

NRI Report No: 2768

SSR Project No. R8077 2002-4

Gender, Rights & Participation in the Kenya Cut Flower Industry

by

**Catherine Dolan
(Northeastern University, USA)**

**Maggie Opondo
(University of Nairobi, Kenya)**

**Sally Smith
(Institute of Development Studies, UK)**

NRI Report No. 2768.
SSR Project No. R8077 2002-4

GENDER, RIGHTS & PARTICIPATION
IN THE KENYA CUT FLOWER INDUSTRY

By

Catherine Dolan
(Northeastern University, USA)

Maggie Opondo
(University of Nairobi, Kenya)

Sally Smith
(Institute of Development Studies, UK)

Dr Catherine Dolan

Department of Sociology and Anthropology
Northeastern University, Boston, MA 02115, USA
Tel. +001 617 373 3858. Email: c.dolan@neu.edu

Dr Maggie Opondo

Department of Geography, University of Nairobi, Nairobi, Kenya
Tel. +254 (0)20 33 4244. Email: maggie@swiftkenya.com

Ms Sally Smith

Institute of Development Studies, University of Sussex, Brighton BN1 9RE, UK.
Tel. +44 (0)1273 873663. Email: s.smith@ids.ac.uk

Contents

Acknowledgements	5
Abbreviations	6
EXECUTIVE SUMMARY	7
SECTION 1: BACKGROUND	11
1. Introduction	11
2. Social Accountability in the Kenya Cut Flower Industry	13
2.1 Cut Flowers in the Global Economy	13
2.2 Kenya Cut Flower Industry	13
2.3 Structure of the Kenya Cut Flower Industry	15
2.4 Codes in the Kenya Cut Flower Sector	16
3. The Regulatory Context	19
3.1 Kenya Labour Legislation	19
3.2 ILO Declaration on Fundamental Principles and Rights at Work	20
3.3 Collective Bargaining Agreement	21
SECTION 2: CASE STUDY OF WORKERS IN THE CUT FLOWER INDUSTRY	23
4. Methodology & Case Study Sample	23
4.1 Methodology	23
4.2 The Company Sample	24
4.3 Companys' Use of Codes	25
4.4 Composition of the Worker Sample	28
5. Employment Conditions on Cut Flower Farms	33
5.1 Security of Employment: Regular Employment Provided	33
5.2 Employment is Freely Chosen	34
5.3 Contracts	34
5.4 Working Hours are not Excessive	355
5.5 Remuneration: Wages must be Sufficient to meet Basic Needs of Workers	36
5.6 Harsh and Inhumane Treatment and Intimidation	388
5.7 Equity in Wages and Non Discrimination	40
5.8 Freedom of Association, Collective Bargaining and Worker Participation in Decision Making	42
5.9 Grievance Procedures	45
5.10 Health and Safety – Provision of a Safe and Healthy Work Environment	45
5.11 Pregnancy	47
5.12 Beyond Codes: Other Worker Welfare Issues	48
SECTION 3: THE AUDITING PROCESS	53
6. Participatory Social Auditing	53

6.1	Standard Auditing Practice	53
6.2	Participatory Social Auditing	54
6.3	Assessment of Participatory Social Auditing Methods	55
7.	Multi-stakeholder Approaches	58
SECTION 4: RECOMMENDATIONS		60
8.	Ways Forward	60
8.1	Employers	60
8.2	Buyers (importers, wholesalers, supermarkets)	61
8.3	Auditing Bodies	62
8.4	Trade Unions	63
8.5	HEBI	63
8.6	Non Governmental Organisations	63
8.7	Kenyan Government	63
9.	Conclusion	65
	Appendices	68
	References	75

Acknowledgements

We gratefully acknowledge funding for this research from the UK Department for International Development. We are also very grateful to the companies who participated in the research, for permitting their workers to participate in the project during working hours, and for taking the time to share their views with us. We extend sincere thanks to all the workers who shared their experiences of working in the cut flower industry with us, and the Kenyan Research Assistants who so diligently elicited and recorded those experiences. Finally, we thank the two anonymous, independent referees who gave valuable feedback on an earlier draft of this report, and the other members of the project team for their advice and comments.

Disclaimer:

This working paper has been produced as part of a two year research project into gender and ethical trade in South Africa, Kenya and Zambia. The project is funded by the UK Department for International Development, SSR Project No. R8077 2002-4. The Department for International Development (DFID) supports policies, programmes and projects to promote international development. DFID provided funds for this study as part of that objective, but the views and opinions expressed are those of the authors alone.

Paper reproduced by the Natural Resources Institute, a partner in the Ethical Trade in African Horticulture project, as part of its Project Report Series.

ISBN: 0 85954 551 2

Abbreviations

AEEAZ	Agricultural Ethics Assurance Association of Zimbabwe
BGI	Federation of German Importers & Wholesalers of Cut Flowers
BRC	British Retail Consortium
BVQI	Bureau Veritas Quality International
COLEACP	Comité de Liason Europe–Afrique-Caraïbe-Pacifique
DFID	Department for International Development
ETI	Ethical Trading Initiative
EUREP	European Retailers Representatives Group
FAO	Food and Agriculture Organisation
FIAN	Food First Information and Action Network
FLO	Fairtrade Labelling Organizations International
FLP	Flower Label Program
GAP	Good Agricultural Practice
FPEAK	Fresh Produce Exporters Association of Kenya
HACCP	Hazard Analysis Critical Control Point
HCDA	Horticultural Crops Development Authority
HEBI	Horticultural Ethical Business Initiative
ICFTU	International Confederation of Free Trade Unions
ICC	International Code of Conduct for the Production of Cut flowers
IFOAN	International Federation of Organic Movements
ILO	International Labour Organisation, Geneva
ISEAL	International Social and Environmental Accreditation and Labelling Alliance
KARI	Kenya Agricultural Research Institute
KEPC	Kenya Export Promotion Council
KEWWO	Kenya Women Workers Organisation
KFC	Kenya Flower Council
KPAWU	Kenya Plantation and Agricultural Workers' Union
LNGG	Lake Naivasha Growers Group
MPS	Milieu Project Sierteelt
NSSF	National Social Security Fund
SAI	Social Accountability International
SAN	Sustainable Agriculture Network
SASA	Social Accountability in Sustainable Agriculture
SA8000	Social Accountability standard
USAID	United Agency for International Development

EXECUTIVE SUMMARY

Cut flower production is now a major part of the Kenyan economy, but the country's success in supplying European markets has brought with it increased attention to the industry's social and environmental impacts. Driven by the various concerns of consumers, retailers, auctions, European regulators and civil society organizations, flower growers have to comply with a number of codes of conduct developed by their major market-brokers, international organizations, national industry associations and multi-stakeholder partnerships. These codes are part of a global increase in non-governmental regulation, but nonetheless make reference to both Kenyan labour and health and safety law, and the core conventions of the International Labour Organisation.

Our research examines how such codes address employment conditions in the industry, especially the experiences of women who comprise the majority of the workforce. We use criteria from a selection of labour codes adopted by major producers to assess how women are being affected by the industry, and to show the extent to which women's priority issues are included. We have also used the study to make a case for advancing participatory social auditing and local multi-stakeholder initiatives as significant elements of code implementation.

The ways workers are affected depends to a degree on the employment contract, with permanent workers experiencing significantly more security, opportunity and fringe benefits compared to seasonal and especially casual workers. In the more progressive companies at least there is a shift towards more permanent employment, reflecting the demand for more skilled labour and the pressure brought through codes of conduct. However, significant numbers of workers have only a non-permanent status, and it is these who are least likely to benefit from national labour law or voluntary codes.

The fact that women make up the majority of non-permanent workers is a key reason why many are unaware of codes and feel limited benefit from them. However, the gender dimensions of codes are not straightforward, and are also related to age, marital status and place of origin. Nonetheless, in the areas of job security, working hours, wages, discrimination and harassment, women appear to have separate concerns from men, and moreover feel that these are not being addressed (or in some cases even recognized) by any of the formal channels currently available to them. The study found that there were a number of problems common to workers on all the farms in our sample, regardless of the size of farm, the market outlet, which codes were applied and whether or not the code had been audited externally. These issues include:

Employment Insecurity: Security of employment was a major concern for many women workers, but especially non-permanent workers. While many employers in the study have begun to issue more permanent contracts, and shift seasonal and casual workers to permanent employment, thirty-three percent of the sample workforce remains in insecure jobs. Further, since this study was conducted among code adopting farms, there is a high probability that insecurity is more prevalent in the industry as a whole.

Overtime: Overtime is often compulsory and frequently exceeds the maximum hours set out in codes and national law. Overtime payments also vary with many workers feeling that they are not properly compensated. The likelihood of performing overtime is also linked to the employment status of workers. For example, permanent workers, who are paid monthly, are more likely to work overtime than casual workers, who are paid daily. For women, regular overtime makes it difficult to balance productive and reproductive roles. Arranging childcare when overtime is required at short notice is particularly problematic. Personal safety can also be an issue if transport is not provided after dark.

Sexual harassment: Sexual harassment was reported on all farms, particularly by women who were subject to sexual harassment from male supervisors. The persistence of sexual harassment, despite the intentions of those managers wishing to eliminate it, is related to the hierarchical employment structure of companies, coupled with the lack of senior female staff, both of which intimidates women from reporting incidences of harassment.

Representation: Although there has been an increase in union membership over the past few years, trade union representation is still low on cut flower farms. It also excludes those workers in non-permanent job categories. To date there is no systematic forum through which *all* workers can freely express their opinions and voice their concerns, particularly women.

Complaints procedures: Generally, companies have an informal approach to complaints, ranging from an open door policy to suggestion boxes. This fails to recognize that many workers are in vulnerable positions and fear approaching management. This is especially true for women workers, who are more fearful of discussing issues with male supervisors.

Communication: Poor communication between workers, supervisors and management is the source of many worker welfare issues. Management delegates authority and power to supervisors (who are predominantly men), who often abuse this authority in their relations with workers. According to workers, those who express grievances to the management without the supervisor's consent risk being sacked.

Wages: Wages in the industry are typically better than the government minimum wage and those that could be obtained through viable alternatives in the region. However, they are nevertheless low. While low wages impact on both men and women, women with sole responsibility for children are particularly affected as they cannot afford to pay someone to look after their children while they are at work.

Opportunities for Promotion: There are generally few opportunities for upward career progression, which tends to diminish worker motivation. Among women, this partly relates to the gendered allocation of jobs, rooted in socio-cultural perceptions and norms, which provides few prospects for women to move into management positions. Promotion is also linked to corruption, sexual favours/demands, tribalism, and nepotism.

Health and Safety: There have been substantial improvements in the health and safety practices of companies. However, chemical exposure remains an important concern among workers. The main issues raised were a lack of provision of protective clothing for workers handling chemicals, the non observance of re-entry periods, and the exposure of pregnant women to chemicals. In some cases, the perception of risk among workers exceeds actual risk, suggesting that companies may not be providing sufficient training and/or accurate information to workers on where the dangers of chemical exposure lie. On the other hand, several companies mentioned the difficulties of ensuring that workers abide with health and safety regulations, especially the wearing of protective clothing.

Pregnancy and maternity leave: Lack of access to adequate maternity leave creates anxiety about income security and can lead women to seek abortions and/or hide their pregnancies, both of which can carry long-term health implications. Adequate childcare was widely recommended as a significant benefit. Currently there is only one farm that has childcare facilities available, although other companies understand that women face difficulties with childcare, and some are planning to establish day care facilities in the future.

Transport: Where transport is provided, workers noted problems of unreliability, overcrowding and lateness. Several workers also mentioned safety concerns about travelling home at night, particularly women.

Lack of awareness of rights and codes: Although the introduction of codes of conduct may be contributing to improved labour conditions, most workers are unaware of their employment rights and of national legislation that is relevant to them. They are also unaware of codes despite the fact that this research was conducted on farms that had a comparatively long history with codes. Poor communication with workers about codes and their importance reflects the problem of communication

that exists between management and workers in the industry. This may change as companies recognise the importance of worker involvement to achieve code compliance.

These employment problems are not insurmountable. The fact that labour conditions have improved over the last year provides cause for optimism. However, greater participation of workers and other stakeholders is essential to improving conditions in the industry, particularly for women who form the majority of the workforce. This study shows that participatory social auditing is not only effective in discovering areas of non-compliance that are not detected by other methods, but may be a means of fostering better dialogue and change. This method has been used as part of the multi-stakeholder approach to implementing codes found elsewhere in Africa, which is being introduced into the Kenya flower industry through the Horticultural Ethical Business Initiative, linking government, civil society and industry representatives.

There are various actions that different stakeholders can take to improve working conditions and the situation of women in the industry, and our report includes suggestions for employers, buyers, auditing bodies, civil society organisations and the Kenyan government. Underlying these suggestions is a recognition of the need to consider the gender-specific impacts of the industry, and for gender-sensitive solutions, both of which require not only capacity building amongst employers and workers, but equally an understanding of how improving labour conditions relates to productivity and quality, and can constitute an aspect of comparative advantage.

SECTION 1: BACKGROUND

1. Introduction

Each day thousands of roses, carnations and other fresh flowers are shipped from Kenya to Europe, where within 24 hours they embellish the shelves of supermarkets and florists. These flowers are big business for Kenya. The sector is now the fastest growing in the Kenyan economy, outpacing Kenya's traditional hard currency earners - coffee and tourism - and bringing new employment opportunities for the unemployed. Women in particular have benefited from these opportunities, and now comprise between 65-75 percent of workers employed in the industry.

Over the last few years, however, the industry has been beset by allegations of poor labour practices and environmentally damaging production processes. Women, in particular, face difficult working conditions due to their predominance in the most labour intensive aspects of production, where long working hours and insecure employment are common. One way of tackling gender issues and improving the employment conditions of men and women working in the sector is through social codes of conduct, which gained prominence in the supply chains of African horticulture during the 1990s. Kenyan cut flower producers have been at the forefront in embracing such codes, both through the development of their own industry codes and the adoption of overseas buyer codes. Despite the positive steps that growers have taken to comply with codes, however, a number of employment problems persist.

This report discusses how the process of code implementation can be enhanced to improve the employment conditions of workers in the Kenyan cut flower industry. It presents the findings of Phase II of a research project on gender and social codes of conduct in the African export horticulture sector. Phase I provided an initial mapping of codes of conduct and their gender content, and the extent to which stakeholders participated in the code development process (Barrientos, Dolan and Tallontire 2001). It found that a plethora of codes were introduced in the sector, coming from European supermarkets, importers, exporters and trade associations, but that the extent to which code content addressed gender concerns was highly variable. The study also found that while codes can be effective instruments to raise the standards of permanent workers, they generally overlook the conditions faced by men and women in insecure forms of employment (temporary, casual, migrant and seasonal), which often form the majority of the horticulture workforce.

Phase II built on these findings by focusing on the process of code implementation. Through in-depth research, Phase II examined the gendered needs and rights of cut flower workers, as

articulated by workers themselves, and how these could best be addressed by codes of conduct. The research paid particular attention to vulnerable groups such as seasonal, casual and migrant workers, who typically face a different set of constraints and opportunities in employment. The aims of the project were to:

- analyse how ethical trade can enhance the economic and social rights of women and men workers in African export horticulture;
- identify best practice in implementing gender-sensitive ethical trade based on worker and stakeholder participation.

Phase II found that for codes to deliver substantive changes in working conditions, they need to ensure that the rights of *all* workers are protected, including those of marginal workers and women. This is not only related to the content of codes but also to the capacity of auditing processes to move beyond a surface assessment of working conditions. While social codes can be an effective tool for improving working conditions, this is unlikely to occur if the process of code implementation fails to identify poor employment practices and issues of greatest concern to workers.

This report is organised as follows. Chapter 2 provides an overview of the cut flower industry in Kenya, and the types of codes that are applied in the sector. Chapter 3 presents the employment context, and the national and international labour legislation that governs workers in the sector. Chapter 4 outlines the methodology used for the research. Chapter 5 presents the nature of employment and working conditions found in the industry and the varying perspectives of workers and employers toward these conditions. Chapter 6 explores the benefits of participatory social auditing tools for eliciting workplace issues, especially gender issues, and identifies which tools are most successful at obtaining certain types of information. Chapter 7 describes the value of a local multi-stakeholder approach to code implementation and the extent to which stakeholders in Kenya have embraced the process thus far. Chapter 8 identifies policy recommendations for best practice in code implementation and Chapter 9 summarises and concludes.

2. Social Accountability in the Kenya Cut Flower Industry

2.1 Cut Flowers in the Global Economy

The world market for cut flowers has grown consistently since the early 1980s. The total acreage allocated to cut flower production worldwide is now over 200,000 hectares, with roses, carnations, and chrysanthemums the dominant varieties (ITC 2001). While the Netherlands remains the largest producer of cut flowers worldwide,¹ developing countries such as Colombia, Kenya, Ecuador, and Zimbabwe have become strong players in global markets. By 1998 exports from developing countries comprised 29 percent of the world total (ITC 2001), and provided employment to approximately 190,000 people (PANUPS 2002). African countries in particular are important suppliers to European markets, with ACP (African Caribbean and Pacific) countries accounting for 43 percent of EU imports in value and 49 percent in volume (see Table 1).

Table 1: Imports into EU from non EU Countries (in million ECU)

Top Suppliers to EU	1994	1995	1996	1997	1998	1999	2000	% Increase/Decrease 94-00
Kenya	65.9	75.7	84.2	99.1	110.8	130.1	153.0	57
Colombia	88.1	94.6	94.3	104.0	102.5	93.4	104.3	16
Israel	109.7	110.5	139.1	132.2	145.8	103.1	100.6	-9
Ecuador	15.1	21.7	26.9	38.5	54.9	62.5	78.1	81
Zimbabwe	27.7	36.0	40.0	45.3	50.4	51.2	66.1	58
Thailand	20.7	20.5	18.4	18.9	16.6	16.1	18.3	-13
Zambia	3.4	4.4	6.8	8.5	12.2	16.0	17.5	80
Uganda	1.0	2.1	3.2	4.4	4.8	5.6	10.6	90
South Africa	7.6	8.3	8.1	8.6	8.2	8.3	9.1	16
Tanzania	2.3	3.2	3.9	5.1	5.4	7.6	8.4	73
Total Non EU	402.5	441.8	488.5	518.9	565.7	540.1	612.3	
Total ACP	108.1	128.6	145.1	169.8	191.9	217.3	263.8	
% ACP	27	29	30	33	34	40	43	

Source: Based on Eurostat-Elaboration, COLEACP (2002)

2.2 Kenya Cut Flower Industry

Kenya boasts the oldest and most successful cut flower industry in Africa. The industry has expanded from a small scale trade in the 1950s/1960s to become one of the most important “off-season” suppliers of cut flowers in the world (see Appendix 1). This expansion has been supported on the

¹ In 1996 the Netherlands accounted for 59 percent of global cut flower exports (Thoen et al. forthcoming).

demand side by more affluent consumers in Northern countries, and on the supply side by Kenya's preferential trade status into European markets coupled with the government's hands-off approach (Thoen *et al.* forthcoming).

The industry is widely considered an economic success story, with the value of cut flower exports increasing from KSh 940 million in 1990 to Ksh 14, 792 million in 2002 (see Table 2). Cut flowers are now the nation's second largest source of foreign exchange in agriculture, bringing in US \$110 million in 2001 (FAO 2002) and providing employment to an estimated 40,000 -50,000 workers² (HCDA 1999 statistics cited by KFC 2002).

Table 2: Export Volume and Value: 1980-2001 Selected Years

Year	Volume (Tons)	Value (Kshs. Millions)
1980	7422	227
1985	10,000	463
1990	14,425	940
1995	29,374	3,642
1996	35,212	4,366
1997	35,853	4,900
1998	30,221	4,857
1999	36,992	7,235
2000	38,757	8,650
2001	41,396	10,627
2002	52,106	14,792

Source: HCDA Statistics (Unpublished)

By far the largest proportion of Kenyan flower exports is supplied to Europe. Kenya has surpassed Colombia and Israel as the largest supplier to the EU, accounting for 58 percent of all ACP cut flower exports to the region (Henock 2002, COLEACP 2002). Within Europe, the Netherlands is the leading destination for Kenyan flowers (see Table 3), followed by the UK and Germany. A significant quantity (approximately 80 percent) of Kenyan flowers is also re-routed to other countries through the re-exports of the Netherlands.

The Dutch flower auctions have historically been the most important channels through which Kenyan flowers are distributed to European wholesalers and retailers. This remains the case overall; however, in several European countries supermarkets now dominate the cut flower trade. In Switzerland, the two major supermarket chains (Migros and Coop) together account for 65 percent of all Swiss flower sales (Videa 2001, The International Floriculture Quarterly Report 2002). Similarly, by 2000 the share of supermarket cut flower sales in the UK reached 43 percent,³ up from 30 percent

² These levels of employment are quickly approaching those of coffee (59,864) and tea (77,024), the nation's most prosperous export crops, and are highly significant in a country where high unemployment and land constraints limit opportunities for income generation (Data provided by Central Bureau of Statistics, 2003).

³ See international trade statistics from the International Floriculture Quarterly Report cited on www.pathfastpublishing.com archives: (<http://www.pathfastpublishing.com/Archive02/Market%20share%20uk%202000.htm>).

in the late 1990s (Galinsky 1997). African producers have benefited from this trend with 60 to 70 percent of Kenya flowers now destined for retail chains (van Liemt 1998). Whether cut flower producers supply the retail market directly or via the Dutch Auctions greatly influences the codes that are applied, the type of monitoring and verification that occurs, and the subsequent potential to achieve gender sensitivity. This will be explored in the Chapter 4.

Table 3: Market Destination of Kenya Cut Flower Exports by Volume, 1999

Market Destination	Volume (Tons)	Percent
Holland	25,233	67.8
UK	7,170	19.3
Germany	2,207	5.9
Switzerland	491	1.3
South Africa	508	1.4
Sweden	356	1.0
Saudi Arabia	243	0.7
Italy	119	0.3
Belgium	7	0.0
Dubai	74	0.2
Others	496	1.3
Total	37,206	100.0

Source: HCDA statistics (unpublished)

2.3 Structure of the Kenya Cut Flower Industry

In contrast to the situation in the 1970s and 1980s when only one or two companies accounted for the bulk of cut flower exports, there are presently over 500 producer/exporters growing cut flowers in Kenya. Production for export is largely concentrated on some 60 or so medium to large scale flower operations of which the twenty-five largest producers account for over 60 percent of total exports. The larger flower operations range in size from 20 to over 100 hectares under production with a labour force ranging from 250 to 6000. Supplementing these larger growers are approximately 50 medium scale commercial growers and an estimated 500 small growers (see Table 4).

Table 4: Kenyan Cut Flower Producers

Category	Approximate production area and crop	Typical Features
Large producer-exporter	>20 ha. of protected production plus open field production Sophisticated infrastructure, expatriate management Rose + carnation + open field flowers	Manage own export operations May buy in from outgrowers Diversified markets including direct sales to supermarkets Large employers (250 – 6000 staff)
Small - Medium sized producers	2-20 ha, including up to 10ha of protected production Sophisticated infrastructure Mostly rose + some open field flowers	Own export and/or act as outgrowers May in turn buy in from outgrowers Sell through auction system, limited direct sales Employment ~100 staff Account for 20-30 percent of exports
Smallholder producers	0.25-2 ha, open field crops, particularly alstromeria	Act as outgrowers Product sold through auctions Low input system with very little investment Mostly family labour Account for 5-10 percent of exports

Source: Updated from Blowfield *et al.*, 1998

2.4 Codes in the Kenya Cut Flower Sector

Over the last decade consumers have placed increasing pressure on companies to account for the ethical impact of their operations. As a result, voluntary codes, labels and regulatory standards covering the production processes of Southern producers exporting to Northern markets have multiplied. These initiatives have become increasingly widespread in labour and resource-intensive industries such as export horticulture.⁴

During the 1990s a number of regulatory measures were adopted to address the quality, social and environmental impact of global trade. In the horticulture industry these standards were initially imposed to protect the health and safety of consumers in importing nations and include various trade agreements and standards enacted at international, regional and sub-regional levels. By the mid 1990s, the emphasis on governmental regulation was augmented by a number of voluntary approaches that extended beyond the impact on consumers in the North to the implications for the health, labour and human rights of people involved in the supply chains of developing countries. In the cut flower industry this was evident in two trends. Firstly, consumers took an increased interest in the environmental dimensions of cut flower production as concerns about pesticide exposure and environmental contamination became widespread. Exposure to such pressures, and the fear of the commercial loss associated with failure to remedy the situation, prompted flower traders and producers to develop their own codes of conduct with clear environmental standards (Videa 2001), notably in the Netherlands but also in several developing countries such as Zambia, Zimbabwe,

⁴ See van Liemt (1998), Murray (1997), Caldwell (1998), and Roberts and Robins (2000).

Uganda, and Colombia. Secondly, by the late 1990s, the cut flower industry was exposed to a number of well organized and vocal campaigns from NGOs and consumers regarding labour rights abuses such as excessive working hours and low wages. In response, growers in both Latin America and Africa adopted codes of conduct to address the working conditions on flower farms.

In Kenya, the cut flower industry quickly became one of the most codified agriculture sectors in the world. By the mid 1990s most of the leading Kenyan producers had applied codes in order to gain or maintain access to markets and/or to satisfy the requirements of customers for environmental and social responsibility. These codes were introduced from three different origins:

- dominant buyers such as supermarkets and importers/wholesalers (company codes);
- trade associations linked to the horticultural sector (sectoral codes); and
- independent bodies comprising business and a range of civil society organizations (multi-stakeholder codes).

Company Codes: In the mid 1990s major importers and retailers established voluntary standards for reasons of brand definition, quality and safety assurance.⁵ Major supermarkets, especially in the UK, implemented company-specific codes along their supply chains (e.g., Waitrose's 'Responsible Sourcing', the Co-op's 'Sound Sourcing' and Tesco's 'Nature's Choice'). Implementation guidelines were developed by the companies themselves and monitoring was internal.

Sectoral Codes: Company codes have become less common since the adoption of sectoral and multi-stakeholder codes. Several influential sectoral codes have been developed in the North such as EUREPGAP⁶, BRC⁷ and MPS⁸, which have been adopted by Kenyan growers either voluntarily or as a requirement to supply certain buyers. MPS, in particular, is extremely important for Kenya flower growers who supply the Dutch Auctions (MPS has certified between 70 and 80 percent of all flowers in the Dutch auctions). Like EUREPGAP, MPS originated as a technical standard to reduce the environmental impact of cut flower production, but added an optional social chapter drawing on the Universal Declaration of Human Rights and ILO Conventions in 2001. Separate labour standards have also been applied to the flower industry through the International Code of Conduct for Cut Flowers (ICC), a sectoral code developed by NGOs and trade unions in Europe, and supervised by the

⁵ The implementation of standards along the chain is closely associated with managerial and technological innovation in the supply chain such as sophisticated monitoring/tracking systems (EDI, EpoS and ECR) and category management.

⁶ European Retailers Produce Working Group's (EUREP) code for Good Agricultural Practice (GAP) in Fresh Fruits and Vegetables, and in Flowers and Ornamentals.

⁷ British Retail Consortium's (BRC) Technical Standard for Companies Supplying Retailer Branded Food Products.

⁸ Milieu Programma Sierteelt (MPS) environmental certification standard.

directorate of the German-based Flower Label Program (FLP). Most recently MPS' Social Chapter has been benchmarked against the ICC although MPS will retain its own environmental and social qualification system (MPS-A, B, C and MPS SQ). In addition, although not a code of conduct per se, the Max Havelaar criteria for Fairtrade Cut Flowers have also been adopted on several Kenyan farms.⁹

At the same time a number of horticultural producer associations in developing countries have developed their own codes as a way to protect the image and the legitimacy of their industries in European markets. In Kenya these include the Kenya Flower Council (KFC), the Fresh Produce Exporters Association of Kenya (FPEAK), and the Kenya National codes. Each of these targets a slightly different type of grower and requires different approaches to verification. However, it is uncertain how long the separate initiatives will continue, especially given the recent cooperative agreement between KFC and MPS, which together account for over 90 percent of Kenya's export flower business.

Multi-stakeholder Codes: Most recently multi-stakeholder codes such as the ETI Base Code and HEBI's Kenya Base Code on Social Accountability for the Flower Industry have emerged in the industry¹⁰. Growers supplying UK supermarkets are especially affected by the ETI Base Code as seven of UK's largest supermarkets are ETI members¹¹ and have agreed to apply the code to all their fresh produce suppliers. While the ETI Base Code is not an auditable standard, the ETI has initiated a process of learning to identify good practice in multi-stakeholder approaches to monitoring and verification.

⁹ A new consumer label, Fair Flowers & Plants (FFP), has also been developed through an alliance of trade unions, non governmental organisations (NGOs) and international flower trade organisations. It has not yet been formalized but is based upon the ICC Rules for Implementation and its Guidelines as well as the MPS qualification standards.

¹⁰ The Horticultural Ethical Business Initiative (HEBI) is explored in more detail in Chapter 7.

¹¹ Supermarket members of the ETI are ASDA, the Co-Op Group, J Sainsbury, Marks & Spencer, Safeway, Somerfield, and Tesco. They are applying codes to all their 'own brand' products, including fresh produce.

3. The Regulatory Context

Codes of conduct are part of a trend towards self-regulation that is itself an element of the dominant pattern of globalisation (Blowfield 2003). However, codes are nonetheless linked to national and international frameworks, and must be used in conjunction with them to protect worker's rights. In fact, national and international legislation, as well as the provisions embodied in Collective Bargaining Agreements, can complement and, in some cases, strengthen the provisions of codes. Many (though not all) codes are explicitly based on core ILO conventions and the UN Declaration of Human Rights,¹² and state that relevant national legislation must be applied. In this case, the standard set by the code will largely depend on the broader legal and social framework operating in the country and the extent to which it addresses issues of gender inequality. For example, in countries where labour laws are progressive and rigorously enforced, this can give codes more extensive coverage than the specific criteria within the code itself. On the other hand, in countries such as Kenya with comparatively weak labour legislation, code compliance can provide a minimum floor for employment conditions (Barrientos, Dolan and Tallontire 2001).

Assessing the potential of codes to ensure gender sensitivity in the workplace therefore requires reviewing relevant international conventions and national legislation. The following briefly reviews the ILO Conventions, Kenya national legislation and the Collective Bargaining Agreement (CBA) of relevance to workers in the cut flower sector.

3.1 Kenya Labour Legislation

Kenya has a range of legislation and government policy addressing employment conditions including both labour and health and safety legislation (see Appendix 2); however, the coverage of these provisions varies. This is particularly the case with regard to laws designed to protect women workers from discrimination and guarantee them equal opportunities in the workplace. The Kenyan Constitution extends equal protection of rights and freedoms to men and women, but only in 1997 was the Constitution amended to include a specific prohibition of discrimination on the basis of gender (IBLF 2002). The government has yet to enact the statutes that recognise equal pay for equal work, nor are there any specific legal protections against discrimination on the basis of sex.

With regards to labour, the Employment Act (Chapter 226 of the Kenyan Constitution) and Regulations of Wages and Conditions of Employment Act (Revised Edition, 1980) are the governing pieces of legislation for regulating employment conditions in Kenya. The Employment Act codifies the

rules of the workplace, including basic conditions and benefits of employment such as protection of wages, housing, and health and welfare. While the Act contains certain provisions regarding women and young persons, it fails to address gender inequality and workplace violations such as sexual harassment and discrimination (IBLF 2002). Even those laws that aim to safeguard women's employment rights are biased against, rather than in favour, of them. For example, Section 28 of the Employment Act prohibits women and children to work in certain areas and the employment of women in certain types of employment at night (Dwasi 1999).

The Regulations of Wages and Conditions of Employment Act (Chapter 229) covers matters related to remuneration and conditions of work such as minimum wages, working hours, and payment for overtime and holiday leave. Specifically, it aims to maintain wages and conditions of work at a level determined by the Minister. Again, this law does not address discrimination (IBLF 2002). Thus, in a national context such as Kenya, where legislation can be weak, the standards embodied in codes, coupled with relevant international conventions, are important vehicles for ensuring and improving upon the quality and gender-sensitivity of worker's employment.

3.2 ILO Declaration on Fundamental Principles and Rights at Work

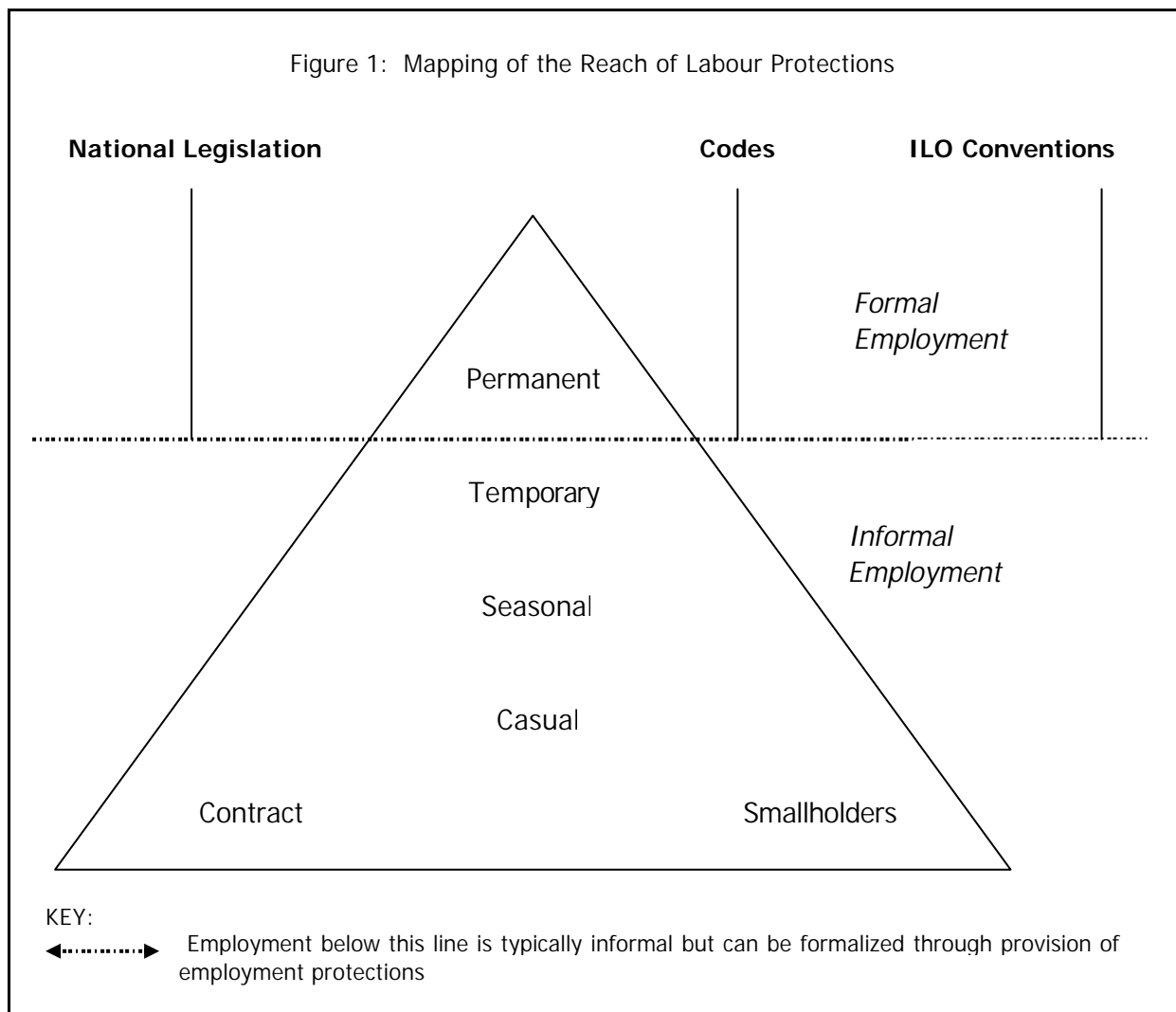
The labour and human rights criteria used in many codes of conduct draw in part on the international conventions of the ILO, particularly the core conventions set out in the Declaration on Fundamental Principles and Rights at Work. These cover freedom of association, collective bargaining, forced labour, child labour, discrimination and equal remuneration (ILO 1998). ILO conventions are open for ratification by member States, and once ratified must be accommodated under national legislation (*ibid.*). Kenya ratified core conventions on equal remuneration (100) and discrimination (111)¹³ in 2001 along with conventions on family responsibility (156) and maternity rights (183), although it has yet to enact enabling legislation (IBLF 2002). Moreover, Kenya has yet to ratify the core convention on freedom of association, although there are signs of change in the government's position on labour law as reflected in the recent request to the ILO for assistance in the review and reform of relevant legislation (e.g. elimination of casual employment).

Codes that stipulate compliance with ILO conventions can strengthen workers' employment rights, however this depends on the type of employment that workers perform. Conventions are based on

¹² None of the codes covering the Kenya cut flower industry currently make reference to the African [Banjul] Charter on Human and Peoples' Rights, which covers economic, social and cultural rights as well as civil and political rights, and has been ratified by more than forty African states.

¹³ Convention 111 does not specifically prohibit sexual harassment. Nor does Recommendation 111 clarify that its prohibition of sex discrimination incorporates sexual harassment, although the ILO Committee of Experts has alluded to a prohibition of harassment by virtue of Convention 111 (IBLF 2002).

the notion that employment is full time and permanent, and their coverage of temporary employment is limited (Ladbury and Gibbons 2000; Seyfang 1999) (see Figure 1). Despite the improvements that some growers have made, a large number of cut flower workers remain in non-permanent positions, the majority of whom are women. As Figure 1 illustrates, codes, together with national legislation and international agreements, can potentially affect the employment conditions of permanent workers, however, they are weak in their capacity to reach informal categories of employment.



3.3 Collective Bargaining Agreement

A growing number of voluntary codes include criteria on the right to collective bargaining. Many workers in the cut flower sector are covered by the collective bargaining agreement (CBA) between the Flower Growers' Group of the Agricultural Employers' Association (AEA) and the Kenya Plantation and Agricultural Workers Union (KPAWU).¹⁴ The CBA, signed in February of 2002, establishes

¹⁴ KPAWU is an ICFTU-affiliated union representing workers in horticulture, tea, coffee and other agriculture sectors.

minimum wages and terms and conditions of employment for unionised workers on commercial cut flower farms. This is being implemented by 20 companies in Kenya (three of which were among those researched in this study). In contrast to national legislation, the CBA extends several benefits to seasonal workers, providing some protections to workers on farms that have signed the CBA.

In the next section, we take a closer look at the situation of workers through a presentation of information derived from a case study of employment on farms and in packhouses. This information points more clearly to the need for government, trade unions, and private sector initiatives to be strengthened to ensure the provision of full employment protections.

SECTION 2: CASE STUDY OF WORKERS IN THE CUT FLOWER INDUSTRY

4. Methodology & Case Study Sample

4.1 Methodology

This report is based on research conducted during July-August, 2002, which examined how the process of code implementation could be enhanced to improve employment conditions, particularly for women workers, who comprise the majority of the workforce. The study was also concerned with the potential for advancing participatory social auditing and local multi-stakeholder initiatives in the process of code implementation.

The methods included the use of semi-structured interviews (SSIs) and participatory focus group discussions (FGDs) with workers. One hundred SSIs and 13 in-depth FGDs were conducted with workers employed in five and four companies, respectively, located in Nakuru, Kiambu and Thika districts. The companies were purposively selected to ensure coverage of different types of codes (see Appendix 3). Another important criterion for the selection of companies was the willingness of the management to participate in the research project.¹⁵ Because companies in this study were applying codes, and were willing to participate in the research project, they may be among the most progressive in the industry, and therefore are not representative of the industry as a whole.

The sample of 100 workers was drawn from the five companies in proportion to their total population of workers (see Appendix 4). The sample was selected and stratified according to gender, employment status (permanent, seasonal, or casual) and work site (packhouse, greenhouse, and Crop Development Unit (CDU)). The 13 FGDs were conducted with 85 workers from the four firms applying codes.¹⁶ The focus groups ranged from five to eight participants and the composition varied according to gender, nature of work, and employment status. Sixty-six percent of FGD participants were women, and 80 and 20 percent were permanent and seasonal workers, respectively.

¹⁵ Collection of primary data through semi-structured interviews and focus group discussions with workers was time consuming. On average one semi-structured interview and focus group discussion took 40 minutes and three hours respectively.

¹⁶ One of the five farms on which we conducted worker interviews did not apply a code. They were selected to compare the experience of workers on code farms with those on farms without them.

Worker interviews and focus group discussions were supplemented by in-depth interviews with management personnel on seven cut flower farms (of which 5 were included in the above sample). Some or all of the following management staff participated in the company interviews: company directors/owners, general managers, human resource managers/directors, and administration personnel. In addition, over 25 'key informant' interviews were conducted with government officials, trade associations, NGOs and union representatives.

4.2 The Company Sample

The selected companies have an average of 17 hectares of flowers in production (see Table 5), with three of the seven also producing vegetables. Rose production is dominant: four of the farms produce only roses and two produce roses and other flowers such as lisianthus and carnations. One farm produces non-rose flowers including hypericum and zantedeschia, and the last produces chrysanthemum cuttings. Four of the companies are Kenyan owned, including white, Indian-origin and African owners (and in one case all three), and two are European owned. The last is a joint venture between a Kenyan and a Dutch man.

Table 5: Flower Production (hectares) on Sample Farms

Farm	Hectares of Flowers
Farm 1	15.0
Farm 2	36.0
Farm 3	5.0
Farm 4	11.3
Farm 5	13.5
Farm 6	30.0
Farm 7	8.0
<i>Average Size</i>	<i>17.0</i>

Source: Research Data, 2002, Company Interviews

The principal market region for all seven companies is Europe, with five of the seven exporting exclusively to European countries (see Table 6). Within Europe, the UK and the Netherlands are the main market destinations, with two companies selling almost 100 percent of their product into UK supermarkets.

Table 6: Market Destinations of Sampled Cut Flower Farms

Region	Farm 1	Farm 2	Farm 3	Farm 4	Farm 5	Farm 6	Farm 7
Netherlands			majority	31%			30%
UK	approx 100%	100%					60%
Germany				20%		✓	
Switzerland	small amount			6%	majority	✓	✓
France				26%		✓	✓
Other mainland Europe			✓	8%	✓		
Australia					✓		✓
Middle East					✓		
Reunion Islands					✓		
USA						✓	
Other				10%			

Source: Research Data, 2002, Company Interviews

4.3 Companies' Use of Codes

Most of these companies began applying codes of conduct in the mid-1990s to satisfy the requirements of their overseas customers, and have steadily increased the number they apply (see Table 7). All but one of the seven companies uses at least one code of conduct relating to employment practice, with an average of three codes per farm. Several companies were also applying codes largely unrelated to working conditions (e.g., EUREPGAP, BRC and the HAACP system). The most widely applied code among the sample is the Kenya Flower Council (KFC) code (five farms), followed by the Lake Naivasha Growers Group (LNGG) code (three farms). Two farms are MPS certified,¹⁷ one of which is 'Socially Qualified', and two farms are FLP certified, one of which is also certified by Max Havelaar to sell on the Fair Trade market in Switzerland. In general, the type of code that an exporter is likely to apply is directly related to the market they are supplying. Kenyan producers supplying the Dutch Auctions (the majority) tend to apply MPS, while those supplying UK, Swiss, and German markets are likely to adopt the KFC, Max Havelaar, and FLP codes respectively.

Two of the local codes (KFC and LNGG) are audited by the industry itself (first party auditing), while the FPEAK code is audited by a third party commercial auditor. The other codes are generally subject to second party auditing or monitoring by buyers or code organisations. Although EUREPGAP requires third party auditing, the social content of the code is minimal and according to producers only superficially audited. Some third party audits using the ETI Base Code have taken place, but only in isolated cases. The details of auditing will be covered in Chapter 6.

¹⁷ One farm was previously MPS certified, but withdrew from MPS when MPS announced its collaboration with KFC.

Table 7: Codes of Conduct Applied on Farms, Including Date of Uptake

Code	Farm 1	Farm 2	Farm 3	Farm 4	Farm 5	Farm 6	Farm 7
KFC	1997	1996		1999	1998	yes	Only through MPS
FPEAK	Member but don't use code			Member but don't use code			1990s
ETI		2000					2002
MPS					1997-SQ	ex-MPS	1996
FLP				1998	1999		
Max Havelaar					2001		
EUREPGAP	2002/3	2001					
BRC	2000	2000					
LNGG	1996	1996	Member but don't use code			yes	
M&S Safeways		Before 1995					

Source: Research Data, 2002, Company Interviews

Despite initial reservations, most companies found codes to be constructive, both as a management tool and in enhancing their awareness of their legal and social obligations to their workers. There were a number of benefits reported, including a better understanding of national and international labour laws, improved welfare and training for workers, and increased understanding of sensitive employment issues and advice on how to handle them. Most companies also realised that achieving the quality standards required to access the more profitable overseas markets required more “professional” farm management, including better human resource management, and some equated worker welfare directly with the productivity of the company (Smith *et al.* 2003).

However, codes are not without their critics and several companies raised a number of concerns. These included the large number of codes that growers were faced with, the perception that codes were forced upon them by overseas buyers, and the costs of implementation. With the exception of the costs associated with maternity leave,¹⁸ most of the growers did not perceive the costs of implementation as insurmountable. However, the costs and time entailed in ongoing monitoring and auditing were seen as an unfair imposition. Similarly, some interviewees felt that the way codes were introduced, as a top-down Northern-driven initiative, reflected the unequal power relations between buyers and producers, with increasing demands being made by buyers with little reward for compliance. For example, there were some feelings of resentment about buyers demanding that suppliers comply with codes without any guarantee of long-term purchasing agreements. Other growers felt that buyers had double standards, with demands for code compliance made in some countries (e.g., Kenya) and not in others (e.g., Egypt). Several claimed that buyers will continue to

source from countries where working conditions were far worse than Kenya if they can get a better price. Hence, in a context of increasing demands for ethical production, some producers intimated that more consideration should be awarded to the nature of producer-buyer relationships (Smith *et al.* 2003).

Nevertheless, the introduction of codes (coupled with pressure from media and civil society organisations) is contributing to a heightened awareness of ethical production in the Kenya floriculture industry and several producers have joined a local multi-stakeholder initiative to eliminate unethical business practices. Indeed one company claimed that it would be better for 'rogue' companies to go out of business, as they damage the reputation of the industry and jeopardise the benefits it brings to the country. This partly reflects the fact that the farms in our study were among the more progressive, "better practice" farms, but it also signals the growing importance of ethical business practices for both Northern buyers and Southern suppliers. This business climate, including public concern for labour rights and the pressures for code compliance, have led some companies to institute a number of positive changes, including:

- **Health and Safety:** Increased use of personal protection equipment (PPE), regular health and safety (H&S) training, and improved H&S facilities. Improved sanitation, including the provision of drinking water, and separate toilets and showers for men and women.
- **Maternity Leave:** Increases in the duration of maternity leave from 8 to 12 weeks and the provision of maternity leave to seasonal workers.
- **Formalisation of employment relations:** Introduction of written contracts detailing terms and conditions, formalisation of grievance procedures, an increase in permanent workers and a reduction in the use of long-term casual workers, and the introduction of pro-rata benefits to seasonal and temporary workers.

One company has taken a number of additional steps to specifically address the needs and concerns of women workers (see Box 1). All of these positive changes are an indication of the progression of codes towards greater gender sensitivity. For example, a safe and hygienic working environment is particularly important for pregnant women and breastfeeding mothers. Similarly, the formalisation of employment relations increases the proportion of female employees receiving important benefits such as sick leave and maternity leave. Such changes will be discussed further in Chapter 8. We now turn to an analysis of employment in the study sample, identifying the composition of the labour force and

¹⁸ In contrast to Kenyan law, MPS and FLP require three months maternity leave, although MPS maternity leave may include the period of annual leave.

the nature of employment concerns, as well as the perception of workers and management toward the key provisions contained in codes.

Box 1: Example of Good Practice Relating To Women Workers

One company in Kenya has established a Gender Policy and Gender Committee specifically to address issues of concern to women workers. The gender committee comprises nine female representatives elected from all areas of the workforce, who meet with senior management to raise issues and seek solutions. The following are some of the issues they are currently trying to address:

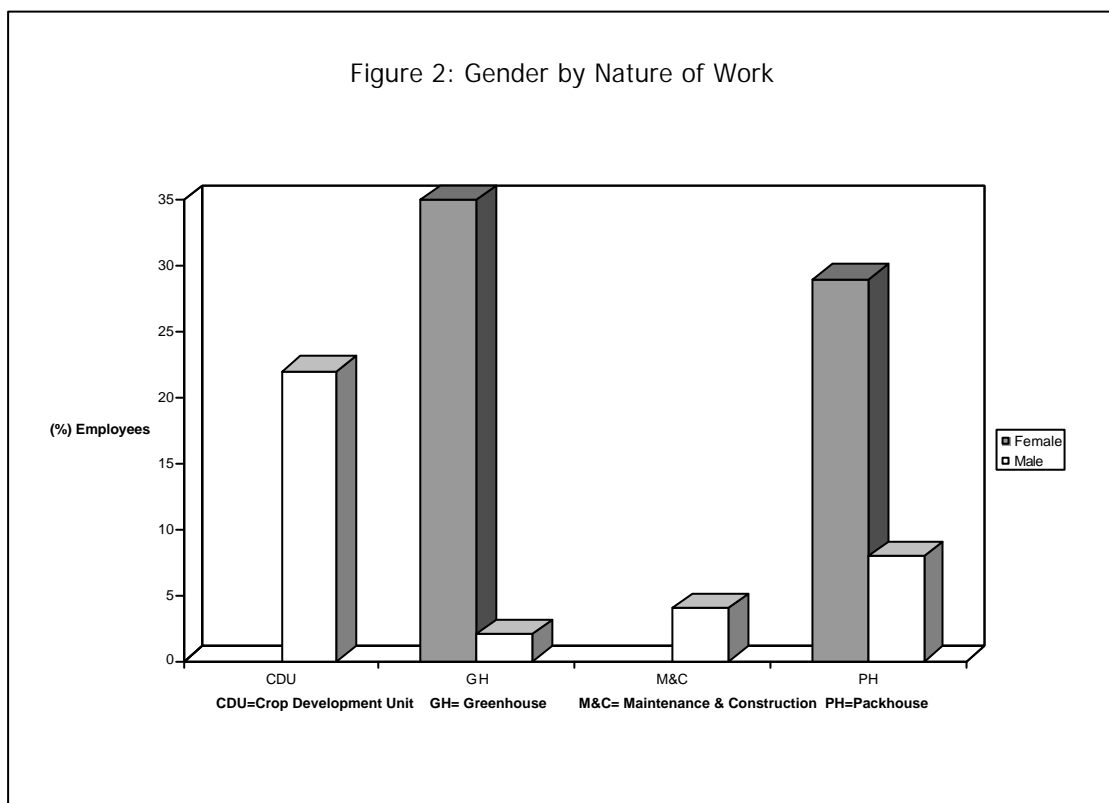
- **Empowerment** – The committee seeks to achieve empowerment through greater gender equity in representation on various committees. In 2003 there are plans to sensitise women workers on the importance of having female representatives on the various committees throughout the farm.
- **Pregnant Women** – Currently this farm gives three months paid maternity leave, one month in lieu of annual leave. Women workers can take maternity leave as often as they need, but the aim of the gender policy is to encourage women to space their pregnancies for health and economic reasons. Pregnant women are given special treatment in their seventh month of pregnancy such as the provision of light duties and no work in the cold room.
- **Mothers** - Mothers with small babies (less than four months) work for a maximum of 8 hours a day.
- **Health Education** – The Gender Policy commits to providing education on HIV/AIDS, family planning, nutrition and hygiene. The farm has also trained peer counsellors for HIV/AIDS.
- **Domestic violence and sexual harassment** – The company has contracted a local NGO – the Coalition on Violence against Women (COVAW) – to provide counselling and training on gender rights.
- **Proposed crèche** – The gender committee is currently working to develop a crèche through the funds from the Max Havelaar social premium.

4.4 Composition of the Worker Sample

Demographic Characteristics

Over sixty percent of the study sample is female, a proportion that is typical of the industry as a whole but significantly greater than the proportion of women engaged in waged employment in Kenya (12 percent in 2000) (World Bank 2002). In large part the female dominance in the industry stems from a rigid division of labour in which ‘female tasks’ constitute the majority of employment. Women are concentrated in the segments of the production process that are most labour intensive and that also hold the most significance for the cosmetic quality of the final product. These include picking, packing, and value-added processing activities, all of which require intense concentration and long periods of standing and bending (Figure 2). Men on the other hand are primarily engaged in spraying, irrigation, construction, packing in the cold store and maintenance, which can carry significant physical risk.

The majority of sampled workers are migrants: 70 percent and 75 percent of all men and women respectively have migrated from other areas of the country (Nakuru, Kiambu or Thika Districts), where they were engaged in smallholder agriculture and/or informal activities prior to entering employment in cut flowers.¹⁹ The industry is also highly dependent on young workers, who are perceived by employers as better suited for quick, labour intensive work. Over eighty percent of sampled workers are between 20-34 years of age, 38 percent of whom are between 25-29 years of age. When disaggregated by gender, more than half the female employees are aged between 20-24 years of age (Figure 3). While there is more variation in the age distribution of permanent workers, casual and seasonal workers are predominantly between 20-29 years (Figure 4), suggesting that young workers may be more likely to rearrange their lives to fulfil the flexibility that companies seek. However, in contrast to some other global export industries, the profile of the workforce is not the young “single” woman, as workers are more likely to be married than not (52 percent of women, 72 percent of men).



¹⁹ Most workers sought employment in the industry due to high levels of unemployment (in 2002 the national unemployment rate was 14.6%) and/or land shortages in rural areas.

Figure 3: Employment Status by Age

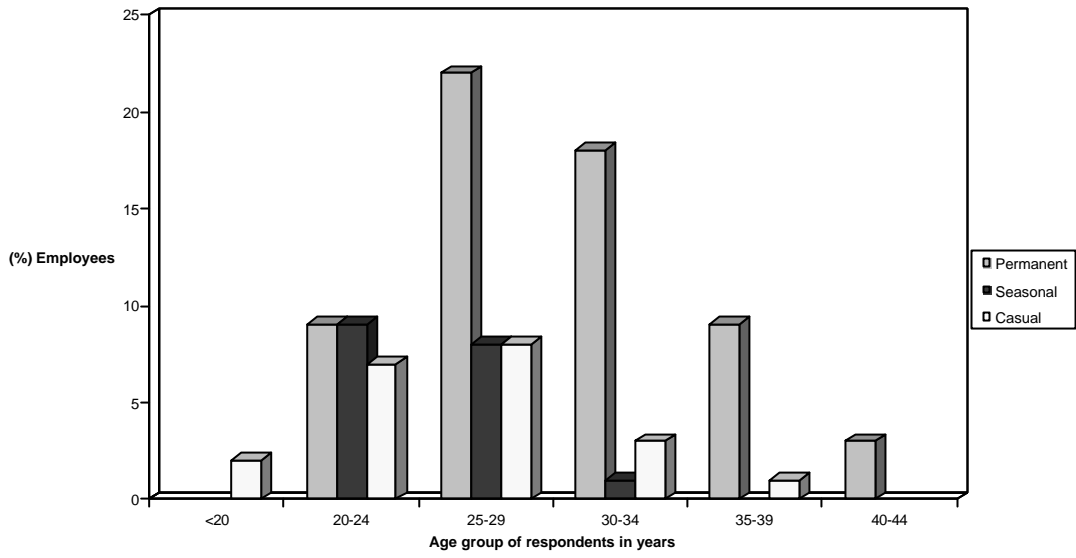


Figure 4: Gender by Age

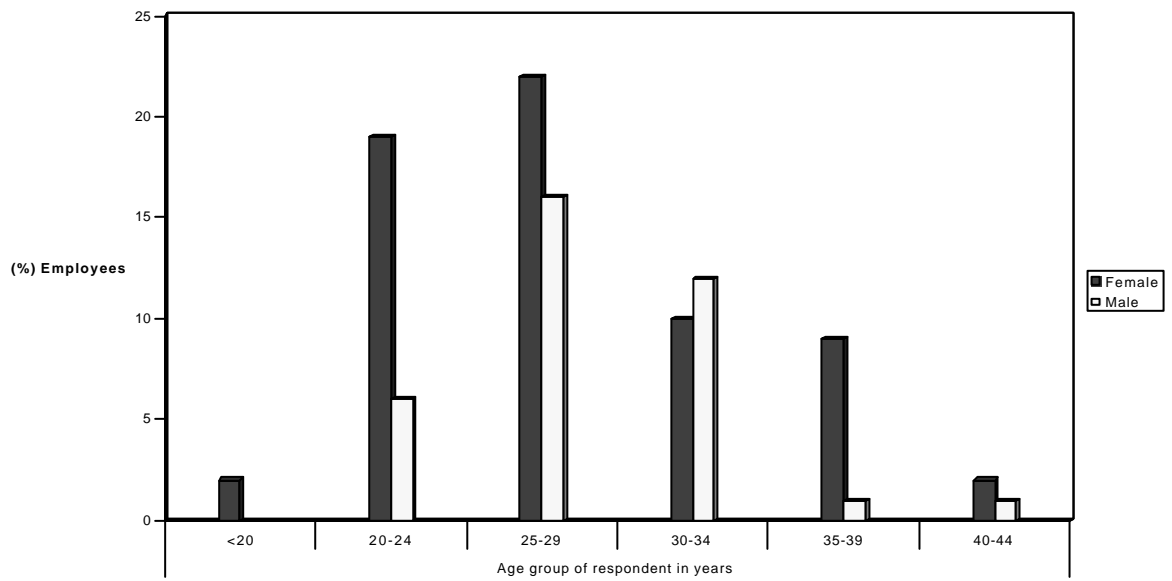


Table 8: Highest level of educational achievement by Gender

Level of Education	Gender	
	Male	Female
Primary Education	53.1	38.9
Secondary Education	40.6	50.0
Other	6.3	11.1
Total (%)	100.0	100.0

Source: Research Data, 2002

Employment Status

As noted earlier, the ILO conventions reflected in labour codes and Kenyan labour law recognise and thus favour certain types of workers, in particular benefiting workers on permanent and seasonal contracts over casual workers on short term contracts. All but one of the companies referred to a change in labour strategy within the last year or so, from the use of low-skilled workers on repeated short-term contracts with minimal benefits to a more stable workforce on permanent and seasonal contracts. This change has been driven by a combination of factors including: pressures exerted by civil society organisations and code provisions that discourage the use of temporary labour; the quality imperatives of the European market that necessitate a somewhat more skilled, trained workforce to perform value added processing (e.g., bunching, sleeving, labelling and mixed bouquets); and year round production with less seasonality in production cycles.

This is reflected in Table 9 below, which highlights the fact that less than two percent of labour on the seven farms is classified as 'casual' (according to the companies' own definitions). However, the ratio of permanent labour to seasonal labour varies between farms, from 9 percent permanent versus 91 percent seasonal, to 81 percent permanent versus 15 percent seasonal. While this may reflect the fact that some farms experience greater fluctuations in labour requirements (due to less consistent orders, for example), it also reflects differing attitudes towards the role that labour stability plays in overall company competitiveness.

Table 10 shows the proportion of men and women engaged in permanent, seasonal and casual work. Women comprise 61 percent of our sample workforce, of which nearly 66 percent are on permanent contracts. While the latter figure is skewed slightly upward by the number of permanent workers employed on Farm 2, it is nevertheless a significant departure from the traditional dependence of the industry on employing women on a casual and seasonal basis.²⁰ As Table 10 highlights, there is very little difference in the proportion of men and women found in 'informal' categories of work. Again, this may not necessarily be reflective of the industry in general, given that the farms in our sample

²⁰ Farm 2 moved toward a labour strategy based on permanent employment in 2002. The motivation for doing so was both to reduce overall labour costs through a reduction in overall employment and enhanced productivity gains gleaned from permanent workers, as well as to address the increased quality imperatives of overseas buyers.

may be considered 'better practice' companies which are making deliberate efforts to reduce their use of informal labour.

Table 9: Percentage of Permanent, Seasonal and Casual Labour, Disaggregated By Gender

	Total No	Permanent		Seasonal		Casual		Total %
		M%	F%	M%	F%	M%	F%	
Farm 1	201	7.5	1.5	52.2	38.8	0.0	0.0	100.0
Farm 2	844	39.0	57.2	3.0	0.8	0.0	0.0	100.0
Farm 3	250	3.2	25.2	12.8	58.8	0.0	0.0	100.0
Farm 4	332	21.1	24.7	22.3	31.9	0.0	0.0	100.0
Farm 5	370	33.8	47.6	5.7	9.7	1.4	1.9	100.0
Farm 6	177	23.2	27.1	16.9	32.8	0.0	0.0	100.0
Farm 7	200	10.0	40.0	10.0	30.0	5.0	5.0	100.0
All Farms	2374	25.6	39.4	12.9	20.7	0.6	0.7	100.0

Farm 1: seasonal = 3 mth contracts, often rolling; casual = hired and paid daily

Farm 2: seasonal = 1 wk to 3 mths contracts, 1-3 contracts per year; casual = hired and paid daily

Farm 3: seasonal = 6 mths contract with 10-15 day break btwn contracts; casual = hired and paid daily

Farm 4: seasonal = 1 or 6 mths contracts, often rolling; casual = hired and paid daily

Farm 5: seasonal = 3-8 mths contracts; casual = 2 wks to 3 mths contracts, paid daily

Farm 6: seasonal = 3 mths then 6 mths contract, then may be made perm; casual = hired and paid daily

Farm 7: seasonal = 3-8 mths contracts; casual = 3 mths contracts, paid fortnightly

Source: Research Data, 2002, Company Interviews

Table 10: Percentage of Male and Female Labour, Disaggregated by Employment Status

	Men				Women			
	Perm	Season	Casual	Total	Perm	Season	Casual	Total
Farm 1	12.5	87.5	0.0	100.0	3.7	96.3	0.0	100.0
Farm 2	92.9	7.1	0.0	100.0	98.6	1.4	0.0	100.0
Farm 3	20.0	80.0	0.0	100.0	30.0	70.0	0.0	100.0
Farm 4	48.6	51.4	0.0	100.0	43.6	56.4	0.0	100.0
Farm 5	82.8	13.9	3.3	100.0	80.4	16.4	3.2	100.0
Farm 6	57.7	42.3	0.0	100.0	45.3	54.7	0.0	100.0
Farm 7	40.0	40.0	20.0	100.0	53.3	40.0	6.7	100.0
Total	65.4	33.0	1.6	100.0	64.8	34.1	1.2	100.0

Source: Research Data, 2002, Company Interviews

5. Employment Conditions on Cut Flower Farms

The research revealed a pronounced gap between managements' understanding of the nature and severity of problems that workers faced and what workers reported, and similarly between managements' and workers' understanding of company policy. Despite the relatively widespread adoption of codes and the explicit commitment of several companies to improve working conditions, none of the companies interviewed has a formal procedure for informing workers about codes. As a result, workers had very little awareness of codes (4 percent of workers understood what a code of conduct was), or how they might be used to improve their conditions.

This discrepancy is highlighted in the remainder of this section, where we summarise the views of workers and management regarding employment in relation to social codes. For comprehensiveness, we have drawn on the key social provisions from the KFC, MPS and ICC codes as a framework for this analysis. This is not meant as an endorsement of any one code but rather reflects a sample of codes applied in the sector.

5.1 Security of Employment: Regular Employment Provided

Many codes stipulate that, as far as possible, producers should provide workers with regular employment, and caution against the use of fixed term contracts in order to avoid legal obligations to workers. Workers did confirm a trend towards permanent employment (as reported by management) in the industry stating that previously workers could be employed on the same farm for 2-5 years before being awarded permanent status. However, seasonal and casual workers (who represent over thirty percent of sampled workers) expressed considerable feelings of job insecurity. They are most exposed to potential dismissal (e.g., in the case of market decline or presumed poor performance), often without mandatory warnings. In several instances, seasonal and casual workers said they worried about becoming pregnant, sick or injured because they risked losing their jobs. This insecurity had specific gender implications related in some cases to women's exclusion from benefits such as maternity leave and sick pay, as well as the fact that many workers leave their children behind in rural areas due to job insecurity. As one migrant woman said, "If one is sacked and the children are here and some are in school, where will I take them if I am dismissed? So it is better for my children to stay at home so that if I am sacked, I will get problems alone."

Feelings of job insecurity were not unique to seasonal or casual workers; on some farms even permanent workers perceived their jobs as insecure due to their mistrust of management, and lack of adequate trade union protection from unfair dismissal. For example, on one farm half of the women in two all-female FGDs claimed that although their contracts stipulated that two warnings be given

prior to dismissal, they did not trust the company as “the company had not honoured their contractual commitment to working hours.” Moreover, in many cases workers’ feelings of insecurity stem from a lack of clarity regarding their employment status. This is sometimes warranted as companies interpret casual, seasonal and temporary labour variously. Some companies apply the term ‘seasonal’ for contracts that extend from two weeks up to three months, others use it for contracts of one or six months, and still others for contracts of between three and eight months (see Table 9 above). To confuse matters further, some use the term ‘casual’ to refer to contracts of up to three months, whereas others only refer to casual workers who are paid daily for specific tasks. Yet it is not so much the length of the seasonal or casual contract that is important, as whether workers become locked into seasonal/casual employment permanently. For example, if a ‘seasonal’ worker is given repeated contracts such that they are effectively working 12 months a year (as has been the case), it is typically a strategy to avoid paying certain benefits or to acquire more flexibility in labour. In this respect, three farms referred specifically to the use of ‘rolling’ or repeated contracts with all three having high proportions of seasonal workers. While this situation does not contravene the industry CBA or national law, it is cautioned against in most codes covering the sector.

Box 2: Links between Job Insecurity and Migration

Job insecurity is exacerbated by the prevalence of a migrant labour force. Without family and kin locally workers who are laid off have no money to pay the rent and often lose their houses. They lamented “*I have no brother or cousin here as I am a migrant, whom can I stay with when chased away by the landlord?*”.

5.2 Employment is Freely Chosen

All codes address the right to freely enter into employment. Neither forced nor slave labour was found in any of the companies studied, nor was there any indication that workers were required to deposit their identification papers with their employer.

5.3 Contracts

Most codes stipulate that workers be given a written, legally binding employment contract signed by both parties detailing their obligations, rights and statutory deductions. Such contracts are indicative of freely chosen employment. According to management interviews on all farms, permanent and seasonal employees have written contracts, with all but one company providing a copy for the worker. Casual workers are given verbal contracts only. However, workers reported that they were not always provided with a copy of the contract, nor did they always understand its content since it was generally written in English. The coverage of contracts also varies widely between farms

ranging from the provision of the most basic information to a more detailed account of rights and obligations.²¹

5.4 Working Hours are not Excessive

According to Kenyan law, regular working hours are 46 hours of work per week, with a paid day of rest after every six days worked. However, on all farms overtime is generally compulsory and is particularly common at certain times of the year, such as in the run-up to Christmas, Valentine's Day and Mother's Day, when packhouse workers are under great pressure to pack flowers before the nightly flight to Europe departs.²² Packers and pickers on three out of four farms complained of working long hours, up to 16-18 hours a day (e.g., 7:00 a.m. to 11:00 p.m.), and sprayers on half of the farms claimed to be working 11-12 hours, spraying from 7.00 a.m. to 6.00 p.m. One employer acknowledged that graders were working more than 12 hours overtime a week, a situation which they are trying to ameliorate. More female workers interviewed were involved in overtime work (since they formed the majority of packhouse staff), which can have serious implications as they typically also bear the responsibility for work in the home (childcare and domestic tasks).

In and of itself, overtime is not necessarily problematic if: it is not excessive; workers are compensated appropriately; and it is chosen freely. However, participants in several FGDs complained that overtime is not voluntary and that they are not given the opportunity to refuse in accordance with codes. The responses also indicate that there is no awareness of how many hours per week are allowable under a code or the law, pointing to communication issues between management and workers.

Such long hours are partly a function of the seasonality of the industry. However, they are also a function of the production imperatives that filter through the supply chain from overseas buyers, who demand that exporters respond swiftly to fluctuations in consumer demand. Hence, from an employers' perspective, providing workers with advance notice of overtime is not always possible, as the use of 'just in time' supply chain management means that orders can arrive suddenly, often during the same day that they are expected to be airfreighted. Compulsory overtime at short notice is therefore not the producer's responsibility alone. The ability to uphold these standards is directly related to actors further up the supply chain.

²¹ On some farms the content is restricted to salary, duration of contract, and number of leave days while on others contracts are more comprehensive, including duties, working hours, probation period, termination conditions, health and safety, and details of benefits to which workers are entitled such as annual leave, sick leave, maternity leave, medical coverage, and funeral expenses etc.

²² This is reflected in the CBA that stipulates every employee is required to work overtime when called upon to do so.

All companies reported paying employees overtime at one and half times basic pay for normal days and double basic pay for Sundays and public holidays, the exception being the three which pay harvesters/graders/packers piece rate for overtime. These payments are issued in accordance with the CBA and range between KSh.18.00 to 38.00 per hour depending on the basic wage.²³ But according to workers overtime payments are not always forthcoming. Over half of the respondents in SSIs indicated that they are not paid overtime and in four of the FGDs overtime, particularly without compensation, was ranked as one of the key worker concerns. In some cases workers claimed to have been given days off in lieu of wage compensation, which is less satisfactory as the majority are migrants who have come to the area solely to work. In general considerable confusion surrounds overtime payments; most workers are not very conversant with the system of payments and do not understand how they are calculated. This confusion is indicative of the extent to which company policy is not properly communicated to the workers, particularly the use of piece rates for overtime.

Box 3: Consequences of Women's Overtime Work on Children

For those women whose children have accompanied them to flower producing areas, overtime work has particularly negative consequences as they often face difficulties arranging for childcare when they have to work late. For the most part female workers who live with their children are single parents, and therefore the sole breadwinner and carer. They are very concerned about having no-one to look after their children during the time they are at work, which very often includes night hours. When women had to work until midnight, they could often go for days without seeing their children. A female participant in a FGD aptly captured the impact of extended overtime work, lamenting, *"Last year I had a small child and could even go back at 12.00 midnight and the child's health was really affected. There is a time I stayed for two days without seeing my child because I was leaving very early in the morning and arriving home very late at night."*

5.5 Remuneration: Wages Must Be Sufficient to Meet Basic Needs of Workers

With the exception of casual workers (who are paid daily), most workers are paid monthly with a mid-month advance. The daily rate for a starting level general worker varies between KSh 80 and KSh 127 per day, with little variation between permanent, seasonal and casual employees (see Table 11). It is also true, however, that the two farms with the most seasonals are also the farms that have the lowest wages and award the least benefits. Two farms have a grading system that workers can be promoted through, either with or without changing jobs, while others have set rates for specific jobs. Non-promotional pay rises are given annually by two companies and on a discretionary basis by another.

²³ In August, 2002, one US dollar was equivalent to 78.5756 KShs.

Table 11: Starting Wage by Employment Status

Farm	Permanent KSh/day	Seasonal KSh/day	Casual KSh/day
Farm 1	110	100	No data
Farm 2	127	127	127
Farm 3	103	103	No data
Farm 4	85	85	85
Farm 5	80	80	80
Farm 6	87	77-82	77
Farm 7	117	117	117
<i>Average</i>	<i>101.29</i>	<i>98.79</i>	<i>97.20</i>

Source: Research Data, 2002, Company Interviews

The normal weekly wage reported by workers varied widely from a minimum of KSh. 499.00 to a maximum of KSh.2750.00. Table 12 sets out the weekly wages of male and female workers, and shows that the wages for normal and higher earning males are slightly higher than those for women.

Table 12: Descriptive Statistics of Weekly Normal Wages and High Wages by Gender

Descriptive Statistics									
		N	Mean	Std. Deviation	Std. Error	95% Confidence Interval for Mean		Minimum	Maximum
						Lower Bound	Upper Bound		
Normal wage	Female	54	1056.10	391.93	53.33	949.14	1163.09	569.00	2750.00
	Male	32	1137.91	399.42	70.61	993.90	1281.91	499.00	2200.00
	Total	86	1086.55	394.39	42.53	1001.99	1171.10	499.00	2750.00
High wage	Female	17	1197.24	433.76	105.20	974.21	1420.26	650.00	2095.00
	Male	10	1392.00	541.90	171.36	1004.35	1779.65	696.00	2425.00
	Total	27	1269.37	476.05	91.6154	1081.05	1457.69	650.00	2425.00

Source: Research Data, 2002, Workers Interviews

Codes also often include criteria requiring producers to pay living or minimum wages. Such criteria do not refer to ILO conventions, but reflect concerns in some quarters that neither market forces nor CBAs always ensure that a fair price is paid for labour. While KFC, FLP and ETI Base Codes stipulate that wages be sufficient to meet basic needs of workers and their families and provide some discretionary income, nearly all workers in the SSIs (85 percent of respondents) claimed that their wages did not meet their basic needs (defined by workers as enough for a worker and his/her dependents to feed, clothe and house themselves). In all the FGDS low wages were ranked as one of the top four impediments to improving their situation and in three FGDs it was the number one obstacle. The workers described how difficult it was for them to provide food, shelter, clothing and school fees for their children, and how low wages forced them to rely on various income earning strategies (e.g., receiving remittances from relatives, securing monthly credit facilities for household

items from the local shopkeeper, and borrowing from friends to supplement their wages). In fact, one indication of the permanent female workers' desperate need of "cash in their hands" was their articulated perception, on two farms, that seasonals are better off than permanent workers because they do not have deductions taken from their pay and can therefore afford more food. Their immediate subsistence needs therefore overrode any potential future benefits derived from national social security fund (NSSF) contributions, maternity leave or other benefits provided to permanent workers. However, most workers felt that it was difficult to question wages as they were fully aware (and were reminded by supervisors) that there was a surplus of unemployed workers in Kenya who would be happy to replace them.

Box 4: Relationship Between Wages And Basic Needs

As a typical example of a worker's response to whether their wage covered their basic needs, a woman replied, *"It is not enough at all. For housing I pay KSh 400, school fees are about KSh 500 per month, food about KSh 1500, water about KSh 200, clothing about KSh 600, and sickness which varies and since the salary is about KSh 3000 per month, then I strain [to make ends meet]."* This was illustrated in a role play where workers enacted a room with a simple wooden bench (no other furniture) and a man sleeping on the floor. Friends come by to borrow money to buy food, he has none and they go to another worker who says he himself was coming to them to borrow money. The first two then agree to go to others, while the sleeping man remains on the floor to sleep to avoid feeling hungry.

However, while wages are low in the industry, they are also higher than statutory minimums and generally exceed the wages that are available through alternative economic undertakings in domestic industries or informal work. Companies also claimed that if they were obliged to raise wages, either they would go out of business or Kenya could no longer compete with other countries where labour is remunerated far less favourably. The issue of wage rates, therefore, highlights the importance of government policy and regulation in establishing a fair minimum wage for the sector.

Finally, while most workers had a reasonable understanding of how their wages were calculated and how deductions were made from their payslip, there were nevertheless a number of workers who expressed confusion over the way their wages were calculated. Even those who received detailed payslips did not always understand them, or did not think the calculations were correct. Once again, these concerns show that workers are either not given sufficient information regarding their entitlements or do not understand that which is provided.

5.6 Harsh and Inhumane Treatment and Intimidation

Many social codes prohibit harsh or inhumane treatment or intimidation in the workplace (including verbal, psychological, physical and psychological abuse, and corruption). The clearest case of harsh treatment relates to the relationship between supervisors and employees. Supervisor abuse was ranked as one of the most significant problems facing both male and female workers in all 13 FGDs.

The poor relationships with supervisors is manifest in several ways including job harassment and verbal abuse (experienced by both male and female workers), corruption and favouritism, dismissal without just cause, and sexual harassment of female workers by male supervisors.

Non-permanent workers were particularly vulnerable to this abuse, as supervisors were often responsible for hiring them, and workers feared not being rehired, or being fired, if they complained or resisted. As one worker reflected, *"temperature inaweza panda, akasirike na akufute kazi"* (the supervisor may simply lose his temper and get very angry and dismiss a worker). Incidences of supervisor abuse were reported on all farms.²⁴ However, workers also acknowledged that supervisors were merely transferring the pressures from management onto workers such that the supervisor is "pushed" by the management who then "pushes the worker to do more work".

Sexual Harassment

One aspect of abusive treatment is the sexual harassment by male supervisors reported on all farms, in both packhouses and greenhouses. Respondents claimed that supervisors request sexual favours in exchange for employment, time off, promotion, and bonuses. As one respondent said, *"supervisor akiwa na nafasi ya kazi ya wamama wawili, anawambia angewataka na basi anaweza kuwaanjili"* (a supervisor can easily seduce women if he has a job for them). Resistance to such advances can place women at considerable risk. One picker recounted how she has had difficulties with her male supervisor ever since she refused his sexual advances and now lives in fear of dismissal. Workers feel that they cannot complain because there is no suitable channel through which to communicate such incidents to management.

Box 5: Sexual Harassment

In some FGDs male workers claimed that women would offer sexual favours to reap benefits such as promotion or lighter work, particularly in the grading shed. However, the same group noted that supervisors can sack female workers who refuse their advances in order to employ women that will provide them with sexual favours. Alternatively, supervisors can deploy their power as supervisor to compel a woman to comply. One respondent reflected, *"When a male supervisor seduces a female worker and this doesn't bear fruit, he can use "thorax" [i.e. job power] to win that female worker."*

The majority of management staff interviewed didn't think that sexual harassment occurred on their farms. Even where it was acknowledged, sexual harassment was viewed as a cultural rather than company issue. As one employer claimed, "there is a problem between male supervisors and female workers – women are treated badly. This is largely a socio-cultural phenomenon – women have

²⁴For example, on one farm, there were allegations of supervisors sacking workers and informing the management that workers had deserted duty. Bribery was also reported by some men who claimed that supervisors will help a worker to obtain employment on the condition that he receives a portion of the workers first pay check. Some supervisors also borrow money from the workers (particularly those that they have had a hand in employing or promoting) and delay paying it back.

traditionally been abused by men.”²⁵ On a positive note, on three farms several workers felt that management was making efforts towards confronting sexual harassment.

5.7 Equity in Wages and Non Discrimination

Hiring Practices

Only one of the companies in the sample had a written Equal Opportunities Policy, claiming that since they have more female than male staff they practice equal opportunities. However, as noted earlier, there are clear gender divisions of labour, derived from both management preferences (e.g., “women are more dexterous, which is good for flowers”) and socio-cultural traditions: women tend to work as harvesters, graders and packers, whereas men tend to be employed as spraymen, irrigators, scouts, maintenance workers, security men, and greenhouse workers. In addition, management (including supervisors) is predominately male on most farms, with the exception of the lower level ‘team leaders,’ among whom the gender proportions within the workforce are better reflected. Even among workers, such gender segmentation was viewed as a natural outcome of social norms and biological difference. According to one Kenyan greenhouse worker, “In African culture, women tend to respect men leaders more than women leaders and this is a weakness women have, it is a weakness that women are born with.”

Training

Insofar as unequal treatment is attributable to different skill levels, training is important to overcome discrimination. Training and/or performance-related pay were identified by most companies as key to improving productivity, quality and efficiency. One farm has introduced a system of ‘integration’ with multi-skilled workers responsible for a whole section of production (e.g., crop husbandry, bed maintenance, harvesting etc.). This not only allows workers to earn more and do less repetitive work, but it has also improved labour productivity and efficiency on the farm.

However, interviews with workers indicate that most receive very little training and/or opportunities to improve their skills beyond that which is provided by supervisors or peers upon employment. In one FGD female packhouse workers said that they would like to have more training in the packaging of flowers in order to master new techniques and avoid the possibility that they would face deductions from their wages or be dismissed because of damage to flowers. In addition, while there is little gender bias in training opportunities, the gender segregation of tasks functions as a barrier to the attainment of training as the jobs that women perform have fewer opportunities for skills upgrading. For example, formal training is provided to spraymen, storemen, irrigators, scouts and

²⁵However, one interviewee admitted that sexual harassment had been disclosed on another of the company's farms and of the three perpetrators, only one was fired, since the others were too valuable to the company.

health and safety officers (e.g., fire wardens), positions that are typically occupied by men and associated with higher wage levels.²⁶

Promotion

Promotion for most of the workers is synonymous with being upgraded to supervisory positions or being made a permanent worker. According to most employers promotion is based exclusively on merit, although one company bases it on both merit and length of service. Promotion in our sample was relatively uncommon (only 16 percent of the respondents stated that they had been promoted). This reflects the nature of our sample, which was primarily comprised of general workers, as well as the nature of work in the industry (primarily low skilled). Despite its infrequency, few workers identified any gender-specific barriers to promotion. More than half of the workers in the SSIs said that companies provide equal opportunities for promotion based on worker's productivity and job performance. However, as noted, formal training, which can lead to promotion, is usually restricted to jobs that are predominantly performed by men.

However, not all workers thought that promotions were based solely on merit. Several participants in the FGDs claimed that supervisors and junior managers based promotional decisions on nepotism and bribery (sexual or financial). The workers also resented the fact that management sometimes recruits supervisors from people who have worked in other companies before them, even if they have been on the farm for a shorter period of time. On half of the farms male workers in FGDs complained that men are brought in from outside for senior positions, thus discriminating against local workers. Finally, although workers did not identify gender discrimination in promotion, pregnancy testing prior to employment of permanent workers was reported to occur on one farm as part of the general medical examination (administered to both men and women). Workers claimed that there are some seasonal workers who were slated to be upgraded to permanent status, but were not after failing the medical examination, allegedly due to pregnancy.

Equal Pay for Work of Equal Value

All farms formally practised equal pay for equal work, yet the gender segregation in job categories and skill levels creates male-female wage differentials in both production and processing. Pay scales are thus different for predominantly "male" or "female" jobs, with men earning more on average than women (see Table 12). This is often due to an allowance being paid to sprayers or coldstore workers (male positions) for working in what are seen as "difficult conditions"²⁷. Standing for long hours

²⁶ Formal training is administered by organisations such as the Agricultural Society of Kenya (ASK), and the Safe Use Project, and is provided mainly for workers in the CDU (predominantly men), who are taught how to handle chemicals, use PPE, and maintain inventories of chemicals. One farm trains members of the Workers' Committee (predominantly men) on disciplinary procedures, grievance handling, and statutory and company regulations.

²⁷ On one farm sprayers receive an allowance of KSh 20 per day whereas on another sprayers are given a monthly allowance of KSh 550.00

without breaks, performing repetitive tasks – typical of the work carried out by women – is not considered by employers as ‘difficult.’

5.8 Freedom of Association, Collective Bargaining and Worker Participation in Decision Making

Trade Unions

Freedom of Association and the Right to Collective Bargaining are two of the fundamental principles of the ILO core conventions, and are part of many codes. Furthermore, according to the Kenya Law of Association, workers are protected and are allowed to join and form unions of their choice, although there are limits on freedom of association and the government has yet to ratify ILO Convention 87.

Unionisation of employees is a fairly recent phenomenon (most respondents who are members joined in 2002) and just over thirty percent of all respondents are union members (see Table 13). Four of the seven farms have employees who are members of the Kenya Plantation and Agriculture Workers Union (KPAWU). Only permanent workers are members, and the number unionised varies from only a few workers up to 90 percent of the permanent workforce (see Table 13). Only two farms actually have sufficient membership to elect shop stewards (i.e. at least 51 percent), there being three female and two male shop stewards on one farm, and six female and six male shop stewards on the other. According to company interviews, many workers who had joined the union prior to 2002 left when the membership fee increased in 2002.²⁸ Several companies also claimed that the union is not proactive in its work, citing instances where the unions had been invited to speak to workers, but failed to show up.

Since workers have only recently joined the union they have yet to reap all of the potential advantages of membership. However, there are conflicting opinions about the effectiveness of trade unions in representing workers. Approximately 20 percent of workers were satisfied with union efforts. They cited a number of changes that were spearheaded by the union including the negotiation of salary and leave, transport allowance increments, observance of re-entry periods after spraying, reductions in supervisor abuse of power, and the warning system. They indicated that the frequency with which verbal and/or written warnings were issued had also decreased, and that the union had also begun representing dismissal cases.

²⁸ Workers now pay two percent of their basic pay to KPAWU, plus KSh 50 per month to the Central Organisation of Trade Unions (COTU).

Table 13: Union Membership

	Percentage of Workers Unionised (acc. to Management)	Number of Unionised Respondents	Presence of a Workers' Committees
Farm 1	Less than 50% of permanents	0	yes
Farm 2	45% of permanents	26	yes
Farm 3	None	1	no
Farm 4	None	0	yes
Farm 5	90% of permanents	8	yes
Farm 6	None	n/a	yes
Farm 7	90% of permanents	n/a	yes
Total		35	

n/a = No worker interviews conducted on these farms

Source: Research Data, 2002, Company and Worker Interviews

On the other hand, a larger number of workers were less sanguine, claiming that unions were inactive in recruiting members and failed to adequately represent the workers who did join. Several said that they don't know where the union they registered with went to and "it is as if the union wanted just money from them." Other workers attributed low figures of union membership to management intimidation, with 19 workers (over half of whom were from one farm) saying it was not allowed by management, or believing they would be sacked for joining. Workers in one FGD performed a role play that depicted a local farm (not a flower farm), where the entire unionized workforce was sacked and replaced with new workers, without the union taking action to reinstate or seek compensation for the employees who were terminated.

While the trade union technically extends membership to non-permanent workers, union recruitment efforts are limited to permanent workers. In this study none of the non-permanent workers were union members. Likewise, the CBA restricts the provision of most benefits to permanent workers. Given the numbers of workers remaining in non-permanent work, this exclusion is cause for concern. Indeed, workers in three FGDs expressed concern that casual workers were not entitled to benefits such as maternity leave and felt that the trade union should extend coverage to casual workers.

Workers' Committees

Codes such as KFC, ICC, and Max Havelaar stipulate that workers should be free to form their own in-house welfare associations and elect their own leaders with full mandate to negotiate with the employer on their behalf. All but one farm has such an association in the form of a Workers' Committee (or a Welfare Committee). Representatives are normally elected by the workforce from different sections of the company, with men slightly better represented than women (only two farms specify the election of equal numbers of men and women) (see Table 14). On one farm a Welfare Committee manages a co-operative fund to assist workers in financial need (mainly for funeral expenses), and the Max Havelaar Committee manages the social development fund that is derived from exporting to the Fair Trade market. Moreover, this is the same farm that has also set up a Gender Committee, as described earlier (Box 1).

Box 6: Reasons for under-representation of women in Workers' Committees

Both men and women workers in Kenya expressed the opinion that there were more men than women elected to committees because men made better leaders. For example, one woman said, "...women are scared of asking questions and therefore not good representatives," and another said, "Men champion better the workers rights as they do not fear questioning." This lack of confidence in women's abilities, rooted in cultural beliefs, demonstrates the importance of giving women support to voice their opinions. This can be done through having predetermined seats for men and women in committees, proportionate to their number in the workforce, or through having separate Women's Committees (Smith et al. 2003).

Table 14: Gender Representation on Workers' Committees

	Men	Women
Farm 1	10	10
Farm 2	5	3
Farm 3	n/a	n/a
Farm 4	70%	30%
Farm 5	mostly men on other committees	Have a separate Gender Committee
Farm 6	6	6
Farm 7	No information	No information

Source: Research Data, 2002, Company Interviews

Generally, worker committees are seen as more effective in addressing worker concerns than the trade unions. This is partly due to the vacuum in trade union representation, but also due to the quality of the representation where it does exist. About thirty-three percent of all respondents claimed that worker's committees had succeeded in making several positive changes in working conditions such as a shift from seasonal to more permanent labour; salary and house allowance increments; and provision of PPE. Workers also believed that the mediating role played by committees had helped to mitigate supervisor harassment and increase dialogue between the management and the workers. However, the majority of workers (66%) still found the committees ineffective in representing their interests, claiming committees to either be inactive and/or lax at presenting workers' grievances to management. They cited cases where workers elected dynamic committee members to represent them but that these committee members were quickly "silenced" by management through promotion to supervisory positions.

Box 7: When Worker's Committees Fail

One role-play enacted the ineffectiveness of workers' committee in championing the workers' grievances. When the women went to talk with the committee representatives they were very keen to listen to them and had very cordial discussions. However when the committee representatives brought workers' concerns to management, they were inarticulate and sometimes reported the contrary just to please the managers.

5.9 Grievance Procedures

Some codes stipulate that workers should have the right to be heard on matters relating to contractual terms, dismissals and general welfare, but this can prove difficult due to the hierarchical nature of company structure. Complaints from workers are typically received through line management and committees on most farms, though it varies in terms of whether there is a formal documented procedure or not. Two employers said that senior management has an open door policy if workers prefer to go directly to them, while another said that since they are a small company it is easy for staff to communicate freely. On two farms there are Complaints/Suggestions Boxes, with one company providing a KSh. 1,000 bonus for the best idea for improved management. All of these are predicated on the assumption that workers, the majority of whom are women, will feel sufficiently secure to avail of these options. Even employers acknowledged that communication was often poor, a situation that was reflected in the fact that senior management was clearly unaware of many of the problems that employees faced. One employer said: "Our main difficulty is communication. Workers have preconceived notions about management, and we need to improve communications to help with this." Another employer remarked, "There are no complaints channels or forums and I admit to existing job insecurity felt by the workers." The KFC auditor has actually requested that these farms establish a formal grievance procedure and there are some indications that companies are trying to improve communication between management and workers.

Issues of poor communication and lack of effective representation were echoed by general workers and few, if any, had ever interacted with senior management. In four farms the majority of respondents (85 percent) said that company policies are not properly explained to them but rather are issued as directives from supervisors. Workers also felt that supervisors do not forward their grievances to management as they do not want to be perceived as pro-worker by the management. There are also salient gender implications to this structure as women must communicate their problems to predominantly male managers before reaching management. This decreases the probability that women will share any sensitive information such as sexual harassment, health concerns or childcare problems, and at the same time leaves management unaware that there may be problems among their workforce.

5.10 Health and Safety – Provision of a Safe and Healthy Work Environment

All codes require that companies provide a safe and hygienic working environment. This study found that codes have engendered notable improvements in occupational health and safety, specifically concerning the safe use of chemicals and provision of PPE, as well as separate toilets and washing

facilities for male and female employees.²⁹ According to interviews with employers, three companies provide all workers with general health and safety training every one or two years, while the remaining companies only train workers regarding special risks, such as those handling chemicals. Most of the farms have also carried out, or been included in, educational campaigns to raise awareness of HIV/AIDS among workers (two companies also mentioned handing out free condoms to workers), and the KFC code contains particular provisions on HIV/AIDS awareness.

However, serious issues persist. In all FGDs women raised concerns related to pregnancy, exposure to chemicals, and extended periods of bending and standing, while men raised the issue of chemical exposure and inadequate protective clothing. Fifty percent of the respondents in the SSIs indicated that the provision of PPE is inadequate – not all workers receive it and even if they do, it is not replaced regularly. Participants in six FGDs listed this as one of the key problems they faced at work. Casual workers, in particular, face greater health risks since they are commonly not provided with PPE. Graders on the farms raised the issue of working with either worn or inadequate gloves to protect their hands from thorns and hand injuries were widely reported. In response, several employers argued that it is difficult to convince workers to abide by health and safety regulations, especially the wearing of protective clothing. For example, spraymen complain that clothing is too hot or uncomfortable, and flower graders elect not to wear gloves as they cannot work as quickly with them on, which affects their remuneration through piece rate bonuses. As a result of such problems, one company introduced a temporary bonus scheme to reward those who wear their protective clothing.

Workers in FGDs on three farms cited chemical exposure as one of the main problems affecting both men and women, giving rise to a number of skin, throat and respiratory health problems. The workers said that while notices regarding re-entry periods were posted, re-entry periods were not strictly adhered to, and spraying and harvesting were reported to occur simultaneously. The sprayers in these FGDs complained that their spray suits are usually worn out exposing them to chemicals. They also claimed that although they undergo cholinesterase testing regularly, none of them are transferred to other sections regardless of the results of the tests. According to workers the mandatory job rotation for the sprayers is not observed, resulting in long periods of exposure to chemicals. These problems are often more severe for workers with less education, who face difficulties with detailed spraying instructions. Even women (who are not permitted to handle chemicals on farms in accordance with company policy), can be affected by chemicals in cases where re-entry periods are not observed. In particular, there are risks associated with the effects of pesticides on unborn babies and breast feeding children. According to workers in one FGD, one

²⁹Provisions mentioned by some or all companies include: health and safety committees; protective clothing for all workers, or alternatively just for those handling chemicals; cholinesterase testing (from random testing every month and base-line testing of new employees, to annual testing of those handling chemicals); alternation of sprayers and irrigators; light duties for pregnant women; first aid training and equipment; fire safety precautions and training.

woman miscarried due to the chemicals in the greenhouse and another mother said that her baby refused to breastfeed when she returned to work because *"the mother's milk is smelling of chemicals"*.

Box 8: Exposure to Chemicals

In FGDs sprayers were very vocal about their difficulties regarding chemicals such as inadequate protective clothing, long hours spent spraying and the potential danger to their health. In one all male role play, workers depicted a supervisor who forced workers to continue spraying after their original job was completed. They also only had one change of protective clothing and one bar of soap per month to wash them. However, this is also an illustration of where workers are ill informed of company policy as the CBA only requires that employees be issued with one standard bar soap per month.

5.11 Pregnancy

Most codes covering the sector stipulate that women shall not be discriminated against during ante- or post-natal periods in regard to recruitment, selection or termination. Expectant mothers should also be given due consideration and assigned to duties appropriate to pregnancy. These 'light duties' typically consist of sweeping, picking up litter, and cleaning. However, one farm manager said that she makes sure that women go on leave one month before their due date since it is difficult to find light enough duties for heavily pregnant women. In addition, respondents claimed that supervisors often deride light duties, claiming that, *"mimba iko kwa tumbo si kwa mikono"* (pregnancy is not in the hands but in the stomach), and that pregnant women should carry on as normal.

The analysis of the FGDs indicates that special treatment for pregnant women and mothers with babies depends on a number of factors such as the specific farm and/or section in which one works and his/her employment status. In FGDs participants from three farms said that pregnant women are given lighter work but only those who work in the packhouse. In the harvesting section, women who are pregnant work up to the last day without a reduction in workload. According to one worker, "When I was pregnant, I was not treated differently and used to go home very tired and the company said it will be changing pregnant women to do lighter work but this has not happened yet." In addition, even on the better practice farms the provision of light duties is not extended to all pregnant women as it is at the discretion of the supervisor, who may or may not "sympathise" with the condition of the pregnant workers. However, given that light duties are required under codes, their provision should not be contingent upon supervisor benevolence. This also highlights the need to train supervisors on company policy and gender awareness.

5.12 Beyond Codes: Other Worker Welfare Issues

Benefits

In hazardous, relatively low-paying sectors such as floriculture where demand for labour often fluctuates, employment benefits other than fair wages are of great importance to workers. Benefits such as maternity leave, childcare provision and transport may be especially important to women, enabling them to balance unpaid caring work with paid work in the industry (Barrientos, Dolan and Tallontire 2003).

One of the findings of this research was that many of the benefits workers value are not covered by codes. For example, while all companies provide a range of fringe benefits to workers (e.g., food, transport to and from work, and medical care), the extent to which codes address these provisions is uneven. Furthermore, permanent workers are more likely than others to receive benefits such sick pay, medical care and maternity leave. However, one of the positive changes in the industry is the increasing access of non-permanent workers to benefits (Table 15). The following describes some of the key benefits provided to workers in the industry.

Table 15: Wage Benefits Provided by Employment Status

Benefit	Farm 1	Farm 2	Farm 3	Farm 4	Farm 5	Farm 6	Farm 7
Overtime	02 or piece rate	02 or piece rate	02	02 or piece rate	02	02	n/a
Paid Annual Leave	02 after 6 mths	02 after 2 mths	02	02	02	02	02
Paid Sick Leave	02 work related	02	02	02	02	02	01
Paid Maternity leave	01 1+1 mth	02 1+1 mth	02 2 mths	01 3 mths	02 2+1 mths	01 1+1 mth	01 1 + 1 mth
NSSF	01 + some seasonals	02	02	02	02	02	No info
Private pension		01 Gratuity					01 or 02
Production bonus		02	02		02	02	No info
Xmas bonus	02						No info
Other bonus	Drivers, supervisors			Spraymen/ Coldstore		Spraymen	No info
Funeral expenses		01			co-op		01

01 = permanents only; 02 = permanents and seasonals; 03 = all workers

Source: Research Data, 2002, Company Interviews

Wage Benefits

- **Annual Leave & Sick Leave**

According to companies, annual and sick leave is provided to all permanent and seasonal workers.³⁰ Yet there is some discrepancy between management and worker accounts. For example, only 33.3 percent of seasonal workers claimed to have received annual leave despite the fact that most had contracts indicating their leave entitlements. Similarly, companies indicated that permanent and seasonal workers are given paid sick leave provided that they present a doctor's certificate, however, only 61.1 percent of the seasonals (and 33.3 percent of casuals) said they have access to this benefit. On one farm sick leave is only given if the illness is work-related, as determined by the company's contracted doctor, and there were some reports that the doctor did not believe workers when they reported falling ill. Once again this may suggest that workers lack an understanding of the terms and conditions of their employment.

- **Maternity Leave**

Maternity leave is typically only extended to permanent workers, however, on three farms seasonal workers are also provided with maternity benefits. According to both Kenyan law and the CBA women are eligible for two months maternity leave, one of which is their annual leave. Most Northern codes have stronger provisions, requiring a longer term of leave. However, most women prefer to work up to full term and take leave after or on delivery. This was confirmed in FGDs, "There are some who work until they deliver the baby while at work. Most pregnant women hide their pregnancy, so that they can have a longer maternity leave to spend with the baby."

Anxiety about becoming pregnant or informing their employers that they are pregnant is widespread, particularly among those in non-permanent positions. According to one worker, when a woman displays symptoms of pregnancy (e.g., vomiting), she is monitored closely and all eyes are focused on her like a telescope ("*macho yote inawekwa kwako kama darubini*"). The majority of seasonal workers and casual workers claimed that not only are they excluded from maternity leave entitlements, but they are also more likely to lose their jobs in case of pregnancy. Workers claimed that pregnant women in casual/seasonal positions are typically not given another contract when their current one ends and are the first to be dismissed in case of a "*mchucha*" (when there is no work in the company). As a result abortions are common. According to a group of casual female packhouse workers, "*wanawake wengi sana hapa wanatoa mimba hata mtoto wa miezi nane ili asifutwe kazi*" (many female workers have had abortions, even at eight months to avoid the risk of being sacked).

³⁰ Companies provide between 1.75 and 2.5 of paid annual leave days per month and three farms provide a travel allowance for workers to return home during leave. Sick leave is more variable. Five companies give 30 days on full pay and 30 days on half-pay per year (pro-rata for seasonal workers), one gives 40 days full pay and 45 days half-pay, and one gives up to 90 days full pay.

Non-Wage Benefits

Permanent workers were also more likely to have access to non-wage benefits than seasonal or casual workers. Yet the decisive factor influencing access to non-wage benefits was company policy (see Table 16). The following describes the non-wage benefits provided to workers.

- **Housing**

In compliance with national law and the CBA, companies are required to provide employees with housing or a housing allowance in lieu thereof. Housing is provided for some or all workers on three farms,³¹ while all other companies pay seasonal and permanent employees a monthly housing allowance equivalent to 15 to 30 percent of their basic wage. Most workers interviewed complained that the housing allowance was insufficient to acquire decent housing, particularly for workers living in close proximity to Nairobi (e.g., Kiambu and Thika Districts) where rents are higher. With an average monthly house allowance of KSh. 800 workers can only afford single rooms without electricity, water, and toilets despite the fact that many are shared with children and/or spouses. Where housing is provided, workers usually live in one-room units. The lack of adequate housing is one of the main reasons that children remain with their grandparents or other relatives in the rural home districts.

- **Healthcare**

According to the Employment Act, it is the responsibility of employers to ensure the provision of appropriate medicines during illness. All companies provide employees with free primary healthcare, in most cases through a resident company nurse, and three companies also have their own doctors. Thus far, HIV/AIDS has not been a significant issue for companies, although they all recognised it as a potential threat. On one farm the management said that they have an anti-discrimination policy regarding HIV/AIDS sufferers, commenting that they have one employee who has AIDS and is still productive. In the SSIs and FGDs workers had little awareness of HIV/AIDS as a problem on the farms; those that were aware of the disease indicated that they had only heard about and not experienced it first hand.

³¹ Two of the three provide housing for permanent workers only.

Table 16: Non-Wage Benefits Provided to Permanent, Seasonal and Casual Workers

Benefit	Farm 1	Farm 2	Farm 3	Farm 4	Farm 5	Farm 6	Farm 7
Housing/ housing allowance	03 15-20% HA after 6 mths	03 KSh900 or 15% HA	02 H	03 15% HA or house	01 KSh 870 HA	03 15% HA	01 H
Primary healthcare	03 nurse	03 nurse	? clinic	03 nurse	03 clinic	03 nurse	03 see below
Secondary Healthcare	01 Up to KSh 10,000/yr	03 Comp. doctor	03 Comp. doctor	03 Comp doctor once/wk	03 KSh 1,000/mth	03 subsidised doctor	03 up to 5% salary
Hospital Care	03 NHIF	03 NHIF	03 NHIF	03 NHIF	01 insurance	03 NHIF	03 see above
Creche			01 or 03		planned		planned
Transport	03	03					
Leave travel allowance	01	01	03				
Children's education		03 community support	03 primary school				
Food or food allowance	03 uji	03 canteen & uji	03 KSh10/day		uji for some	03 uji	
Sport facilities	KSh 250,000 budget	03	03	03			03
Community Hall				03			
Staff outings							
Other	Annual party	community work				social events	

01 = permanents only; 02 = permanents and seasonals; 03 = all workers; HA = house allowance; H = housing provided; NHIF = National Hospital Insurance Fund
Source: Research Data, 2002, Company Interviews

• Childcare and Education for Employees' Children

Childcare facilities make a significant difference to women's ability to participate in the labour market. Indeed, many women prioritised childcare ahead of wages, signalling the importance of women's labour constraints, and the difficulties they face in taking proper care of their children while working in the industry. A number of female workers (whose children had accompanied them) said they were obliged to leave younger children with their older siblings or neighbours while they worked as they could not afford to employ household help. Alternatively, children were left unsupervised and out of school. Other workers were forced to leave their children behind in rural areas where they could be assured that their kin could provide them with decent care.

On-site childcare facilities were thus highly valued by working mothers, but they were only provided by one company (although two others reported plans to build a crèche). Permanent and seasonal employees of the same company can also send their children to the primary school on a neighbouring farm. One other company provides support for the education of their employees' children, in the form of paying the salary of two teachers at the local school, and paying for construction of new classrooms.

Box 9: Migration and Childcare

In Kenya many women had migrated from rural areas to seek work, but had left their children to be cared for by their grandparents, as they could not afford to keep them with them. For those respondents who work and their children live away from them in rural areas it is an emotionally difficult situation. They missed their children greatly and many expressed concern about their upbringing, *"I only pray to God to keep them safe"*. One worker said that, *"people here really miss having joy with their family. But the work demands that they work here and children live at home due to low wages."*

- **Transport**

Free transport to and from work is provided by two companies, with the remainder either having on-farm housing, or employees that live close by. On one farm there is a bicycle purchase scheme that is jointly financed by the social premium derived from the Max Havelaar scheme and the workers. Where transport is provided, workers complained of problems with unreliability, overcrowding and lateness in the evening. Several workers were also concerned about security claiming that if they work late there is sometimes no transport provided or they are dropped too far from their homes. Safety in travelling to and from the farms is especially problematic for female workers, especially since women have been mugged on the way home in the dark.

SECTION 3: THE AUDITING PROCESS

6. Participatory Social Auditing

6.1 Standard Auditing Practice

As discussed in Chapter 4, most codes applied in the cut flower industry have arisen in response to civil society and consumer pressures in developed countries. As a result, they have been introduced by Northern companies at the top of the supply chain, and imposed on Southern suppliers and workers without a great deal of consultation. Even codes developed in the South (e.g., KFC, FPEAK, and the Kenya National Code) tend to draw criteria, as well as legitimacy from modelling Northern codes. For example, while four of the seven sample cut flower farms were involved in developing the KFC code, none of the principles within the codes arose through workplace consultation. Consequently, the actual priorities of flower workers in Kenya have been excluded from the code development process.

The exclusion of workers' perspectives in code design can be ameliorated by ensuring that worker's voices and concerns are included in the auditing process. However, in many cases codes have been monitored by existing quality assurance staff and/or through a technical, check list approach, which draws significantly on employer interviews, yet incorporates little worker consultation. Experience has shown, however, that constraints of time, knowledge, and culture mean that Northern technologists are not always suitable for monitoring employment conditions (Auret 2001). Even in cases where independent auditing has occurred, the methods used have often been insufficient to capture sensitive issues such as gender discrimination, sexual harassment and abuse, which are most common amongst workers in non-permanent job categories (see Box 10). Many of these issues are often deeply embedded in social norms, practices, and institutions, and are therefore not easily picked up by "parachuting" monitors who make snapshot auditing assessments. While many Kenyan flower farms are taking monitoring seriously (for example, three companies sent management staff on a SA8000 training course given by BVQI in 2002), the depth of auditing is variable in terms of both the methods used and the range of external stakeholders integrated into the process.

Box 10: How Reliable are Audits?

On one farm discussants in a focus group claimed that if a worker is allowed to talk to KFC auditors, he/she is accompanied by the supervisor. One of the respondents wondered, *"inawezakanaje mtu akuje akitaka kuniuliza siri ya mke wangu na amekuja na huyo bibi yangu?"*, (i.e. how can one seek to know secrets of my wife from me yet he comes accompanied by the same wife?).

6.2 Participatory Social Auditing³²

The benefits that codes can bring to business are unlikely to be realised if the process of code auditing is flawed. One way to achieve a deeper understanding of labour conditions is through the adoption of a participatory social auditing³³ approach, which can be particularly helpful in illuminating gender issues (e.g., sexual harassment and sexual discrimination) that are difficult to discern through conventional “snapshot” audits. While participatory methods have been developed and applied by development practitioners for decades, it is only recently that these methods have been adapted to private sector initiatives. Adopting a participatory approach in social auditing is more likely to build trust and to promote dialogue, and expose workplace issues that are often impossible to identify through a one-size-fits-all auditing approach. In particular, by using techniques and tools such as group discussions and visual representations (see Box 11), the participatory approach has several advantages for ensuring that the voices of marginalized workers are included, who are typically excluded in a number of other institutions, such as trade unions, national legislation and international conventions. Auret’s work among Zimbabwean producers has found that a participatory social auditing approach brings several benefits including:

- facilitates consulting with, and gathering data from, all categories of management and workers of varying age, gender, and race;
- contributes to a process of awareness creation that can produce long-term change;
- facilitates the involvement of the poorest and the powerless, particularly seasonal, casual, contract and migrant workers, and those who are semi-literate or illiterate;
- is flexible and can be adapted to different social and cultural situations, providing insights into local differences; and
- is cost effective. Although it may entail greater up-front costs in terms of employee time, and requires special skill-sets among auditors, the depth and relevance of information acquired render it cost effective in the long run (Auret 2001).

However, participatory social auditing is not a one-off activity; to be effective it must be undertaken as a process, beginning with raising awareness among employers and employees about the principles and criteria embodied in codes, followed by a series of pre-audits and audits, and ultimately leading to remedial action in order to cultivate improved management/worker relations (Smith *et al.* 2003).

³² This section is based on Auret 2001.

³³ In this report, the term ‘social audit’ refers specifically to the auditing of labour standards, which includes standards applicable to both working and living areas. ‘Participatory social auditing’ refers to the techniques and tools developed during the ETI Pilot Project in Zimbabwe and later used by the Agricultural Ethics Assurance Association of Zimbabwe (AEAAZ). The theory and practice of participatory social auditing is discussed in detail by Di Auret (2001), on which this section is based.

Box 11. Participatory Social Auditing Tools

- **Semi-structured one-to-one interviews (SSIs):** In a social audit, SSIs should be based on the social code, but have the flexibility to explore any relevant information raised by the informant. SSIs should be conducted with key informants drawn from management and different categories of workers, taking care to ensure proportional gender representation.
- **Focus group discussions (FGDs):** FGDs are informal, conversational group interviews based around the provisions contained in the social code. Ideally FGDs should include 6-8 participants, selected from different managerial and worker categories. Generally, the groups should be relatively homogenous (e.g., all seasonal pickers, packhouse workers, supervisors and single sex groups) to capitalise on the identification that stems from shared, common experiences.
- **Group Exercises:** Where time allows FGDs can include 'group exercises', during which the group is asked to visually depict key issues raised in their discussions. Exercises include mapping working and/or living areas, role-play and pictorial ranking of key issues.
- **Participant observation:** A 'transect walk' conducted by auditors through the working and/or living areas in the farm/packhouse can cross-check the verbal data collected. The inclusion of two or three workers in this walk enables it to serve as a 'listening survey' during which a deeper understanding of attitudes and behaviour is acquired (ibid.).

6.3 Assessment of Participatory Social Auditing Methods

One of the aims of the research was to explore the advantages and disadvantages of social auditing methods, especially in terms of how to enhance gender sensitivity. A number of participatory tools (including SSIs, FGDs, ranking exercises, role plays, and transect walks) were employed to assess how best to identify gender-sensitive information and encourage workers to participate in workplace improvement. The following describes the findings drawn from the data collected and feedback from research assistants (or 'facilitators' in the FGDs).

SSIs

The SSIs, which consisted of both closed and open-ended questions, were a valuable tool for obtaining information on demographic and employment-related data (e.g., contracts, benefits, and working hours), as well as an overview of key issues of concern to workers. Overall, women workers were more apprehensive of the interview process than their male counterparts and were less forthright in their responses. Young women, particularly, required much more prompting to disclose information that required more explanation than a yes/no. Nevertheless, while women were more apprehensive than men during SSIs, they were also more likely to share their feelings and perceptions of sensitive issues in this format.

SSIs are a useful tool for data collection; however, they have their limitations, particularly in their capacity to provide a more comprehensive and in-depth assessment of working conditions. Firstly, they are time-consuming and can therefore interfere with workers' ability to meet their obligations at home or at the workplace. Workers may attempt to hasten the interview process by providing curt

and/or compliant responses, which may not always reflect the reality of their situation. Secondly, since there is little opportunity to probe in depth, there is a high risk that the responses will only provide a partial understanding of workplace issues. Finally, the individual interview can be an intimidating experience for workers (especially insecure non-permanent workers) who, despite the assurance of confidentiality, are likely to worry that disclosing certain information could cost them their jobs. For these reasons, it is important to combine SSIs with the use of other participatory social auditing tools.

Focus Group Discussions

SSIs can be a useful springboard to FGDs. There were 13 focus group discussions conducted on four of the sample farms (see Appendix 4), which facilitated a deeper exploration of workplace issues and provided a clearer picture of the problems that workers face. The interaction and group dynamics of the participants appeared to enhance the security of workers, who became more open to sharing emotionally-sensitive information. A number of pertinent issues emerged in FGDs that would have been unlikely to surface using more structured methods including: workers' perception towards their working environment; their relationship with the supervisors and management; sensitive matters such as sexual harassment and sexual favours; and the degree of empowerment experienced among the different groups of workers. For example, one of the participants who had rejected the sexual advances of a supervisor was able to express her fears of being dismissed with the group, which elicited empathy from the group participants. Three main trends emerged in FGDs:

1. Although all participants in the FGDs actively participated, those who are articulate tended to contribute more information.
2. In the mixed-sex FGDs, there was a tendency for male participants to dominate. On the other hand, mixed FGDs based on either employment status or nature of work did not reveal any differences in the level of participation between the permanent and seasonal workers nor among those working in the packhouses and greenhouses.
3. There were a number of gender issues that emerged more clearly in FGDs than in SSIs, including: exposure to chemicals; verbal abuse and sexual harassment; impact of low income on family responsibilities; and the implications of employment on the ability to care for children. All of these issues are extremely important to women workers, and would not necessarily have been raised had the research been limited to SSIs.

Group Exercises

Mapping:

Participants were requested to create a simple map of their working environment, identifying key sites such as packhouses, greenhouses, toilets, drinking water points, schools, and childcare and

housing facilities. This exercise, which was undertaken before the start of the FGDs, was a good 'ice-breaker' and helped to generate lively discussions. However, mapping is time consuming and can significantly increase the length of the FGD if not managed carefully.

Role Play:

A total of six role-play exercises were carried out in the FGDs, each addressing an area of work-related concern. Role plays are particularly useful for acquiring a deeper understanding of certain issues (e.g., harassment by supervisors came out very clearly as the same abusive language used by the supervisors was imitated during the role-play), for promoting group cohesion, and for encouraging greater participation of reticent group members. Role plays were especially effective at eliciting the perspectives of women, who expressed themselves most fully in this format.

Ranking Exercises:

Following a discussion of their problems at work, participants were asked to rank the problems in order of importance and draw a diagram (e.g., a wheel or spider) to represent the rankings. Some participants were able to rank issues only after concrete examples were provided; they also found it relatively straightforward to rank the first three issues, and thereafter found it difficult to determine the relative importance of the remaining issues. Facilitators might consider reducing the number of issues to be ranked to six pertinent ones.

Transect walk:

Finally, a farm walk of the working environment was conducted on two farms. It was particularly useful in capturing experiences that could not be conveyed by either SSIs or FGDs. For example, it was only through the transect walk that the research team was able to experience firsthand the intensity of heat and humidity in a greenhouse.

7. Multi-stakeholder Approaches

It is clear that the application of various participatory social auditing techniques and tools could help to mitigate criticisms that auditing has failed to adequately capture the employment conditions of workers. However, as stated above, participatory social auditing is about more than the application of tools and methods. For participatory social auditing to enhance the code implementation process, and improve conditions for workers, it can only be one component in a wider process of social change in which all stakeholders (consumers, buyers, producers, workers, government, and civil society organisations) work together. This points to the need for a local multi-stakeholder approach to code implementation, which can help to ensure that the information derived through participatory methods is understood in the local context and acted upon.

By the end of the 1990s, a number of initiatives emerged in various industries to foster the participation of non industry parties in the process of monitoring and verification, most recently in the form of 'multi-stakeholder initiatives' that encourage stakeholder dialogue and 'social learning'. The idea was that encouraging a constructive dialogue among diverse stakeholders (that represented the interests and concerns of workers and producers) would enhance the depth and accuracy of audits, and help to build capacity among local stakeholders to address the issues that emerged. Over time, the multi-stakeholder approach to code implementation has gathered momentum and is now associated with a range of advantages including enhanced credibility, compatibility with existing regulations and standards, and a greater likelihood of addressing the needs and priorities of both growers and workers (NRI 2002).

In African horticulture, there has also been a growing recognition that a multi-stakeholder approach to code implementation may have greater potential to effect improvement in labour conditions, particularly in the capacity to ensure the representation of marginal workers such as women. The experiences of the Ethical Trading Initiative (ETI) Wine Pilot in South Africa which led to the creation of the 'Wine Industry Ethical Trade Association' (WIETA), and the Agricultural Ethics Assurance Association of Zimbabwe (AEAAZ) have provided models of locally-owned multi-stakeholder initiatives oriented toward a continual process of workplace improvement. These efforts are being adapted in other countries, where multi-stakeholder bodies are bringing together a wider group of perspectives (private sector, government, trade unions, and civil society stakeholders) to bear on the auditing process and to develop solutions for change through on-going dialogue. In Kenya a multi-stakeholder Steering Committee has also been established to raise social standards in the horticulture industry. This initiative – the Horticultural Ethical Business Initiative (HEBI) – aims to ensure that the auditing process is inclusive of all stakeholders (industry, NGO, trade union and government) who come together to identify problems and to develop solutions for improvement (See Box 12).

Box 12. Horticultural Ethical Business Initiative (HEBI), Kenya

During 2002, local civil society organisations spearheaded a campaign against poor working conditions on Kenyan flower farms, spawning a series of articles in the Kenyan press. These activities generated concern about the reputation of the industry in overseas markets, and were responsible for bringing together a range of stakeholders to engage in dialogue on the labour practices of flower farms. A Steering Committee – the Horticultural Ethical Business Initiative (HEBI) – was formed to guide social accountability in the horticulture sector. It is a tri-partite body composed of members from government, civil society organisations and trade associations/employers. Unions were invited to participate, although to date they have declined to take part. There are also a number of observers, including the ETI, DFID, the United States Agency for International Development (USAID), the Royal Netherlands Embassy and Africa Now (an international NGO). HEBI has also received a commitment of support from the Kenyan government.

HEBI plans to systematise a multi-stakeholder approach to code implementation, and has identified a number of organisational goals to facilitate this. However, it has experienced teething problems stemming from the difficulties entailed in managing the expectations of stakeholders with varying interests. Nevertheless, there is consensus among the committee that a multi-stakeholder approach to code implementation (including worker participation) may be the only way to resolve some of the persistent employment problems facing workers in the industry, while simultaneously maintaining Kenya's reputation and access to European markets.

Initiatives such as HEBI, AEAZ and WIETA have several advantages. Firstly, the establishment of an independent body comprised of diverse stakeholders provides a degree of protection from any one stakeholder dominating the process. Secondly, because gender issues are socially embedded at a local level, ensuring the participation of organizations that reflect those interests is likely to improve the prospects for genuine change. Thirdly, a multi-stakeholder process can engender a sense of local ownership over the code implementation process and counter the criticisms that codes are merely a Northern imposition.

SECTION 4: RECOMMENDATIONS

8. Ways Forward

The employment problems discussed in Chapter 5 are not insurmountable. The fact that labour conditions have improved over the last year provides cause for optimism. However for codes to provide a long-term shift in employment conditions and contribute to gender rights, all stakeholders, including workers, must have a role in the process of code implementation. The following identifies several actions that can be undertaken to create sustainable and continuous improvement for workers in the sector, broken down into recommendations for different actors. Most of these recommendations were raised during the FGDs by workers themselves and in a stakeholder workshop held in Kenya as part of research process. Taken together they highlight the fact that the responsibility for better working conditions needs to be borne by all stakeholders.

8.1 Employers

Education and Training

- Provide information and training on company policies and procedures, and terms and conditions of employment to all workers. All workers should have a copy of their contract (in the local language) and should be given pay slips.
- Provide workers with training on labour legislation and their rights as workers. Because workers are often reluctant to express their views in front of management personnel, independent bodies should carry out training for the workers.
- Provide workers with a full and comprehensible explanation of the code (both verbally and in written form), and how it is implemented and audited. Involve workers in internal monitoring and auditing of codes.
- Codes should be posted in a prominent place in the packhouse/farm in the local language(s) of the workers. Copies of the code should also be made available to workers if and when requested.
- Ensure that all management personnel are knowledgeable about the code and how it is being implemented/audited.
- Provide supervisors with training on appropriate methods for managing workers, including supervisor/staff training on gender sensitivity and workers' rights.

Gender-Sensitive Work Environment

- Ensure gender sensitivity in task allocation and provide women with the training required to achieve promotion to supervisory and middle-management levels.
- Provide light duties for pregnant women and breaks for breastfeeding mothers.
- Provide reliable, high quality childcare facilities.
- Establish an equal opportunities policy.

Benefits

- Continue positive trend of transferring non-permanent workers to permanent contracts. Provide seasonal workers with preferential treatment for re-hiring. Extend benefits to non-permanent workers on a pro rata basis.
- Aspire to the provision of living wages and benefits that meet the basic needs of workers and their families and allow some discretionary income.
- Provide safe, timely and reliable transport services.
- Provide more comprehensive health care and personal protective equipment to all categories of workers.

Communication Channels

- Improve communication with workers through unions, workers' committees, management-worker meetings and notice boards. Language(s) used for communication should be understandable to all workers. Develop channels of communication that women feel comfortable using.
- Establish a confidential forum for workers' grievances appropriate to all categories and gender of workers. Workers should also be provided a confidential and accessible channel through which to report code violations or to make anonymous complaints when they believe their rights are being violated.
- Workers' committees need to be strengthened, and include the representation of both men and women in all categories of work. Consider establishing Women's Committees.
- Workers should be supported if they wish to join trade unions.

8.2 Buyers (Importers, Wholesalers, Supermarkets)

Develop Worker-Sensitive Supply Chain Relationships

- All buyers should visit farms and familiarize themselves with the issues facing producers and workers.

- Buyers need to be fully aware of the link between the pressure to meet order deadlines and hours of work and overtime practices. Buyers should provide more lead time on orders and stable production orders.
- Ensure that all suppliers are knowledgeable about codes, and are committed to fully complying with its provisions.
- Supermarkets and other buyers should assist suppliers to meet the costs of compliance, for instance, by contributing funds for a multi-stakeholder body to oversee a local auditing process or by including the costs of compliance in product pricing.
- Harmonise codes. Cut flower producers are confronted with several codes of conduct, encompassing somewhat different standards and monitoring requirements. Harmonisation of codes would reduce confusion and compliance costs, and also simplify worker education on codes.
- Make clear to suppliers that the provisions of codes should be extended to non-permanent workers.
- Reward suppliers that are positively implementing codes, e.g., with Preferred Supplier status.
- Actively support the use of participatory social auditing methods.
- Allow suppliers to combine audits of different codes to save both time and money. Dovetailing audits will also minimise disruption to production.
- Work with suppliers to correct problems when they are identified. Suppliers should be given sufficient time, opportunities and support to achieve compliance. A corrective action plan with reasonable deadlines should be developed and followed.
- Ensure that smaller producer/exporters and smallholders are not discriminated against in the process of code implementation.

8.3 Auditing Bodies

- Consider using focus group discussions and other participatory social auditing techniques and tools in order to enhance the quality and gender-sensitivity of audits.
- Provide auditors with training in participatory social auditing methods and gender training. Invest in training local women (and men) as social auditors.
- All auditors should be knowledgeable of relevant local laws and the social, economic and political context, and fluent in the local language(s).
- Ensure that workers interviewed during the auditing process are selected on a random basis, without management interference, that workers' anonymity is protected, and that there are no management attempts to influence what workers say or to punish workers for reporting

violations. If workers appear reticent or intimidated, off-farm interviews should also be carried out to ensure that workers feel safe to disclose their views.

- Audits should be evaluated to ensure that all categories of workers (at different levels of authority and in different work categories) are consulted during the auditing process.
- Ensure that local and civil society organisations are substantively incorporated into the auditing process.
- Ensure that auditors are aware of potential sensitive gender issues and are cognizant of the need to probe for embedded problems.

8.4 Trade Unions

- Ensure that non-permanent workers are eligible for membership.
- Extend Collective Bargaining Agreements to cover non-permanent workers.
- Educate workers about national and international legislation, workers' rights and codes.
- Promote gender equality through collective bargaining. Encourage and support women to assume leadership roles within the union at national, regional and company levels.

8.5 HEBI

- Institute gender-sensitive participatory social auditing, encouraging the involvement of marginalized groups.
- Ensure that the process of code implementation is locally owned and that the process of auditing/verification emphasises flexible application that addresses the local social/cultural context.

8.6 Non Governmental Organisations

- Train workers on national and international legislation, workers' rights and codes.
- Demand secure channels for worker complaints.
- Maintain pressure on producers and retailers to account for employment practices in the cut flower supply chain.
- Provide expertise to growers, especially in areas of training and gender issues.
- Participate in monitoring.

8.7 Kenyan Government

- Grant non-permanent workers protection in all labour legislation.

- Ratify ILO Convention 183, which extends the length of maternity leave from 12 to 14 weeks, or adopt the maternity protection of 90 days in the Equality Bill.
- Ratify ILO Convention 87 covering workers' right to Freedom of Association.
- Implement all ILO Conventions that have been ratified, especially the Core Conventions.
- Enact the proposed Equality Bill,³⁴ 2000 that recognises equal pay for equal work and anti-discrimination provisions.
- Incorporate the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) into domestic law and ensure that the provisions of the Convention are fully reflected in the constitution and in all legislation.
- Increase efforts to create awareness about the need to change stereotypical attitudes and discriminatory behaviour towards women and girls through educational campaigns.
- Improve enforcement of labour and occupational health and safety legislation.
- Provide state assistance for childcare and maternity leave.
- Keep abreast of the regulatory and voluntary standards of importing countries, and disseminate this information to exporters/producers.
- Provide training and support to small producers/exporters to meet the criteria contained in codes.
- Support the capacity of multi-stakeholder bodies and help to broker cross-sector knowledge sharing in order to strengthen the learning process from code implementation.

Taken together, these initiatives could contribute to a process approach that embodies a commitment to sound labour practices that can improve working conditions, and enhance the overall productivity of cut flower producers. It is key, however, that these actions be adopted in the spirit of a developmental approach, where education and awareness raising occur throughout the supply chain, including among consumers and Northern stakeholders, so that a local, multi-stakeholder process approach becomes more widely accepted as essential to achieve substantive and sustainable change for all workers.

³⁴ See Republic of Kenya (2002a) and (2002b) for a discussion of the Equality Bill and other gender-related legislation.

9. Conclusion

Kenyan producers have been at the centre of initiatives to raise social and environmental standards in the cut flower industry both through the development of their own industry codes and the adoption of overseas buyer codes. As a result, over the last year there have been a number of positive changes in the employment practices found on cut flower farms. However, despite the constructive steps that growers have taken to comply with codes and improve working conditions, a number of employment problems persist ranging from occupational health issues to gender-related concerns such as sexual harassment and maternity leave.

To an extent, the problems identified by workers can be ameliorated by successful implementation of existing codes (e.g. improved wages, improved worker representation and better health and safety). But some of the challenges are more systemic. These include:

Gender and social norms in Kenya: Many employment conditions (e.g., sexual harassment, discrimination and occupational segregation) are deeply entrenched in gendered social relations and a patriarchal employment context that exists in Kenya. This is reinforced by a legislative context which upholds gender discrimination in many laws and statutes. Such embedded social norms are not easily surmounted by the adoption of codes or employment policies alone, and require broader processes of education and empowerment.

Hierarchical organisation of companies: As noted, the organisational structure of companies is often quite rigid with communication occurring through vertical channels. Supervisors are delegated substantial power for hiring, firing, discipline, and promotion, and serve as a barrier between workers and management. Without training supervisors tend to replicate the gender and social norms mentioned above. This is exacerbated by the fact that there are relatively few female supervisors, and an absence of grievance mechanisms or viable workers' committees through which workers can articulate their concerns.

Buyer behaviour: Buyers in Europe (particularly supermarkets) tend to pass risk and insecurity down the supply chain. For example, the institution of 'just-in-time' production methods passes the costs of inventory holding to exporters, creating long and unpredictable hours for workers in Kenya. At the same time, competitive pressures are intense. Cut flower producers are squeezed in returns, and deflect this pressure onto the workforce, obliging employees to work longer and harder so that producers can maintain market access. Finally, the costs of code compliance are also passed to on to producers. This fosters resentment on behalf of suppliers, and works against creating conditions conducive to long-term social improvement.

Top down approach: Codes in the cut flower industry have been largely driven by developed country consumers and business, rather than producer opinions or worker priorities. Until recently, the absence of multi-stakeholder engagement in code development in Kenya led to a process of ad hoc worker involvement.

Snapshot and technical auditing: The inclusion of worker and stakeholder participation into the auditing process is at an early stage. In most cases auditing has been largely a technical exercise that missed many of the deeper issues that concern workers. This was because the motivation for adopting codes was to satisfy the requirements of Northern markets rather than to effect substantive changes in employment practices and working conditions. Yet a checklist, 'compliance' approach is ill equipped to identify the types of problems workers face, leaving poor working conditions intact.

The diversity of these factors points to the importance of having a process of code implementation that acknowledges the uniqueness of local conditions, and the role that all stakeholders play in improving working conditions. However, adding to the ever-increasing number of codes by designing more that are specific to every employment situation is not feasible. There is a need for widely agreed codes that can be flexibly implemented to accommodate diverse cultural contexts and workers' own perceptions of their employment needs. Hence, for workers to achieve full employment and social rights, including the recognition of gender-specific concerns, there needs to be a more inclusive and systematic approach that incorporates several interdependent actions.

Towards a Strategy for Inclusive, Systematic and Gender-Sensitive Ethical Trade

Firstly, code development, monitoring and verification are more effective if there is a sense of local 'ownership' over the process and if a range of stakeholders buy into the process. These stakeholders include *all* workers, including those in less secure forms of employment, as well as local institutions in which workers have trust. From a gender perspective, it is essential to include local organisations that are able to reflect women's interests. Such an approach aims to ensure local ownership in the compliance process by eliciting worker participation and by bringing a wider group of perspectives (private sector, government and civil society stakeholders) together to identify common solutions for improvement. A multi-stakeholder approach to code implementation (including worker participation) that begins to resolve some of the employment problems in the industry will not only improve labour practices but will also help companies to realize commercial benefits through a more productive workforce and higher quality products.

Secondly, it is essential that gender-sensitive auditing be undertaken. This entails two pivotal changes in the auditing process. At one level auditors need to have familiarity with local conditions, including local language skills, knowledge of relevant national legislation, as well as an understanding of social

and gender norms. Auditing teams also need to be gender balanced. Although female auditors do not necessarily guarantee a gender-sensitive process, female workers may feel more comfortable discussing sensitive issues such as harassment and abuse with female auditors. Irrespective of sex, all auditors require gender awareness training to be equipped to identify gender employment concerns and discrimination in the workplace.

At another level, participatory social auditing procedures should be developed and implemented as part of a local multi-stakeholder initiative. This would include the systematic use of participatory methods of social auditing as described in this report, which would help to ensure the active involvement of different categories and genders of workers in the auditing process. Such auditing encourages the participation of marginalised workers, especially non-permanent workers and women, who may lack other forms of representation. There also needs to be a mechanism through which workers' concerns are fed back to management (anonymously) to ensure corrective action that addresses the needs of *all* workers.

Finally, for codes of conduct to be truly effective, there must be a *continual process* of awareness raising and improvement with an ultimate aim of fostering a work environment where the social and economic rights of workers are respected. This requires a process of education of management and workers, a recognition by management that improving labour conditions can enhance the productivity and quality of work, and a change in employment culture that aims to ratchet up conditions as a means of competitive advantage. It is in the interest of all stakeholders, including the government, trade unions, workers, buyers, consumers, and civil society, to ensure that this occurs.

Appendices

Appendix 1

World Exporters of Floricultural Products, 2001

Rank				Country	Change 00/01	2001 Total	Change 99/20	2000 Total	Change 98/99
98	99	00	01		%	\$000		\$000	
				Total	-4%	7,321,619.25		7,662,924.00	-6%
1	1	1	1	Netherlands	-2%	3,730,959.71	-7%	3,810,619.89	-8%
2	2	2	2	Colombia	-23%	441,311.55	4%	570,334.66	-9%
7	6		3	Canada	-7%	285,341.99	14%	305,593.00	8%
6	5	4	4	Belgium	5%	280,032.23	-2%	267,603.00	0%
4	3	3	5	Italy	2%	275,085.94	-9%	268,926.56	-1%
3	4	5	6	Denmark	3%	270,138.76	-9%	261,628.45	-9%
5	7	6	7	USA	5%	231,658.01	1%	220,871.04	-22%
10	9	8	8	Germany	13%	224,044.76	-1%	197,978.18	-1%
9	8	7	9	Ecuador	-8%	198,018.80	2%	215,977.34	4%
13	12	9	10	Kenya	14%	186,668.76	5%	164,204.09	12%

All values are in US\$000. In 2001 the value of the Euro dropped by three percent
 Source: www.pathfastpublishing.com from Customs and Excise

Appendix 2

National Legislation and International Conventions Relevant to Cut Flower Workers

I. Kenya National Legislation

- The Employment Act Cap 226
- The Workmen's Compensation Act Cap 236
- The Regulation Of Wages And Conditions Of Employment Act Cap 229
- The Factories Act Cap 514
- The National Hospital Insurance Fund Cap 255
- The National Social Security Fund Cap 258
- The Trade Unions Act Cap 233
- The Trade Disputes Act Cap 234

II. ILO Conventions

Core Conventions:

- ILO Conventions 29 and 105 & Recommendation 35 (Forced and Bonded Labour)
- ILO Convention 87 (Freedom of Association)
- ILO Convention 98 (Right to Organise and Collective Bargaining)
- ILO Conventions 100 and 111 & Recommendations 90 and 111 (Equal remuneration for male and female workers for work of equal value; Discrimination in employment and occupation)
- ILO Convention 138 & Recommendation 146 (Minimum Age).
- ILO Convention 182 & Recommendation 190 (Worst forms of Child Labour)

Although not core ILO conventions, the following are relevant to cut flower workers:

- ILO Convention 81 (Labour Inspection)
- ILO Convention 110 (Plantations Convention)
- ILO Convention 122 (Employment Policy)
- ILO Convention 131 (Minimum Wage Fixing)
- ILO Convention 135 & Recommendation 143 (Workers' Representatives Convention)
- ILO Convention 155 & Recommendation 164 (Occupational Safety & Health)
- ILO Convention 154 (Collective Bargaining)
- ILO Convention 156 (Workers with Family Responsibilities)
- ILO Convention 159 & Recommendation 168 (Vocation Rehabilitation & Employment/Disabled Persons)
- ILO Convention 175 (Part time work)
- ILO Convention 177 & Recommendation 184 (Home Work).
- ILO Convention 183 (Maternity Protection).
- ILO Convention 190 & Recommendations (Safety and Health in Agriculture)

III. UN Conventions and Declarations

- Slavery Convention (1927); Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956)
- Universal Declaration of Human Rights (1948)

- Convention on the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949)
- Convention on the Political Rights of Women (1952); Fourth World Conference on Women: Beijing Declaration and Platform for Action (1995)
- International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- International Covenant on Economic, Social and Cultural Rights (1966)
- International Covenant on Civil and Political Rights (1966)
- Convention on the Elimination of All Forms of Discrimination against Women (1979)
- Convention on the Rights of the Child (1989)
- World Conference on Human Rights: Vienna Declaration and Programme of Action (1993)
- UN International Conference on Population and Development: Cairo Programme of Action (1994)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2003)
- Protocol Against the Smuggling of Migrants by Land, Sea or Air (not yet in force)

Sources: Gammage et al. 2002, Office of the High Commissioner for Human Rights 2003

Appendix 3

Labour Force Population and Sample Size of Flower Firms

Farm	Codes Applied	No. Employees			Type of Employees						Sample Size
					Permanent		Seasonal		Casual		
		F	M	Total	F	M	F	M	F	M	Total
1	KFC, BRC, EUREPGAP	78	123	201 (10%)	3	15	78	105			13 (6%)
2	KFC, ETI Base Code, BRC, EUREPGAP, M&S, Safeways, LNGG code	490	354	41 (42%)	483	329	7	25			41 (5%)
3	FLP, KFC & FPEAK	188	144	332 (17%)	82	70	106	74			19 (6%)
4	None	210	40	250 (13%)	63	8	147	32			13 (5%)
5	KFC, MPS, FLP, Max Havelaar	219	151	370 (19%)	176	125	36	21	7	5	14 (4%)
Total		1185 (59%)	812 (41%)	1997 (100%)	807 (67%)	547 (27%)	374 (19%)	257 (13%)	7 (.4%)	5 (.3%)	100 (5%)

In July-August 2002 the five farms/packhouses had a total workforce of 1997. The sample of 100 workers (5 percent) was selected using a stratified random sampling technique according to gender, employment status (permanent, seasonal, or casual) and nature of work (packhouse, greenhouse and Crop Development Unit (CDU)). This sample of workers drawn from the five firms is in proportion to the total population of workers in these firms. This ratio was calculated using the following formula:

$$f = \frac{n}{N}$$

Where: **f** = the ratio of the sample of the population

n = size of the sample

N = size of population

F is equivalent to $100/1997 = 0.0501$, this ratio was then used to determine the number of workers to be selected from each firm, in some of the farms/packhouses the number of workers selected were increased or decreased to ensure that all the strata were included in the sample.

Appendix 4

Case Study Methodology

Aims and Objectives

The aims of this project were to analyse how ethical trade can enhance the economic and social rights of women and men workers in the Kenyan cut flower industry, and to identify best practice in implementing gender-sensitive ethical trade based on worker and stakeholder participation.

The objectives of the project were threefold:

1. Examine the gendered needs and rights of workers in the cut-flower industry in Kenya.
2. Assess the extent to which these gendered needs and rights are being, or could be, addressed through worker and wider stakeholder participation.
3. Assess the implementation/impact of codes in the cut-flower industry in Kenya.

Methods for Data Collection and Analysis

This study utilized qualitative methods to collect primary data. These methods consisted of: semi structured interviews and in-depth focus group discussions conducted with workers. Primary data were collected using two semi-structured interview schedules administered to firstly, the management of cut flower producers and secondly, the workers in selected cut-flower firms. The latter were those directly engaged in the production of cut-flowers and excluded the management and the support/administrative staff. Thereafter, substantive issues were further explored in small focus group discussions (FGDs). During the FGDs, a variety of tools were used in order to both elicit information, and to assess and compare their effectiveness for doing so.

Sampling Procedure

There are over 500 flower farms and/or packhouses in Kenya (Thoen et al., forthcoming). However, the sample of the study was determined by selecting only those applying code(s) of conduct. This formed the population of the study. The core fieldwork sample consisted of five flower production companies from the Lake Naivasha, Nairobi and Ruiru areas selected according to the type(s) of codes in application; this was an attempt to ensure a representative coverage of the codes. The inclusion in the survey of one company that does not apply any codes was included as a control factor. Two additional companies were included in the 'Company Interviews', but 'Worker Interviews' were not conducted on their farms. However, the sample was not large enough to allow generalisations across the population, especially since another important criterion for the selection of the farm was the willingness of the management to participate in the research project.

These 5 farms/packhouses have a total workforce of 1997. A sample of 100 workers was selected using a stratified random sampling technique according to gender, employment status (permanent, seasonal, or casual) and nature of work (packhouse, greenhouse and CDU). In each case the sample of workers was drawn from a roster of employees provided by the management. The sample of workers from each farm/packhouse was in proportion to the total population. Following completion of the SSIs, a preliminary analysis was conducted in order to ascertain the key workplace issues that were raised, and which were to be probed in greater depth through focus group discussions and other participatory methods.

Distribution of Sample by Company

Company	No. of Worker SSIs	No. of Workers per FGD
1	13	(6), (6)
2	41	(7), (8), (6), (7)
3	13	No FGDs conducted
4	19	(6), (6), (8), (6)
5	14	(6), (6), (7)
Total Workers	100	85

Source: Research Data, 2002

Purposive sampling was undertaken for the FGDs, in order to ensure participation of the different types of workers. This classification was made on the basis of gender, nature of work (i.e. packhouse, greenhouse and CDU – concerned with spraying, irrigation and fertilizer application) and employment status (permanent and seasonal). A total of 13 FGDs were conducted among the four firms applying codes. The number of participants in the FGDs ranged from five to eight, for the most part drawn from the sample of SSI's conducted previously. The composition of the groups varied. Nine were comprised of mixed categories of workers across gender, nature of work and employment status categories, while four were homogenous. During several FGDs, group exercises comprised of mapping, role-play and ranking tools were facilitated, and transect walks through the farms were also carried out. All FGDs were conducted. Four focus groups were facilitated by women, three by men, and the remaining five by both men and women.

Composition of Focus Group Discussions

Category of Worker	Farm 1	Farm 2	Farm 4	Farm 5
Female field workers	-	-	1 P only	1 P & S
Female packhouse workers	-	-	1 P & S	1 P & S
Female packhouse and field workers	2 1 = P; 2 = P&S	1 P only	-	-
Male CDU workers	-	1 P & S	1 P & S	1 P & S
Female 'In-charges'	-	-	1 P only	-
Mixed CDU, field & packhouse workers	2 P & S	-	-	-

Notes: P = Permanent; S = Seasonal
 Source: Research Data, 2002

References

- Auret, D., 2001, *Participatory Social Auditing: A Handbook for Code of Practice Implementors*, Zimbabwe: AEAZ.
- Barrientos, S., Dolan, C., and Tallontire, A., 2001, *Gender and Ethical Trade: A Mapping of the Issues in African Horticulture*, Working Paper No. 26, Chatham Maritime: NRI.
- Barrientos, S., Dolan, C., and Tallontire, A., 2003, 'A Gendered Value Chain Approach to Codes of Conduct in African Horticulture', *World Development* 31(9):1511-1526.
- Blowfield, M.E., 2003, *Ethical Trade: The Negotiation of a Global Ethic*. DPhil Thesis. Falmer, UK: University of Sussex
- Caldwell D.J., 1998, *Ecolabeling and Regulatory Framework – A Survey of Domestic and International Fora*, <http://www.consumerscouncil.org>.
- COLEACP, 2002, *European Imports of Flowers and Ornamental Plants 1994 – 2000*, <http://www.coleacp.org/>
- Dwasi, J., 1999, Kenya: A Study in International Labor Standards and Their Effect on Working Women in Developing Countries: The Case for Integration of Enforcement of World Bank Policies, *Wisconsin International Law Journal* 17: 347-462.
- FAO, 2002, A Thorn on Every Rose for Kenya's Flower Industry, *Newsroom*: Rome: FAO. <http://www.fao.org/english/newsroom/news/2002/3789-en.html>
- Flowers Growers' Group of the Agricultural Association, 2002, 'Memorandum of Agreement between Agricultural Employers Association and the Kenya Plantation and Agricultural Workers' Union.' Nairobi.
- Galinsky, B., 1997, UK Rose Market in Full Bloom, *Market Asia*, V. 4(2), <http://www.marketag.com/ma/news/archive/v42/Rose.stm>
- Gammage, S., Jorgensen, H., McGill, E., and White, M., 2002, *Framework for Gender Assessments of Trade and Investment Agreements*, Washington, DC: Women's EDGE, Global Trade Program. Draft, April 2002.
- Hennock, M., 2002, 'Kenya's Flower Farms Flourish', BBC News 14 February <http://news.bbc.co.uk/1/hi/business/1820515.stm>
- IBLF, 2002, *Violence against Women in the Workplace in Kenya: Assessment of Workplace Sexual Harassment in the Commercial Agriculture and Textile Manufacturing Sectors in Kenya*, <http://www.laborrights.org/projects/women/kenyareport.pdf>
- The International Floriculture Quarterly Report, 2002, *UK Market Share 2000*, <http://www.pathfastpublishing.com/qr27/qreport.htm>
- International Trade Centre (ITC), 2001, *Product Profile: Cut Flowers and Foliage*, Business Sector Roundtable, Discussion Document, Brussels, 16 May. <http://www.intracen.org/bsrt/ppcutflowers.pdf>
- KFC, 2002, *A Growing Responsibility*, <http://www.kenyaflowers.co.ke/page4.html>
- Ladbury, S. and S. Gibbons, 2000, *Core Labour Standards. Key Issues and a Proposal for a Strategy*, London: Department for International Development, January.

Van Liemt, G., 1998, *The Social Policy Implications of Codes of Code, with Particular Reference to the Relations between Companies Adopting such Codes and their Suppliers and Subcontractors*. Paper Presented at the International Workshop on Global Production and Local Jobs: New Perspectives on Enterprise Networks, Employment and Local Development Policy. Geneva: International Institute of Labour Studies, 9-10 March.

Murray, J., 1997, *Corporate Codes of Conduct and Fair Labour Standards*, Paper presented at International Workshop on Global Production Systems and Labour Markets, International Institute for Labour Studies, Geneva, 22-23 May.

NRI, 2002, *Building Multi-stakeholder institutions for Developing and Managing National Codes of Practice*, NRET Theme Papers on Codes of Practice in the Fresh Produce Sector (No 2), Chatham Maritime: Natural Resources Institute, <http://www.nri.org/NRET/TP2.pdf>

PANUPS (Pesticide Action Network Updates Service), 2002, *Floriculture: Pesticides, Worker Health & Codes of Conduct*, June 12. http://panna.igc.org/resources/panups/panup_20020612.dv.html

Republic of Kenya, 2002a, 'Kenya Gazette Supplement – The Equality Bill', 2002, Nairobi: Government Printers.

Republic of Kenya, 2002b, *Sessional Paper on Gender and Development*, Nairobi: Ministry of Home Affairs.

Roberts, S. and N. Robins, 2000, *The Reality of Sustainable Trade*, London: IIED.

Seyfang, G., 1999, *Private Sector Self-Regulation for Social Responsibility: Mapping Codes of Conduct. Ethical Trading and Globalisation: Self-Regulation And Workers' Experience*, Working Paper 1, Overseas Development Group, Norwich, UK: University of East Anglia.

Smith, S., Auret, D., Barrientos, S., Dolan, C., Kleinbooi, K., Njobvu, C., Opondo, M. and A. Tallontire, 2003, *Ethical Trade in African Horticulture: Gender, Rights and Participation, Preliminary Report for Multi-Stakeholder Workshop*, June 26, Brighton, UK: Institute of Development Studies.

Tohen, R., Jaffee, S. and C. Dolan, (forthcoming), Equatorial Rose: The Kenyan-European Cut Flower Supply Chain, in *Supply Chain Development in Emerging Markets: Case Studies of Supportive Public Policy*, Kopiki, R (ed.) Washington D.C.: World Bank.

VIDEA, 2001, *Fair Flowers, Fair Trade and Informed Consumers: Building on European Strategies for Public Engagement*, Victoria: VIDEA, www.vida.ca/support_items/vida_fairflowers.pdf

World Bank, 2002, *Gender Stats*. Retrieved November 28, 2002. ([29http://genderstats.worldbank.org/genderRpt.asp?rpt=labor&cty=KEN,Kenya&m=home2](http://genderstats.worldbank.org/genderRpt.asp?rpt=labor&cty=KEN,Kenya&m=home2))

For Further information please contact:

NRET

Natural Resources Institute

Central Avenue

Chatham Maritime

Kent ME4 4TB

United Kingdom

Tel: +44 (0)1634 883199

Fax: +44 (0)1634 883706

Email: NRET@gre.ac.uk

Website: <http://www.nri.org/NRET>