



THIRST



Human Rights in The Tea Sector: The Big Picture

Part 1: Human rights in principle
and in practice (summary)

This review is dedicated to the memory of Dr Bimal Arora

Founder and Honorary Chair of the Centre for Responsible Business, a distinguished scholar and thought leader on corporate social responsibility and Sustainability, and an expert on voluntary sustainability standards. The world is poorer for his loss, but those of us who were fortunate enough to work with him will honour his legacy by continuing to seek both truth and solutions to human rights challenges in the business world.

Disclaimer

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This review focuses primarily on ten tea producing countries; Bangladesh, China, India, Indonesia, Kenya, Malawi, Rwanda, Sri Lanka, Turkey and Viet Nam. These will be referred to throughout this report as the ‘focus tea producing countries’ or the ‘focus countries’.

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About THIRST

Our goal is to transform the tea industry so that tea workers and farmers are empowered and their human rights are protected.

We aim to achieve this through:



Convening stakeholders

THIRST is the first civil society driven organisation dedicated to *bringing together* key actors in the tea sector to discuss problems and explore solutions. For example, facilitating a group of NGOs to challenge and monitor company responses to allegations of sexual abuse on Malawi tea estates.



Sharing our resources and expertise

THIRST disseminates knowledge about human rights in the tea sector to help ensure that tea workers' and farmers' representatives, civil society and the industry have access to the most up-to-date insights and information.



Catalysing change

Where appropriate, in alliance with other civil society organisations and in response to evidence gathered, THIRST advocates for changes in the tea industry and by relevant governments to protect tea workers' and farmers' rights.

Introduction

There is much that is good about the tea sector – the global popularity of its product (it is still the world’s most popular drink after water), the millions of livelihoods it supports, and the innovation, passion and creativity that has driven it for nearly two centuries, resulting in many new and better ways of organising its production and trade.

Yet the sector has reached a critical point in its evolution. At the same time as facing a range of commercial challenges (including competition from other commodities, from overproduction, stagnating demand, rising costs, and the impacts of the climate crisis), it now faces growing expectations from its consumers, employees and investors; expectations of transparency, of respecting human rights and of protecting the environment. In many countries, in common with other agricultural sectors, there are severe labour shortages and the younger generation is turning its back on the industry.

The industry – and its stakeholders – therefore now need to consider how it can become both commercially and morally viable at every stage of the value chain, from tea plucker to tea drinker, and how it can do so in such a way that protects the environment.

Rather than apportion blame to any individual group within the industry for its widely documented human rights impacts, THIRST believes the time has come for constructive dialogue between its many stakeholders – each of whom has a critical part to play. We believe the time has come for collaboration in analysing, understanding and finding solutions to these systemic problems – and then for acting on those solutions together.

In order to ensure that human rights are fully respected, everyone within this system will now need to look at their role in sustaining it – from the consumer, through to the retailer, brand, blender, packer, trader, broker, estate manager, supervisor and even the tea workers and farmers themselves.

Every industry is now expected – and may soon be legally required – to conduct human rights due diligence in its global supply chains. The tea industry is no exception. Today every tea brand and retailer is expected to take responsibility for the human rights impacts occurring within its supply chain, to understand the role it may be playing in perpetuating those impacts and to act accordingly. And – where links between human rights breaches and industry-level systems are established – there may be industry-wide adjustments that need to be made to ensure that human rights are protected throughout the value chain.

This literature review, and the wider human rights impact assessment of the tea sector for which it forms a basis, is designed to support the industry in conducting that human rights due diligence. It tries to encompass ‘the big picture’ by piecing together evidence from a wide range of reports on human rights in the tea sector across multiple countries and looking at how the sector itself operates. And it hopes to offer a broad base on which to conduct further exploration of the root causes of human rights breaches in the tea sector and what can be done to address them.

This is an exciting moment in the history of the tea industry. It can build on all that it has achieved so far by seizing the opportunity to transform itself into a fair and sustainable industry where workers and farmers are empowered and their rights are protected, within a system that is shaped by 21st century values and systems rather than 19th century ones.

It can become a financially viable industry that the new generation of health- and human-rights-concerned consumers, investors and employees will be drawn to – and stay loyal to. And in so doing it can embark on a second two hundred years of which it can be justly proud.

Executive summary

The industry's origins in the 19th century are well known, and many commentators have highlighted the inequities that a system involving a lucrative commodity trade dependent on indentured labour inevitably created.¹ But the system is now confronted by very different realities to those that it enjoyed in its heyday. Tea is no longer a luxury commodity commanding high prices. Its trade is no longer part of a strong, global imperial system of governance.

As in so many global agricultural trading systems, despite progress in some areas, inequities remain in place or have even been exacerbated.

There is a plethora of human rights standards and policies at international, regional and national level, and within companies and certification bodies. And yet, there have been countless reports since the inception of the tea trade about the poor living and working conditions of those who plant, prune, pluck and process it. For example, THIRST's 2020 literature review 'Human Rights in Assam Tea Estates: The Long View'² looked back over 15 years of reports – some of which contain references dating back to the very inception of the industry. The review demonstrated that the same issues have emerged repeatedly throughout the decades in Assam; in particular low wages, poor housing, poor sanitation and poor healthcare.

Those same issues reappear in this report, not just in Assam but also in Kerala, Tamil Nadu and West Bengal... and not just in India but in China, Bangladesh, Indonesia, Kenya, Malawi, Rwanda, Sri Lanka, Tanzania, Viet Nam... and the issues are unlikely to be substantially different in most other tea-producing countries, since tea can only be grown on a commercial scale in geographies that tend to fall within low to middle income categories³.

There have been many initiatives within the tea industry and by governments, trade unions and NGOs to tackle these issues – yet civil society is calling for more radical change to ensure the empowerment of tea workers and farmers and protection of their rights. Industry players and governments of tea-producing countries sometimes feel that these critics do not appreciate the commercial realities the companies in question are facing, and they worry about trust in the industry being further eroded at a time when it is facing so many other challenges. And any factual inaccuracies that may occur in some of the reports undermines their trust in the reporters.

Yet the scope and scale of this literature review hopefully demonstrate that the problems are both incontrovertible and universal; that while each country and region will have particular characteristics that may exacerbate the issues, when we look at the big picture, we can see that the problems are in fact industry-wide and systemic.

The overriding challenge now is how to balance the need for commercial viability at each stage of the value chain with – to quote the UN Guiding Principles on Business and Human Rights – “the State duty to protect human rights” and “the corporate responsibility to respect human rights,” of all including the most vulnerable – its estate⁴ workers and small-holder farmers.

We believe the time has come for collaboration in analysing, understanding and finding solutions to these systemic problems – and then for acting on those solutions together.

An overview of the tea industry

The global industry

The global tea market has been steadily growing and continues to do so. It was valued at nearly 200 billion U.S. dollars in 2020, and is expected to rise to over 318 billion dollars by 2025. Tea is very much a global commodity, grown in nearly 60 countries and consumed worldwide. Its popularity in traditional European markets are being overtaken by countries like Turkey and Pakistan, and by domestic consumption in tea producing countries such as China and India.

Tea can be grown almost anywhere but to achieve cultivation on a commercial scale a tropical or subtropical climate is required. This means that the majority of tea is of necessity grown in some of the world's least developed countries; the main tea growing countries – with the exception of Argentina and China – all rank below 100 on the Human Development Index⁵.

Production models

The tea industry traces its origins back to China where there are over one thousand catalogued types of tea produced, largely on small holdings and family owned farms meeting local demand. In the 19th Century the British developed the tea estate production model as they looked to “liberate” tea from Chinese control.

Tea estates

They pioneered tea estate farming across the globe but with particular success in India, Sri Lanka and in East African countries. Tea estates were often situated far from population centres and thus had to offer housing, schools, medical centres and even social facilities for workers. Tea farming is labour intensive and the bulk of the manual work force (pluckers and factory workers) were accommodated in basic housing ‘lines’.

The resources required to clear land on estate scale, prepare fields and plant tea (requiring 3-5 years to become commercially viable) in developing countries were usually provided by foreign companies. Today, in Africa and Asia, many remain members of large multinational groups such as Tata, Mcleod Russel, Unilever, James Finlays and Camellia. Through efficiencies and scale of production these estates are able to focus on reduced costs through higher yields, though these gains often come at the cost of cup quality - and sometimes of labour welfare too.

Mechanisation

Tea plucking has traditionally been a highly labour intensive job, but mechanisation is rapidly increasing. Its use has grown from around 2% of global harvesting in the 1980s to around 60% today⁶, and continues to grow rapidly, with technical improvements overcoming earlier concerns around quality. While employing hand pluckers exacts a high physical cost on them, mechanisation causes unemployment – which each create different human rights challenges.

Smallholder tea farming

Smallholder farming is a rapidly increasing feature of many tea origins, but has met most success in Kenya where there is a strong support network and avenue for sale available to the farmers; the ready market for tea in Kenya sees realised prices respond to both the quality and quantity of production. There has recently been a particularly rapid increase in the number of smallholder tea farmers in India, who now contribute roughly half of the Indian crop. Other countries, such as Sri Lanka and Indonesia, have a mix of private and state-owned tea estates and smallholder farms in variable proportions.

The last few decades have seen a rise in independent private tea factories in many tea origins, processing bought leaf rather than growing tea on their own estates or through traditional associations with smallholders. This now accounts for a substantial portion of Assam production (40%) and is increasingly prevalent in Kenya.

Regulation and support

In some countries, such as Turkey, the state controls the majority of tea production. But generally government regulation of production is channelled through tea boards which exist as state bodies in most major origins. Their remit is to grant licences to growers, brokers, traders, packers and exporters; oversee tea research facilities (for example, developing new tea clones to increase yield, quality and resistance to pests and drought); and promote demand for tea domestically and internationally.

At the time of writing, the Tea Board of India was undergoing a further transformation “that will minimize its regulatory role in [favour] of promotion and development.”⁷ The Tea Board of Kenya has had a more intermittent existence but was recently reconstituted in accordance with the Kenya Government’s Tea Regulations of 2020 and a new Tea Bill⁸. It aims to provide a structure to the industry which the Kenyan Government argue has become unwieldy and unregulated.

Additional regulation and guidance to farmers and industry players is provided through certification bodies such as ISO and the Rainforest Alliance.

Tea sales and pricing

In Western markets the consumption of traditional black tea is declining; the UK alone has seen imports reduce 13.5% over the first decade of this century⁹. The FAO identifies three main trends in tea consumption in ‘mature markets’ such as the UK; a preference for herbal infusions, demand for a greater variety of traditional tea; and increasing demand for sustainably sourced products. According to the FAO’s latest report¹⁰, niche markets for high-value speciality teas are still growing. The developing markets of North Africa, CIS and Asia have shown a willingness to pay for quality. These markets have spearheaded a global growth in tea consumption, though this remains slower than the growth in production; in 2019 6.2m tonnes were produced worldwide while 5.8m were consumed the resulting in a downward pressure on the market going forward.

Tea marketing

In many countries, processed tea is sold through auction, which is often preferred by governments who see them as more transparent than private transactions. The producers nominate warehouses which are responsible for the distribution of representative samples, through to the buyers, who will then taste and quantify quality ahead of the auction. The producers nominate auction brokers who value and catalogue the teas and are responsible for the actual process of auctioning the tea.

After Kenya, Sri Lanka hosts the second most important export auction, a vast and complex auction offering a wider variety of types and qualities, sold in smaller lots than in Mombasa. Indonesia and Malawi also host auctions for domestic and international buyers. India, which has a number of auction centres in the North and South, moved to an electronic auction in 2010 whilst Sri Lanka and Kenya adopted electronic auction systems during the lockdowns enforced by the Covid-19 pandemic.

Prices within an auction respond to changes in both supply and demand, in recent years the scale of these swings have intensified as supply chains and packer-retained stocks have shortened. The benefits derived from the auction system include the provision of an international marketing tool and a payment guarantee system for producers, a system that ensures a quick turnaround, increased traceability and – in the case of transparent auctions, particularly open outcry – better prices.

Criticisms of the auction system include the domination of a small number of very large buyers who can use their strength to dictate prices, traders capitalising on price movements, unfair buying practice at auction centres, poor representation of farmers/producers by brokers and difficulties for local buyers to compete with multinationals.

For many private and multinational producers, private treaties are the preferred route of sale. Some tea packers actively push for direct contracts as they enable them to build a much stronger relationship with the producers and farmers. Tea can be tailor-made to fit the exact specification of a packer. Further, a direct transaction in a trusted relationship between packer and producer allows for long term contracts (stretching into the future) to be set on a Fair Average Quality basis. These contracts enable a close connection between consumers and farmers, especially important for packers promoting ethical or environmental sustainability.

There have been a number of unsuccessful initiatives to establish a forward market for tea. Currently producers and buyers are able to conclude a forward contract based upon trust, but this does not in itself constitute a forward market – which also requires that private contracts be tradeable - the ability to sell forward production from one buyer to another. Whilst conceivable this has not (to date) worked in practice due to the variation in quality of tea and buyers using different subjective means to assess quality. Proposals for forward market initiatives often rely on an agreement of Fair Average Quality - a lower common denominator, which by its nature can undermine the drive for higher quality tea and reduce prices.

Human rights for tea workers and farmers in principle

Standards, conventions and laws

International human rights instruments

Internationally recognised human rights are addressed in a number of international treaties and covenants. The Universal Declaration of Human Rights (adopted by the United Nations General Assembly in 1948) (UDHR), the International Covenant on Economic, Social and Cultural Rights (1966) (ICESCR) and the International Covenant on Civil and Political Rights (1976) (ICCPR) constitute the International Bill of Rights (IBR). Together with the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work (1998) these codify core human rights and minimum expected human rights standards as the UN Guiding Principles on Business and Human Rights ('UNGPs') highlight.

“poverty is one of the major obstacles hindering the full enjoyment of human rights”

- *Bangkok Declaration*

Regional human rights instruments

At regional level there are three main instruments that cover the major tea growing regions.

ASEAN Human Rights Declaration (Bangkok Declaration)

Forty eight Asian States, including the tea producing countries Bangladesh, China, India, Indonesia, Sri Lanka and Viet Nam, have adopted the Bangkok Declaration reaffirming their commitment to the principles contained in the UDHR (Article 1). The Bangkok Declaration made a number of further statements relevant to the tea sector today, including that “poverty is one of the major obstacles hindering the full enjoyment of human rights” (Article 19), reaffirming their “strong commitment to the promotion and protection of the rights of women” (Article 22) and recognizing “the rights of the child to enjoy special protection...” (Article 23). ASEAN (the Association of South East Asian Nations), which includes Indonesia and Viet Nam, has adopted the ASEAN Human Rights Declaration and established the ASEAN Intergovernmental Commission on Human Rights. This has, in turn, taken initial steps towards human rights monitoring.

African Charter on Human and Peoples’ Rights (Banjul Charter)

Kenya, Malawi and Rwanda, as member States of the African Union have all ratified the African Charter on Human and Peoples’ Rights (“Banjul Charter”) and its Protocol on the Establishment of an African Court on Human and Peoples’ Rights. The African Commission on Human and Peoples’ Rights (ACHPR) was established to protect human rights in the African Union States who have ratified the Banjul Charter.

Cairo Declaration on Human Rights in Islam

Many tea producing and buying countries are Islamic states or republics while others have a large Muslim population. Opinion is divided among these states as to whether or not the UDHR is compatible with shari’ah law. The 1990 Cairo Declaration On Human Rights In Islam by the Organisation of Islamic Cooperation was created to address these concerns. Since Muslim countries– particularly in the Middle East – constitute a vast and growing market for tea the question of whether and how these countries might engage with changes and initiatives intended to address human rights has implications for the tea sector as a whole.

Laws on: Wages

All of the focus tea producing countries have some form of legislation to address minimum wages. In Bangladesh, Kenya, Malawi and Rwanda the process for fixing wages anticipates differentiation of wage rates across sectors, and in Viet Nam the rate can vary across regions. In Turkey it appears that minimum wages are set nationally but wages for the agricultural sector are addressed in separate regulations.

Notable examples of deductions that could have a material impact on real wages appear to include legislation in Bangladesh, India and Malawi (although, each country provides for a limit on total deductions as a percentage of wages).

Wage calculations and pay arrangements within the sector seem particularly complex and opaque with potential direct impacts on the right to an adequate standard of living and further impacts on rights to health and social security.

For companies, it is important to understand the extent of compliance with required minimum wages in the sector and the consequent impact on adequate standards of living. Where minimum wage rates are set at a particularly low level in respect of the tea sector or tea producing region that adds a further layer of concern to be addressed. The reality in the tea sector is that what a worker receives in pay may be a combination of allowances, rates in respect of hours worked, amounts plucked and subject to deductions for housing, water and other services.

Laws on: Health & Safety

The focus countries all appear to make provision for some form of occupational health and safety regulation and some provision for welfare at work with varying degrees of stringency and to different extents. It also appears that a number of them make additional requirements under legislation in respect of either all employers or employers in specific sectors such as the estate sector.

Where matters such as health provision, education, accommodation and living conditions are tied to employment, the employer carries a particular responsibility to workers under legislation, and the manner in which that responsibility is carried out has human rights implications. The additional financial burden this places on tea production companies also needs to be taken into consideration by other companies within the value chain – as such, issues of worker welfare, medical treatment, education facilities, accommodation and provision of services as part of the employment relationship becomes an issue for the sector as a whole.

Laws on: Freedom of Association

All of the focus tea producing countries appear to have legislation which permits workers to form and join unions and in most (but not all) cases the legislation appears to grant workers specific rights on that basis. The extent to which unions are protected from interference under law is mixed. Union membership does not guarantee labour protections. Unions may or may not represent their workers effectively and they may exclude specific parts of the workforce. However, their effectiveness cannot be improved without protection from interference and this is an area the tea sector should take particular care to consider in its operations. Finally, the right to form and join trade unions and to freedom of association are likely to be impacted by labour informality, further underscoring the need to address informality across the sector.

Laws on: Discrimination and Harassment

All the focus countries except Sri Lanka were identified as having some labour laws relating to discrimination in respect of gender or of race, nationality and ethnicity.

This review found that a number of countries have legislated against gender discrimination in particular. The picture in respect of discrimination on grounds of race, ethnicity and nationality is more concerning.

It appears that Viet Nam's legal provisions on gender discrimination and equal treatment are among the most comprehensive of the countries reviewed. Turkey's labour laws appear to include both prohibitions on direct and indirect gender discrimination. Kenya, Malawi and Rwanda appear to have legal provisions against discrimination in the workplace including for reasons of gender, race, nationality and ethnicity, and include requirements on equal pay.

But, while Kenya's labour laws include an express provision to prohibit sexual harassment in the workplace, no such provision was found for Malawi and Rwanda, and no provisions relating to discrimination in the workplace on grounds of race, ethnicity or nationality were identified for India, Indonesia, Bangladesh. These may be covered by other provisions beyond labour laws and the matter should be investigated further.

Laws on: Child labour

Despite different approaches, the review identified legislation on child labour in all of the focus countries. The general trend, as might be expected under the ILO Minimum Age Convention 1973, appears to be a general prohibition on children working under a certain age (the relevant ILO convention provides for entry into work at 15 and age 13 for ‘light work’ with a minimum age of 18 for hazardous work (or 16 under certain conditions). It appears the focus tea producing countries typically permit light work from 13 and above with a few exceptions.

Countries such as Indonesia, Kenya, Rwanda and Viet Nam use the express language of ‘light work’ in their legislation in respect of work that is permitted and most require that the work should not interfere with schooling and the health of the child but there is notable variation in the restrictions on the nature and amount of work under-15s are permitted to do across the focus tea producing countries.

All of the focus countries apply some form of prohibition which broadly relates to hazardous work for under 18s (or, in some cases, under 16s).

Laws on: Maternity leave etc

All of the focus tea producing countries appear to make some provision for maternity leave with pay or other benefits based on the review, although periods of maternity leave appear to vary significantly. **Exclusion from maternity benefit and leave is a further concern arising in respect of those in casual and informal labour.** Where qualifying periods apply these may restrict those who can claim maternity benefit and will have an obvious impact on temporary and casual workers. Women workers who are not registered under the relevant legislation may effectively be excluded from the provision for maternity benefits and leave.

Where women are paid rates for piece work or where the amounts earned are subject to significant variations or where payments are excluded from wage calculations there are obvious links to maternity benefit. It appears some countries prohibit dismissal due to pregnancy or anything connected with pregnancy (India being one such example) but this was not the case across the board. It also appears that protection from dismissal for reasons connected with pregnancy may be limited to certain workers who have completed a service period and who work for an organisation of a certain size in Turkey.

Relevant Legislative Initiatives in selected Headquarter and Tea Importing Countries

Mandatory human rights due diligence for business – the process by which a business identifies, prevents, mitigates and accounts for its human rights impacts as recommended by the UNGPs – is a growing legal trend. Examples of the existing human rights due diligence laws in tea importing countries and those countries where multi nationals in the tea sector may be headquartered include France’s Law on the Corporate Duty of Vigilance¹¹; Germany’s Act on Corporate Due Diligence Obligations in Supply Chains, Norway’s ‘Act relating to enterprises’ transparency and work on fundamental human rights and decent working conditions; and the Netherlands’ Child Labour Due Diligence Law.

Related to human rights due diligence, a number of states have legislation in place which address specific human rights issues such as modern slavery via reporting requirements. These include Australia’s Modern Slavery Act 2018, the UK’s Modern Slavery Act 2015 and the California Transparency in Supply Chains Act 2020. They are indicative of a wider trend towards regulation which addresses the activities and human rights impacts of businesses outside of the country where they are headquartered, and of their supply chains which form a valuable part of their business model.

The trend in legal regulation on business and human rights is also demonstrated by the number of legislative proposals underway to require human rights due diligence. Possibly the most significant development in this area is the European Commission’s Sustainable Corporate Governance Initiative including a proposed European Union Directive on Mandatory Human Rights and Environmental Due Diligence released at the end of February 2022.¹² The proposed directive creates legal obligations to conduct human rights and Environmental Due Diligence on some EU and non-EU based companies. The due diligence obligation extends to the company’s operations, those of its subsidiaries and established business relationships in its value chain. Due diligence includes identifying and either preventing or mitigating adverse impacts or, where adverse impacts occur, stopping or (where it is not possible to stop them), minimising impacts.

Goods to be imported into the United States may be detained by the US Customs and Border Protection where there is reasonable information to suggest they have been produced using forced labour. EU proposals announced by the Commission in 2021 and reaffirmed in the EU Commission’s strategy to promote decent work worldwide in 2022 include a proposed legislative instrument to ban the importation of products into the EU where these are made with forced labour.

Certification standards

THIRST reviewed a selection of certification models used by tea companies to signal to consumers that efforts are being made to improve worker and farmer wellbeing. The standards covered included four that certify the product; Rainforest Alliance (RA)/Utz, Fairtrade, Trustea and Sainsbury’s Fairly Traded, and two that certify the whole company; World Fair Trade Organisation and B-corps. Each organisation is critiqued in greater detail in the full Literature Review.

RA, Fairtrade, trustea and Sainsbury’s Fairly Traded certify specific products based on audits. World Fair Trade Organisation (WFTO) and B-Corps certify the whole producer organisation based on a combination of audits, self-assessment and peer review. B-Corps, in addition, considers potential public complaints.

Governance

Certification bodies are reported to practice varying levels of inclusiveness in their governance; Fairtrade and WFTO describe themselves as being co-owned by their members. RA has been criticised for the imbalance of producers and NGOs on its standards board as well as the absence of trade union members. Trustea is reported to have given a voice to producers and B-Corps’ approach is described as inclusive as it involves a wide range of stakeholders. For example, one B-Corps certified tea company talks of benefits not only to tea workers but also to the surrounding community.

The continued existence and proliferation of ethical certification schemes appears to show that consumers do care about the ethical origins of their products and are willing to pay more for products that they believe have been sourced ethically.

Human rights benefits

The continued existence and proliferation of ethical certification schemes appears to show that consumers do care about the ethical origins of their products and are willing to pay more for products that they believe have been sourced ethically. Research has shown that they have raised societal awareness and prompted inquiry into the conditions for tea farmers and workers, opening up space for deeper conversations regarding sustainability and the human rights of the workers along the tea supply chain¹³.

The research shows that certification tends to have the benefit of increasing producers’ access to markets – particularly in the case of RA and Fairtrade. Fairtrade has demonstrated positive effects on producer livelihoods and – uniquely – contributes to price stability, but, although it has brought some benefits to workers on tea estates, has not impacted on their wages.

Several of the certifiers are reported to have had positive gender impacts; for example, WFTO has demonstrated advances in gender equity and women’s empowerment and Fairtrade has helped improve maternity leave. Trustea demonstrates good practice by insisting on 50% female auditors.

Human rights challenges

Common criticisms of certification bodies are lack of transparency, weak implementation, over-reliance on audits (except for those that supplement audits with other monitoring approaches), and governance structures with insufficient representation of the producers and workers they are meant to support.

WFTO and B-Corps are challenged for allowing members too much choice in how they respond to requirements. Most certifiers are also criticised for failing to address structural barriers faced by workers and producers – especially women.

Some research has found that the overall impact of the certification schemes on worker voice can be negative, particularly on estates where existing worker representation and organisations such as unions can be undermined by the existence of such committees. The top-down bureaucratic nature of certifying organisations can also lead to a disconnect between the decision-makers and the workers on the ground; and the exclusion of marginalized actors makes them invisible.

RA has been criticised for not making progress towards living wages mandatory, but it should be noted that RA has recently substantially updated its standards making them more stringent and far-reaching, the results of which will be seen in due course. However, as RA itself acknowledges, “certification alone cannot solve any country’s entrenched socio-economic problems”.

Corporate policies and standards

Brands

The three biggest global tea brands, Unilever, Tata Consumer and Twinings all have publicly available human rights policies signed off at leadership level. They each state that they recognise that respecting and protecting human rights is part of their responsibility as a business, and commit to doing so in line with the key international human rights instruments.

Unilever and Twinings go further and acknowledge that they also have the ability to “positively impact” the lives of people in their supply chains. They both refer to their expectations of suppliers in delivering on human rights, but only Twinings’ policy refers to “systemic human rights risks” in the industry and commits to working collaboratively to address these. Twinings’ ‘Sourced with Care’ responsible sourcing programme involves buying tea directly from 127 approved tea estates and smallholder farms in China, Kenya, India, Argentina, Indonesia and Sri Lanka, agreeing forward contracts and paying what it describes as “a fair price” for its tea.

Of the larger trading companies, Finlay’s does not appear to have a publicly available stand-alone human rights policy, but includes a “Workplace and Human Rights” section in its Code of Conduct for its own employees. Finlay’s Gender Equality and Diversity Policy has been held up by civil society as an example of good practice.

The German trader OTG’s human rights policy refers (but does not explicitly commit) to the core ILO conventions and to issues such as living wages, equal opportunities for estate workers, and improving the quality of life and working conditions of smallholders. It commits to long term relationships with partners and points to its membership of ETP and Rainforest Alliance certification as important factors in delivering on human rights.

While Camellia does not appear to have a human rights policy per se, its 2020 ESG Report makes commitments in a number of human-rights-related areas including “increasing wages” and “improving housing, education and healthcare.” It requires its operations to have policies and procedures for “equality, health, personal development, training, diversity, and... education, housing and sanitation.” Following worker allegations of sexual assault by its employees in Malawi, Camellia aligned its governance and safeguarding oversight functions with the UNGPs, reviewed its policies and procedures and implemented a range of gender empowerment strategies in Malawi.

PGI does not appear to have a human rights policy, but its Modern Slavery Statement asserts that “no company within the Group permits slavery, forced labour, child labour, or any use of force or coercion in its operations” and that each company in the group is responsible for systems to ensure this. It also states that its companies should implement labour and social standards aligned with Ethical Tea Partnership, Rainforest Alliance, Fairtrade, UTZ and MPS-ECAS. A legal case against PGI is currently in process with complainants on its Lujeri tea estate claiming systemic sexual abuse, including rape. The case is due to be heard in the UK’s High Court in June 2022.

Ethical Tea Partnership

Some of the companies mentioned above are members of the Ethical Tea Partnership (ETP). ETP is a membership organisation with 48 members, (retailers and companies that are involved in the sourcing, trading, or packing of tea) who jointly collaborate on programmes and pilots that tackle issues and challenges across seven tea growing countries in Africa and Asia. They work alongside private sector partners and local NGOs to help the ETP reach its mission to “improve the lives and livelihoods of tea workers, farmers, and the environmental sustainability of tea”.

Its activities address gender equality and improving women’s empowerment, improving economic stability for farmers and workers and mitigation and adaptation measures to tackle climate change.

ETP’s newest partnership with ActionAid in Kenya is a two-year programme designed to empower 600,000 smallholder farmers and 300,000 informal workers in three tea growing communities in Kenya.

Tea production companies

It is not within the scope of this review to map the human rights policies of the many thousand tea production companies around the world. However, in the next phase of this HRIA THIRST intends to conduct a global survey of tea production companies to understand their perspective on human rights, their policies and commitments and what helps and hinders them from meeting the human rights expectations of their customers, the buyers.

Retailers

Supermarkets have strong potential leverage over their supply chains due to their influence over pricing and volumes. In 2018, Oxfam’s Behind the Barcodes campaign highlighted shortcomings in the human rights policies of the main supermarkets in the UK, USA, the Netherlands and Germany. Among the case studies illustrating the negative impact of weak human rights policies was a report on “Addressing the Human Cost of Assam Tea.”

Over the subsequent years, most supermarkets’ scores increased; several supermarkets were galvanised into introducing gender policies and some, like Aldi South, introduced human rights policies for the first time.

Oxfam’s latest report focuses on the inequities spotlighted by the Covid-19 pandemic, and – in respect of tea – responding that “there is a need for appropriate policy measures to bridge the gap between a living wage and prevailing wages in the tea sector in Assam, and efforts are needed from all actors in the supply chain to help increase the wages of the tea plantation workers.”

Human rights for tea workers and farmers in practice

Vulnerable groups

Women

Tea production provides income earning opportunities to millions of women, but across tea-growing regions they experience economic and employment discrimination, sexual abuse and coercion and violation of maternity rights. On smallholder farms they are less likely to own land, and on estates they are concentrated in the lowest paid roles. Women migrants, girls, older and disabled women, and women from marginalised ethnicities are at higher risk of vulnerability to abuse and discrimination. A number of industry initiatives are underway to tackle some of these issues but structural employment and land-ownership problems remain.

Children

There is evidence of child labour across multiple tea-producing regions. Children, particularly girls, on tea estates are vulnerable to trafficking due to the poverty and poor living conditions of their families. Smallholder farmers are more likely to conscript their children into working on the farm at peak seasons. Children in multiple-tea sources experience poor education and healthcare.

The tea sector provides employment to tens of millions of workers, a livelihood to several million smallholder farmers, and indirectly supports millions more... but... Low wages are leading to malnutrition, indebtedness and risky survival strategies such as transactional sex and child labour and trafficking.

Older people

Older people in tea growing regions are highly vulnerable to rights abuses. Non-working household members are often ineligible for tea estate benefits such as housing and healthcare. Older people in Bangladesh and India report losing their homes, and long delays in receiving mandatory welfare payments. Healthcare on estates (where available to retirees) reportedly lacks expertise and support for addressing the complex chronic conditions of older people. These conditions are likely to be echoed in estates in other countries. Kenyan farmers' perception of old age includes "health issues, food insecurity, their need for money, worries about support and care"¹⁴ – again likely to be echoed in other smallholder settings.

Migrants

As in other agricultural sectors, tea harvesting is reliant on migrant workers in many countries. Additional labourers migrating in during harvest season in some regions are vulnerable to poverty and deprivation of basic amenities since they are usually not eligible to the same benefits as permanent employees. Where workers are brought from a different country altogether, the lack of self-determination is further exacerbated by lack of statehood. In addition, primarily across South Asia, tea estate workforces tend to be descendants of migrant labourers – often from tribal or lower caste communities – and so are particularly vulnerable to forced labour and discrimination.

Human rights impacts

The right to Freedom from Slavery and Forced Labour

Forced and/or child labour has been identified in the tea industries of multiple countries. The UN’s special rapporteur on contemporary forms of slavery reported from his recent mission to Sri Lanka: “I witnessed that women and girls are disproportionately affected by contemporary forms of slavery in Sri Lanka”. Research in India uncovered a pattern of labour exploitation, including indicators of forced labour. The provision of free housing cements workers’ dependence on their employers and limits their ability to contest human rights breaches; the threat of eviction and lack of alternative employment near the estate means “workers are actually working as bonded labourers.”¹⁵ There is some evidence from China of tea being produced in “re-education” detention camps.

The right to Freedom of Association and Collective Bargaining

Most workers on tea estates in the focus countries appear to be represented by formal trade unions, but most of the tea workers’ unions there tend to be weak, fragmented and inactive. In South Asia, unions are typically aligned with political parties, while in African countries, like Malawi, trade unions hold less power than tea associations (although the first-ever collective bargaining agreement in the Malawian tea industry was signed in 2016). In many countries, workers can face retribution, punishment, and discrimination by management if they go on strike or (in countries where they are not automatically enrolled) join unions. In South Asia in particular, tea estate ‘lock-outs’ (preventing workers from working) are common and can lead to severe hardship, up to starvation.

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The right to an Adequate Standard of Living

The tea sector provides employment to tens of millions of workers, a livelihood to several million smallholder farmers, and indirectly supports millions more. However, the sector is characterised by very low incomes (often below international poverty lines – even when they meet minimum wage levels and are agreed through collective bargaining). Low wages are leading to malnutrition, indebtedness and risky survival strategies such as transactional sex and child labour and trafficking. In countries where in-kind benefits from part of the remuneration package, they are often of very low quality. There is also a significant gender pay gap in the tea sector of multiple countries.

Smallholder tea farmers often lack capital, skills and technology, have fragmented and therefore uneconomic holdings and the prices they are paid for fresh tea leaves, more often than not, tend to be below the cost of production.



The right to Just and Favourable Conditions of Work

Health and Safety

Occupational health hazards for tea pluckers include musculoskeletal injuries from carrying heavy loads. Insufficient and inadequate PPE is also common; researchers often find examples of workers spraying pesticides without the protective equipment. Tea factory workers are also vulnerable to health hazards, such as exposure to tea dust which can lead to serious respiratory problems. In the focus areas, housing is reportedly often dilapidated and toilets are either in poor condition or non-existent; many workers do not have access to safe drinking water, leading to risk of cholera and typhoid. Researchers have repeatedly found that medical facilities in the focus countries' tea sectors are either not available or are inadequate, and that medical staff are poorly trained and frequently absent.

Working hours

While working hours in tea estates are technically within ILO recommendations of eight hours a day, it is hard, physical labour in challenging environments. Because tea plucking is usually paid in a combination of daily wage and piece rate, pluckers will work for as many hours as it takes for them to achieve a target weight. Although not unique to the tea industry, it is important to note that women tea workers do around 13 hours of physical work including the unpaid domestic work that they do on top of their paid work.

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As in most other agricultural sectors, the working hours of smallholder farmers and their families and hired labour are not regulated, but are likely to be as punishing as those of estate workers, if not more so since the farmer's entire subsistence relies on the success of each harvest.

Regular work

Women tea estate workers throughout much of Asia are permanently tied to their employment through bonds of debt and housing dependency, yet do not necessarily enjoy regular work and income throughout the year as work is dependent on the season and on the amount of tea they can pluck. At low season and if they are sick, elderly or pregnant their income suffers. While the men who do have work on the estates are paid by time (rather than piece-rate), many have little or no regular work. There has been increasing casualisation in the tea industry. For example, in Kenya the increasing mechanization of tea harvesting – which is highly likely to spread to other countries – and outsourcing of factory processing has resulted in job losses, heavily impacting women workers. Temporary workers are hired on insecure terms and are typically employed on short contracts, sometimes for as little as a few days. As estates are abandoned and more and more tea is bought from smallholder tea farmers, former workers face the uncertainty of seeking daily labour work.

Harsh treatment

There are court cases currently underway in Kenya and Malawi over alleged failure to protect tea workers from violence and systemic sexual abuse including rape. In South Asia, disputes between workers and management have erupted into violence; for example, the fatal shooting in Assam of two workers and serious injury of 15 others when police opened fire on the protestors following the collapse and death of a tea worker spraying pesticides without PPE. After similar unrest, Sri Lankan tea estate managers were demanding weapons and training to defend themselves from workers.

The right to Freedom from Discrimination

Gender

Women are concentrated at the lowest paid level of the tea estate workforce and are generally barred from promotion opportunities, and there is a disproportionately high number of female casual workers as compared to males in the tea sector. Male tea workers tend to be paid according to the time worked, while women's pay – since they are primarily engaged as pluckers - is piece-rated. Trade unions tend to be male-dominated so women workers' voices often go unheard.

Women's comparatively lower levels of education and the financial pressures they face while raising their families leaves them less scope to take economic risks. Women may be at greater risk of other forms of exploitation and discrimination in a smallholder context.

In countries such as Tanzania, where women are traditionally barred from land ownership they are entirely dependent on the male relative who owns the land – even though they do the majority of the physical labour on the farm. They may also be poorly represented at a governance level.

Ethnicity and employment/migration status

Tea workers are often migrants or indentured labourers (or their descendants) from poorer regions. This creates divisions which leads to ethnic discrimination. For example, in Sri Lanka, tea workers of Tamil origin report being barred from promotion, in Assam, the descendants of indentured labourers transported from Central India remain isolated and disadvantaged. In South India, Kerala, Tamil-speaking Dalits who constitute majority of the labour force report being trapped in low-paying jobs. And in 2007, as part of country-wide unrest, workers on Kenyan tea estates from outside the area were subjected to violent attacks by members of the local community.

Temporary tea workers are widely reported to be excluded from coverage of benefits accorded to permanent workers such as medical facilities. But regardless of ethnicity, in many tea origins, being from a tea estate can itself be grounds for discrimination.

The right to Land

The tea industry has historically been complicit in directly depriving indigenous people of their land. A group of Kenyans has submitted a complaint to the UN about their forceful eviction from their lands in 1934 by British colonialist to plant tea.

Lack of land entitlement diminishes the self-determination of tea workers and reinforces their dependence on the estate. Having worked for generations on estates owned by companies or governments, some tea workers are now demanding the right to own the housing and land in and on which they live.



Root causes

It is in the next phase of the Human Rights Impact Assessment that we will explore in-depth the root causes of these human rights breaches and how there can be such a wide gap between the intention (as expressed in the human rights laws, standards and policies) and the reality. In the meantime, the literature review did provide the following suggestions:

- *The historic structure and location of tea estates*
- *Multiple power imbalances throughout the system; between women and men, workers and supervisors, supervisors and managers, producers and buyers etc.*
- *The oligopsony power of a few large buyers over many smaller local producers*
- *The inequitable distribution of the retail value of tea*
- *Rising production costs, static prices*
- *Tea companies' heavy reliance on certification bodies for realising human rights in their tea supply chains*
- *The lack of protections for smallholder tea growers*



Alternative approaches

There are numerous initiatives underway or completed in recent years that attempt to address the challenges outlined in this report. These include alternative business models such as various forms of worker-owned enterprises; innovative use of technology such as electronic weighing scales enabling accurate payment to go directly to tea pluckers' bank accounts and a range of private and public sector initiatives to empower women tea workers. THIRST intends to bring together a selection of these approaches in a supplement to this literature review to inspire, inform and motivate the tea sector to consider adopting or adapting the most promising of these alternative approaches.

Conclusion

Despite the success of the industry, the international and regional human rights instruments, the national laws, the certification standards and company policies pledging to uphold human rights for tea workers and farmers, THIRST’s literature review found that on every human rights dimension we examined, there were sector-wide breaches. Women, children, older people and migrants are particularly vulnerable to these human rights breaches and are the least empowered to challenge them.

A number of initiatives have been tried or are underway to attempt to address some of this plethora of problems, including different business models, new ways of trading tea, innovations in community organisation and worker-management communications, and more. Further research into their effectiveness and long term monitoring of these initiatives will provide valuable lessons for the industry.

Individual initiatives like these may help to tackle some of the localised issues within the sector, but other issues are likely to be addressed only through systemic change.

In the next phases of THIRST’s Human Rights Impact Assessment of the Tea Sector, we will further explore the root causes of that human rights gap and how to bring about systemic change.

Collaborating with industry experts and experts in development, industrial relations and economic justice, we will develop a ‘highway map’ for the industry towards a more equitable future in which tea workers and farmers are able to live healthy, dignified lives within a thriving 21st century global industry.

Methodology

THIRST reviewed a wide range of documents produced by NGOs, trade unions, academics, companies and governments in an effort to gain a broad picture of human rights in principle and practice in the tea sector globally – and to try to identify common themes across them. Many of the documents reviewed are available on [THIRST’s Knowledge Hub](#).

This Summary distils the findings of the full report which will be published separately. Only a small selection of the over 200 documents reviewed are included here.

The ten tea producing countries that this review focuses on (Bangladesh, China, India, Indonesia, Kenya, Malawi, Rwanda, Sri Lanka, Turkey and Viet Nam) were chosen partly to ensure a spread across the main tea producing continents (as it would have been impossible to include the almost 60 countries that produce tea) and a range of country sizes and tea production approaches. As well as including some of the world’s leading tea producers and exporters (China, India, Kenya), these are also the countries about which information is readily available in relation to human rights in their tea sectors, although there is a heavy imbalance in the amount of information available – with large amounts written about the tea sector of India, particularly the Assam region, and Kenya, very little about China and Indonesia and varying amounts of information on the remaining countries.

Wherever possible, THIRST has tried to draw together information from multiple countries to identify patterns or commonalities which could provide insights into the way that the tea industry as a whole operates. As such, we have tried to maintain a balance between country- and region-specific detail and sector-wide relevance. This is so that we can start investigating the systemic drivers of human rights breaches in the tea industry, rather than focus narrowly on country- or region-specific problems.

An interim report was drafted in December 2021 focusing primarily on reports of human rights in practice for tea workers and farmers. The interim report was reviewed by a group of advisors who will continue to accompany the Human Rights Impact Assessment over its three year life span. They provided expert input and feedback on the review which was duly incorporated.

The advisors are:

- Caroline Brodeur, Business and Human Rights Specialist, Oxfam America
- Jenny Costello, Executive Director, Ethical Tea Partnership
- Otilie Cunningham, Tea Buyer, Fortnum and Mason
- Narendranath Dharmaraj, Strategic Advisor and Operations Consultant in Tea
- Ella Frankel, Senior Advisor: Food, Farming & Fisheries, Ethical Trading Initiative
- Céline Gilart, Head of Social Impact & Sustainability, Twinings
- Justin Rippon, Tea Procurement Consultant
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Justin Rippon started his career in the Tea industry in 1997, mostly on the commercial side, as a trader, the majority of which spent in Africa before returning to senior management roles in Europe. Since 2021 Justin has worked as a specialist independent consultant advising on tea procurement and logistics strategies.

Caroline Sloan

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Caroline qualified as a lawyer and has many years of experience in the international energy sector. She now provides advisory services on corporate accountability and is an Associate Lecturer at Oxford Brookes Business School.

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In addition to being THIRST's Communication and Research Consultant, Alysha is a Doctoral Researcher in the Business and Human Rights Catalyst at the Alliance Manchester Business School critically investigating the right to access remedy for business-related human rights abuses with a focus on the agrifood sector.

Endnotes

- 1 See, for example, Rosenblum, P.; Sukthankar, A. Columbia Law School Human Rights Institute: New York, NY, USA, 2014. The More Things Change; The World Bank, Tata and Enduring Abuses on India's Tea Plantations. https://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/tea_report_final_draft-smallpdf.pdf
- 2 Banerji, Sabita. THIRST, 2020. Human Rights in Assam Tea Estates: The Long View <https://thirst.international/wp-content/uploads/2020/02/The-long-view-THIRST-Feb-2020.pdf>
- 3 With a few new exceptions such as US and Australia and Georgia.
- 4 Throughout this report the term "estate" is used to denote a formal enterprise on which tea is planted and people are employed to tend, harvest and process it. A tea production company may own many tea estates as well as factories in which to process the tea. The terms 'tea plantation' and 'tea garden' are also commonly used to describe these enterprises. Where we use the term 'smallholder farm', we mean a smaller enterprise involving a single farmer or family, sometimes employing small numbers of seasonal workers at harvest time.
- 5 <https://hdr.undp.org/en/content/latest-human-development-index-ranking>
- 6 World Tea Conference and Expo White Paper: 2022 Tea Industry Trends, Issues & Innovation <https://www.worldteanews.com/issues-trends/download-world-teas-new-white-paper-tea-trends-issues-innovation>
- 7 Goswami, Rupak. Tea Biz, 2022. Proposed India Tea Promotion and Development Act 2022. <https://tea-biz.com/2022/01/19/new-role-for-tea-board/>
- 8 <http://www.parliament.go.ke/node/10893>
- 9 ITC 2020 Report <https://inttea.com/publications/>
- 10 Committee On Commodity Problems, Intergovernmental Group On Tea, Twenty-Fourth Session. 23 February 2022. COVID-19 and beyond: emerging trends in global tea market <https://www.fao.org/3/ni203en/ni203en.pdf>
- 11 Loi no. 2017-399 du 27 Mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre
- 12 The English version of the proposed directive released on 23 February 2022 is available here [1_1_183885_prop_dir_susta_en.pdf \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022D0001)
- 13 Munasinghe, Amila, Thomas Cuckston and Nick Rowbottom. 2021. 'Sustainability certification as marketisation: Rainforest Alliance in the Sri Lankan tea production industry', Accounting Forum, vol. 45, no. 3, pp. 247–272.
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