Briefing Paper No.2: Assessing the Social Impact of Codes of Practice in the Kenyan Cut Flower Industry:

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Study aims

The aim of this 3 year study (2002-2005) was to assess the social impact of the adoption of codes of practice, in order to establish whether they can make a positive difference to workers' conditions and livelihoods and to impoverished local communities in Sub-Saharan Africa. This understanding is important for informing future private sector, governmental and non-governmental policies. Two industries were selected – the South African wine industry and the Kenyan cut flower industry. This paper presents the findings from the Kenyan cut flower industry study.

Cut Flower Production in Kenya

Kenya's cut flower industry (CFI), which is the oldest and largest in Africa, was built on the expertise, infrastructure and investment generated by a successful fresh vegetable industry. Starting in the late sixties, the cut flower export industry has experienced phenomenal growth in the last two decades, rising from 19,807 tons in 1992 to 41,396 tons in 2001. It is now the largest supplier of cut-flowers to Europe, with a 25% market share. Over 90% of the country's cut flowers are exported to Europe; indirectly through the Dutch Flower Auction and retail consortiums and directly through supermarket buyers.

Packing flowers

Today the cut flower industry accounts for 8% of Kenya's total export earnings. It employs an estimated 56,000 people, approximately two thirds of them women, in more than 140 commercial farms. It therefore indirectly supports hundreds of thousands of Kenyans. The most important production areas are Lake Naivasha, Thika, Limuru, Athi River, North Kinangop, Kericho and Eldoret.

Codes of Practice and the Cut Flower Industry

With an annual growth rate of 20% and given its labour intensive nature, it is unsurprising that the Kenyan cut flower industry has been promoted as a success story, both for raising foreign exchange and providing employment opportunities for the rural poor.

From the 1990s onwards, increasing attention has been paid globally to the ethical sourcing of commodities and to the social and environmental conditions in the cut flower industries in Latin America and Africa. In 2002, the Kenya cut flower industry was targeted by an alliance of local non-government organisations campaigning against abuses of workers' rights and was the subject of a series of damaging local and international media exposés. This negative publicity particularly stung those producers who from the mid to late 1990s had signed up to various internationally recognised and local codes of conduct and practice (COP), promoting environmentally, and latterly, socially responsible production practices in the cut flower industry. A report from the Ethical Trading Initiative (ETI), a UK-based membership organisation of retail companies, trade unions and NGOs, concluded that there were a number of workers' rights violations on flower farms, as well as problems with how social auditing was being conducted, despite initiatives to address labour standards. With donor support, a multi-stakeholder steering committee was formed to encourage dialogue between conflicting elements of the industry.

This was the complex context of this study. Beginning with an analysis of stakeholders in the flower industry, information was collected on the characteristics of flower farms as a basis for sample selection. 12 farms, equally distributed between code adopters and non-adopters and who were willing to participate in the study, were visited over the period of study to compare differences and changes over time. Selection of farms was based on acreage under flowers, ownership, type of workforce and location of the farm. Methods included participatory indicator setting with workers, interviews with workers and managers and household case studies.

Stakeholders in the Kenyan Cut Flower Industry

Key stakeholders include men and women permanent and temporary workers, migrant workers and workers' families, but also non-participating households who are affected by economic and/or environmental spill-over effects. Equally central are the export producers, including owners and managers, and the supporting investors. Small-holders produce flowers and other products for local markets, and may act as out-growers to the bigger farms. Further crucial stakeholders are the importers and overseas buyers.

In-country private sector actors include the Agricultural Employers Association (AEA), together with the local growers' organisations. The Fresh Produce Exporters Association of Kenya (FPEAK), established in 1975, represents fruit and vegetable growers, and now includes flower growers. The Kenya Flower Council (KFC) was formed in 1996 by some of the leading growers who recognised the need to pool their resources in research and development and to comply with international standards. Both have introduced COP.

The Horticultural Ethical Business Initiative (HEBI) was constituted in 2003 from the donor-supported multi-stakeholder steering committee, as an independent non-profit making organisation promoting ethical social behaviour in the horticultural and floriculture industry. Its directors are drawn from industry organisations; government and civil society organisations.

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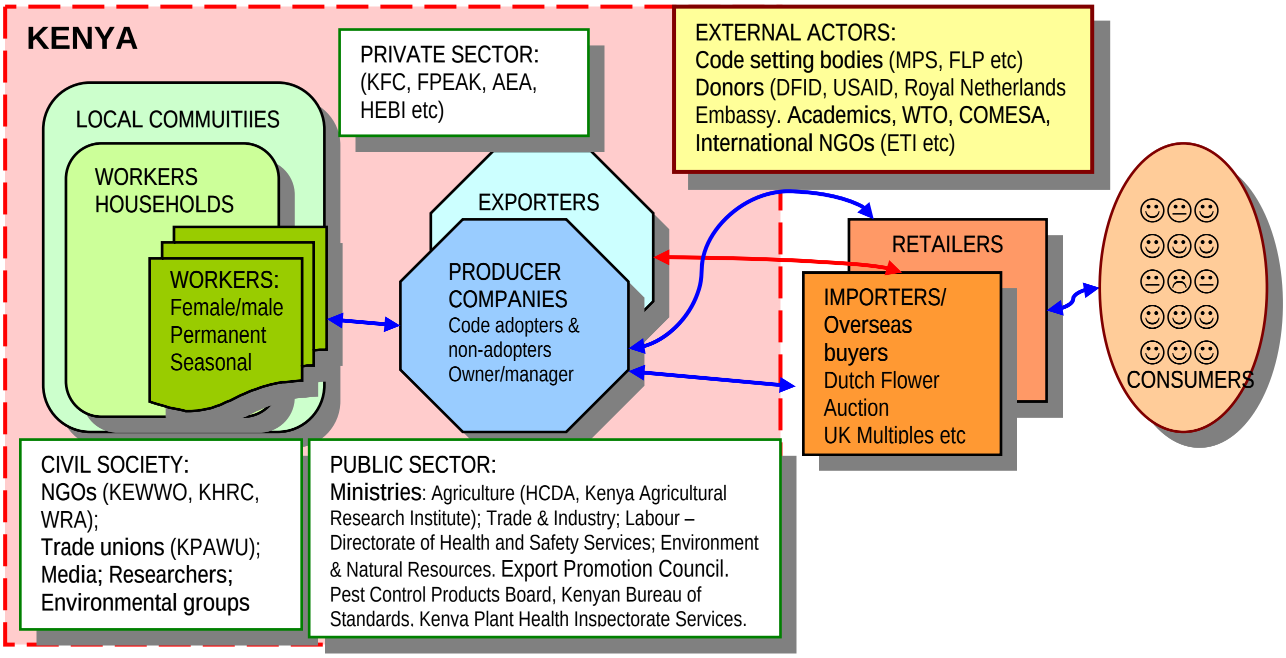
Main stakeholders in the Kenya Cut Flower Industry



Among the Governmental stakeholders there are the Horticultural Crops Development Authority (HCDA), the policy implementation arm of the Ministry of Agriculture with specific responsibilities for the CFI, and other bodes with technical, research, health and safety, or policy functions.

Civil Society Organisations have been important in highlighting the need for and initiating improvements to labour practices in the cut flower industry. They include Workers Rights Alert (WRA), the Kenya Human Rights Commission (KHRC), and the Kenya Women Workers' Organisation (KEWWO). The designated union for agricultural workers is the Kenya Plantation and Agricultural Workers Union (KPAWU), although only a minority of flower workers are members.

Codes in use in the Kenya Cut Flower Industry

In terms of code adoption, the Kenyan CFI is frequently favourably cited in comparison to competitors elsewhere in Africa or in Latin America. The different codes fall into four main types;

Code Type	Name
Northern environmental and social code certifiers	Milieu Programme Stiftung (MPS)
	EUREPGAP
European organisations selling flowers with social and environmental labelling	Max Havelaar Switzerland Criteria for Fairtrade Cut Flowers
	Flower Label Programme (FLP)
European retailer codes	Separate Company codes in UK usually based on the ETI base code
Local (Kenyan) membership organisations	Fresh Produce Exporters Association of Kenya (FPEAK)
	Kenya Flower Council (KFC)

The codes cover freedom of employment, conditions of employment, child labour, discriminatory practices, living wage, working hours, safe and hygienic working conditions (including maternity issues), inhumane treatment, freedom of association and the right to collective bargaining, management systems and environmental protection. While most of the codes are based on ILO conventions and the UN Declaration of Human Rights, they may defer to Kenyan legislation where stipulations of local law are different from international codes; for example, on child labour and maternity leave. Other differences between codes, relate to their match with the priorities of workers and their respective rates of introduction.

In 2004, approximately half of the 145 grower-exporters, employing around 75% of cut flower industry workers, were signed up to at least one code, with several belonging to more than one. The most frequent membership was of the KFC (47) followed by FPEAK (26), MPS (17), Max Havelar (10) and FLP (8). 60 of the farms had not adopted a code and no information was available for a further 11. Code adoption was more common on Kenyan owned or joint foreign and locally owned farms (60%) than European owned farms (42%). The majority of the code-adopting farms selected for detailed study were members of the Kenya Flower Council (KFC) and the Holland-based Milieu Project Sierteelt (MPS) codes.

Main findings from the on–farm comparisons

The main dimensions of comparison between workers on code adopting and non adopting companies, were their material conditions, their social well being and their rights and empowerment.

Workforce, gender and employment status

The seasonal nature of the flower industry (peak periods at Christmas, Valentine's Day, Easter), has in the past, encouraged employment practices which rely heavily on seasonal, temporary workers and casual labour. The study found that code adopting farms employed a higher proportion of permanent workers (92%) compared with non-adopting farms (36%). This is in line with some code requirements that over 70% of the workforce be employed on a permanent basis. Women made up the majority of the casual workforce on both types of farm.

Non-adopting farms, with higher rates of temporary and seasonal employment, employed more women workers than code adopting farms. The majority of workers on both adopting and non-adopting farms were less than 30 years old. The labour force on non-adopting farms was characteristically young, female and single. In addition, most of the migrant workers were women. Women are concentrated in the labour intensive segments of production - harvesting, grading, packing and work in the green houses. Security of employment was higher on adopting farms, with around 90% of workers having a contract compared to 59% on non-adopting farms.

Flower harvesting

Material provisions

Code adopting farms provide more workers with housing on the farm than non-adopting farms, mainly due to the fact that codes call for provision of housing. The majority of workers on both types of farm lived in permanent houses (made of stone or bricks, with cement floors and iron sheet or tile roofing), but the housing conditions of workers on non-adopting farms, unlike those on adopting farms, did not improve over time. The majority of workers on both types of farm received a housing allowance and these increased over the period of study. However, the average allowance for workers in adopting farms was higher than for non-adopting farms.

Access to water was better for workers on code-adopting farms - less than half of workers interviewed on non adopting farms said they had access to tap water on their house plot. Bathing and toilet facilities were similar for workers on both adopting and non-adopting farms. Similar sources of energy, the kerosene stove and charcoal, were used by all workers for cooking lighting, heating and warming water. Almost all workers paid for the energy they used.

	Farm category	
	Adopting	**Non-adopting**
Permanent workers	92%	36%
Female workers	42%	64%
Workers <30yrs old	66%	80%
Post Primary Educated	67%	49%
Av. monthly salary Ksh	4,487	3,789
Av. house allowance	822 Ksh	661 KSh

The average monthly salary for workers on adopting farms was 4,487 Kenya shillings (equivalent to approximately 58$)[1], excluding the house allowance for those who lived off-farm. On non-adopting farms most of the workers earned between 2000 and 4,000 shillings, with some permanent workers receiving up to 6,100, but 77% of workers received less than 4,000 shillings, compared with 55% on adopting farms. There was no variation in wages earned by male and female workers.

No great difference was noted in the ability to afford basic needs among workers in code adopting and non-adopting farms. On average, workers in both categories of farms were paid above the minimum recommended wage, but they all lived on a day to day basis. The majority of workers were able to pay for their daily needs - utilities: food, clothing, school fees, health care and house rent, but very few were able to repay loans, invest or make any savings. In fact, levels of indebtedness increased during the course of the study.

Social well being

Both code adopting and non-adopting farms officially followed the recommended working hours of 8 hours a day, although this applied to a higher number of workers on the adopting farms. More workers in adopting farms were entitled to paid annual leave, sick leave, compassionate leave and maternity leave than those on non-adopting farms. Access to this range of benefits improved on both types of farms over the period of study.

Workers on code adopting farms had higher levels of education compared to those on non-adopting farms. A few of the code adopting employers provided education for workers' children. None of the non-adopting farms surveyed had a day care centre for children below school age, neither were workers provided with school fees assistance.

The provision of medical care for workers and their families was somewhat better on code adopting farms than on non-adopting farms. However, medical check-ups for workers were not included.

Greenhouse Flower Production

Occupational Health and safety

Many of the code adopting farms had a health and safety officer on site as well as a health and safety committee, while very few of the non-adopting farms had these provisions. The code adopting farms provided quality drinking water at the workplace, to more workers than the non-adopting farms. However, both categories of farms had adequate toilet and hand washing facilities and provided their workers with protective clothing. Training in health and safety issues as well as HIV/AIDS awareness was lacking in both the code adopting farms and non adopting farms. There was an improvement over time in the provision of protective clothing and in health and safety, as well as HIV/AIDS training coverage.

[1] 1 US Dollar = 77.8 Kenyan Shillings, May 2004.

Empowerment.
Freedom of association among the workers was more enhanced in the code adopting farms (where over 70% of workers belong to a workers' social welfare association) than in non-adopting farms where less than 45% belong to a welfare association. Over the period of the study there was an increase in membership of trade unions and asset acquisition schemes on adopting farms, but not on non-adopting farms. Overall, trade union membership in both types of farms remained very low (17% for adopting and 16% for non adopting) and very few farms had signed a collective bargaining agreement with a trade union. There was low worker awareness of codes in both adopting and non adopting farms.

Incidence of harassment and physical abuse is low in both categories of farms. Very few workers reported cases of threats from farm owners, managers, supervisors or fellow workers. There was no evidence of workers under the age of 18 being employed on the farms.

By the end of the study, three of the adopting farms had subscribed to additional codes of practice while one had updated one of their codes to the latest edition. Among the non-adopting farms, 4 had begun procedures to subscribe to codes.

Conclusions and policy implications

In summary, workers' welfare on adopting farms seems better than that of workers on non-adopting farms, but the differences are not clear cut. Workers on adopting farms, on average, had advantages in terms of security of employment, salary levels, housing, medical care and membership of workers associations. Other aspects were similar on both types of farms. The positive impacts of codes were also mentioned by managers on the adopting farms, citing improvement in salaries, general working conditions, housing and facilities.

It is important to note that improvement in working conditions of workers cannot be attributed to codes alone. Other factors include the management's disposition, the need or demand for better conditions by workers, or changes made on humanitarian grounds. This is evidenced by the fact that some non-adopter farms have better worker welfare policies than some adopters.

The quality of the social components of codes was originally poor although some have more recently promoted a new social chapter or upgraded editions. The exceptional codes such as Max Havelaar were/are only subscribed to by a small number of growers. Social codes of practice are weak in certain areas; for example, they have not addressed women's issues especially their representation in worker's committees. Nor do codes deal explicitly with industrial relations; focusing on worker TU membership rather than how the unions relate to the workers. The role of unions in the process has been problematic since they are unwilling to work with NGOs. KPAWU and the Central Organisation of Trade Unions have declined to join initiatives concerned with worker-employer relations (e.g. HEBI) which include civil society organisations.

Although many flower farmers have joined industry codes, driven or reinforced by the global ethical sourcing initiatives of the 1990s, most code adopters appear to have signed up from the late 1990s onwards and not since the early 90s as some research suggests. With hindsight it appears that code adoption in Kenya has been somewhat 'talked up' by a range of stakeholders, including researchers and code bodies, in diplomatic efforts to secure and maintain engagement with growers and ease in social auditing, giving rise to some exaggeration of the extent to which the KCFI has been influenced by social codes.

Given the prevailing atmosphere of corruption during the Moi era, and its legacy, a predominantly self-regulating cut-flower industry with opportunities to make significant profits, this is hardly surprising. Code membership is seen as a burden by growers who have long been operating in an under-regulated environment. Growers have argued that they have been overwhelmed by the diversity and demands of the codes, which many feel have been imposed on them by Northern buyers without bringing any advantage in terms of contracts or guarantees of purchase. Some argue that positive change is happening anyway and not as a result of code adoption.

Recommendations

No single initiative may effectively and efficiently resolve the problems experienced in the cut flower industry in terms of workers' welfare, health and rights in Kenya. However the study makes some recommendations;

- **Harmonization of the codes** operating in the cut flower industry into a single comprehensive national code with international recognition. This would encourage flower farms to subscribe to codes, but would require negotiation and agreements between code holders in the major markets to ensure that the concerns of different code holders are taken into account.

- **Participatory auditing**. HEBI has significantly advanced the introduction of more participatory social audits. Advocacy is needed in order for these methods be accepted in place of the traditional corporate social auditing favoured by northern buyers.

- **Export licenses conditional on code membership**. The lower rates of code membership among European-owned companies suggest that some are able to access markets without subscribing to codes, by exporting their produce via their sister farms in their home country. Policy measures are required to ensure that cut-flower export licenses are only issued to those adhering to the national code of practice.

- **Worker awareness**. Given the limited worker awareness of their rights, more organization and education and training of workers is needed in order to empower the workers to assert their rights without permanently being reliant on outsiders to fight on their behalf. Workers require training in labour laws that govern the conditions of the provision of their labour.

- **Complementary strengthening of government organisations** responsible for enforcing national labour laws, e.g. through training of officers.

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