

NOT MY CUP OF TEA

EVERYWHERE AROUND THE WORLD PEOPLE DRINK TEA. BUT HOW DOES THIS POPULAR DRINK END UP IN YOUR TEA CUP? YOUR SUPERMARKET OR LOCAL TEA SHOP WILL HAVE BOUGHT THEIR TEA AT THE END OF A LONG CHAIN WHERE PICKERS ARE TRAPPED IN THE LOWEST EMPLOYMENT POSITIONS ON THE PLANTATION. THE PRICE OF YOUR CUP OF TEA CAN BE VERY HIGH INDEED.

A report by LexisNexis® and STOP THE TRAFFIK to investigate the link between tea and human trafficking.



STOP THE TRAFFIK.
PEOPLE SHOULDN'T BE BOUGHT & SOLD

DEFINITION OF TERMS

HUMAN TRAFFICKING

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons”; “Child” shall mean any person under eighteen years of age.

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FORCED LABOUR

Forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

BONDED LABOUR/DEBT BONDAGE

The status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of these services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.



CHILD WORK

In some developing countries around the world it is seen as normal for children to engage in work e.g. helping on their parents' farm. Child work remains a means of socialization and education, and skills development prepares children for their future adult life. Parents, relatives or community members may be involved in training the child in a particular trade. That said, it should also be noted that children have rights as stated in the UN Convention on the Rights of the Child, "which include rights to adequate food, shelter, clean water, formal education, primary health care, leisure and recreation, cultural activities and information about their rights."

CHILD LABOUR

The International Labour Organisation characterises the term "child labour" as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that is mentally, physically, socially or morally dangerous and harmful to children; interferes with their schooling by depriving them of the opportunity to attend school; obliging them to leave school prematurely;

or requiring them to attempt to combine school attendance with excessively long and heavy work. The ILO Minimum Age for Employment Convention (C138) delimits the age at which children are allowed to work as age 15. Light work, as long as it does not hamper school attendance, is allowed at 13 and 14.

THE WORST FORMS OF CHILD LABOUR (WFCL)

The WFCL is defined by Article 3 of ILO Convention 182:

- ⇒ "all forms of slavery or practices similar to slavery, such as the sale and trafficking of children;
- ⇒ the use, procuring or offering of a child for prostitution;
- ⇒ the use, procuring or offering of a child for illicit activities;
- ⇒ work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children."

FACTS & FIGURES ON HUMAN TRAFFICKING

Traffickers range from opportunistic individuals to criminal organisations to employment recruiting companies, experts say. Victims don't fit a single profile, varying in gender, age, education level, origin and other factors. The control exercised over a victim by a trafficker is sometimes physical and always psychological. "Many times the trafficker is keeping them in a state of limbo and hope, that this will somehow get better if they just comply with a set of demands or requirements or obligations," says Gary Haugen, a former Justice Department official and founder of International Justice Mission.

Due to the hidden and illegal nature of human trafficking, gathering statistics on the scale of the problem is difficult.

Luis CdeBaca, Ambassador-at-Large, Office to Monitor and Combat Trafficking in Persons at the US government: "In 2013 there were 4,746 convictions of human trafficking worldwide, which was an upward trend from 2012."

Profits from human trafficking are estimated by the International Labour Organisation (ILO) to be \$US 150 billion annually.¹ The estimated amount of money spent on addressing human trafficking is just US\$350 million.² The 2015 Global Slavery Index estimates that there are 35.8 million people in modern slavery globally.³ Matt Friedman, an international human trafficking expert, says that "there are 7 million new victims a year, 19,200 a day, 800 an hour or one new victim every five seconds".⁴





**THERE ARE
7 MILLION
NEW HUMAN
TRAFFICKING
VICTIMS A YEAR
PER HOUR**

THE HUMAN TRAFFICKING AWARENESS INDEX

This report focuses on the 2,107 English language articles identified in the LexisNexis® Human Trafficking Awareness Index™ directly relating to human trafficking and the tea industry, in the period 1st January 2013–1st September 2015.

Using a licensed collection of the most influential news sources from more than 120 countries, the LexisNexis® Human Trafficking Awareness Index™ measures media coverage of human trafficking to highlight key trends at national and global levels.

The Index is designed to support the work of campaigners, organisations and others who are interested in understanding perceptions of human trafficking in the media. This report was developed in partnership with STOP THE TRAFFIK as part of this Rule of Law initiative.

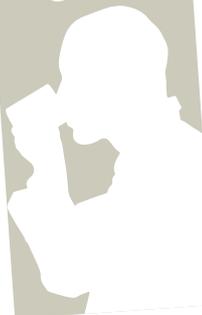
For further information on the LexisNexis® Human Trafficking Awareness Index™ please visit the [LexisNexis blog](#).

OVER

3

BILLION

cups of tea
are drunk
every day
across the
globe



consumption
has grown by

60%

in the last

20
YEARS



5.03
MILLION
METRIC
TONS

of tea was
produced
globally in
2014

CHINA,
INDIA,
KENYA &
SRI LANKA

are the 4
biggest
tea-growing
countries



BASIC FACTS ON THE TEA INDUSTRY

- ➔ Next to water, tea is the world's most popular drink.
- ➔ Globally, people drink over 3 billion cups of tea every day.
- ➔ Consumption has grown by 60% in the last 20 years and is expected to continue to increase extensively.
- ➔ In 2014, 5.03 million metric tons of tea was produced globally, 1.82 million of which was exported.
- ➔ The four biggest tea growing countries (from largest to smallest) are China, India, Kenya and Sri Lanka.

THE SUPPLY CHAIN

TEA PLANTATION

Tea comes from the bush *Camellia Sinesis*. Most tea is produced on large plantations, but it is also grown on much smaller plots of land by smallholder farmers. In India, the average size of a smallholder tea farm is around 1.25 hectares, while the average size of a tea plantation is 250 hectares.⁵ Smallholders make up only 30% of India's tea producers, while Kenya has 60% of tea produced by smallholders.⁶

FACTORY

The tea is sent to processing plants to be dried, fermented and cut. Large estates normally have their own processing plants, while smallholders send their tea to external processing factories.

AUCTION/ INTERNATIONAL TRADER

The tea is sold to buyers at auction. This trade is normally facilitated by brokers. 70% of tea globally is sold through auctions.⁷

TEA COMPANY

Once tea companies have bought the tea, it may go through further stages of blending before being packed and sold at retail. The packing, marketing and retail are the most profitable stages of the tea supply chain, and are controlled mainly by multinational companies.

SUPERMARKET

The packaged tea is sold in shops.



WHAT IS THE LINK BETWEEN THE TEA INDUSTRY AND TRAFFICKING?

The tea supply chain has many stages – but it is on the plantations in India where the tea is grown and harvested that there is a real problem of human trafficking. People who live and work on the plantations are targeted by human traffickers and are trafficked into forced labour, domestic servitude and the sex industry.

OF ALL THE TEA PRODUCING COUNTRIES, THERE HAS BEEN MOST FOCUS ON THE HUMAN TRAFFICKING PROBLEM IN INDIA'S TEA PLANTATIONS. The 2015 US State Department Trafficking in Persons report states: 'West Bengal continues to be a source for trafficking victims, with children more increasingly subjected to sex trafficking in small hotels, vehicles, huts, and private residences than traditional red light districts.'⁸

UNICEF UK Executive Director David Bull has commented on the problem in human trafficking in the Assam region of India: "Children growing up in Assam's rural tea communities face huge problems, especially girls. Many leave school early and child marriage

is common. They are vulnerable to a range of threats including trafficking, exploitative and bonded labour."⁹

The low wages and poor living conditions faced by workers on tea plantations are important contributing factors to the large numbers of people trafficked. Plantation workers in Assam are paid 115 rupees a day – well under the 177 rupee minimum wage for Assam.¹⁰ Plantation owners have little incentive to pay higher wages since, under India's Plantations Labour Act, it is legal for workers on tea plantations to be paid cash wages below the minimum wage due to non-cash benefits they receive such as housing, schools and sanitation.

The poverty faced by workers makes it easier for traffickers to lure them away from the plantations. Traffickers make false promises that they will find workers or their children better jobs in nearby cities – but instead the workers and children who go with the traffickers find themselves exploited for profit.



SINCE POVERTY AND LOW QUALITY OF LIFE ARE FREQUENTLY FACTORS THAT CONTRIBUTE TO VULNERABILITY TO TRAFFICKING, THIS REPORT WILL EXAMINE THE CONDITIONS FOR TEA WORKERS IN KENYA AND SRI LANKA AS WELL AS INDIA.

The connection between poor working conditions and trafficking is recognised by local activists in the tea regions. Raphall Kujur, President of the All Adivasi Students' Association of Assam states: "Every year girls from the tea gardens of Assam are trafficked for exploitation. The Government has failed to address the trend. Although poverty and lack of awareness contribute to the menace, no concrete action plan on the part of the police or those at the helm of affairs, has aggravated the problem."¹¹

Tea plantations in Kenya and Sri Lanka have been subject to less media coverage, although the US Government's 2015 Trafficking in Persons report notes some evidence that there is trafficking of people out of Sri Lanka's tea gardens.¹²

There are, however, extensive reports on the poor conditions experienced by tea workers in these countries. Since poverty and low quality of life are frequently factors that contribute to vulnerability to trafficking, this report will examine the conditions for tea workers in Kenya and Sri Lanka as well as India.

"MY WHOLE LIFE I KEPT ON PLUCKING, DOING THE PLANTATION WORK. BUT I DIDN'T WANT THAT MY DAUGHTER SHOULD DO IT, SO I THOUGHT THAT IF SHE STUDIES WELL, SHE CAN HAVE A DECENT FUTURE. I WAS VERY CONCERNED ABOUT HER FUTURE. BUT THE TRAFFICKER WAS PERSUASIVE. HE FILLED SOMILA'S HEAD WITH STORIES OF DELHI AND THE BETTER LIFE SHE COULD HAVE THERE. TWO DAYS BEFORE MY DAUGHTER WAS KIDNAPPED THIS AGENT, THE TRAFFICKER, CAME AND GAVE HER A LOT OF TEMPTING IDEAS THAT IF YOU GO WITH ME, YOU WILL BE HAPPY, THINGS LIKE THAT."
RAMESH, WORKER AT NAHORAMI TEA PLANTATION IN ASSAM¹³

TWO STORIES OF THOSE AFFECTED BY TRAFFICKING

"I WAS TEMPTED WITH A DECENT JOB AND I WAS TOLD THAT SINCE I AM A LITTLE BIT EDUCATED I WILL FIND A GOOD JOB IN AN OFFICE OR AT A SHOP, SO COME WITH US AND YOU WILL EARN GOOD MONEY AND WE WERE POOR SO I THOUGHT IT WOULD BE GOOD [...] I WAS ABUSED BADLY AT THAT SECOND PLACE. THAT MAN WAS VERY BAD: HE USED TO TOUCH ME IN MY PRIVATE PARTS AND TRY TO RAPE ME. I WAS VERY ANGRY, BUT I HAD NOWHERE TO GO AND I DID NOT WANT TO STAY THERE."
SOMILA, TRAFFICKING SURVIVOR¹⁴

MAIN TEA PRODUCING COUNTRIES: FACTS

INDIA

- ⇒ India is the world's second largest producer of tea and fourth largest exporter of tea.¹⁵
- ⇒ In 2013 it produced 1200.4 thousand metric tons of tea, and of this it exported 209.2 thousand metric tons of tea¹⁶.
- ⇒ In 2014–2015 India's tea exports were valued at \$619.96 million.

THE TEA SECTOR IS THE COUNTRY'S SECOND LARGEST EMPLOYER AFTER THE INDIAN RAILWAYS – AND IT IS THE LARGEST PRIVATE EMPLOYER OVERALL. MORE THAN ONE MILLION PEOPLE WORK FULL-TIME IN THE TEA INDUSTRY AND THE NUMBER OF TEMPORARY JOBS CAN BE UP TO TWO MILLION, PARTICULARLY IN HIGH SEASON WHEN ADDITIONAL WORKERS ARE REQUIRED TO HARVEST THE TEA LEAVES.¹⁷

- ⇒ Assam and West Bengal are the centres of tea production in India. Approximately 17% of the workforce in Assam are employed in the tea industry and around half of those who work in the tea plantations in Assam are women.¹⁸

KENYA

- ⇒ Kenya is the third largest producer of tea and the largest exporter of black tea.¹⁹ In 2013 Kenya produced 436 thousand metric tons of tea, and of this 415.9 thousand metric tons were exported.²⁰
- ⇒ It is estimated that 3 million people in Kenya are directly or indirectly employed by the country's tea industry. Unilever Tea Kenya is the largest private sector employer in the country.²¹

KENYA IS THE LARGEST PRODUCER OF INDEPENDENTLY CERTIFIED TEA – TEA THAT HAS BEEN ACCREDITED BY ORGANISATIONS LIKE FAIRTRADE INTERNATIONAL AND RAINFOREST ALLIANCE. IN 2011/12 40% OF THE WORLD'S CERTIFIED TEA WAS PRODUCED IN KENYA AND 18% WAS PRODUCED IN INDIA.²² KENYA'S LARGE PROPORTION OF CERTIFIED TEA IS MAINLY DUE TO ITS LARGE VOLUME OF EXPORT TO WESTERN COUNTRIES WHERE DEMAND FOR CERTIFIED TEA IS HIGH. IN 2006, MORE THAN HALF THE VOLUME OF THE UK'S TEA WAS SOURCED FROM KENYA.²³

- ⇒ Unlike India where 60–70% of tea is grown on large plantations owned by multinational companies, in Kenya an estimated 560,000 smallholders account for 62% of overall tea production.²⁴

SRI LANKA

SRI LANKA'S TEA INDUSTRY STARTED WITH ONE TEA PLANT – *CAMELLIA SINENSIS* – BROUGHT FROM CHINA IN 1824 BY THE BRITISH. IT HAS SINCE GROWN INTO THE FOURTH LARGEST PRODUCER OF TEA AND THE THIRD LARGEST EXPORTER.

- ⇒ In 2013 Sri Lanka produced 343.1 thousand metric tons of tea.²⁵
- ⇒ The country is the world's third largest exporter of tea: in 2013 it exported 311 thousand metric tons of tea.²⁶

- ⇒ Only a small percentage of Sri Lanka's tea is exported to western markets. In 2013 Sri Lanka exported 6,668 metric tons of tea to Germany, 4,131 metric tons to the United States and 2,822 metric tons to Australia.²⁷ The country mainly exports to the Russian Federation (46,374 metric tons), Iran (39,648 metric tons) and Turkey (32,235 metric tons).
- ⇒ In Sri Lanka, 400 000 smallholders account for 76% of overall tea production.²⁸

KENYA

THIRD
largest
producer



INDIA

SECOND
largest
producer



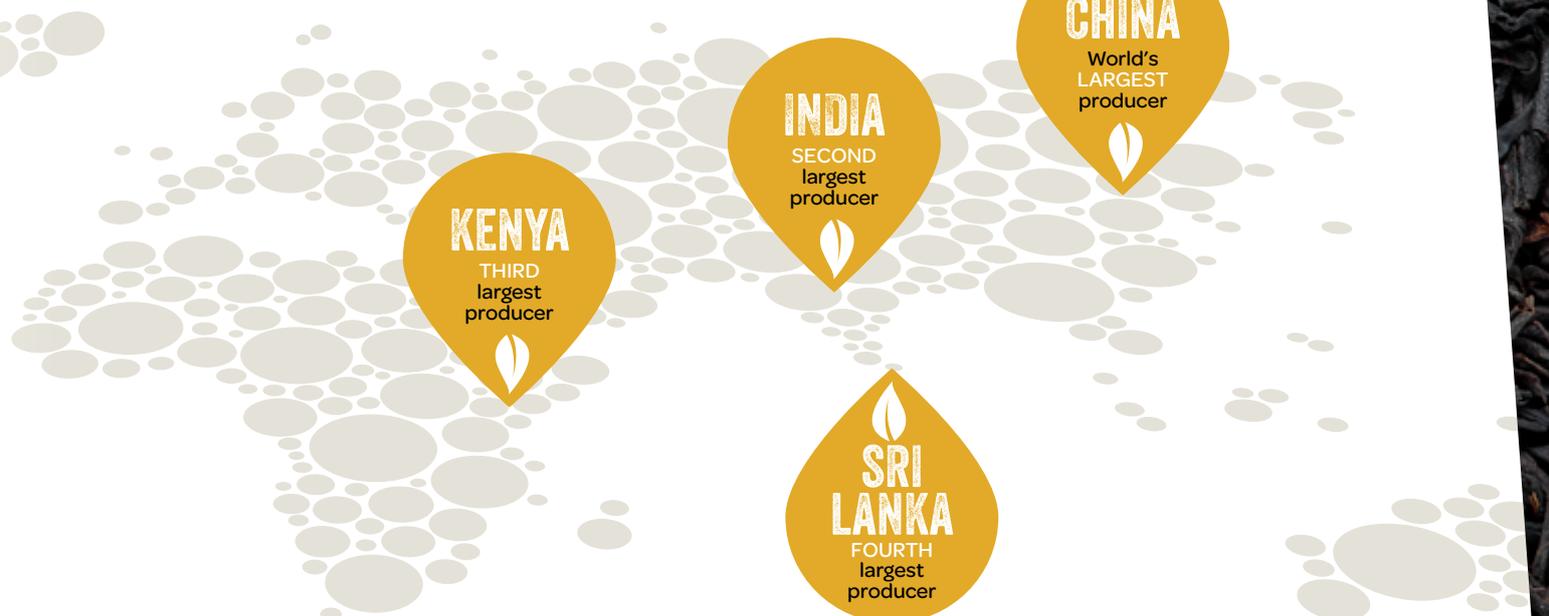
**SRI
LANKA**

FOURTH
largest
producer



CHINA

World's
LARGEST
producer



TRAFFICKING FROM TEA PLANTATIONS

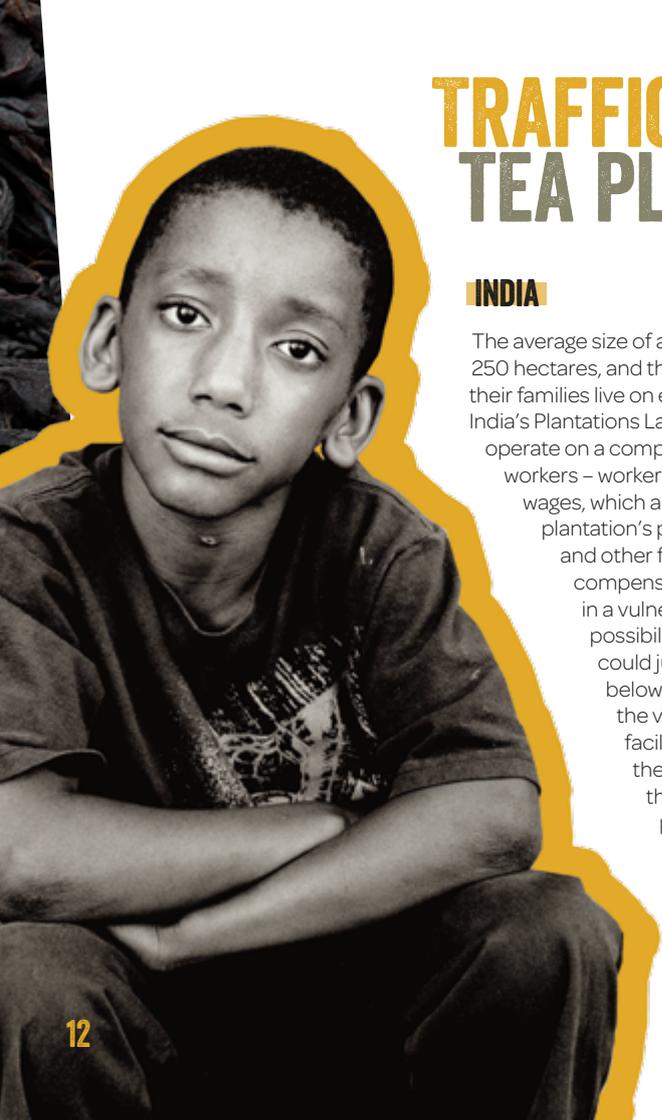
INDIA

The average size of a tea plantation in India is 250 hectares, and thousands of workers and their families live on each plantation. Under India's Plantations Labour Act, plantations operate on a compensation scheme for workers – workers are given low cash wages, which are supplemented by the plantation's provision of housing, schools and other facilities for workers. This compensation system leaves workers in a vulnerable position – it opens the possibility that a plantation owner could justify paying workers well below a living wage by exaggerating the value of the housing and facilities they are providing for the workers. Further, the fact that workers must rely on plantations for basic facilities means that their quality of life is highly dependent on how well the owners provide these facilities. Often the condition and upkeep of the facilities provided for workers is very poor.

A BBC NEWS INVESTIGATION INTO TEA PLANTATIONS IN ASSAM FOUND WORKERS LIVING IN HOUSES WITH LEAKING ROOFS AND CRACKED WALLS, MANY WITH BROKEN TOILETS, BLOCKED OPEN DRAINS AND CESSPOOLS OVERFLOWING INTO LIVING AREAS.

Low wages and poor conditions are two main factors that leave workers, and particularly children, vulnerable to trafficking. Families struggling to feed themselves due to low wages take their children out of school to work on the plantations and earn money. Human traffickers pose as employment agents and entice young people to migrate to cities like Delhi, Mumbai and Agra – or groom parents to send their children to the cities on the promise of a new and better life. Children are often targeted by traffickers, since parents are often forced to send their daughters for work outside the plantations in order to bring in enough money to live.

The children are often taken to new lives as very poorly paid labourers in factories or trafficked into the sex industry. "They are kept as slaves, their wages are withheld and taken by their placement agency or supplier, their employers are told not to pay them directly because if they do the girls will run away", explains Rama Shankar Chaurasia, Chair of Indian child rights group Bachpan Bachao Andolan



“The condition of these tea-garden labourers is pathetic. They are forced to part with their young daughters and sons as they think that sending them away ensures the children do not go hungry,” states a police officer at Mateli police station.

Residents of a tea garden near Bagdogra, the tribal women were given false promises of lucrative jobs in New Delhi, but the local agent, with the help of brokers from Kathmandu, New Delhi and Sri Lanka took them for forced domestic work in Kuwait and Saudi Arabia. “I was forced to work from 5am to 11pm without food. The male members used to abuse me every day. They used to enter my bedroom through the window and harass me.”

SRI LANKA

Much of the investigation into people being trafficked out of tea plantations has been exclusively focused on the problems in Indian tea estates. However, there have been extensive reports on the poor living and working conditions for plantation workers in Kenya and Sri Lanka.

A 2014 UN Development Program report on Sri Lanka explains, ‘Traditionally, people in the estate sector have been considered a vulnerable group, despite years of targeted interventions. They lag behind on all human development indicators. The majority are from the Indian Tamil ethnic group who arrived in Sri Lanka as part of its colonial

history, and whose status as full citizens was debated for many decades. This combined with the particular circumstances of the estate sector, which ties their livelihood and living arrangements closely with a specific industry, mainly tea manufacturing, shapes how their choices and freedoms have been understood and realized.’ The report also declares, ‘Youth in the estate sector are still the poorest.’

The US State Department 2015 Trafficking in Persons report acknowledges some observed cases of trafficking from tea estates in Sri Lanka: ‘Some child domestic workers in Colombo, generally from the Tamil tea estate sector, are subjected to physical, sexual, and mental abuse, non-payment of wages, and restrictions of movement – indicators of labour trafficking’.

KENYA

Most of Kenya’s tea is produced on smallholdings rather than tea plantations so most workers do not have the same dependence on owners for schools, housing and other facilities. However, many tea workers in Kenya still face poverty resulting from low wages. A 2010 report showed tea factory workers in central Kenya work up to 74 hours a week for a mere 5,000 Kenyan shillings a month – half a living wage. Kenyan tea pickers interviewed were even worse off than factory workers, earning on average only 3,060 shillings a month, far below a living wage.

“I WAS 13 YEARS OLD. MY FATHER IS AN ALCOHOLIC, MY MOTHER WORKS FULL-TIME IN THE PLANTATION. I WAS BORN THERE AND I HAD NOWHERE ELSE TO GO. A MAN CAME AND I WAS TAKEN FIRST FROM HATTIGOR TO GUWAHATI, AND THEN AFTER A FEW DAYS OF TRAVELLING I WAS TAKEN TO THE OFFICE OF AN EMPLOYMENT AGENCY IN DELHI. THERE WERE MANY OTHER CHILDREN THERE, AT THE AGENCY, ALL FROM DIFFERENT PLACES, AND I SLEPT THERE ON THE FLOOR WHILE THE AGENCY FOUND ME A FAMILY TO WORK FOR.

I WORKED THERE FOR ONE YEAR. I WAS NEVER PAID. NOTHING. I WAS MADE TO WORK UNTIL LATE AT NIGHT AND I HAD TO GET UP VERY EARLY IN THE MORNING. I WAS OFTEN SLAPPED BY THE MADAM, SHE WOULD BEAT ME FOR NOT CLEANING WELL ENOUGH, OR NOT WORKING HARD ENOUGH”

ELENA, TRAFFICKED FROM TEA PLANTATION

INTERNATIONAL AND NATIONAL LAW

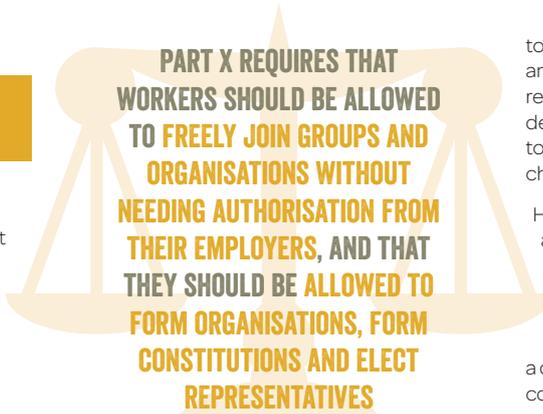
INTERNATIONAL

THE 1958 INTERNATIONAL LABOUR ORGANISATION PLANTATIONS CONVENTION

The International Labour Organisation is a specialised agency of the United Nations. Its 1958 Plantations Convention seeks to protect plantation workers by setting standards for the provision of necessities such as adequate wages, housing, medical care, weekly rest and annual holidays.

However, Sri Lanka is the only major tea producing country to have ratified the Plantations Convention. Sri Lanka signed the Convention in 1995 but this ratification comes with a number of exemptions in relation to basic protections for plantation workers.⁴¹

Sri Lanka has excluded Part III of the convention which requires the abolition of penal sanctions for workers who breach a contract of employment. It has also excluded Part VI, which concerns the provision of weekly rest for workers and requires that they should have at least 24 consecutive hours of rest in a seven day period. Finally, it has excluded Part X which concerns fundamental economic and social rights. Part X requires that workers should be allowed to freely join groups and organisations without needing authorisation from their employers, and that they should be allowed to



PART X REQUIRES THAT WORKERS SHOULD BE ALLOWED TO FREELY JOIN GROUPS AND ORGANISATIONS WITHOUT NEEDING AUTHORISATION FROM THEIR EMPLOYERS, AND THAT THEY SHOULD BE ALLOWED TO FORM ORGANISATIONS, FORM CONSTITUTIONS AND ELECT REPRESENTATIVES

form organisations, form constitutions and elect representatives.

NATIONAL LAWS

USA – CALIFORNIA TRANSPARENCY IN SUPPLY CHAINS ACT

Tea companies selling their products in California with annual global revenues of more than 100 million dollars are bound by the California Transparency in Supply Chains Act. The purpose of the Act is to “educate consumers on how to purchase goods produced by companies that responsibly manage their supply chains, and, thereby,

to improve the lives of victims of slavery and human trafficking”⁴² Businesses are required to post a disclosure on their websites describing the extent to which they are acting to minimise human trafficking in their supply chains.

However, it is unclear that the Act is adequately enforced. KnowTheChain, an organisation founded by NGO Humanity United to encourage greater corporate understanding of the Act, found that only 31% of 500 companies investigated had a disclosure statement available that was in compliance with all the requirements of the law.⁴³

UK – MODERN SLAVERY ACT

Like all companies with a turnover of 36 million pounds or more that do business in the UK, tea companies selling their products in the UK are now bound by the 2015 Modern Slavery Act (MSA), introduced recently by the UK parliament. Accordingly, they will be required to prepare a slavery and human trafficking statement for each financial year. This statement must include a report of the steps the organisation has taken to ensure slavery and human trafficking is not taking place in its supply chains.

Article 54.5 of the MSA states that ‘An organisation’s slavery and human trafficking statement may include information about— (a) the organisation’s structure, its business and

its supply chains; (b) its policies in relation to slavery and human trafficking; (c) its due diligence processes in relation to slavery and human trafficking in its business and supply chains; (d) the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk; (e) its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate; (f) the training about slavery and human trafficking available to its staff.⁴⁴

The principal difference in approach between the MSA and the California Transparency in Supply Chains Act is that the MSA requires a corporation's board of directors to sign the statement. Any statement produced in compliance with the MSA is not only for the benefit of UK consumers, but becomes publicly available information produced by directors and upon which shareholders and consumers in all legal jurisdictions are entitled to rely. So, the statements made to comply with UK law may also create legal obligations under the laws of the other 'consumer' nations, or the 'producing' nation. As a result, the MSA supply chains provision is likely to have a 'ripple' effect throughout the international legal system.

As this legislation has only recently been passed, tea companies operating in the UK have not yet had to produce a statement. It remains to be seen how companies will respond to their obligations under the MSA, and how strictly the UK government will enforce the act.

INDIA – PLANTATION LABOUR ACT

India is the only major tea producing country that has its own national legislation specifically addressing the treatment and conditions of workers in the tea industry. In 1951 the Indian government introduced the Plantation Labour Act (PLA).

The PLA is intended to improve conditions for workers and establish basic social and economic rights. The Act places the responsibility for ensuring adequate working and living conditions on the plantation owners, so that the owners are to be held accountable if standards are not met. Under the Act inspectors can visit plantations to determine whether provision of facilities and working conditions meet the right standards.

Despite this, the PLA fails plantation workers in two respects. Firstly, the Act fails to address basic issues for workers such as labour rights and wages. Secondly, even the positive mandates of the Act are often not enforced, and the Act's requirements are regularly violated by plantation owners with little to no repercussion.⁴⁵

Although female workers constitute half of the workforce – a higher proportion of female workers than any other industry in India – the rights of female workers to maternity leave are not addressed by the PLA. The PLA also fails to rule out child labour, only requiring that a health certificate is provided in order for a child to work on a plantation.⁴⁶ Owners are able to argue that very low cash wages are justified by the value for workers of the secondary labour provisions like housing and medical facilities

that the owners are required to provide under the PLA.⁴⁷

Temporary workers, who constitute approximately 40% of the workforce, are left unprotected by the PLA. Until 2010, they were not considered as workers under the PLA and so were ineligible for any of its protections. A 2010 amendment states that 'a person employed on contract for more than sixty days in a year' counts as a worker – and so temporary workers who are employed for this duration should in theory receive the benefits of the act. However, even then it is not easy for workers to claim these benefits, if denied by the plantation owner or management.⁴⁸

The failure of enforcement is the greater problem with the PLA. It is the individual states that are responsible for monitoring tea plantations' compliance with the Act, and investigations have found that there is often no effort to enforce the PLA. A report by Colombia Law School Human Rights Institute states: 'the government's own statistics show that inspections are infrequent and fines are non-existent. Almost no worker interviewed had ever seen a government inspector.'⁴⁹

A survey conducted by West Bengal's labour department found that despite the requirements of the PLA, workers still face very poor living conditions: 'six tea estates have not provided any housing for their workers; 51 tea estates have not provided housing to half or more of their workers; 44 tea estates do not have any latrine; and workers in 12 Dooars region tea estates live without any electricity.'⁵⁰

CERTIFICATION BODIES

In recent years there has been a significant increase in the global production of independently certified tea.⁵¹ Between 2004 and 2009 the share of world tea exports certified by independent certification organisations rose by 2000%.⁵² This increase in the certification of tea is being driven by consumers who are buying ethically produced and certified products in response to their concerns about environmental impact and conditions for workers.⁵³

A number of different organisations work to certify tea. The most significant certification organisations, in terms of the volume of tea certified, are Rainforest Alliance, UTZ Certified and Fairtrade International. The standards these organisations set for workers' living and working conditions are broadly similar, although there are some differences in the organisations' priorities and focus. All of the main certification bodies use standards for workers based on the International Labour Organisation's Plantations Convention. The standards aim to ensure adequate wages, housing and facilities, as well as to secure adequate rest periods, freedom of association and other basic rights for workers.⁵⁴

FACTS ON THE MAIN CERTIFICATION BODIES

RAINFOREST ALLIANCE

- ➔ The largest organisation in terms of the volume of tea that it certifies.⁵⁵
- ➔ In 2014, 808,000 metric tons of tea was produced on Rainforest Alliance certified farms – 15.1% of global tea production.⁵⁶
- ➔ Rainforest Alliance standards focus on sustainability and environmental impact of farms, but a significant section of their standards is intended to ensure fair treatment and good working conditions for plantation workers.⁵⁷
- ➔ The reason Rainforest Alliance certifies the most tea is that Unilever made the decision in 2007 to use Rainforest Alliance for all of its certified tea.
- ➔ Rainforest Alliance is also part of the Trustea Sustainable Tea Programme, established by the Tea Board of India Under Ministry of Commerce and Industry and concerning India's domestic tea market. The programme is a multi-stakeholder initiative including tea companies as well as certification



organisations. It plans to certify 500,000 metric tonnes of tea equivalent to 51 percent of India's tea production by 2017.⁵⁸

- ➔ A company's product need only be made up of 30% certified content to obtain the Rainforest Alliance Certified seal. However, if a product includes less than 90% certified content, the company is required to clearly indicate the amount of certified content on the packaging and must work towards reaching 100% certified content over time.⁵⁹

UTZ CERTIFIED

- ➔ UTZ Certified operates across 10 producing countries
 - 20% of UTZ Certified tea is produced in India
 - 30% is produced in Kenya
 - 8% is produced in Sri Lanka⁶⁰
- ➔ In 2014, 717,234 metric tons of UTZ Certified tea was produced – 13.4% of global tea production.⁶¹
- ➔ 8,615 smallholders and 70 estates are UTZ Certified.
- ➔ A company's product needs to be made up of 90% certified tea to obtain the UTZ Certified seal.⁶²





- ➡ In 2013, 187,900 metric tons of tea were produced on Fairtrade International certified farms.⁶³
- ➡ Fairtrade standards are focused on making changes to the conventional trading system, in order to benefit small producers and workers. As a result, many of their requirements focus on international trade of tea rather than production.⁶⁴
- ➡ The standards that do concern production are focused on small producer organisations rather than large estates.
- ➡ A company's product needs to be made up of 100% certified content to receive the Fairtrade International seal.⁶⁵

THE OBSTACLES FACED

The solutions to human trafficking are a shared responsibility of state and national governments, local communities, civil society groups, plantation owners and certification bodies.

Poverty is a central factor in creating vulnerability to trafficking in the tea regions. One of the most important ways to tackle this poverty is to address the low wages which many tea workers are paid. A 2013 report by Oxfam charged certification

organisations with making a limited contribution to this particular issue: 'wages were found to be no higher on certified estates than on non-certified estates. This is because for the wages element of certification, standards only require that wages do not fall below the legal minimum. The project leaders therefore concluded that certification is no guarantee that workers' wages meet their households' basic needs.'⁶⁶

The problem is that in many cases the legal minimum wage is far lower than a living wage in the first place. Living wage is defined as: 'the remuneration received for a standard work week by a worker in a particular place sufficient to afford a decent standard of living for the worker and her or his family. Elements of a decent standard of living include food, water, housing, education, health care, transport, clothing, and other essential needs including provision for unexpected events.'⁶⁷

In response to this problem, the three main tea certification bodies, along with the Forest Stewardship Council, Goodweave and Social Accountability International, have launched a collaboration called the Global Living Wage Coalition. The aim is to combine resources and develop a methodology for calculating living wage so they can arrive at country-specific living wage estimates. Estimates are based on factors such as food costs, housing costs and other essential needs. The Coalition will then use these living

wage estimates to encourage organisations involved in the tea industry to take action⁶⁸

At present, none of the certification organisations require that tea workers are paid a living wage for the tea to receive that organisation's seal – however, some of them do require that steps are being taken towards paying workers a living wage.

The latest UTZ Certified Code of Conduct requires that 'if the remuneration is below the Living Wage, actions are taken to increase it towards the Living Wage within a reasonable period of time. At all times, workers must receive at least the applicable minimum wage.'⁶⁹

Fairtrade standards require that 'If remuneration (wages and benefits) is below living wage benchmarks as established by Fairtrade International, your company must ensure that real wages are increased annually to continuously close the gap with living wage.'⁷⁰

Rainforest Alliance states that their certification system 'will be strengthened by a revised SAN standard, which will launch in early 2016.'⁷¹



HOW STOP THE TRAFFIK IS WORKING TO MAKE A DIFFERENCE

In 2013, after dialogue with Amalgamated Plantations Pty Ltd, STOP THE TRAFFIK with Walk Free⁷² launched an on-line campaign asking Tata Global Beverages⁷³ to take action on the conditions in Assam tea gardens. Tata Global Beverages is one of the biggest tea companies and the major shareholder of Amalgamated Plantations, so it is well positioned to offer leadership in bringing about change.

The petition called on Tata to show leadership and address the matters we have raised. This means:

- ⇒ **BEING TRANSPARENT** about the steps the company is taking in this area.
- ⇒ **PRODUCING A DETAILED ACTION PLAN** with clear deadlines and financial investment towards specific commitments to reduce workers' vulnerability to modern slavery.
- ⇒ **LEADING OTHER INDUSTRY PLAYERS** in a joint effort to tackle the root causes of the problem.

Over 190,000 signatures were delivered to Amalgamated Plantations and Tata Global Beverages in February 2015. Tata was keen to point out their track record of charity work as an indicator that they are a company who will do the right thing.

The response has seen some changes in Amalgamated Plantations where housing, water and health have improved according to local activists. Amalgamated Plantations have also allowed NGOs to run human trafficking awareness programs in the gardens they manage.

With all certifiers now moving to requesting a living wage in the near future, big changes

are required in the industry in India in particular. We continue to call on Tata and Amalgamated to offer the leadership required to ensure this occurs.



MOVING TOWARDS CHANGE

Although there are still many obstacles to overcome, progress is being made towards improving conditions for those living and working on the tea plantations and thereby addressing their vulnerability to human trafficking.

This progress is evident in new laws like the UK's Modern Slavery Act which requires large companies doing business in the UK to take steps to eliminate the risk of trafficking in their global supply chain. This law gives big tea companies an obligation to reduce the risk of trafficking in their supply chain by improving the poor conditions that make workers and their families vulnerable to human trafficking.

The UK's Modern Slavery Act is bringing about change not only through having global reach, but by providing encouragement for other countries to introduce similar legislation, creating even more pressure for companies to reduce the risk of trafficking in their supply chains. Pete Talibart, Seyfarth Shaw UK Managing Partner and STOP THE TRAFFIK legal advisor, said: 'Section 54 of the Modern Slavery Act is already being lauded as a historical ground breaker and has already started to influence other legal systems.'



WE HAVE ALL PROBABLY INDIRECTLY FINANCED THIS PRACTICE BECAUSE WE HAVE SIMPLY NOT THOUGHT ABOUT IT. WE CAN START TO FIGHT IT BY PASSING LAWS THAT MAKE PEOPLE AWARE OF THE ISSUE AND TAKE THE PROFITS OUT OF HUMAN TRAFFICKING. WE DO NOT WANT TO SEE DIRECTORS OR BUSINESS LEADERS SANCTIONED FOR RISKS THAT ARE OUT OF THEIR CONTROL. THAT IS NOT FAIR AND MAY ONLY MAKE THINGS WORSE. WE DO HOWEVER WANT TO SEE LAWS PASSED IN OTHER COUNTRIES THAT MEAN COMPANIES CANNOT TURN A BLIND EYE TO SUPPLY CHAIN SLAVERY.

**PETE TALIBART,
SEYFARTH SHAW UK
MANAGING PARTNER AND
STOP THE TRAFFIK
LEGAL ADVISOR**

ACTIONS YOU CAN TAKE

TRAFFIK-FREE TEA PARTY RESOURCE PACK
**DOWNLOAD STOP THE TRAFFIK'S TRAFFIK-FREE
TEA PARTY ORGANISERS PACK. IT CONTAINS
EVERYTHING YOU NEED TO HOLD A TEA PARTY
TO RAISE AWARENESS AMONG FRIENDS, FAMILY
AND NEIGHBOURS.**

SOCIAL MEDIA – SHARE THE MESSAGE
**SHARE THE MESSAGE ON SOCIAL MEDIA, AND VISIT OUR
FACEBOOK AND TWITTER PAGES.**

VISIT OUR CAMPAIGN PAGE VISIT
**WWW.STOPHETRAFFIK.ORG/
CAMPAIGN/NOTMYCUPOFTEA
FOR THE LATEST UPDATES ON OUR CAMPAIGN.**

GOOD PRACTICE

UNILEVER

In 2015 Unilever released a 'Human Rights Report', becoming the first company to pilot the UN Guiding Principles Reporting Framework.' The report identifies the human rights risks in the company and outlines what is being done to address them.

The report identifies human trafficking as a high-risk issue for Unilever's global operations. It notes that Unilever have incorporated human trafficking into their Human Rights Policy Statement; Code of Business Principles; and Dignity and Fair Treatment Code Policy.

It highlights three areas that Unilever are focusing on in the immediate future: conducting a review of the Modern Slavery Act 2015 to understand and fulfil Unilever's obligations; strengthening human trafficking awareness and training programmes for employees, and establishing reporting mechanisms to ensure accurate data collection on human trafficking.

TATA GLOBAL BEVERAGES /AMALGAMATED PLANTATIONS (APPL)

In response to pressure from STOP THE TRAFFIK and other activists around the world, Tata Global Beverages commissioned an independent third party, the civil society organisation Solidaridad, to assess conditions on APPL plantations.

Tata then released a report summarising Solidaridad's recommendations and how they were being addressed. Tata's actions include the formation of clubs for young people run by trained volunteers that help spread awareness in the areas of urban migration & trafficking. Tata has also committed to a range of repairs and upgrades of living facilities.

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Patrick conducted his doctoral research on the subject of human trafficking at the University of the West of England, Bristol. The title of his thesis is 'The Responses to Trafficked Adults in the United Kingdom: Rights, Rhetoric and Reality.'



ABOUT STOP THE TRAFFIK

We are a global movement of activists around the world who passionately give their time and energy to build resilient communities and prevent human trafficking. We are a campaigning organisation that seeks to build a traffick-free world! We prevent trafficking by:

- ⇒ Equipping people to understand what trafficking is, how it affects them and what they can do about it. We gather and analyse information from communities about how and where trafficking is happening.
- ⇒ Campaigning for change!
- ⇒ Building a global movement
- ⇒ Individuals, communities, organisations, front-line professionals, faith groups, businesses, schools and charities are all part of STOP THE TRAFFIK.

www.stophetraffik.org

ABOUT FINANCE AGAINST TRAFFICKING

Finance Against Trafficking is run by business for business, working to prevent human trafficking in the business sector. It provides a number of products and services to enable companies to identify and understand their risks to human trafficking, and supports them to mitigate the risks both within a business and its supply chain.

www.financeagainsttrafficking.org

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STOP THE TRAFFIK,
PEOPLE SHOULDN'T BE BOUGHT & SOLD

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