



2022

Human Rights Impact Assessment of the Kenyan Smallholder Farmer Tea Supply Chain

for Marks & Spencer and Waitrose & Partners

Prepared by Partner Africa





Executive Summary

As global brands, Marks & Spencer (M&S) and Waitrose & Partners (Waitrose) are committed to responsible business practices and to ensuring decent working conditions in their operations and supply chains. M&S and Waitrose have identified their tea sourced from Kenya as a high-risk commodity, as human rights risks have been identified throughout tea supply chains on the African continent, with several high-profile cases bringing global attention to risks facing workers in the tea sector.

This has led M&S and Waitrose to commission Partner Africa to carry out a Human Rights Impact Assessment (HRIA) of the smallholder tea supply chain in Kenya to gain a better understanding of working conditions in their Kenyan tea supply chain, consisting of smallholder farmers (also referred to as ‘smallholders’) and tea factories organised under the Kenya Tea Development Agency (KTDA).

Partner Africa undertook this HRIA through a combination of desk research; interviews with stakeholders working in the private sector, with NGOs, and with civil society groups active in this space; and field interviews with relevant stakeholders in the supply chain. The field research was conducted from November 2021 to December 2021. This report presents the findings of the HRIA.

HRIs identify actual and potential positive and adverse human rights impacts on rights-holders in supply chains and prioritise these impacts based on their severity and likelihood. This HRIA identifies both best practices and areas for improvement and will assist M&S and Waitrose by suggesting evidence-based strategies to strengthen human rights throughout this supply chain and by presenting positive findings and best practices identified.

Context and Relevance of the HRIA

The tea sector is a crucial element of Kenya's economy. After China and India, Kenya is the third-largest tea-producing country globally, only selling 5% of tea produced to its domestic market.¹ Small-scale tea farming accounts for more than 55% of the country's total tea production, and 650,000 smallholders and 6 million residents are directly or indirectly reliant on the Kenyan tea sector for their livelihoods.²

Tea has been noted to be a high-risk agricultural sector across the globe. Several high-profile human rights cases, both in Kenya and internationally, have drawn attention to the sector, with risks compounded by climate change and the COVID-19 pandemic. Additionally, actors in global tea supply chains are facing growing pressure due to rising production costs and falling tea prices. This risk has been noted in Kenya, where the cost of production for tea was estimated at USD 2.15/kg in March 2020, exceeding the average traded tea price of USD 2.00/kg.³ As of the end of 2021, the price of tea at the Mombasa auction in Kenya (which accounts for 95% of Kenyan tea exports) remained at a three-year low amid depressed global demand. This may create an

environment conducive to increased human rights risks, including financial precarity, child labour, and forced labour in the smallholder context.

Additionally, the Kenyan tea sector is undergoing rapid and widespread change due to the ongoing implementation of the Tea Act 2020. The Act is a set of new policies meant to streamline the tea sector by establishing a new Kenya Tea Board and by providing farmers with higher financial returns. The law was meant to come fully into force in January 2021 but has been hampered by protests and injunctions by various stakeholder groups.

Based on this context and in line with the recommendations made in the United Nations Guiding Principles on Business and Human Rights (UNGPs) that companies undertake human rights due diligence (of which HRIAs are a key pillar), it is both timely and relevant for M&S and Waitrose to undertake an HRIA of their tea supply chain in Kenya. In-depth, up-to-date information is crucial for M&S and Waitrose in understanding the human rights issues in this supply chain and responding accordingly.

Supply Chain Context

In Kenya, M&S and Waitrose purchase their tea from 6-10 Fairtrade-certified Kenya Tea Development Agency (KTDA) factories, each of which sources tea from approximately 5,000-8,000 smallholders, who are shareholders of the KTDA. As such, M&S and Waitrose work with approximately 80,000 smallholders in Kenya. Ringtons is the Tier 1 supplier of tea for both M&S and Waitrose and is therefore the key link. Tea is bought by Ringtons via an agent at the Mombasa Tea Auction. Once teas are bought in the auction, they are transferred to Ringtons' nominated warehousing and forwarding agents and are prepared for onward shipment to the UK.

All the tea is purchased on Fairtrade terms as part of M&S's and Waitrose's independent commitments to responsible business practices. This means that the factories at which the tea is produced are certified with Fairtrade Standards through Fairtrade's auditing process. In addition, producers of Fairtrade tea receive the Fairtrade Premium on top of the Fairtrade Minimum Price received for the tea, which is calculated as a percentage of volume sold. The Premium is received by community co-operatives, whose members decide how to use the Premium to invest in their communities.

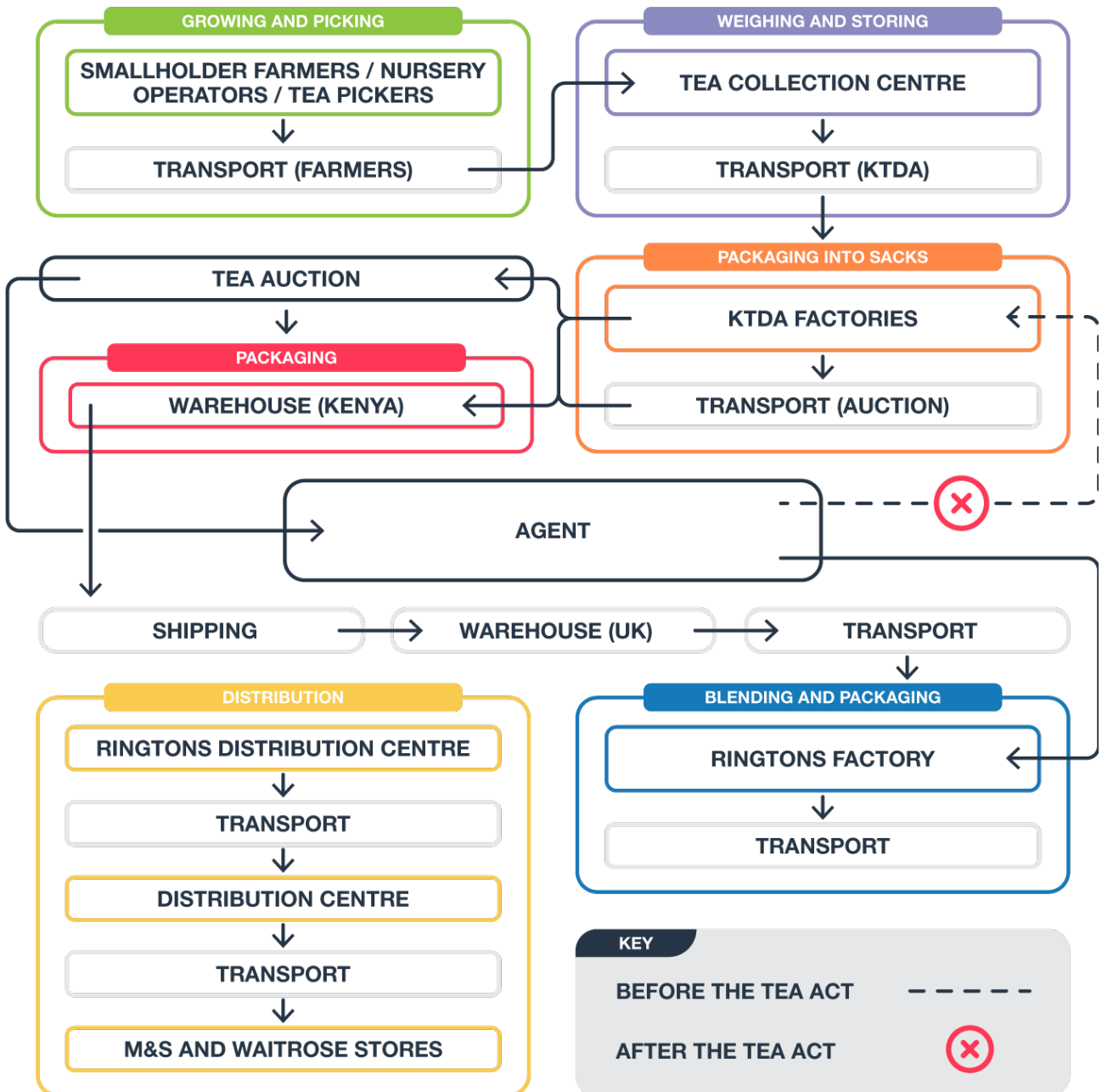
See the diagram on the next page



1 IDH and True Price, The True Price Of Tea From Kenya, 2016, <https://trueprice.org/wp-content/uploads/2016/04/TP-Tea.pdf>.
2 Lidl, Lidl Human Rights Impact Assessment Kenyan Tea Supply Chain, 2020.
3 Lidl, Lidl Human Rights Impact Assessment Kenyan Tea Supply Chain, 2020.

Supply Chain Context

The below diagram provides an overview of the M&S and Waitrose supply chain before and after the Tea Act



Methodology



HRIA

Through a combination of desktop research, stakeholder consultation and field research, this HRIA aimed to identify both positive and adverse human rights impacts in smallholder supply chains. The primary legal sources used in this HRIA include the International Bill of Human Rights, the ILO core conventions, regional and national human rights jurisprudence, and national human rights and thematic legislation in Kenya. The HRIA methodology was drawn from multiple sources, including from Nomogaia, the International Centre for Rights and Democratic Development, the Human Rights Council, the Scottish Human Rights Commission, and the Danish Institute for Human Rights. Over 250 stakeholders in 5 areas of tea production were directly interviewed, including smallholders, hired labourers, key community informants, and staff and managers at KTDA factories. Following the interviews, the qualitative and quantitative data was analysed to identify and prioritise salient human rights impacts, the root causes of these impacts, business linkages and potential recommendations to mitigate and remediate any adverse impacts found.

Tea Act

As the tea industry in Kenya is rapidly changing because of the implementation of the Tea Act in Kenya, this research also included a focus on the Tea Act. Stakeholders in the communities and the KTDA factories were surveyed about their views of the Tea Act 2020 to understand their perceptions and level of awareness of the Act.

Fairtrade

Because M&S and Waitrose purchase all their tea on Fairtrade terms, this research included a focus on the role played by Fairtrade certification and examined the awareness and perception of Fairtrade amongst tea-producing communities. As such, stakeholders in the communities and KTDA factories were asked about their views of Fairtrade and the impact that selling tea on Fairtrade terms has on the communities.

In addition, during the desk research phase of the HRIA, an interview was conducted with a Fairtrade representative to gather background on how the Fairtrade system functions, the tea market in Kenya, the Tea Act 2020, and potential risks in the smallholder tea sector.

Key Findings

The human rights impacts identified within this research are classified by type (whether the impact positively affects (e.g., enriches) or negatively affects the life of a worker and/or the community), likelihood (whether the impacts were identified by researchers through experiences in the field or have the potential to exist due to outside research and contextual factors), and by severity.

The below risk matrix was used to categorise the impacts:

SEVERITY / LIKELIHOOD									
Likelihood	Negative Impact					Positive Impact			
	EXTREME	VERY HIGH	HIGH	MEDIUM	LOW	LOW	MEDIUM	HIGH	VERY HIGH
CERTAIN	EXTREME	VERY HIGH	HIGH	MEDIUM	LOW	LOW	MEDIUM	HIGH	VERY HIGH
HIGHLY LIKELY	EXTREME	VERY HIGH	HIGH	MEDIUM	LOW	LOW	MEDIUM	HIGH	VERY HIGH
LIKELY	EXTREME	VERY HIGH	HIGH	MEDIUM	LOW	LOW	MEDIUM	HIGH	VERY HIGH
UNCERTAIN	EXTREME	VERY HIGH	HIGH	MEDIUM	LOW	LOW	MEDIUM	HIGH	VERY HIGH

RATING									
NEGATIVE / ADVERSE					POSITIVE				
EXTREME	VERY HIGH	HIGH	MEDIUM	LOW	LOW	MEDIUM	HIGH	VERY HIGH	

The tables that follow illustrate the key human rights impacts, both positive and adverse, identified by the HRIA in the Kenyan smallholder tea supply chain based on the above risk matrix. The impacts are prioritised based on their impact rating, and the stakeholders affected by the impacts are identified. The tables outline the following: 1) positive impacts, 2) very highly and highly negative impacts, 3) medium negative impacts, and 4) potential negative impacts.

See the tables on the next page →

	Male Smallholder Farmers	Female Smallholder Farmers	Male Hired Labourers	Female Hired Labourers	Migrant Male Hired Labourers	Migrant Female Hired Labourers	Male Factory Workers	Female Factory Workers	Seasonal Factory Workers Hired Through Employment Agencies	Children
Right to Just and Favourable Conditions of Work - Regular Employment: tea is a regular source of income	■	■	■	■	■	■				
Right to Just and Favourable Conditions of Work - Regular Employment: factory workers have written employment contracts							■	■	■	
Right to Just and Favourable Conditions of Work: H&S policies in the factories and provision of PPE for factory workers							■	■	■	
Freedom from Forced Labour: policies and training at factories; trainings by tea extension officers for smallholders	■	■					■	■	■	
Right to Non-discrimination and Equality: no reported differences in pay between male and female hired labourers performing the same jobs on farms or factory workers in factories.	■	■	■	■	■	■	■	■	■	
Right to Non-Discrimination and Equality: women can access high-skilled positions								■		
Right to Non-Discrimination and Equality: gender committees in KTDA factories							■	■	■	

POSITIVE IMPACTS

ADVERSE IMPACTS: VERY HIGHLY AND HIGHLY NEGATIVE

	Male Smallholder Farmers	Female Smallholder Farmers	Male Hired Labourers	Female Hired Labourers	Migrant Male Hired Labourers	Migrant Female Hired Labourers	Male Factory Workers	Female Factory Workers	Seasonal Factory Workers Hired Through Employment Agencies	Children
Right to an Adequate Standard of Living: low incomes for smallholders	■	■								
Right to an Adequate Standard of Living: low wages for hired labourers			■	■	■	■				
Right to a Clean, Healthy, and Sustainable Environment: impacts of climate change	■	■	■	■	■	■				
Right to Just and Favourable Conditions of Work - Regular Employment: seasonal workers converted to seasonal agency workers									■	
Right to Just and Favourable Conditions of Work - Regular Employment: casual nature of work and lack of written contracts			■	■	■	■				
Right to Non-Discrimination and Equality - Gender: lack of equal access to trainings, participation as KTDA members, control over income, and ability to bargain for higher wages		■		■		■				
Right to Health: accessibility and quality of healthcare/medical attention	■	■	■	■	■	■				
Right to Safe and Healthy Working Conditions: injuries, accidents, and lack of PPE	■	■	■	■	■	■				
Freedom of Association: low levels of union membership	■	■	■	■	■	■			■	
Right to Effective Remedy: lack of effective grievance mechanism at factories							■	■	■	
Right to Land: smallholder plots are shrinking in size and limited land ownership for women	■	■								

	Male Smallholder Farmers	Female Smallholder Farmers	Male Hired Labourers	Female Hired Labourers	Migrant Male Hired Labourers	Migrant Female Hired Labourers	Male Factory Workers	Female Factory Workers	Seasonal Factory Workers Hired Through Employment Agencies	Children
ADVERSE IMPACTS: MEDIUM										
Right to Non-Discrimination and Equality: gender imbalance in overall factory workforces and in technical roles										
Right to Organise and Collective Bargaining: limited ability for collective bargaining via formal (union) procedures										
Right to Just and Favourable Conditions of Work - Working Hours: Excessive working hours and lack of monitoring										
Right to an Adequate Standard of Living - Housing: variable quality of housing										
Right to an Adequate Standard of Living - Water: quality and availability of drinking water										

	Male Smallholder Farmers	Female Smallholder Farmers	Male Hired Labourers	Female Hired Labourers	Migrant Male Hired Labourers	Migrant Female Hired Labourers	Male Factory Workers	Female Factory Workers	Seasonal Factory Workers Hired Through Employment Agencies	Children
ADVERSE IMPACTS: POTENTIAL*	Freedom from Forced Labour: increasingly 'casualised' working patterns for hired labourers, risking labour exploitation and forced labour									
	Freedom from Forced Labour - Debt Bondage: difficulty with repaying loans risks ending up in a cycle of borrowing to pay back previous loans									
	Freedom from Sexual Harassment and Abuse									
	Freedom from Child Labour									
	Right to Education: low school attendance rates due to inability to pay school fees									

*These impacts were not identified through field interviews undertaken as part of this HRIA; however they potentially exist according to desktop research or contextual factors.

Awareness and Perception of the Tea Act

At the time of the field research (November to December 2021), the full implementation of the Tea Act has been delayed due to the COVID-19 pandemic and ongoing legal challenges. Its full effects have therefore yet to be seen, reflected in the cautious optimism of the majority of respondents. The table below gives an overview of the level of awareness and the perceptions of the Tea Act from the stakeholders consulted – both from tea-producing communities and KTDA factories.

COMMUNITIES

Awareness

- ◇ The majority of smallholders in each factory area were aware of the Tea Act
- ◇ In all factory areas, more male than female smallholders were aware of the Tea Act
- ◇ Only a small fraction of hired labourers were aware of the Tea Act

Perception

- ◇ Positive impacts: optimism that Act will help falling tea prices
 - Minimum reserve prices
 - Timely monthly payments
 - Stabilization of prices
 - Reforms to factory management and increased ownership over factories
- ◇ Reservations: Uncertainty over how bonuses are paid, loss of income from direct sales, worry over increased government control and politicisation of the sector, lack of clarity and information for smallholders

KTDA FACTORIES

Awareness

- ◇ All factory management and the majority of factory workers were aware of the Tea Act

Perception

- ◇ Positive impacts: Improved prices for smallholders, reduced brokerage fees, improved regulation of the sector, set minimum prices, reduced overhead
- ◇ Possible drawbacks: Management turnover may impact organisational knowledge, reduced management fees may reduce services provided to farmers, farmers lose revenue from direct sales, nurseries must be registered at a fee, tea transporters will lose jobs, politicisation of the sector and slow implementation of regulations

Awareness and Perception of Fairtrade

Stakeholders in the communities and the KTDA factories were consulted to understand their views of Fairtrade and to gauge the impact that selling tea on Fairtrade terms has on the communities. All who were aware of Fairtrade held very positive opinions, stating that the premiums benefit the whole communities. See the below table for an overview of the level of awareness and the perception of Fairtrade amongst the stakeholders consulted.

COMMUNITIES

Awareness

- ◆ Level of awareness varied among factory areas
- ◆ Men generally more knowledgeable than women and more active on Fairtrade committees
- ◆ Large majority of hired labourers unaware of Fairtrade

Perception

- ◆ Highly positive: community members (smallholders, labourers, key informants) stated that Fairtrade helps improve tea prices, ensure good working conditions, and create community projects
- ◆ Projects benefited whole communities: e.g., improvements to local health care facility, a community van sharing service, toilets built in local schools, patching local roads

KTDA FACTORIES

Awareness

- ◆ All KTDA management and majority of staff aware of Fairtrade, though no interviewed staff were on the Fairtrade committee

Perception

- ◆ Very positive: saw the benefits for both smallholders and the larger community

Root Causes

The root causes of the identified adverse impacts are complex and often overlap, as no one issue can be explained through examination of only one factor. However, the root causes of the adverse impacts generally fell into three broad categories.

Social and Environmental



- ◇ Systemic gender inequalities and societal gender norms
- ◇ Irregular and diminished harvests due to climate change
- ◇ Growing populations in farming areas
- ◇ Irregular nature of hired labour
- ◇ Social norms regarding child labour
- ◇ COVID-19

Policy and Governance



- ◇ Lack of available community services
- ◇ Lack of monitoring and enforcement of labour policies
- ◇ Lack of education on financial management
- ◇ Lack of protection for labour rights

Economic



- ◇ Length of smallholder tea supply chain
- ◇ Falling tea prices and rising costs of living
- ◇ High costs of inputs for tea farming
- ◇ Pressure to cut overhead costs of tea production

It is clear that elements of all three categories interact to drive an adverse impact. For example, low tea prices and high costs for PPE (economic) may increase the likelihood that tea farmers and hired labourers are not well protected during their work, which, combined with limited healthcare services and infrastructure (policy and governance) and pressure to work even in unfavourable conditions due to irregular harvests (social and environmental), create a high risk of unsafe working conditions.

Due to the confluence of root causes that may interact to create any one impact, a combination of short-term actions and systemic change can work to generate increased positive impacts and strengthen human rights throughout the supply chain.

Recommendations

Linkage and Leverage

The United Nations Guiding Principles on Business and Human Rights (UNGPs) and the Organisation for Economic Cooperation and Development's (OECD) Due Diligence Guidance for Responsible Business Conduct classify the relationship between a company and adverse impacts in a supply chain in which it takes part into three categories:

1. Causing
2. Contributing to
3. Directly linked to

This classification is important, as these categories determine the responsibility of a company in terms of remediation. To illustrate, the UNGPs indicate that businesses owe remediation for a certain impact when they 'cause' or 'contribute to' the human rights impact, but not when they are only 'directly linked to' it. However, in a case where the latter applies, a company is expected to use its leverage to prevent or mitigate the impact.

In the context of this HRIA, M&S and Waitrose are not found to cause or contribute to the adverse impacts identified, as many of the root causes of the impacts are far outside the control of the companies (e.g., policy frameworks and environmental factors). Their participation in the supply chain, however, may directly link them to the root causes of these impacts. Linkage to a particular adverse impact does not necessarily necessitate action on the part of the companies, but it does help identify areas where the companies may be best positioned to exert leverage to address the impact.

As such, the HRIA has identified 7 key recommendations for M&S and Waitrose to address the most severe adverse human rights impacts and drive both immediate and systemic change in the Kenyan smallholder tea supply chain, taking into consideration the severity of the impacts identified and the results of the root cause analysis. The recommendations are based on conversations with workers and other key stakeholders and draw on best practice examples in the tea (or similar) industries. The key actions are recommended for Waitrose and M&S but should also include additional key stakeholders needed to successfully implement next actions.

Key Recommendations

This section provides suggestions and ideas for future action steps categorised per severity of the impact addressed. The column on the left side of the graphic explains the impact that can be addressed when the recommendation is implemented.

	Impacts Addressed	Recommended Action
1	<p style="writing-mode: vertical-rl; transform: rotate(180deg); font-weight: bold; margin: 0;">VERY HIGH</p> <ul style="list-style-type: none"> • Low income • Lack of a defined living wage for smallholders and hired labourers in the smallholder tea context 	<p>Evaluating living income for smallholders and living wage for hired labourers and factory workers respectively and evaluating the price paid for tea per kilo.</p>

As many smallholders and hired labourers struggle to pay for necessities and medical expenses – particularly considering the impacts of COVID-19 and the ongoing implementation of the Tea Act – it is important that farmers receive a living income and hired labourers a living wage to be able to afford a decent standard of living for all household members.

Though M&S and Waitrose only purchase a fractional amount of the tea produced and sold globally, action in this area would still constitute a valuable step in achieving this reality.

Paying a living wage or a living income is a complex undertaking. M&S and Waitrose could engage with

organisations already working on such a living wage and living income benchmark in the Kenyan smallholder tea sector in order to amplify sector-wide impact. For example, 1) Rainforest Alliance is launching a living wage study in the tea growing regions in Kenya and might continue with a living income benchmark, 2) Fairtrade conducted a Tea Standards and Pricing Review in 2020-2021, and 3) the Global Living Wage Coalition undertook [a living wage study in rural Mount Kenya](#) to establish a living wage benchmark in the region. M&S and Waitrose could engage with these organisations to discuss lessons learned and findings applicable

to the Kenyan smallholder tea sector. In addition, M&S and Waitrose could initiate undertaking a living wage gap study (using the IDH Salary Matrix) to gain insight into alignment with living wage benchmarks for workers in this sector.

In addition, Fairtrade has developed a holistic Fairtrade Living Income Strategy to close the income gap. M&S and Waitrose could discuss this strategy with Fairtrade to see if they could apply this to the smallholders tea sector in Kenya as well and how this strategy fits with current Fairtrade Premium Prices.

	Impacts Addressed	Recommended Action
2	<p>VERY HIGH</p> <ul style="list-style-type: none"> Climate change 	<p>Strengthening financial knowledge and empowerment of smallholders and hired labourers through alternative income-generating activities for smallholders and financial empowerment trainings.</p>

Many smallholders and hired labourers reported taking out loans with employers or local co-operatives, often with very high interest rates, leading to a limited ability to pay back loans and creating a cycle of loan debt. The KTDA is working on long-term financial empowerment training in tea-farming communities, and it is recommended that M&S and Waitrose engage with KTDA to see how they could support these trainings to accelerate and amplify their impact.

Additionally, both smallholders and hired labourers also reported engaging in additional income-generating activities, including growing other crops and dairy farming. These efforts, however, are only viable for people with access to plots of land large enough to support multiple types of farming activities. Several organisations are currently

working on assisting with both agricultural and non-agricultural income diversification and increased crop yields, including the KTDA, Rainforest Alliance, and Fairtrade. M&S and Waitrose could explore opportunities for collaboration with these organisations on programming related to income diversification and production productivity. Income-diversification and crop-diversification programmes can also support with increasing smallholders' resilience to climate change impacts. According to a [study](#) from the Food and Agriculture Organisation (FAO), crop diversification serves as an important climate risk management strategy, especially for the poorest farmers. It can protect natural biodiversity, reduce the risk of total crop failure, reduce incidences of insect pests and provide producers with alternative means of generating income.

	Impacts Addressed	Recommended Action
3	<p>HIGH</p> <ul style="list-style-type: none"> Lack of access to trade unions and effective grievance mechanisms <p>MEDIUM</p> <ul style="list-style-type: none"> Limited access to collective bargaining mechanisms 	<p>Strengthening worker representation and access to grievance mechanisms.</p>

This study found that seasonal factory workers hired through employment agencies were not able to access the same representation structures as permanent workers, and both seasonal and permanent workers in all factories stated that

reporting mechanisms generally worked through supervisors, meaning that if there is an issue with a supervisor, it is difficult to go around them to seek redress. M&S and Waitrose could therefore engage with the KTDA to strengthen grievance mechanisms.

- Discussions with the KTDA during the research process found that the KTDA does have an internal anonymous reporting process where workers in the factories write complaints and place them in boxes to be reviewed by management. While this is a positive finding, it does not represent a robust grievance mechanism for factory workers and no factory workers mentioned it when asked about the subject. M&S and Waitrose could support the KTDA in developing a third party complaints procedure. There are various options, such as digital options that allow complainants to submit complaints digitally and track the status of their complaint.
- During the validation workshop, representatives from the Kenya Plantation and Agricultural Workers Union (KPAWU) stated that seasonal factory workers hired through employment agencies are eligible for Union protection. M&S and Waitrose could reach out to KPAWU and inquire about the status of these workers

and encourage KPAWU to engage with the employment agencies and factories to promote membership to this group of workers, then follow up periodically on progress made in facilitating seasonal factory workers' inclusion into the Union. In addition, encouraging electing seasonal/agency workers as shop stewards to represent the seasonal workers could increase accessibility to worker representation for this group.

- Ensure that hired labourers and farmers have the ability to submit complaints anonymously through partnership with local CSOs and NGOs, for example, the East Africa Tea Trade Association (EATTA) and the Kenya Tea Growers' Association (KTGA). Waitrose and M&S could support these organisations in creating boxes easily accessible at buying centres and collection points for daily collection by Farm Extension Officers and/or by implementing a hotline or technology-based grievance mechanism.

Key documents referenced: [Handbook Effective Grievance Mechanisms, Fund for Responsible Business \(FVO\) – Netherlands Enterprise Agency;](#)

[Corporate Human Rights Benchmark Methodology; World Benchmarking Alliance; Fairtrade Standard for Small-scale Producer Organizations](#)

Impacts Addressed	Recommended Action
<div style="display: flex; align-items: center;"> <div style="background-color: #007060; color: white; padding: 5px; margin-right: 10px;">4</div> <div style="background-color: #e91e63; color: white; padding: 10px; border-radius: 5px;"> <p style="font-size: 8px; margin: 0;">VERY HIGH</p> <p style="margin: 0;">Lack of safe and healthy working conditions mechanisms</p> </div> </div>	<p>Increasing availability and affordability of PPE to reduce the risk of injuries from tea farming activities for smallholders and hired labourers. Supporting the distribution of PPE to farmers and labourers.</p>

The majority of smallholders and hired labourers reported having been injured by their work in tea farming (cuts and bruises, muscle aches, pneumonia from the cold), and a lack of PPE was also noted. Both accessibility and cost were mentioned as prohibitive factors in the usage of PPE in tea farming activities. M&S and Waitrose could engage in dialogue with the KTDA on methods to support SPO Standard 3.2.5 regarding PPE when using chemicals and SPO Standard 3.3.34 on PPE provision through strategies to both acquire and distribute PPE to smallholders and hired labourers.

- Develop a risk assessment of the tea industry in terms of PPE indicating where PPE is essential, good to have, and what type of PPE is needed during which tasks. This will set a good benchmark for all in the industry and provide clarity to all where PPE is non-negotiable.
- Engage with civil society and local governmental

organisations to better understand the issues preventing the provision of PPE to tea farmers and identify areas that M&S and Waitrose could act to resolve these issues.

- Access to PPE is not enough to ensure that it is worn consistently. For that, changes in mindset and behaviour are required. M&S and Waitrose could provide trainings to local supply chain actors such as KTDA management, factory workers, smallholders, hired labourers, and community members on the importance and benefits of proper PPE to accelerate this behavioural change.

Work with the KTDA to develop an enabling environment for the reporting of injuries and safety issues, e.g., an anonymous reporting system, a hotline for injury support, or a channel for smallholders and hired labourers to request support in receiving PPE.

5

Impacts Addressed

VERY HIGH

- Gender discrimination
- Sexual harassment and abuse

Recommended Action

Increasing awareness of GBVH and women's rights in both the farm and factory contexts and working to combat gender discrimination in the smallholder supply chain.

Female factory workers, hired labourers and smallholders are the most vulnerable actors in the smallholder tea supply chain (this is not inherent to the tea sectors) specifically and is an issue across sectors. Tackling the root causes of gender discrimination cannot be done solely by M&S and Waitrose – different smallholders, such as local civil society, women's organisations and the KTDA could be engaged to create lasting systemic change.

There are several interventions that M&S and Waitrose could implement, with the support of KTDA, to prevent sexual harassment and abuse in tea factories, smallholder settings and tea buying and collection centres, and fight gender discrimination in line with Fairtrade standards 3.3.1-3.3.4. For example, to address Gender-Based Violence and Harassment (GBVH) in the sugarcane industry in the Philippines, the Network of Asia and the Pacific Producers (NAPP) and Fairtrade, introduced the '[The Youth Inclusive Community Based Monitoring and Remediation \(YICMBR\)](#)' programme together with child rights organisations, farmers, workers, and community members, including children and young people. The YICBMR programme included training on gender awareness and GBVH. Learnings from these and other previous, similar programmes could inform the below proposed interventions for M&S and Waitrose on addressing sexual harassment and abuse in supply chains:

- Roll out women's empowerment initiatives such as financial literacy training, upskilling programmes, and initiatives to encourage positive gender norms in partnership with local partners.
- Ensure that both female factory workers as well as hired labourers and farmers have the possibility to submit complaints about harassment anonymously, for example through creating boxes easily accessible for women and implementing a technology-based gender-sensitive grievance mechanism. There are various third-party organisations that could support with implementing such a gender-sensitive grievance mechanism system – such as [Business for Social Responsibility](#).

- Provide gender-related trainings to all the actors in the supply chain such as KTDA management, factory workers, smallholders, hired labourers as well as community members. These trainings could include a section on gender, gender discrimination and gender issues in the workplace, and on sexual harassment and abuse (explaining the definition, the impact and how to prevent it). Additional specialised trainings could be implemented for gender response staff on providing psychological first aid to guide interactions with survivors.
- Undertake a safety study – through women's organisations – with female workers and smallholders to identify potential areas where workers feel unsafe, for example by getting workers to visually map safe and unsafe areas in the workplace, journeys to and from the workplace, and in and around the farm. Additional risks could emerge from these studies and if they do, M&S and Waitrose could work together with these women's organisations and female workers to implement solutions to mitigate identified risks.

In addition, M&S and Waitrose could work with Ringtons to ensure supplier codes of conduct and standards regarding gender-based discrimination are promulgated throughout all levels of the supply chain, in line with international best practice guidance.

6

Impacts Addressed

VERY HIGH

- Child labour

Recommended Action

Developing a better understanding of the role of children in the Kenyan smallholder tea supply chain.

Stakeholders interviewed for this study reported seeing children working on tea farms, but the scope of the research did not reveal the in-depth information about the tasks, working hours and health impacts of tea farming activities for these children necessary to adequately assess the risk of child labour. M&S and Waitrose could undertake a follow-up assessment focused specifically on the

role of children in the Kenyan smallholder tea supply chain. An assessment with a participatory, child's-rights methodology tailored to understanding the roles of children in the supply chain could facilitate an in-depth and nuanced understanding of this potential risk and areas for possible mitigation and remediation actions.

7

Impacts Addressed

VERY HIGH

- Cross-cutting

Recommended Action

Raising awareness of human rights and labour standards for smallholders, hired labourers, and factory workers throughout the supply chain.

A clear understanding of the issues at hand is crucial to developing strategies to strengthen human rights throughout the supply chain. As such, it is important that actors at all levels of the supply chain, from consumers to producers, gain awareness of pressing issues in the sector.

Awareness

As an initial step, M&S and Waitrose could work to increase understanding of both the adverse impacts present and opportunities to address these impacts in the Kenyan smallholder tea supply chain. Stakeholders throughout both these companies' supply chains and actors working in various capacities in the smallholder tea sector (e.g., civil society, local government, international organisations) need to be made aware of the HRIA findings through the publication of this summary.

Simultaneously, Waitrose and M&S could work to strengthen knowledge of human rights issues and areas for improvement for actors in their supply chains by working with Ringtons to promulgate the findings of the report to targeted post-tier-1 suppliers. Through collaboration with the KTDA and their extension officers, the results of the findings could also be made accessible to the groups of rights-holders consulted during the research. This could include translation into local languages and into pictorial representations of the findings.

Engagement

M&S and Waitrose could engage with supply chain actors both domestically and internationally to facilitate the development of an enabling environment for future collaborative actions to strengthen human rights in the smallholder tea supply chain.

For example, through:

- Working with Ringtons to ensure supplier codes of conduct and standards for workers' rights are promoted throughout all levels of the supply chain.
- Opening dialogue with the KTDA regarding the findings of the HRIA and discussion of areas where Waitrose and M&S could collaborate with the KTDA to support their current and future programs for smallholders and hired labourers (e.g., crop diversification programming, financial empowerment programs, behaviour change programs regarding gender norms, etc., as discussed above).
- Engaging with producers on the possibility of receiving more in-depth reporting in order to better understand areas for engagement and where M&S and Waitrose could effectively target resources and future actions.



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