁹ COTU – Central Organisation of Trade Unions.

¹⁰⁰ J. Kigamba, Internal Audit and Fairtrade Officer, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

¹⁰¹ I. N. Githaiga, Worker Quality Control & P. Kibe, Worker Field Department, Magana Flowers Kenya Ltd./Nairobi, personal interviews 080926.

¹⁰² E. Maloba, Fairtrade Officer, Waridi Ltd./Athi River, personal interview 080918.

¹⁰³ F. Maluti, Worker Harvest, Waridi Ltd./Athi River, personal interview 080918.

progressive, but they work in an old-fashioned way. He believes that the union, especially on non-Fairtrade farms, has the idea that they need to fight the management instead of working with them, and fight for rights which are over and above what has been agreed on in the CBA. This has led to a tense relationship between union and management, and employees are nervous of using their freedom of association.¹⁰⁴ A present Union Representative, Weresa, remembers that she and other workers used to fear to be elected and refused to accept the position, since that would lead to inappropriate punishment from the management, like discrimination or even dismissal. This kind of victimisation is not prevailing after Fairtrade certification.¹⁰⁵

Concerning the workers' wages on the Fairtrade farms, both workers and managers state that they are equal to or higher than the minimum salaries in the CBA. The flower workers at the Fairtrade farms had been working in the same place for between three and nine years and earned between 5 500 and 7 300 KES¹⁰⁶¹⁰⁷ each month, house allowance included. Maluti, who earns the only income in his family, states that he is forced to low living standards; the family lives in a small house without electricity and he barely has money for buying clothes and paying school fees for his children.¹⁰⁸ Even Weresa, with the second highest salary, 6 500 KES/month, thinks her salary is too low and not enough for her expenses. She is a single mother of three, and she thinks that it is difficult to cover expenses for rent, food, clothes, school fees etc. She had to put her children in cheaper schools, and because of absence of sufficient day care she has been forced to put her three year old in school as well.¹⁰⁹ Ogweny tells he had to move his family from their home in Naivasha during the post-election violence, and he is now trying to pay for himself as well as support them with his salary on 5 500 KES/month.¹¹⁰ The two workers who think their wages are just enough, have a spouse also remunerated.¹¹¹ Even management representative Kigamba thinks that the salary is too low,

¹⁰⁴ H. Milbank, Manager, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

¹⁰⁵ M. N. Weresa, Worker and Union Representative, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

¹⁰⁶ KES – Kenyan Shillings.

¹⁰⁷ 10 KES ≈ 1 SEK.

¹⁰⁸ F. Maluti, Worker Harvest, Waridi Ltd./Athi River, personal interview 080918.

¹⁰⁹ M. N. Weresa, Worker and Union Representative, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

¹¹⁰ M. O. Ogweny, Worker and Packer Representative, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

¹¹¹ J. Inyanje, Worker Post-harvest, Waridi Ltd./Athi River, personal interview 080918 and P. Kibe, General Worker, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

especially for new employees.¹¹² Maloba however thinks the remunerations are enough since the workers have not complained, which she believes they would if they were not satisfied.¹¹³

The working hours differed between 42 and 46 hours a week. Overtime is common in the flower industry, and depending on section, the employees worked from a few hours up to 20 hours overtime each week. Only one employee, Ogweny, however reported he usually exceeded 60 hours a week.¹¹⁴ Most workers told they worked six days a week, but Maluti announced he sometimes worked seven days in one week.¹¹⁵

The annual leave exceeds the three weeks in the Fairtrade standards for flowers and plants, since the national laws and CBA advocate for superior conditions,¹¹⁶ and the workers at the Fairtrade farms report that they have leave between 22 and 28 days each year. When it comes to maternity leave, all farms practice three months of maternity leave. This is more than the minimum requirements in the Fairtrade standards, but in line with the Kenyan Employment Act.¹¹⁷ It is however interesting that the Fairtrade minimum requirement is lower than the provisions in the ILO Maternity Protection Convention¹¹⁸, which stipulates 84 days of maternity leave. Fairtrade progress requirements however advocates for an equivalent period of maternity leave.¹¹⁹ A new regulation concerning the right to two weeks of paternity leave¹²⁰ is also adopted by the Kenyan government. Due to a printer's error, this right is only entitled the *employer* and none of the farms had yet implemented the regulation.

The workers at the Fairtrade farms have access to both drinking water and first aid equipment, which was easily spotted when walking in between the greenhouses. They were also provided with proper personal protective equipment, an area in which many of the workers reported a huge change since certification. Both managers and workers stated that class 1 chemicals not were in use and that the re-entry regulations after spraying were followed.

¹¹² J. Kigamba, Internal Audit and Fairtrade Officer, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

¹¹³ E. Maloba, Fairtrade Officer, Waridi Ltd./Athi River, personal interview 080918.

¹¹⁴ M. O. Ogweny, Worker and Packer Representative, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

¹¹⁵ F. Maluti, Worker Harvest, Waridi Ltd./Athi River, personal interview 080918.

¹¹⁶ The Employment Act (2007), article 28:1a, stipulates 21 days of leave after 12 consecutive months of employment.

¹¹⁷ The Employment Act (2007), article 29:1.

¹¹⁸ ILO Convention 183 – Maternity Protection Convention (2000).

¹¹⁹ Generic Fairtrade Standards for Hired Labour, 17.12.07, p. 18.

¹²⁰ The Employment Act (2007), article 29:8.

3.3 Impact of Fairtrade Premium and Fairtrade in General

The Fairtrade premium has been used in different ways at the farms. Projects like building water wells, schools, hospitals and bridges have been initiated. Contributions to orphanages and home for aged people have also been financed by the premium. It is further common to provide training for the workers, like for example training for computer, driving, tailoring etc. All workers agree that the projects have benefited them, as Inyanje put it “Yes, it has benefited me. When I go to training that’s my benefit, when they build the schools, when my child has gone to that school, that’s my benefit, when we build hospitals, when I am sick, when I enter there that’s my benefit.”¹²¹ Maluti, who does not live in the nearby community, however complains that benefits for the community do not reach him and his family, and therefore demand for more direct workers’ benefits.¹²² They are all convinced that Fairtrade has also benefited the local society, since for example the schools, hospitals, orphanage and bridge can be used by people outside the farm as well.

Kibe describes that Fairtrade contributes to awareness rising, the workers are more enlightened about their rights as workers and human beings.¹²³ Weresa agrees with this position, she recalls the time before Fairtrade certification, when the workers were being discriminated in a way they could not oppose. Now the workers at the Fairtrade farm are spreading the knowledge about their rights to workers at other farms, which promotes the awareness of labour and human rights.¹²⁴ One of the Fairtrade Officers, Maloba, believes that Fairtrade contributes to improvements of the unions work as well as the Kenyan government, since it brings competition, and the union and government must adopt at least as good standards. If the Kenyan government use FLO standards as a benchmark the labour standards in Kenya will eventually be good.¹²⁵

3.4 General Researcher Observations

The general impression of the visited Fairtrade farms was that they were welcoming and cooperative. They showed me around and let me talk to whoever I wanted to. At one of the farms they were eager to show the different projects financed by the Fairtrade premium. At Magana I was provided with a protective dust coat while walking around in the greenhouses,

¹²¹ J. Inyanje, Worker Post-harvest, Waridi Ltd./Athi River, personal interview 080918.

¹²² F. Maluti, Worker Harvest, Waridi Ltd./Athi River, personal interview 080918.

¹²³ P. Kibe, Worker Field Department, Magana Flowers Kenya Ltd./Nairobi, personal interview 080926.

¹²⁴ M. N. Weresa, Worker and Union Representative, Longonot Horticulture Ltd./Naivasha, personal interview 080930.

¹²⁵ E. Maloba, Fairtrade Officer, Waridi Ltd./Athi River, personal interview 080918.

presumably to emphasise that the farm considered protective equipment to be important. First aid and drinking water was further easily spotted while walking around on the farm. The interviewed farm owners¹²⁶ all had a heritage from countries outside Africa, which appeared to be common in the flower industry in general.

3.5 Summary

The majority of management representatives focused on the producer perspective and the trading relationship when describing Fairtrade, while workers tended to concentrate on working conditions and their relationship to the employer. The general opinion of the workers' was that the conditions at the farm were fair to them. The managers and workers did not think discrimination occurred, but there were apparent female/male divisions and women were underrepresented in higher positions. Grievance procedures were in place, and workers felt that they could discuss problems with the management. Forced labour is not reported to occur. Overtime and targets exist, but overtime is in most cases regulated to not more than 12 hours each week. Union membership rate differed among the farms, but one argued they did not need the presence of a union since they already had good practises. Wages were in line with the CBA, but still too low. Some of the workers earned the family's only income, which made it difficult for them to satisfy their families' basic needs. Access to clean drinking water, first aid and proper personal protective equipment were adequate and no class 1 chemicals were used. The workers further reported that Fairtrade had benefited them, both through improved working conditions and from the projects initiated from the Fairtrade premium.

¹²⁶ I did not get to interview the farm owner at Magana.

4 The Labour and Human Rights Situation on non-Fairtrade Flower Farms

Two non-Fairtrade farms, both situated in Naivasha, are included in this study. Star Flowers Ltd. employs around 450 workers and is considered to be a medium-scale farm. The other company, a large-scale farm which preferred to be anonymous, is one of the biggest farms in the area, employing around 3 900 workers.

4.1 The non-Fairtrade farms' Interpretation of Human Rights and Fairtrade

Ayub Mabuga, Human Resources Manager at Star, interpreted the meaning of *human rights* as handling individuals with dignity; an employer should take into consideration the best of the workers and what they deserve. He continued to describe *labour rights* as labour laws in the workplace, employment relations as well as the CBA.¹²⁷

John Kibe, worker and Shop Steward at Star, described *human rights* as a mirror from the worker to the employer; which helps to prevent workers from being harassed and get too low salaries etc.¹²⁸ Nancy Muruihi, who previously was employed by a nearby Fairtrade farm, emphasises the possibility to discuss problems with the management as a human right.¹²⁹ A group of shop steward representatives, Ferdinand Guma, Lydia Isaih, Meshack Luyai and Samson Ounda, at the other non-Fairtrade farm, described human rights as God given rights, and gave examples like the right to life, employment, the right to associate and right to good housing.¹³⁰ Elizabeth Mwaniki, worker in the Grading Section, interpreted human rights as something which is good for her as a person; the manager should for example not look down on her as a person, he was obliged to provide good working conditions and let her use her right to express herself.¹³¹

¹²⁷ A. Mabuga, Human Resources Manager, Star Flowers Ltd./Naivasha, personal interview 081110.

¹²⁸ J. M. Kibe, Worker and Shop Steward, Star Flowers Ltd./Naivasha, personal interview 081110.

¹²⁹ N. Muruihi, Worker Harvest, Star Flowers Ltd./Naivasha, personal interview 081110.

¹³⁰ F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹³¹ E. Mwaniki, Worker Grading, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

When it comes to *labour rights*, the workers gave examples like regulations concerning minimum salaries and health and safety in the workplace.¹³² Judy Atieno, a worker in the Production Department, stated that it is important to know about your rights¹³³ and the shop steward representatives exemplified decent working conditions with access to adequate protective equipment and wages in line with the actual costs of living.¹³⁴ Other workers did not know the meaning of labour rights and after explanation of the labour regulations Mwaniki stated that she did not think the manager was following the labour laws, since she sometimes had to work for long hours.¹³⁵

The concept of *fair* was by the manager representative Mabuga described as “putting everything in balance, you don’t go to that or that side.”¹³⁶ He further stated that laws and policies needed to be dealt with in a fair way. He knew about Fairtrade, and the farm recently applied for a Fairtrade certification, why he thought they soon would be enrolled in the program. He was positive to join Fairtrade since money would be given back to employees through projects and the company would be able to sell flowers all over the world.¹³⁷

All workers were to some extent aware of Fairtrade, and they had a positive impression of Fairtrade, and would like their farm to attain a certification. Kibe had talked to Fairtrade flower workers who had been given gifts, could leave their children at baby care during working hours and who were proud of their farm.¹³⁸ The shop steward representatives believed that Fairtrade would improve the conditions for the employees; they would for example be provided proper protective equipment and occupational diseases would be less common.¹³⁹

The worker Mwaniki explained the concept of *fair* as “being fair, I think if I do something that will not hurt you or I won’t do anything wrong to you, I think I’m being fair to you.”¹⁴⁰ Guma, Isaih, Luyai and Ounda agreed that the most important ingredient of fair was transparency and that fairness characterise alright conditions for everybody.¹⁴¹ Kibe

¹³² J. M. Kibe, Worker and Shop Steward, Star Flowers Ltd./Naivasha, personal interview 081110.

¹³³ J. Atieno, Worker Production Department, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹³⁴ F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹³⁵ E. Mwaniki, Worker Grading, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹³⁶ A. Mabuga, Human Resources Manager, Star Flowers Ltd./Naivasha, personal interview 081110.

¹³⁷ A. Mabuga, Human Resources Manager, Star Flowers Ltd./Naivasha, personal interview 081110.

¹³⁸ J. M. Kibe, Worker and Shop Steward, Star Flowers Ltd./Naivasha, personal interview 081110.

¹³⁹ F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁴⁰ E. Mwaniki, Worker Grading, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁴¹ F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

interpreted *fair* as an equal or even favouring treatment.¹⁴² Other explanations involved fair treatment from the management; Muruihi gave the example that supervisors should take well care of workers when they got sick or had other problems.¹⁴³ None of the workers at the non-Fairtrade flower farms thought the conditions in their workplaces were fair.

4.2 Labour Rights Situation

The workers at Star did not think discrimination occurred at the farm. Many different tribes were represented among the workers and females were in slight majority. Kibe and Muruihi also reported that they had a grievance procedure in place, and that they could bring all kinds of problems to the management.¹⁴⁴ At the other non-Fairtrade farm, the workforce had a similar composition, with female workers in majority and workers from several different tribes. Guma, Isaih, Luyai and Ounda however reported that tribalism occurred, since managers seemed to favour people from the same tribe in recruitment and promotion, and they were also more likely to be paid a higher salary than other people with similar duties and length of employment. They also stated that it was easier for men to get a promotion to higher positions and that there was only one female represented in the top management. Men were further dominating among union representatives, which the shop stewards believed was because women might not be ready to take responsibilities in connection to such positions.¹⁴⁵

At the anonymous farm, workers and shop stewards reported that management had recently introduced medical tests in recruitment.¹⁴⁶ They were not sure what they were looking for, but new candidates had to give samples of blood, urine and stool. Atieno mentioned that the previous management used to have an HIV policy in place, but at the moment she did not know if an applicant would be rejected if it turned out they were pregnant or infected by HIV.¹⁴⁷

Another problem related to discrimination was sexual harassment. The problem used to be extensive; managers used to ask female employees for sexual favours and they would get a job, promotion or some other privilege in return. The presence of a strong union has reduced

¹⁴² J. M. Kibe, Worker and Shop Steward, Star Flowers Ltd./Naivasha, personal interview 081110.

¹⁴³ N. Muruihi, Worker Harvest, Star Flowers Ltd./Naivasha, personal interview 081110.

¹⁴⁴ J. M. Kibe, Worker and Shop Steward & N. Muruihi, Worker Harvest, Star Flowers Ltd./Naivasha, personal interview 081110.

¹⁴⁵ F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁴⁶ F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁴⁷ J. Atieno, Worker Production Department, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

the problem, but it still occurred.¹⁴⁸ Female workers still get proposals of sexual favours from managers. If they cannot handle it themselves they would go to the union for help, they handle the problem and the management do not want to collide with the union, Mwaniki explains.¹⁴⁹ Bringing up grievances to the management is not an option, since they might dislike the presence of the problem and cover it up.¹⁵⁰

Neither child labour nor bonded labour occurs at the farms. Some departments are reported to practise high targets, and most employees need to work overtime to finish their work. If the worker has an excuse, they may in exceptional cases be able to go from work after the normal working hours.¹⁵¹ If the targets are not met, it is considered to be poor work performance, which leads to a warning and the employee risk dismissal if it happens again.¹⁵² Atieno states that if you refuse to work as a consequence of absence of adequate protective equipment such as gum boots or gloves, the manager would force you to work anyway. The unemployment rate is high, and both the manager and employee are well aware that it is easy to find a new worker if someone refuses.¹⁵³

The non-Fairtrade farms have an active union, KPAWU, representing the workers. The membership rate is high; on the anonymous non-Fairtrade farm two thirds of the workers are members of the union and at Star all employees are members. This is however not because the management have encouraged union membership. Star was recently sold and the workers did not get their salary from the previous owner, and all workers joined the union and went into a strike. The management dislikes union activities, but no disciplining of workers using their right to freedom of association occurs.¹⁵⁴ The group of shop steward representatives at the other non-Fairtrade farm states that it is quite uncommon with strong unions at the Kenyan flower farms, both on non-Fairtrade and Fairtrade farms. It is not unusual for a worker to be dismissed as a consequence of using the right to participate in union activities.¹⁵⁵

Meetings with the union are held during the workers' lunch hour or free time, since management does not permit those meetings during working hours. On Star the previous

¹⁴⁸ F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁴⁹ E. Mwaniki, Worker Grading, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁵⁰ J. Atieno, Worker Production Department, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁵¹ E. Mwaniki, Worker Grading, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁵² F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁵³ J. Atieno, Worker Production Department, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁵⁴ N. Muruihi, Worker Harvest, Star Flowers Ltd./Naivasha, personal interview 081110.

¹⁵⁵ F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

management were unwilling to invite the union, even though the union had tried to access the farm several times. At the other farm, everyone agrees that the presence of the union at the farm has made a difference for the workers; as one of the shop steward representatives put it “Without the union, this farm would be like a slave centre.”¹⁵⁶ Mwaniki, a female worker at the same farm, agrees that the union has made an essential difference; now the workers know more about their human rights, which have improved the situation of forced labour, discrimination and sexual harassment.¹⁵⁷ Atieno believes that the management does not care about the workers and their well-being; they do not care how, they just want the work done. The union however takes care about the employees’ welfare and demand for proper protective gear etc.¹⁵⁸

The workers at the non-Fairtrade farms had been working at the same workplace for between three and five years, and their salaries varies between 5 300 and 7 400 KES, including house allowance. Muruihi, a single mother of one child, states that her salary is too low, and that the house allowance is not enough to pay the rent.¹⁵⁹ On their farm, Guma, Isaih, Luyai and Ounda however reported that discrimination in wages sometimes occurred; managers tended to privilege workers from the same tribe and it was not fair that a manager could be paid up to 200 000 KES/month.¹⁶⁰ Atieno agreed that the difference in wages was a problem. She thought it was unfair that she and her fellow workers had to work hard under harsh conditions, without adequate remuneration.¹⁶¹

At the non-Fairtrade farms a normal week consists of 46 hours of work. Mabuga, Human Resources Manager at Star, states that it is common with two hours of overtime each week, which means employees normally work 50 or less hours each week. He adds that there are no targets to be met in the farm, no work is compulsory.¹⁶² The hours of work each week is confirmed by the workers at the farm, even though some departments practise targets that have to be met, which might involve more than two hours of overtime during peak season. The situation seems to be different at the other farm, where some departments work about five

¹⁵⁶ F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁵⁷ E. Mwaniki, Worker Grading, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁵⁸ J. Atieno, Worker Production Department, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁵⁹ N. Muruihi, Worker Harvest, Star Flowers Ltd./Naivasha, personal interview 081110.

¹⁶⁰ F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁶¹ J. Atieno, Worker Production Department, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁶² A. Mabuga, Human Resources Manager, Star Flowers Ltd./Naivasha, personal interview 081110.

hours of overtime each day.¹⁶³ Mwaniki reports that she starts work at 9 in the morning, and sometimes has to stay at work until 1 am the next day. This can go on for a week, or even a month, which means she can reach 90 hours of work in a week during periods of high production.¹⁶⁴

Mabuga states that the workers are entitled 22 days of leave each year.¹⁶⁵ The workers however believe that they have between 21 and 26 days of annual leave. They also possess the right to paid sick leave. Atieno however states that a sick person is fully paid during the first month, get half the pay the second month and that the employee is dismissed after three months of sick leave, even if it is an occupational disease.¹⁶⁶ The shop steward representatives further state that even if the company's doctor prescribed for example transfer to another position with less exposure to the dangerous chemicals, this was never implemented by the management.¹⁶⁷ Women are entitled three months of paid maternity leave, which is followed at the farms. There is also time for nursing afterwards, the mothers get one extra lunch hour during between two and 12 months. One farm also practises the new regulation of two weeks of paternity leave.¹⁶⁸

The workers at the non-Fairtrade farms are provided with protective equipment, but they are neither adequate nor sufficient. Muruihi, worker in the harvest department, was only provided with a worn out dust coat and gum boots with holes in them, and she had not been given gloves to protect her hands.¹⁶⁹ Atieno has to use her own shoes and has bought the gloves she uses for her own money. She further describes the harsh conditions in the greenhouses; they have no access to clean drinking water, and they are forced to go in and cut the flowers sprayed with class 1 chemicals after maybe 6-10 hours, when the proper re-entry period should be no less than 24 hours.¹⁷⁰ She herself had suffered from three miscarriages, and had heard of many other flower workers with the same problem, and was therefore

¹⁶³ F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁶⁴ E. Mwaniki, Worker Grading, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁶⁵ A. Mabuga, Human Resources Manager, Star Flowers Ltd./Naivasha, personal interview 081110.

¹⁶⁶ J. Atieno, Worker Production Department, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁶⁷ F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁶⁸ J. Atieno, Worker Production Department, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁶⁹ N. Muruihi, Worker Harvest, Star Flowers Ltd./Naivasha, personal interview 081110.

¹⁷⁰ J. Atieno, Worker Production Department, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

convinced that it was related to the exposure to dangerous chemicals.¹⁷¹ The group of shop steward representatives and other workers confirms that the re-entry regulations not always were followed, while managers and a couple of workers state that they obey the regulations.

4.3 Impact of Fairtrade Premium and Fairtrade in General

Fairtrade is generally considered to be positive. Mabuga believes that Fairtrade take the workers' plight into account, and help to empower the employees to better understand their rights. A negative aspect with Fairtrade is however that they have not been active in reforming the minimum wages, which is an essential issue, since it could help the employees to develop themselves.¹⁷² Guma, Isaih, Luyai and Ounda believe that Fairtrade would bring improvements to their farm, especially since they would have to go through audits regularly. They further think that the development on the farm would be sustainable, since the employer has to comply with the standards in order to sustain the desired market access.¹⁷³

Mabuga has heard about the Fairtrade premium, a neighbouring Fairtrade farm, has started projects and built houses for the employees. Mabuga does however not believe that the various projects in any way have benefited the workers on his farm or the community; the premium solely benefits the workers at the actual farm.¹⁷⁴ Muruihi, who previously worked as a casual worker during seven months at a Fairtrade farm, said she benefited since the workers got rewards and the farm initiated projects like building a hospital for the premium money. Now, when she is working at a non-Fairtrade farm, she cannot go to the hospital anymore and do not benefit from the other Fairtrade farms' projects either.¹⁷⁵ All workers know to some extent about Fairtrade, and they all agree that the premium money is only for the workers at the farms and has not reached them.¹⁷⁶

4.4 General Researcher Observations

It was difficult to access the non-Fairtrade farms. I was promised to come where after the changed their mind in the last minute. The non-Fairtrade farms were more reserved; I was not

¹⁷¹ J. Atieno, Worker Production Department, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁷² A. Mabuga, Human Resources Manager, Star Flowers Ltd./Naivasha, personal interview 081110.

¹⁷³ F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

¹⁷⁴ A. Mabuga, Human Resources Manager, Star Flowers Ltd./Naivasha, personal interview 081110.

¹⁷⁵ N. Muruihi, Worker Harvest, Star Flowers Ltd./Naivasha, personal interview 081110.

¹⁷⁶ F. Guma et al., Shop Steward Representatives, Anonymous non-Fairtrade flower farm/Naivasha, personal interview 081121.

allowed to visit the field and could not talk to the management at the anonymous farm, but could however interview a management representative at Star. Females tended to be shyer than men; the only woman in the group of shop stewards did not talk as much as her male equivalents, she only answered questions directed to her personally. This, together with the rest of the group's opinion that females were less prepared for positions involving responsibilities, indicate on stigmatisation of women. Further, the workers personal protective equipment was worn out, broken or not even existing.

4.5 Summary

The manager representative saw the whole perspective of Fairtrade, both the management's and the workers' benefit. The workers' knew to some extent about Fairtrade, and had a positive impression of it. They did further not believe that the working conditions at the farms were fair. Discrimination relating to tribe or sex was recognised in recruitment, promotion and remuneration. The usage of medical tests in recruitment further indicates on discrimination of pregnant women and HIV positive job-seekers. Sexual harassment was also an issue at one of the farms, and a hierarchical and patriarchal organisational structure was prevailing. Forced labour occurred, since high targets in practice forced the employees to work extensive hours of overtime. The farms had a high union membership rate and the union worked actively with employment related issues, even though management disliked such activities. The wages were considered to be too low and the provided protective equipment was dissatisfying and there were sometimes no access to clean drinking water. Class 1 chemicals were sometimes used, and workers suffered from occupational diseases. They had heard about various Fairtrade projects, but none of them thought they or the community had benefited from those projects.

5 Other Views of Fairtrade's Impact on the Labour and Human Rights Development

There are differing opinions concerning Fairtrade's impact on the labour and human rights development in the Kenyan cut flower industry. Knowledgeable people within NGOs, ILO, FLO-cert, KPAWU and a researcher has been asked about their opinion and experience of positive and problematic aspects of Fairtrade in the Kenyan cut flower industry.

5.1 Labour and Human Rights Situation

Gerald Mutinda, Program Officer for Rural Development at SCCROEA¹⁷⁷ and knowledgeable about sustainable agriculture, believes that the situation and working conditions in the cut flower industry is discouraging. The government is unable to enforce the minimum standards and the minimum pay in the CBA is extremely low. The employers can treat the workers the way they want, since the employees are unaware of their rights and desperate for a job.¹⁷⁸

Peter Otieno, Branch Secretary for the union KPAWU, used to be a shop steward at one of the flower farms in Naivasha, and is thus well-informed about the situation on the Kenyan flower farms. Most farms in Naivasha adhere to at least one certification initiative, and some of them are audited by maybe eight to ten different initiatives. Out of them, Otieno believes Fairtrade has the most far-reaching standards. The overall conditions are better on the Fairtrade farms, however not without exceptions.¹⁷⁹

Discrimination in terms of ethnicity and sex is the reality at the flower farms. This situation is present on both non-certified as well as Fairtrade farms. One of the Fairtrade farms mostly employs workers from the same tribe. Some workers, from varying tribes, had to leave the farm during the post-election violence, and were not accepted back when the situation calmed down. The Fairtrade farm instead recruited a new, ethnically homogenous group of employees, in contrast to most other farms who accepted the victimised employees back again.¹⁸⁰

¹⁷⁷ SCCROEA – Swedish Cooperative Centre Regional Office Eastern Africa.

¹⁷⁸ G. Mutinda, Program Officer Rural Development, SCCROEA/Nairobi, personal interview 081003.

¹⁷⁹ P. O. Otieno, Branch Secretary, KPAWU/Naivasha, personal interview 081017.

¹⁸⁰ P. O. Otieno, Branch Secretary, KPAWU/Naivasha, personal interview 081017.

When it comes to forced labour, Otieno confirms the problem with highly set targets, which the employees must reach. He reports that it is even in line with the national labour laws to dismiss an employee who has not reached the target.¹⁸¹ Not all, but most of the farms, practise overtime; Fairtrade however tries to minimise the overtime by restricting it to not more than 12 hours each week.¹⁸²

Two of the four Fairtrade certified farms in the Naivasha area discourage union membership. This is common among non-Fairtrade farms as well, and Otieno estimates that more than 50 % of the farms interfere with the workers' right to freedom of association.¹⁸³ The NGO KHRC¹⁸⁴ has been concerned about the situation in the cut flower industry for several years; since 1999 the commission has been reporting about labour and human rights violations on the flower farms. Louiza Kabiru at the KHRC believes that the unions work is too ineffective; even if some representatives are devoted to the purpose of their work, the resources are poor and the farms to be covered are too many. In addition, the officials' salaries are too low, which opens up for corruption and the opportunity for bribery. She believes that if the union movement would be efficient, there would be no need for certification initiatives as Fairtrade.¹⁸⁵

According to Otieno, Fairtrade farms differ from non-Fairtrade farms when it comes to conditions of employment. He thinks wages are higher on Fairtrade certified farms, but they are still not enough.¹⁸⁶ ILO representatives Sam Mshiu, Leonie Thenerkauf and Maxi Ussar, believe that the outcomes of Fairtrade are mainly positive. ILO as an organisation neither promotes nor opposes Fairtrade's existence, but private initiatives such as Fairtrade helps to achieve the goals of ILO; which is promotion of decent working conditions. ILO is also of the opinion that the minimum wages are too low, and emphasise that it is not what the workers generally are supposed to be paid; minimum salary is the absolute bottom. ILO does however not think that too low minimum wages is an issue that Fairtrade need to address; it is up to the union movement to negotiate for a proper living wage.¹⁸⁷ Maggie Opondo, a lecturer and researcher at Nairobi University, similarly believes that minimum wages are not in line with

¹⁸¹ The Employment Act (2007), article 44:4e states that a dismissal is justifiable and lawful when "an employee knowingly fails, or refuses, to obey a lawful and proper command which it was within the scope of his duty to obey, issued by his employer or a person placed in authority over him by his employer."

¹⁸² P. O. Otieno, Branch Secretary, KPAWU/Naivasha, personal interview 081017.

¹⁸³ P. O. Otieno, Branch Secretary, KPAWU/Naivasha, personal interview 081017.

¹⁸⁴ KHRC – Kenya Human Rights Commission.

¹⁸⁵ L. Kabiru, Representative, KHRC/Nairobi, personal interview 081008.

¹⁸⁶ P. O. Otieno, Branch Secretary, KPAWU/Naivasha, personal interview 081017.

¹⁸⁷ S. Mshiu et al., Representatives from the ILO Office of East Africa, ILO/Dar es Salaam, personal interview 081112.

actual living wages. It is difficult for the farms to decide on a living wages themselves, but unlike the ILO representatives, Opondo thinks that Fairtrade should be more active in working out those figures; it should be in line with Fairtrade's values to try to get flower workers out of the poverty trap. It is certainly difficult to estimate an adequate living wage, but if Fairtrade is able to work out prices for their products, living wages should not be impossible either.¹⁸⁸

Otieno confirms that Fairtrade farms have superior health and safety conditions, with access to proper protective equipment and enhanced obedience to re-entry regulations after spraying.¹⁸⁹ Kabiru at the KHRC reports that the situation has improved relatively; the commission for example no longer hear about occupational diseases such as cancer, but spontaneous miscarriages are however still over-representatively common among female flower workers, with an average on two on each woman.¹⁹⁰

Further Kabiru thinks that Fairtrade has too poor standards on environmental issues. As for the case in Naivasha, the flower industry has lead to serious pollution and damage of the Lake Naivasha and its animal life, which in turn have affected fishermen and nearby farmers who no longer are able to make a living out of the fishing and farming industry. There is so much money in the Naivasha region, but still there are huge slums with poor people and barely functioning infrastructure. Kabiru thinks that Fairtrade should take more of the overall human rights situation into account.¹⁹¹

Positive aspects of Fairtrade involve, according the Otieno the projects initiated by the premium money. The workers do however not know how much they should get back in Fairtrade premium and Otieno states that the JB in general does not function as it should; he believes the management decides where the money should be invested. Some farms just allow Fairtrade for the access to the profitable market, but have a hidden agenda behind the scenes.¹⁹² Opondo also questions the farms fundamental interest in gaining a certification, but is however convinced that the benefit of Fairtrade and other initiatives is that it opens up spaces for empowerment. The workers begin to realise they are important players, that they can voice their concerns and demand for better conditions.¹⁹³ Mumo Kivuitu, a former auditor for IFAT¹⁹⁴ and now a representative for the NGO Ufadhili Trust, concerned with CSR¹⁹⁵ in

¹⁸⁸ M. Opondo, Lecturer and Researcher, University of Nairobi/Nairobi, personal interview 081120.

¹⁸⁹ P. O. Otieno, Branch Secretary, KPAWU/Naivasha, personal interview 081017.

¹⁹⁰ L. Kabiru, Representative, KHRC/Nairobi, personal interview 081008.

¹⁹¹ L. Kabiru, Representative, KHRC/Nairobi, personal interview 081008.

¹⁹² P. O. Otieno, Branch Secretary, KPAWU/Naivasha, personal interview 081017.

¹⁹³ M. Opondo, Lecturer and Researcher, University of Nairobi/Nairobi, personal interview 081120.

¹⁹⁴ IFAT – International Fair Trade Organisation.

the private sector flower industry, further suggests that Fairtrade farms can put pressure on other farms, which would lead to enhanced labour and human rights conditions.¹⁹⁶ The ILO representatives believe that such pressure on other farms could lead to a domino effect and possibly bring a change in prevailing rights violating norms.¹⁹⁷

5.2 Fairtrade and Kenyan Law Enforcement

Changes in the Kenyan labour legislation are coming up; new labour laws were adopted in 2007. Otieno do not think Fairtrade has anything to do with that, the pressure is put by ILO, and Kenya must comply with the ratified ILO conventions.¹⁹⁸ Representatives from FLO-cert, the certification and auditing body of FLO, agree that Fairtrade has not directly influenced the new Kenyan labour laws, but state that KFC¹⁹⁹ code of conduct is similar to the Fairtrade standards, and has thus been influenced by Fairtrade's benchmark.²⁰⁰

Kabiru thinks that Fairtrade is excellent for realisation of labour rights, but not for the overall human rights development. She does not believe that Fairtrade, and other certification initiatives, will lead to a sustainable development of labour and human rights, since she is of the opinion that the standards function as privatisation of the law. There are new adequate labour laws in Kenya, which will not be enforced, since the independent certification initiatives are in the way. Fairtrade and others audit the farms, which have led to next to non-existent governmental inspections of the flower producers, with poor law enforcement as a consequence. Kenya and other developing countries need to respect fundamental human rights, but she does not think Fairtrade is the answer to the problem; law enforcement is.²⁰¹ The representatives from FLO-cert mean that it is a misinterpretation that Fairtrade is hindering enforcement of the national labour laws. When auditing a Kenyan flower farm, FLO-cert takes the Fairtrade standards into consideration as well as the national labour laws and the applicable CBA. If the regulations differ, the one which is most profitable for the worker is followed.²⁰²

¹⁹⁵ CSR – Corporate Social Responsibility.

¹⁹⁶ M. Kivuitu, Representative, Ufadhili Trust/Nairobi, personal interview 081107.

¹⁹⁷ S. Mshiu et al., Representatives from the ILO Office of East Africa, ILO/Dar es Salaam, personal interview 081112.

¹⁹⁸ P. O. Otieno, Branch Secretary, KPAWU/Naiivasha, personal interview 081017.

¹⁹⁹ KFC – Kenya Flower Council.

²⁰⁰ Representatives from the African department of FLO-cert, FLO-cert/Arusha, personal interview 081012.

²⁰¹ L. Kabiru, Representative, KHRC/Nairobi, personal interview 081008.

²⁰² Representatives from the African department of FLO-cert, FLO-cert/Arusha, personal interview 081012.

Mshiu, Thenerkauf and Ussar from the ILO believe that Fairtrade in certain ways could contribute to a sustainable development of labour and human rights. They think that an arrangement which gives increased production as well as better conditions for workers will be beneficial not only to the employer but also to the employees and the national economy. The initiatives such as Fairtrade should cooperate with relevant trade unions and labour inspectors and have a common agenda to ensure that the laws are followed. Fairtrade should however not exist next to the law.²⁰³

Kivuitu believes that Fairtrade brings sustainable improvements of labour and human rights, but not independently. The problem is that Fairtrade does not cover all farms, the farms which do not need a certification and the small farms which find it financially difficult to join will be out of inspection. Fairtrade is furthermore only limited to a few farms in a few sectors. It is therefore important to also encourage law enforcement and extend the number of labour officers,²⁰⁴ in order to achieve effective and sustainable development in the areas of labour and human rights, covering all flower farms in Kenya.²⁰⁵

Mshiu, Thenerkauf and Ussar similarly believe that Fairtrade is an elitist movement, in comparison to the ILO who aims for better working conditions at all farms. Certification is costly, and some farms, especially small-scale growers, do not have the financial means to join the programme. The ILO representatives believe the main responsibility of labour law compliance is with the government, and that it should stay like that. What Fairtrade could do is to add to this, above the law. Fairtrade has a different approach for the realisation of the labour and human rights; they offer a carrot in form of access to profitable market opportunities. Mshiu, Thenerkauf and Ussar believe that both the carrot and the stick are needed, especially in countries like Kenya where the rule of law not always functions in a proper manner. They do however agree with Kabiru, that privatisation of the law could be dangerous. Compliance with the national laws should not be voluntary, as with the case of Fairtrade. The presence of certification initiatives does not mean that government should abdicate their responsibilities to implement the national laws.²⁰⁶

²⁰³ S. Mshiu et al., Representatives from the ILO Office of East Africa, ILO/Dar es Salaam, personal interview 081112.

²⁰⁴ There are at the moment 21 labour officers operating in Kenya. These officers' responsibilities do not only cover the flower industry; they are supposed to inspect the labour conditions at all private companies in Kenya.

²⁰⁵ M. Kivuitu, Representative, Ufadhili Trust/Nairobi, personal interview 081107.

²⁰⁶ S. Mshiu et al., Representatives from the ILO Office of East Africa, ILO/Dar es Salaam, personal interview 081112.

5.3 Opinions Regarding Fairtrade Standards and Audits

Domingo Torres, employed by Diakonia and with previous experience of Fairtrade, believes that the problem with Fairtrade is that the implementation of the programme is far more complicated than the organisation first expected.²⁰⁷ Kivuitu has a mixed opinion of Fairtrade; he, in accordance with Torres, thinks it is a huge difference between theory and practice. It is positive for the farms to attain higher prices and access to market, but he is doubtful that it always is comparable with the efforts and expenses, sometimes unmonetary, that the farms need to put in, in order to realise the standards.²⁰⁸

Kivuitu further finds it problematic that there are too many overlapping certification initiatives operating in the flower industry, and he suggests that the government and initiatives should agree on common standards, which would increase the sustainability. He thinks that initiatives like Fairtrade are needed in Kenya since he, like the ILO representatives, believe that the country has a bad culture of not implementing laws. Kivuitu believe that self-regulating companies do not work; they need to have some kind of pressure on them to comply with labour standards. If they can get away with doing the wrong think they will.²⁰⁹

There have also been allegations concerning rehearsed audits within the Fairtrade system, where the management in advance has picked out the workers the auditors can speak to.²¹⁰ One of the FLO-cert representatives, who also has several years of experience as a Fairtrade auditor, states that an auditor finds out if the farms have rehearsed prior to the audit. Certain target groups, like the JB, workers' committee and health and safety committee can have been rehearsing, but apart from that the auditor talks to whoever she or he wants. He emphasises that it is important to find many different sources to verify the information.²¹¹

Kabiru further states that Fairtrade farms, especially during high season, outsource some of its production to smaller non-Fairtrade farms. The flowers then get mixed up, and no one knows which flowers are Fairtrade and which are not; flowers produced under non-Fairtrade conditions are thus sold as Fairtrade products.²¹² This information is confirmed by Mabuga, Human Resources Officer at the non-Fairtrade farm Star, a farm which during certain periods

²⁰⁷ D. Torres, Desk Officer, Diakonia/Nairobi, personal interview 081002.

²⁰⁸ M. Kivuitu, Representative, Ufadhili Trust/Nairobi, personal interview 081107.

²⁰⁹ M. Kivuitu, Representative, Ufadhili Trust/Nairobi, personal interview 081107.

²¹⁰ L. Kabiru, Representative, KHRC/Nairobi, personal interview 081008.

²¹¹ Representatives from the African department of FLO-cert, FLO-cert/Arusha, personal interview 081012.

²¹² L. Kabiru, Representative, KHRC/Nairobi, personal interview 081008.

outsources flowers to a neighbouring Fairtrade farm. This occurs in absence of extended Fairtrade audits.²¹³

²¹³ A. Mabuga, Human Resources Manager, Star Flowers Ltd./Naivasha, personal interview 081110.

6 Fairtrade's Impact on the General Labour and Human Rights Development in Kenya

The fundamental intention with this study is to examine in which ways Fairtrade has had an impact on labour and human rights development in the Kenyan cut flower industry. The workers and managers interpretations of their labour and human rights situation from both categories of farms will here be compared, in order to discern the differences and similarities. The broader perspective will also be discussed; whether Fairtrade's impact on labour and human rights development is sustainable and how Fairtrade in general function in the Kenyan cut flower industry context.

6.1 Discussion of the Results in Relation to Earlier Research

Most people within the Kenyan cut flower industry agree that Fairtrade has a positive impact on the labour and human rights development, in terms of improved working conditions and a transformation to more democratic organisational structures at the farms. The differences to non-Fairtrade farms were however only significant in certain areas of labour and human rights.

The workers at the Fairtrade farms thought their conditions were fair, in contrast to the workers at the non-Fairtrade farms who complained about faulty working conditions. Discrimination was however discerned in both categories of farms when it came to promotion of females and the employees were similarly divided into typical female and male occupations. This aspect is either not prioritised by Fairtrade, or too characterised by traditional divisions where women typically not possess leadership positions. Tribalism was also a course of discrimination, but only discerned on the non-Fairtrade farms. KPAWU representative Otieno however reported that two of the four Fairtrade farms in Naivasha were practising discrimination related to tribes' membership, why such discrimination seems to be more depending on farm than Fairtrade certification. The presence of sexual harassment was more common at non-Fairtrade farms, even though the farms reported positive improvements. Medical tests, possibly pregnancy and HIV tests, occurred only at one non-Fairtrade farm, which might involve discrimination against pregnant women and HIV infected persons.

Researchers Dolan, Opondo and Smith argue that systemic amendments related to gender and social norms are difficult, since the Kenyan patriarchal employment context is considerably strong. This seems to still be prevailing, even if it is to a somewhat lesser extent on the Fairtrade farms.

Child labour and bonded labour did not occur at any of the farms. The Fairtrade standards stipulate that “forced labour include work which is exacted under the menace of penalty or if the employee has not offered to work voluntarily”. Forced labour was thus practised at non-Fairtrade farms since workers feared to lose their job if they did not obey the managers’ requests. The situation was somewhat better on the Fairtrade farms; the overtime was more limited and to a higher extent voluntary.

Union membership was more common on the non-Fairtrade farm, and the union also appeared to be more active and the workers thought its presence had reduced a number of employment related problems. Fairtrade farms appeared to have a weaker devotion to the union, possibly since they instead brought up problems through their workers committees and seemed to have a somewhat closer and a comparably more transparent relationship to the management. Even if Fairtrade does not intend to work against unionism, this might be the consequence, when some farms use Fairtrade as a substitute for the union. It is however clear that a farm without either a strong union or a Fairtrade certification, which is common in the Kenyan cut flower industry, would have considerably worse conditions since self-regulation seldom works. Those farms would have no one looking after or educating the workers about their labour and human rights.

Wages were similar on Fairtrade and non-Fairtrade farms and all followed the minimum standards in the CBA. Considering that the length of employment was shorter on the non-Fairtrade farms, the salary on these farms could presumably be even higher if compared among employees with the same length of service. Most interviewed people agreed that the salaries were too low and not in line with their actual costs of living. Due to substantial increases in for example food prices after the post-election violence, the costs of living approaches European prices, why it is difficult to understand how the workers can survive on their salaries, especially those with one or more dependants. The ILO representatives believe that it is up to the union movement to negotiate about a proper minimum wage. This is apparently not working adequately in the Kenyan cut flower industry, and a sufficient remuneration is a fundamental issue for the employees, why Fairtrade should be more actively working on this issue in order to make it possible for the workers to satisfy their basic needs.

Concerning health and safety, the Fairtrade and non-Fairtrade farms differed significantly. Usage of more dangerous chemicals, combined with faulty obedience to the re-entry regulations and lack of proper protective equipment, lead to a higher rate of occupational diseases. Fairtrade standards do also specify that work-related illness should be treated or compensated by the company, something that was not prevailing on one of the non-Fairtrade farms where an occupational disease even could lead to dismissal. Further, not all non-Fairtrade farms had access to fresh drinking water and first aid, which all Fairtrade farms had.

It seems like Fairtrade helps to improve certain areas of labour and human rights. It is certainly easier for the farms to provide the workers with proper dust coats, gum boots and gloves than to change prevailing social norms, like discrimination and a patriarchal employment hierarchy. One exception from this argumentation is though that Fairtrade farms have somewhat more democratic organisational structures, which is not in line with traditional social norms. Democratic structures however appeared to be prioritised by Fairtrade, when demanding for worker representation in for example the JB and different workers' committees. Wages is a different issue. The farms are profit-seeking business organisations, and do not pay higher salaries if they do not have to.

Fairtrade's entrance to the mainstream market certainly benefits more producers and workers, like Smith and Barrientos from the Institute of Development Studies, suggest. The indirect benefit of Fairtrade was however not as pronounced as Smith and Barrientos emphasised. Fairtrade farms did believe the Fairtrade premium had benefited themselves as well as the local community, while none of the non-Fairtrade producers or workers had experienced these benefits. They did however know about Fairtrade and to some extent how it could benefit them, which could indicate that the presence of Fairtrade at neighbouring farms at least had an impact on other flower workers awareness about their labour and human rights. It could possibly also put pressure on other farms to enhance similar policies and when other producers see the financial benefits they will make efforts to join.

When it comes to Fairtrade's impact in a broader perspective, no one did really believe it had affected the development of the recently adopted Kenyan labour laws. Kabiru from KHRC even criticises Fairtrade for having a negative impact on the overall human rights development due to insufficient standards on environmental issues, which have negative consequences for others human rights. Fairtrade farms do however use less dangerous pesticides than other farms, why Fairtrade farms in general should have less negative impact on the environment than others. The entire flower industry could however be criticised for

negatively affecting Kenyans by polluting the environment, just for the purpose of satisfying the northern luxury product market.

The interviewed representatives from FLO-cert has a point when stating that Fairtrade takes national laws into consideration during audits, but what Kabiru is criticising, about private initiatives hindering law enforcement, is another aspect. This connects to the criticism in UNCTADs report, where they state that the governments regulatory mechanisms in general are insufficient and that the private initiatives provide support, but the problem is that they are growing independently and uncontrolled. Kabiru certainly has a point, that the government might get too lazy at implementing the labour laws, when an abundance of private initiatives already are doing it. The interviewed ILO representatives suggest that initiatives like Fairtrade should cooperate with each other, the Kenyan government, the union and national labour officers to reach sustainable development of labour and human rights. If this happened Fairtrade would have a considerable impact, but this is not the case at present, why more must be done before Smiths and Barrientos thoughts will be reality, at least in the Kenyan cut flower industry context.

Researchers Low and Davenport highlight the complexity with the mainstream approach. Fairtrade in the Kenyan floriculture has become more common, and all the visited non-Fairtrade farms intended to join Fairtrade. If they are accepted, it will presumably lead to improved working conditions in the short-term. One concern is however whether the farms fundamental intention to join Fairtrade is to improve the conditions for the workers or only to gain the desired market access and financial benefits. In the Kenyan cut flower industry the market access seemed to be much more important than the care of the workers, which in a way make sense since the companies are for-profit business organisations. This could however indicate that labour and human rights improvements would end if the market access through Fairtrade was not needed anymore. Together with the fact that outsourcing from non-Fairtrade farms to Fairtrade farms occur as well as there have been allegations of stage-managed audits, might be indications that Fairtrade's fundamental values are somewhat diluted, which was the fear of Low and Davenport in connection to Fairtrade's entrance to the mainstream market.

Another problematic aspect, brought up by many stakeholders, is that everyone cannot join Fairtrade; it is, as the representatives of ILO put it, an elitist movement. Most people agree with researchers Redferns and Snedkers opinion, that it is difficult for small-scale farmers to join the programme, because of the costs of certification as well as compliance with the standards. This elitism is one of the main differences between private and

governmental or union initiatives, which covers all workers at all farms. Redfern and Snedker further see a problem if there is an oversupply of Fairtrade products. The visited farms sold around 20 % of their production through Fairtrade channels, and more and more farms intend to join Fairtrade. Researchers Taylor, Murray and Reynolds similarly find it problematic if a large amount of farms join Fairtrade, since that would lead to an increase in production, and consequently a smaller share of the price premium. It would lead to improved conditions for the workers in the first place, but the risk is however that too many farms join, and the share of the Fairtrade sales reduces, which leads to lower than expected income and that the farmers cannot see the point of the certification anymore. If Kivuitu is right, that self-regulation companies do not work, this would have worsened labour conditions as a consequence. This is an aspect of particular interest now in time of a world-wide economic crisis. The producers in the developing world need their income more than ever, at the same time as the consumers' demand for the more expensive Fairtrade products presumably reduces.

Dolan, Opondo and Smith further criticise the private initiative standards in general for focusing on satisfaction of northern interest instead of changes in labour practises at the farms. UNCTAD also questions the standards, but for the reason of being too homogenous, not taking product, region and socio-economical context into consideration. When interviewing Opondo, she states that Fairtrade actually asked many Kenyan stakeholders while working on the flower and plants standards, and that she among others was asked. This might be an indication that FLO listens to the critique and change their methods, which may have positive impact on the sustainability in a longer perspective. Fairtrade is however founded in the north and will thus always be highly influenced by consumers and business, even though producers, workers and local stakeholders may be increasingly involved in the process.

Fairtrade will never be totally mainstream, and will never cover all Kenyan flower farms. Fairtrade's presence in the Kenyan cut flower industry does lead to improved labour and human rights conditions on the certified farms; whether these improvements are sustainable is however uncertain. Fairtrade empowers workers, who learn about their rights and what to demand for. They will not forget about this knowledge and will probably pass it on to other workers outside the farm as well. The producers change their practises to better satisfy the labour and human rights standards; changes which may be sustainable, but only if it they grow strong enough to actually change the *norms* on the farm, and if these norms are spread to other farms and if they are still prevailing if the farm for some reason leaves the

Fairtrade certification. Fairtrade's strengths are however awareness-raising and empowerment of workers and the possible opportunity to change rights violating norms.

The Kenyan government, together with the international community, has the main responsibility of ensuring the human rights standards. Fairtrade is however one way for consumers, individuals and NGOs to try to make an impact when they believe the ones responsible do not complete their work sufficiently. It is therefore not up to Fairtrade to create total compliance with the labour and human rights standards on all Kenyan flower farms. From the impression by the interviewees the cooperation between Fairtrade and the government seems to be non-existing, why Fairtrade's impact on the sustainable labour and human rights development in Kenya at present seems to be limited. Cooperation with the Kenyan government, union and labour officers, could however lead to enhanced law enforcement and compliance with fundamental rights standards. Fairtrade could lead to sustainable development of labour and human rights, but not independently.

6.2 Conclusions

The Fairtrade demands are expressed in the Fairtrade standards, and are considered to be the most progressive on labour and human rights among the private certification initiatives in the Kenyan cut flower industry. Fairtrade farms seemed to be more satisfied with their labour and human rights situation compared to non-Fairtrade farms. Areas more related to physical changes in the workplace appeared to be easier regulations to satisfy than to make more systemic changes on the Fairtrade farms. The union was stronger on the non-Fairtrade farms, and had led to labour related improvements for the workers. Too low salaries were an issue at all farms, irrespective of Fairtrade certification.

Fairtrade develops Kenyan labour and human rights at the flower farms in which they operate, but benefits do not reach neighbouring farms. It however appears to generate awareness-raising among workers on surrounding farms, which leads to their empowerment. Fairtrade does not cover all flower farms, there are doubtful intentions of joining, it may have a negative impact on law enforcement and it does not change the discriminating systemic aspects in the Kenyan context to a desired extent; aspects which undermine its sustainability. It is however not Fairtrade's role to create total adherence to labour and human rights, it is the Kenyan governments responsibility. Fairtrade could however contribute with empowerment of Kenyans and possibly also a change in rights violating norms which, in combination or

cooperation with other contributions, could be part of sustainable development of labour and human right in the Kenyan cut flower industry.

6.3 Further Thoughts and Suggested Future Research

During the work with this study, a lot of different thoughts, not always directly relating to my research assignment, arose. A couple of these reflections will be further described here.

The union appeared to be the unit caring for the workers at the visited non-Fairtrade farms. It is true that the Fairtrade farms had better labour and human rights conditions in general, but the Fairtrade's coverage is limited while the possibility to join the union is a fundamental human right for all workers at all farms. Another aspect which favours the union in front of Fairtrade, is that it is established by Kenyans and in the context where it is suppose to operate. A combination between the two would seem like a good solution, since they share the same interests of enhanced labour and human rights. At present that does however not seem to function, since Fairtrade, probably unwillingly, undermines the union's strength at some farms. It may be true that the conditions actually are satisfying on those farms, but unfortunately the dissociation from the union undermines the entire union movement, which could have improved working conditions at a much larger number of farms and thus led to a more sustainable development of the labour and human rights in Kenya. The union is today not as strong as it should be for these desired improvements, and that should not be blamed on Fairtrade. The question is however whether the union may be a more viable strategy for realising labour and human rights in the longer perspective? This would certainly be interesting to conduct further research on, but is not within the scope of this study and not suited for the methods used. Comparison with other developing countries or industries may be a way of investigating this issue.

Private certification initiatives like Fairtrade are interesting phenomena; they do contribute to improvements in different ways, but more and more initiatives are coming up, and what give them the right to enter developing countries and create regulations next to the national laws? Globalisation makes the world change, and the state as the most important actor for human rights realisation is getting increasingly diluted when more non-traditional actors are coming up. It would be interesting to conduct further research on what role the initiatives actually have and what kind of impact they have on the state and its institutions.

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