

# Exposing the Soft Belly of the Multinational Beast:

*The Struggle for Workers'  
Rights at Del Monte Kenya*



A Kenya Human Rights Commission Report 2002



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The Struggle for Workers'  
Rights at Del Monte Kenya



## **Acknowledgements**

This report was written by Willy Mutunga, Francesco Gesualdi and Steve Ouma. It was edited by Mutuma Ruteere and Wambui Kimathi. Wambui Kimathi provided helpful assistance in the last revisions. We thank the Individuals and organisations of the Solidarity Committee with Del Monte workers who also own this report.

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**Dedication**

This report is dedicated to Father Alex Zanotelli and the workers of Del Monte, Thika. Fr. Alex out of his busy pastoral work got time to guide the research and played a key role in building of the solidarity committee.

This report is in memory of the late Peter Mutiso Komolo, worker number 30501 at Del Monte culture department. Mr. Komolo's death opened to KHRC the state of workers rights at the Del Monte plantations.

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## **CAMPAIGN TEAM PROFILES**

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### **Kenya Human Rights Commission (KHRC)**

KHRC is an independent, membership Non-Governmental Organisation (NGO), founded in 1992. The mission of the Commission is to protect, promote and enhance enjoyment of human rights of all Kenyans. The KHRC does this through its three main programs: Monitoring and Research, Advocacy, and Human Rights Education and Outreach. In this, the KHRC hopes to actualise its commitment to the realisation of human rights ideals in Kenya by strengthening the human rights movement. KHRC has received recognition for its fight against human rights violations and has an "observer status" with the African Commission on Human and Peoples Rights. It is in part because of the Commission's profile nationally that it was awarded the MS International Award in Denmark in 1998. The KHRC celebrated its 10th anniversary in April 2002 and it has become clear that its continued impact on Kenyan society can no longer be underestimated.

The KHRC recognises that a society aware of its rights, protects and defends them better, if and when those rights are threatened or violated. It is against this backdrop that the following strategic objectives were adopted for the first Strategic Plan, 1999 to 2003:

- Reduce human rights violations in Kenya;
- Strengthen the human rights movement in Kenya;
- Hold State, institutions and individuals accountable for human rights violations;
- Raise awareness on human rights in Kenya; and
- Place Kenya on a truly democratic trajectory.

Kenya Human Rights Commission

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### **Centro Nuovo Modello di Sviluppo (CNMS)**

The Centro Nuovo Modello di Sviluppo – Centre for New Development – is an information centre established in 1985 as a part of a wider social project carried out by Italian grassroots groups. An important section of the centre is dedicated to international affairs. It seeks to discover through mechanisms of production, trade, finance and technology how the North creates "social outcasts", inhibits development and causes environmental damage in the Southern Hemisphere. The centre makes public the results of its research through courses for teachers, seminars for the public, through articles and books.

As part of its educational project, the Centre carries out a programme on political awareness so as to convince the people in the North to agitate and mobilise themselves on issues that concern the livelihoods of the people in the South. The political awareness campaign attempts to educate people in the North so as to put public pressure on their governments and multilateral companies to force them to abandon negative policies and practices against the people in the South.

### **Strategic Objectives**

1. To create strategic alliances with trade unions, Non-Governmental Organisations, environment associations and consumer groups in the South;
2. Work towards building a new international economic order;
3. Strengthen the grassroots movement in Europe; and
4. Promote ethical consumption in European countries.

Centro Nuovo di Sviluppo

Via della Barra 32

56019 Vecchiano [Pisa-Italy]

Tel. 39-50826354; Fax 39-50-827165

Email: coord@cnms.it

### **Release Political Prisoners (RPP) pressure group**

The origins of the Release Political Prisoners [RPP] pressure group, can be traced to a group of gallant relatives, once held in the various jails in Kenya. One of the most memorable activities organized by the group was a hunger strike, staged by the mothers of political prisoners at Freedom Corner, Uhuru Park, Nairobi, in 1992. Due to the immense pressure generated by this activity, some of the prisoners were released.

Since then, the group has evolved into a vibrant membership organization committed to the abolishment of all forms of political imprisonment in Kenya, as well as for the eradication of all forms of political repression and harassment in society.

### **Objectives**

- Conduct research and exposing cases of political repression
- Advocacy on human rights issues that affect the livelihood of Kenyans
- Mobilize Kenyans to show solidarity with the victims of human rights violations

Release Political Prisoners (RPP) pressure group

Off Ngong' Road, PO Box 50613, Nairobi

Tel: 254-2-2714673, 2713683

Nairobi



### **Labour Awareness and Research Programme (LARF)**

Labour Awareness and Resources Programme, is a project of the Centre for Law and Research International (CLARION). The programme's mission is to promote and protect workers rights in Kenya. The organization has the following objectives

- Create awareness through the education of workers
- Mobilize workers towards ensuring democracy in the trade union movement in Kenya
- Handle litigation cases of workers

Labour Awareness and Resource Program  
Kenya Commercial Building, Block B/5E  
P.O. Box 22812, Nairobi  
Telefax: 254 2 551185

### **Kenya Women Workers Organization (KEWWO)**

Kenya Women Workers Organization (KEWWO) is a membership rights and advocacy organization, founded in 1990 and registered in 1997. Their vision is of a tremendously improved society with informed working class women. Dr. Aggrey said "You educate a woman, you educate the nation". By educating the least educated of the of the society, the working class women, KEWWO visualizes "a society much more informed, much more proactive on national issues, be they economic, social, cultural or political. A better society, better governance, a more responsible citizenry – A good country."

The organization currently has 6000 women workers from the formal and the informal sectors. It has 36 branches in 22 districts where it draws its three categories of membership:

- i. The wage earning women workers
- ii. The self employed women workers
- iii. The rural women peasant farmers

KEWWO has over the years-conducted advocacy in the following areas;

- Rights issues including National policies:
- Education and Awareness Raising:

KEWWO's future plan is to advocate for the ratification of ILO conventions on women workers. Specifically we are campaigning for maternity protection. In all these areas, we seek to accomplish our mission: "To up lift the living standards of working women in Kenya through advocacy for their rights in order to have meaningful life, raise the awareness among this category of Kenyan women and instill deeper confidence while cultivating self esteem in them to enable them participate effectively in the development of their country and develop their full potential."

Kenya Women Workers Organization [KEWWO]  
Impala House, 4th Floor, Tom Mboya Street  
Tel/Fax: 254-2-240263  
Mobile 0733-798204  
P.O. Box 10332, NAIROBI

### **Chemchemi Ya Ukweli (CYU)**

Chemchemi Ya Ukweli is a Swahili translation for Wellspring of Truth. CYU was established on 13 October 1997 at the Lenana Mount Hotel. It was hosted for a while as a program by one of her founding organisations, People for Peace-PPA. It has since acquired an independent structure, but legally hosted by Religious Superiors Conference of Kenya [RSCK].

CYU, which has a national mission, draws its legitimacy from the various members who are registered by the government as legal entities. CYU runs an independent account that is supported through local and international donations. Other contributions come in terms of voluntarism from the Board, Management and Secretariat.

So far CYU has trained over 3000 people in ANV in all the provinces and has influenced non-violent activism significantly in Nairobi and the establishment of base groups aimed at diffusing such tension. CYU is subtly mainstreaming ANV in the works of different civil society organisations, she can no longer be ignored as a timely organisation and therefore the need to get more strategically focused to be able to make meaningful responses

It is under the spirituality of ANV that CYU has adopted the themes of Land, Constitution, Debt Cancellation (and related economic institutions), Corruption, Human, Labour and Children's rights, ANV training and Non-violent Activism to be able to transform violent structures akin to these themes. It is notable that these areas have led to a sustained culture of violence.

**The Vision of CYU:** is to have a Kenyan society that embraces the spirituality of ANV for conflict prevention and transformation in order to achieve a sustainable culture of justice, peace and reconciliation

**Its Mission:** is to define, adopt and implement creative principles relating to conflict prevention, transformation and justice, peace and reconciliation through the philosophy of ANV [Kenya]

- To provide ANV training to Civil Society and Religious leaders.
- To engage in the Constitutional Review process with a view to promoting the use of ANV and reduce potential violence from stakeholders, as well as to promote peaceful

participation in the review process at the grassroots level.

- To facilitate the formation of a recognized body to promote Muslim-Christian dialogue, especially in areas with greater religious tension.

Chemchemi Ya Ukweli

Waumini House, Westlands

Tel: 254 2 4446970,4442294 • Fax: 254 2 444023

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P.O. Box 14370, Nairobi Kenya

### **Kituo Cha Sheria (KCS)**

Kituo Cha Sheria (Legal Advice Centre) is a human rights, non-governmental organization registered in Kenya. It was founded in 1973 as Kituo Cha Mashauri by advocates who were committed to helping the disadvantaged and poor people that could not afford the cost of legal services. It was the first free legal aid centre established in Kenya. With the mission of empowering Kenyans to understand, respect, promote, demand and effectively access their human and people's rights and obligations in pursuit of a just and equitable society.

In 1989, the name was changed to Kituo Cha Sheria, the legal advice centre and a secretariat established with full time legal staff. Kituo Cha Sheria is largely donor dependent. The organization gets support from donors as well as volunteer advocates. Currently Kituo has a board of Directors composed of lawyers. However the Constitution has since been amended to broaden the base, create a board of trustees and to include membership people of other professions.

Kituo Cha Sheria's commitment is to enhance justice and equity through respect, promotion and protection of human rights so that the people in Kenya, especially the marginalized may lead dignified lives as human beings free of oppression. Kituo's central aspiration is "Justice for All". Kituo Cha Sheria has the following strategic objectives:

- To strengthen the capacity of urban communities to promote, protect and advocate for human and people's rights and responsibilities
- To raise awareness of land rights and increase lobbying for the basic human right to shelter and housing
- To hold institutions and individuals accountable for labour rights violations and abuses
- To establish Kituo as a sustainable human rights organization with its own endowment and office space.

### **Green Belt Movement (GBM)**

The Green Belt Movement is a non-governmental organization based in Kenya that focuses on environmental conservation and community development.

It was founded in 1977 and was known then as ENVIROCARE. It operated then only in Nairobi, with an aim of promoting tree planting among residents of the city. Later on the initiative was renamed 'Save the Land Harambee' by the National Council of Women in Kenya [NCWK].

The strategy of 'Save the Land Harambee', involved encouraging community participation in planting trees in large areas of public land so as to form green belts of trees. This strategy was embraced by many, with a lot of excitement and enthusiasm and the organization became synonymous with green belts. To capture the dynamism that was instrumental to its success, the name of the organization was changed to Green Belt Movement [GBM].

The organization currently has six major programmes, namely; tree planting in public land; household food security; grassroots civic education; advocacy and pan-African networking; business development; capacity building. The objectives of the core programmes are:

- To inculcate within communities the culture of indigenous tree planting in public places as a means for beautifying the countryside, reclaiming denuded areas and preventing further environmental degradation.
- To raise awareness on primary environmental care and enhance knowledge, attitudes and values that support sustainable grassroots socio-economic and ecological welfare.
- To assist communities to analyze and understand their food security risks and learn to practice simple, ecologically friendly initiatives, that will enable them to consistently provide farm-sourced food, in sufficient quality and variety, for the household.
- To bring to national and international limelight, actions of abuse of the environment and poor governance and rally up peoples resistance against such actions.

Green Belt Movement

Tel. 254 2 571523

E-mail: [gbm@iconnect.co.ke](mailto:gbm@iconnect.co.ke)

P.O. Box 67545

Nairobi

### **The Labour Caucus**

Labour caucus is an organization working, which was formed under the citizen coalition for constitutional change. It was established as a response to the quest to establish an independent umbrella body for workers trade unions in Kenya. The Current Trade Union umbrella body Central Organization of Trade Unions [COTU], still remains affiliated to the ruling party Kenya Africa National Union [KANU].

The organization further has a mission of involving the Kenyan workers in the process of developing a new constitutional order in Kenya. According to the Kenyan laws governing trade unions, in the country makes it extremely difficult for workers to enjoy the right. The objectives of labour Caucus are;

- Mobilize the workers and the communities that live around the various Companies
- Offer training to workers on their rights and human
- Build a workers movement in Kenya
- Participate in the process of constitutional and labour law reforms.

### **The Kimathi Movement**

Formed in the year 2000 to pressure for the release of the remains of freedom fighter Dedan Kimathi for a decent burial, it has since evolved into a national movement committed to the attainment of social justice in Kenya. Its motto is "Land and Freedom by any means necessary".

### **Father Alex Zanotelli**

Father Alex Zanotelli was born in Livo (Trento), northern Italy on August 26th 1938. In 1964 he completed his theology studies in Cincinnati (USA) and was ordained as a Comboni missionary priest. He was sent as a Comboni Missionary to Sudan where he worked on the Nuba Mountains. After eight years the Khartoum government expelled him from Sudan due to his solidarity with the oppressed Nuba people and his Christian testimony.

In 1978 he became the editor of the *Nigrizia*, a leading Italian magazine his editorial policy aimed at promoting Africa especially the voiceless Africans. He radically criticized the dominant institutional socio-economic system, which impoverishes the south of the world and destroys the most authentic and beautiful African values. For nearly ten years Zanotelli took a clear stand and became an opinion maker on issues such as arms trade, the corruption in the Italian co-operation of development and the apartheid system of in South Africa. He is also among the founders of the peace movement called "Beati i costruttori di pace" (blessed are the peacemakers) struggling for a peoples rights.

Due to political and ecclesiastical pressure, Zanutelli was eased out of Nigrizia in 1987 but his legacy remained behind and is seen alive and active in today's editorial staff. From 1990, Zanutelli began working in the slums of Korogocho, Nairobi, Kenya. Here he was involved in animating small Christian communities and various social activities such as the Bega kwa Bega cooperative and the Mukuru recycling center which gives work and dignity to the outcasts within the slums. During his stay in Kenya, he was also involved in various justice and peace campaigns such as the Urban Land Campaign promoting the rights of the poor and the helpless people and advocacy initiatives for human and workers rights. From April 2002 Fr. Zanutelli has continued the struggle for global justice and peace in Italy where he is among the promoters of Rete Lilliput.

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## **INTRODUCTION**

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**OURS** is a period of continuing globalisation. The global corporate rule is now facilitated by international law,<sup>1</sup> treaties and a network of supra-national organisations (IMF, World Bank, WTO, GATT)<sup>2</sup> that have created the legal, economic and political framework for this rule. Because of this domination that has brought devastation to the overwhelming mass of humanity a new mass movement has sprung up across the planet in resistance. The slogan 'Human rights are workers' rights; workers' rights are human rights' is a reflection of this new mass movement. The slogan unifies unions and human rights activists under the notion of the universality of human rights. Other reflections of the anti-globalisation movement are, for example, the mass action in Seattle, Washington, Bangkok, Melbourne, Belgrade, Montreal, London, and Genoa; the mass action against capitalism in various cities in the West; and the peoples' tribunals that are taking place in many areas of the world. The global civil society, with its various discourses, is the emerging political framework for the resistance against global corporate rule. The story of the campaign against a multinational corporation, the Del Monte Kenya Limited, is yet another example of this resistance at the margins of global corporate rule.

We decided to write this story because the world must know about the miraculous results that can be achieved when the consumers of the North and the workers of the South become allies in the fight against the abuses of power perpetrated by multinational corporations. The name of the giant whose soft belly has been exposed is Del Monte (now Cirio Del Monte). Its opponents are the Centro Nuovo Modello di Sviluppo, a small, but very influential Italian NGO for ethically-minded consumers, aided by a group of Kenyan associations under the leadership of some of the local leaders of Kenya Union of Commercial Food and Allied Workers, a trade-union, and the organisations named above led by KHRC. But the real opponents were these trade-union leaders on the factory floors and within the plantations of Del Monte. In particular the leadership of the Chief Steward<sup>3</sup> at the factory, Daniel Kyule, was most courageous. Kyule is committed to the rights of the workers he leads and he has never ceased to monitor, expose and publicise the violations committed by Del Monte. His comrade-in-arms, Okoth Korombo, in defying the Central Organisation of Trade Unions (COTU) leadership, made the COTU branch in Thika a bastion of the campaign.

However, there were others who played an important part in the campaign. First is a chain of Italian supermarkets called COOP ITALIA, who obtained the SA 8000 certification granted to those businesses which respect fundamental rights of workers in their own work-places,

<sup>1</sup> Makau Murua, "What is TWAIL?" in Proceedings of the 94th Annual Meeting of the American Society of International Law, April 5-8, 2000. Makau does not mince his words at page 31 of the proceedings: "The regime of international law is illegitimate. It is a predatory system that legitimizes, reproduces and sustains the plunder and subordination of the Third World by the West. Neither universality nor its promise of global order and stability make international law a just, equitable, and legitimate code of global governance for the Third World."

<sup>2</sup> Jerry Mander & Edward Goldsmith, eds., *The Case Against the Global Economy and For a Turn Toward the Local* (San Francisco: Sierra Club Books, 1996); Ed., Kevin Danaher, *50 years is Enough: The Case Against the World Bank and the International Monetary Fund* (Boston: South End Press, 1994).

<sup>3</sup> The Stewards are leaders of workers at the shopfloor or at the plantations. While the term is well known in common law systems in Italy, for example, the term used is the "Internal Commission Secretary."



and also undertake to oblige their suppliers to do likewise. Standing by their pledge for social ethicality, COOP ITALIA played its part in the bid to make Del Monte change its ways. In addition we acknowledge the fact that GPG, a Public Relations Agency employed by Del Monte Italia to tackle the crisis sparked off by the campaign, also made a valid contribution with the sound counselling it gave to Del Monte. The role played by Father Alex Zanotelli was fundamental. His stature in the Italian grassroots movement was a fundamental building block to the campaign. He gave the campaign hope, courage, optimism and prayed for God's revolutionary spirit.

Our story, therefore, is manifold and presents itself as a pilot-experience which can be referred to when seeking possible solutions to other situations where the fundamental rights of workers are being violated. This report was written for the farm-labourers and workers in Africa, Asia, Latin America and Eastern Europe living and working in sub-human conditions. The report also seeks audience with the workers in the North. We actually wrote the report for all those associations, unions and social movements that struggle for the affirmation of universal human rights.

Willy Mutunga  
Francesco Gesualdi  
Stephen Ouma



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## **CHAPTER ONE**

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# Testing Del Monte's Motto 'Together We Grow' The Local Factor

**VARIOUS** violations of the human rights of the workers at Del Monte were reported to KHRC through its Monitoring and Research Programme. This time round it was the death of one Peter Mutiso Komolo, worker number 30501. He was a seasonal employee at the culture department and perhaps died for one reason only. He was a 'seasonal' and not a permanent employee at Del Monte. That distinction denied him first aid at the Del Monte clinic which could have saved his life.<sup>4</sup>

The deceased had been an employee of the Del Monte since the October 24, 1990. He lived with his brother Bosco Munyoki, who was a permanent employee at the Del Monte and was housed by the company in block NV70. On Monday, August 2, 1999, Mutiso reported for duty as usual in the Anglo-French field 50 for harvesting pineapples. At around 11:00 am, Mutiso reported to his immediate supervisor some unusual fever and swelling of his face. The supervisor gave Mutiso permission to visit the company clinic. In the clinic, the officer on duty gave him paracetamol antipyretic and recommended that he goes back to duty for the rest of the day.

On Tuesday, August 3, 1999, Mutiso's health deteriorated. He had finished taking the medicine that he had been given the day before, but he still felt that he could not report for duty. He stayed at home hoping he would feel better, but he did not. At 10.30am on Wednesday, the 4th of August 1999, Mutiso, very ill and assisted by his brother Munyoki, arrived at the company clinic. He was unable to see the nurse until 10:45 p.m. when the nurse, a Mr. Ng'ang'a, inquired whether or not Mutiso was a permanent employee at Del Monte, and whether or not he was entitled to live in the staff quarters. Munyoki briefed the nurse that Mutiso was working at the culture department at Del Monte. Munyoki confirmed that Mutiso had not been housed by the company and since Mutiso did not have enough money to pay his rent, they were putting up together.

Based on this briefing the nurse informed Munyoki that the company policy did not allow him [the nurse] to attend to Mutiso. The nurse informed Munyoki the company policy only provided for first aid for seasonal workers and this was only applicable when an employee was on duty. When an employee was not on duty, the nurse continued, whether he/she was a permanent or a seasonal employee, the company was not responsible for its employee's illness.

Munyoki pleaded with the nurse to give first aid to Mutiso. Munyoki intended after the first aid to make arrangements to take Mutiso to Kilimambogo hospital, about 15 kilometres away. The nurse declined, saying that he had to account for all the medicines he issued to patients. The nurse then went to his house leaving Munyoki to agonise over the next course of action.

<sup>4</sup> The late Peter Mutiso Komolo died of severe malaria. Dr. S.K. Muli of Mituki Consultants Clinic, who performed the post-mortem on Komolo stated that the deceased was only given painkillers which Dr. Muli described as 'wrong treatment'. In his opinion, the deceased should have been put on intravenous quinine, a maximum of six doses at intervals of eight hours to save his life. Malaria, a curable disease, is one of the major killers of the poor in Kenya.

Munyoki then went out in search of means of transport from the security personnel at Del Monte to take Mutiso to Kilimambogo Hospital. The security personnel declined to take him to hospital, quoting yet again company policy. At 11:15 p.m. Mutiso died. Munyoki reported the death to the security personnel, who hurriedly reported the death to a senior official. The senior official released three vehicles to attend to the tragedy. One vehicle was driven to the nearest police post, at Gituamba, to seek a permit to take the body to the mortuary. The other two vehicles were to take the foreman and supervisor to Mutiso's work area to record statements from his fellow employees. The foreman and the supervisor then went for the nurse, Mr. Ng'ang'a, and the company doctor, C. O. Sagala, who confirmed the death.

The security officials then took the body to the welfare department supervisor, a Mr. Mbogeto. The welfare department released a vehicle immediately to take the body to Matuu Nursing Home, about 50 Kilometres away from the Del Monte plantation in Ndula. Mutiso was subsequently laid to rest. It seems the deceased got more assistance from the company the moment he died!

The case of Mutiso was a striking evidence of Del Monte's violations of the rights of workers. The KHRC undertook to have a post-mortem performed on Mutiso. This undertaking was met with a lot of resistance from the administration of the hospital. The Matuu nursing Home officers were reluctant to have the post-mortem done. At some point, they claimed that they were under instructions not to conduct the post-mortem, but they could not say from whom. Efforts to convince the hospital management to allow a pathologist from without the hospital to conduct the post-mortem were also rejected.

The family of Mutiso and KHRC were, however, determined that the post-mortem must be performed on the deceased. An alternative strategy was conceived. The family of the deceased cleared the body with the hospital for the burial on 14th August 1999. As soon as the family had the body they took it to the clinic of Dr. S. K. Muli which is located about 500 metres from the Matuu Nursing Home. Dr. Muli conducted the post-mortem and the results revealed that Mutiso died of severe malaria. In his opinion Dr. Muli also observed that "...there was very high degree of negligence as concerns the medical attention accorded to the deceased..." Mutiso was given the wrong medication for malaria. The company nurse who gave this prescription claimed that he was acting under Del Monte's prescribed medical policy.

Mutiso's sad story is yet another entry into a catalogue of infamy that Del Monte is guilty of against its workers and the neighbouring communities of its plantations and its factory. While the mauling to death of young persons by Del Monte dogs in the early 1980s is part of that history, the survivors have their story to tell. One of those survivors is Henry Kinuthia. On April 24, 1980 Kinuthia, a twenty-two-year old worker at the Del Monte factory,

suffered extensive burns from concentrated sulphuric acid. As Dr. M. A. Hag stated in his report on Kinuthia dated June 4, 1982 Kinuthia suffered prolonged pain and suffering. The disfiguring permanent disability made Kinuthia "a physical and a mental cripple with a gloomy future both from economic and matrimonial aspects..." It was not possible to perform plastic surgery on Kinuthia and the compensatory award of KShs. 360,000 (USD 5,150) was in part eaten up in medication. Kinuthia's investments in mini-buses were a failure perhaps a result of his mental disability arising out of the accident. This is not a good legacy for any corporate citizen.

Kinuthia is at the moment organising the survivors of the Del Monte legacy, who like him are leading lives of serious disabilities. The Survivors of Del Monte Action Group, as the organisation Kinuthia heads is called, is encouraged by the results of the campaign against Del Monte. This organisation will become part and parcel of the campaign to ensure Del Monte keeps its promises and implements the improvement plans that were agreed upon as the basis of ending the campaign.

Father Alex Zanotelli, a Catholic priest living in the Korogocho slums of Nairobi had been following Mutiso's case closely. When the post-mortem report came out, he met with Willy Mutunga, the Executive Director and Mr. Mugambi Kiai, who was then the advocacy programme officer with KHRC. Father Alex briefed KHRC officers of the impending campaign in Italy against Del Monte's anti-worker's policies. KHRC agreed to undertake leadership in the campaign in Kenya.

KHRC, as stated earlier, had since June 1998 decided to monitor the violations of the whole gamut of human rights. The rights of workers were an obvious entry-point into the agitation of economic, social and cultural rights as well as political and civil rights. Del Monte became the focus of attention by the Commission through its Monitoring and Research Programme. When sometimes in July 1999 the shop stewards of the Kenya Union of Commercial and Allied Workers Union at Del Monte, on behalf of the workers, sought the Commission's help everybody at the Commission knew that the slogan "Workers rights are human rights and human rights are workers rights" would become a powerful clarion call of economic activism.

KHRC found it necessary to mobilise a coalition of various organisations in civil society to strengthen the trade union activists at Del Monte and the COTU office in Thika in their struggle for the rights of the workers at Del Monte. The Commission convened a coalition which came to be called the Solidarity Committee. The objectives of the coalition were to reinforce the project of these activists and make the point that the issue of the rights of workers was not the sole responsibility of trade unions. The coalition, versed in international human rights discourses, hoped to bring in the kind of expertise and advocacy the domestic trade unions lacked.

The agitation for workers rights as human rights was a vital entry-point for economic activism and advocacy. In the continuing struggles for the democratisation of Kenya, the coalition felt it was high time the sleeping giant, the trade union movement, woke up and took its fundamental place in bringing democratic transformation to the country.

Members of this coalition who supported the trade union activists in the Kenya Union of Commercial, Food and Allied Workers, the Kenya Plantation and Agricultural Workers Union, the Kenya Union of Domestic, Hotels, Educational Institutions and Allied Workers (representing employees in schools and clinics run by the Del Monte) and the COTU branch, Thika, were:

- Legal Advice Centre (Kituo Cha Sheria)
- The Labour Caucus, a project of Citizen's Coalition for Constitutional Change
- Green Belt Movement
- Chemchemi ya Ukweli (Spring of the truth)
- Kenya Women Workers Organization
- Labour Awareness and Research Program
- Release Political Prisoners (RPP) Pressure Group
- New People Future Services
- Kimathi Movement
- Kenya Human Rights Commission, and of course
- Father Alex Zanotelli

The coalition launched its campaign on November 22, 1999 through a press statement issued in a press conference demanding of Del Monte that it shows more responsibility and sensibility to the plight of its workers. Its ethics as a responsible corporate citizen was now under scrutiny by the coalition. The press statement, read by Daniel Kyule, the Chief Shop Steward at Del Monte and signed by him and three other shop stewards (Gregory Mweu, Stephen Mutetu and Geoffrey Abungana [Appendix I]) made six specific demands of Del Monte: 1) equal pay for equal work; 2) respect of Del Monte's contractual obligations to the workers; 3) an end to the seasonalisation programme which is exploitative and inhuman; 4) humane working and housing conditions as well as educational facilities for the children of the workers; 5) adequate health facilities for the workers and their families; and 6) an urgent joint meeting of the leadership of the workers, Del Monte and other concerned parties to come to a humane settlement of the crisis at Del Monte.

The Del Monte management, represented by the Director Company/Government Relations P. J. Mbugua, and Personnel Director, Wallace Mantu, invited themselves to the conference. In their rejoinder, they dismissed the allegations presented by the workers and the Solidarity Committee as malicious and unfounded. Mr. Mbugua further claimed that "the actors in the campaign were being used by some external agents to destroy the country's economy."

The agitation for workers rights as human rights was a vital entry-point for economic activism and advocacy. In the continuing struggles for the democratisation of Kenya, the coalition felt it was high time the sleeping giant, the trade union movement, woke up and took its fundamental place in bringing democratic transformation to the country.

Members of this coalition who supported the trade union activists in the Kenya Union of Commercial, Food and Allied Workers, the Kenya Plantation and Agricultural Workers Union, the Kenya Union of Domestic, Hotels, Educational Institutions and Allied Workers (representing employees in schools and clinics run by the Del Monte) and the COTU branch, Thika, were:

- Legal Advice Centre (Kituo Cha Sheria)
- The Labour Caucus, a project of Citizen's Coalition for Constitutional Change
- Green Belt Movement
- Chemchemi ya Ukweli (Spring of the truth)
- Kenya Women Workers Organization
- Labour Awareness and Research Program
- Release Political Prisoners (RPP) Pressure Group
- New People Future Services
- Kimathi Movement
- Kenya Human Rights Commission, and of course
- Father Alex Zanotelli

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## **CHAPTER TWO**

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# Testing Del Monte's Motto 'Together We Grow' The External Factor

**VARIOUS** friends of the CNMS who had gone back to Italy from Kenya would ask the CNMS leadership the same question: What did they know about the multinational Del Monte? The CNMS leadership knew that part of the multinational was incorporated in Kenya as Del Monte Kenya Limited. The leadership, however, did not know anything about the working conditions in the factory and plantations that Del Monte ran at Thika in Kenya. The leadership of the CNMS knew something about the history of Del Monte. They knew that despite having the same name, Del Monte was actually made up of more than one company and that these companies had different ownership structures.

### **From the Americans to Cragnotti**

The company which owns the productive complex at Thika is called Del Monte Kenya Limited. Since its birth it has changed ownership several times. Founded in 1965 by the Del Monte Corporation, the famous American banana producing multinational, Del Monte Corporation was put up for sale in 1989 together with many other Del Monte properties. From the sale, several new companies were born: Del Monte Fresh Produce, specialising in the production of bananas and other fresh fruit from Latin America; Del Monte Foods Corporation, specialising in the preservation of fruit and vegetables destined for the American market and Del Monte Royal specialising in the production of pineapples and other preserved fruit with production sites in Europe, Africa, the Philippines and Latin America. Del Monte Kenya became Del Monte Royal controlled by two South African families (Oppenheimer and Immerman) each owning 30% of the company, while the remaining 40% was divided up between numerous small shareholders. Later Cirlo continued to bid for Del Monte Royal until it bought up the group completely in February 2001.

The stories the friends of the CNMS told its leadership about Del Monte were terrifying. The leadership of the CNMS was cautious. Where did the friends of the CNMS get this information from and how could they prove what was happening? When the CNMS leadership asked them these questions the friends said, "It's what the foreign volunteers are talking about."

What the friends of the CNMS reported was too scanty to sustain any credible accusations against Del Monte, but it was enough for the CNMS leadership to decide to investigate the allegations. Francesco Gesualdi, the Executive Director of the CNMS wrote to Father Alex Zanotelli, the CNMS's missionary friend in Nairobi, and asked him to find a young person who could make inquiries and perhaps conduct research for the CNMS. In January 1998 Father Alex sent Gesualdi a short message: "I've found a young man who's prepared to move to Thika for as long as it takes to make inquiries. His name is Stephen Ouma and he is ready to leave as soon as he receives your instructions." To make Ouma's task easier the CNMS prepared a questionnaire and sent it off to him.

Three months later Ouma's report<sup>6</sup> was ready and that answered in detail all questions posed by CNMS. The report began by giving information about the plantations. The plantations cover an area of about 5,000 hectares (about seven square kilometres) and is patrolled by a large corps of security guards in jeeps or on horseback accompanied by dogs. Between 5,000-6,000 farm labourers work on the plantations taking turns in a variety of jobs in order to guarantee a steady production the whole year round. Sixty percent of the work force are women. About 300,000 tons of pineapples are harvested every year, but only a small proportion of this is sold fresh. Ninety-eight percent of the pineapples are sent to the canning factory situated at the centre of the plantation. Here, thanks to the work of 2,000 people, of whom seventy percent are women, the pineapples are washed, skinned, cored and canned. Once sealed, the cans are sterilised and then taken by lorry to Mombasa where they sail for Europe, America and Japan.

When they arrive at their destination the cans are sent directly to the supermarket warehouses because the transformation process is already complete. Besides pineapple slices, the Thika factory also produces the juice obtained from squeezing the skin and the core of the pineapples. Once this is ready, the juice is poured into 260 litre barrels and then frozen. It is then sent, via refrigerated lorries and ships, to European and American preserving factories where it is diluted and transferred to small cartons ready for sale in the shops. Here the journey made by the pineapple and its by-products ends.

### **Interesting facts about pineapples**

The pineapple is originally a plant from Central America which resembles a small agave. It can be reproduced using parts of the plant including the tuft on top of the fruit. It has quite a long life and gives its first fruit 20 months after planting. It continues bearing fruit for several years, but size and quality deteriorate with time. Consequently, Del Monte cultivates the plant until the second harvest which takes place after 34 months. Then the plant is uprooted and the cycle starts again.

There are five stages in pineapple cultivation. First, the ground is prepared. This consists in uprooting the old plant and ploughing the soil to a depth of about 50 centimetres. Unfortunately, a large quantity of pesticides are used at this stage to kill the insects which make their nests in the soil. The second stage entails planting the new saplings in rows which are then covered by strips of polythene. Each hectare accommodates 43,560 plants. Thirdly, weeds have to be removed. This is carried out partly by hand (mainly by women) and partly using chemical weed killers. During the fourth stage fertilisers and pesticides are sprayed over the crop by means of tank lorries and sometimes aircraft. In the final stage, the crop is harvested by hand, often at night.

<sup>6</sup> The report submitted to CNMS in July 1998 was entitled *The Benevolent Condominium: Del Monte and the Working Conditions in its Plantations and Industry*.

## Pesticides

The Ouma report then dealt with the issue of pesticide. Paraphrased the report states: Del Monte does not own the land on which it grows pineapples because, by law, the land belongs to the government which has leased the land to Del Monte for what is reported to be a nominal rent of KShs. 1.50<sup>7</sup> per acre per annum.<sup>8</sup> In any case, Del Monte is not interested in the land. Indeed, it does not want it at all because it knows that when it hands it back, it will be so polluted and depleted that it will not be of any use as farming land for some time. In fact, since the production of pineapples began, the aim of every successive owner has been the same – to get the biggest yield and profits possible. This has always meant the widespread use of vast quantities of pesticides and fertilisers.

With weed killers, insecticides and fungicides Del Monte's chemical arsenal includes about twenty different products among which are Namacur, Temik, Telone, Vydate, Diazinon, Gramexone and others which belong to the 1st and 2nd categories in the classification drawn up by the World Health Organisation according to their degree of toxicity. These substances, besides causing cancer, sterility and malformations in the unborn child in the long term, can also cause acute poisoning with damage to the lungs, liver, kidneys and the nervous system. Every year, in the South of the world, simply called the South, there are millions of cases of poisoning because the necessary precautions are not taken when handling pesticides. Consequently, the FAO, the United Nations agriculture organisation, advises against the use of the most dangerous products in the South. The FAO is naturally worried about the small peasants who, not knowing how to read or write, are not aware of the dangerous nature of these products. They are, however, not so concerned about the management of the multinationals, the powerful organisations, with all the necessary means at their disposal for instructing their workers on the use of pesticides and by providing them with suitable protective clothing.

But often, this is not the case, because the logic of maximizing profits and minimizing losses makes many companies put the lives of their African, Asian and Latin American labourers at risk. In the case of the Del Monte plantations in Kenya, as far as the study could establish, courses to inform workers of the dangerous nature of pesticides had never been organised and the same precautions and health protection measures adopted in industrialised countries had not been taken.

Unfortunately, in Kenya occupational medicine is in its earliest stages and no research has been done into the incidence of tumours, congenital malformation and other diseases which pesticides can bring upon the people of Thika, in particular the workers. However, it is worth following up allegations by family members that in the last two years,

<sup>7</sup> 1 US\$ = KShs. 78 in May 2002 exchange rates.

<sup>8</sup> This information has been made public by Honourable Stephen Ndicho, the MP for Juja. Honourable Ndicho worked for the management of Del Monte between 1983 and 1984. He also claims that the rent is pegged on some colonial agreement of 1930 that the Kenyan government has ratified and complied with at all times.

four Del Monte employees have died of cancer of the throat. The last case was in June 1999. These people are all said to have worked for the maintenance department, where tank lorries are repaired and in the department where plant health chemo-controls are carried out.

### **The Landless**

Farming based on the intensive use of chemicals is harmful not only to the workers and the population at large, but also to the land itself which gradually deteriorates until it becomes unproductive. Consequently, every so often Del Monte needs to expand to new land which ultimately has disastrous social consequences. The fact is that the surrounding land is not idle. It is occupied by peasants who for generations have cultivated it to feed their families. So every time Del Monte decides to expand, this means in practice that there are more families deprived of their land, their only means of sustenance. They are the new poor and can no longer provide for themselves.

The most recent episode of this kind occurred in 1990 when fifty families lost their land. Besides losing their land, these families were also victims of a colossal fraud orchestrated by some government officials. These officials managed to gain possession of the families' savings by promising them non-existent land.

This is common to many of the landless who, not knowing where to turn, seek refuge in the shanty towns to be found in all African, Asian and Latin American cities. Around Thika one can find hovels inhabited by people who wake up every morning with no idea how they will earn a bowl of soup for themselves and their families. Reduced to these desperate straits they will accept any kind of work on any terms, and Del Monte takes full advantage of this situation.<sup>9</sup>

### **Exploitative Wages**

Ouma's report focused by and large on the conditions of the workers at Del Monte. Again we will paraphrase it. The number of people working for Del Monte varies, because the important thing for the multinational is 'flexibility', or rather employing workers strictly according to production requirements. At Del Monte, there are three different entry points to employment: as permanent staff, as seasonal workers, or as casual labourers. Being a full time worker is a full time job, consisting of 45 hours per week for an open-ended period of time. A seasonal worker may also work full time, and have an open-ended contract, but when there is not much work the worker can be sent home. Generally, this group works 75% of the year. With casual workers, the individual is taken on for a week or even just for a day. Subsequently crowds gather at the Del Monte gates every morning to find out if there is some temporary work for them.

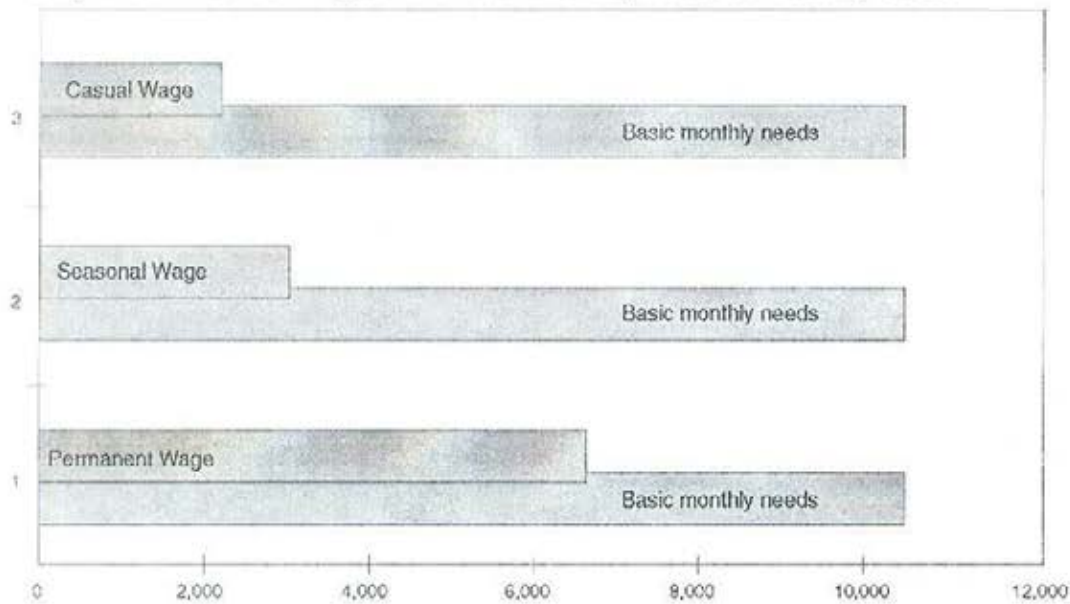
<sup>9</sup> A parallel from the industrial revolution may be worth noting. With the enclosures the landless had no alternative but to sell their labour power to the embryonic industries for exploitative wages. The story of the slave becoming the serf and the serf a worker is all too familiar. The common denominator in exploitation and poverty.

At a cursory glance, the difference between the three categories is based on differing degrees of job stability although a closer look reveals a greater difference based on bargaining power. The permanent staff have the best conditions. Although their positions can be easily terminated, they do have a contract, holidays, sick pay, help with their rent, and even severance pay.

The seasonal workers are also covered by a contract, but since their situation is more precarious as they earn less and do not have the right to severance pay. As for the casual labourers, they have no contract and no benefits. The fact is that they are too weak to organise themselves so they have to be satisfied just to get the hourly pay as established by Del Monte.

No member of the three categories receives wages sufficient to sustain the basic necessities of family life, which in Kenya, is composed of an average of six people. However, the situation of the casual labourers is the most exploitative. Even if they worked for four weeks in a row they would take home only 2,300 shillings (US\$ 28 at the rate of US \$ 1 = KShs. 80) enough to barely cover 20% of the monthly needs of a family.

#### Comparison between wages and basic monthly needs of a family of six\*



\* This is the average family size in Makongeni, Thika District, Kenya according to the 1999 Census.

In fact, Del Monte pays the casual workers 12 shillings an hour (US 15 cents) which corresponds to the price of a couple of eggs. If they were paid in kind, the casual workers would just about take home four kilograms of maize flour a day in exchange for nine hours of work. This is possible thanks to scandalous government laws in Kenya which establish a minimum legal wage around 2,800 shillings per month.

The basic monthly needs for a family of six people residing in Thika have been calculated at Kenya shillings 10,404 as follows: rent for one room 1,500, health expenditure 50,

food 6,000, electricity 124, water 150, fuel for cooking 480, clothes 300, transport 200, schooling for four children 1,600. This is based on 'basket survey' done in Thika.

Considering that all the wages are low, the differences between the three categories are enormous. For instance, if we say that a permanent worker's labour cost to the company for 1 hour of work is Kenya shillings 100, that of an seasonal worker would be Kenya shillings 52 and of a casual labourer Kenya shillings 16. Consequently it is in Del Monte's interest to use casual labourers and seasonal workers as much as possible, reducing the permanent staff to the bare minimum. This is why there are hundreds of casual labourers working permanently at Del Monte. For years they have been taken on from Monday to Monday. It also explains why 200 workers, who until December 1998 had been working as permanent staff, were sacked and taken on again as seasonal workers. Suddenly their pay decreased by 45% and they lost their right to severance pay.

### Structure of Regular Workers at Del Monte (September 1999)

Type of contract	Canning factory	Plantation	Total	%
Permanent	323	1,686	2,009	31.2
Seasonal	1,695 (1)	1,025 (2)	2,720	42.1
Casual (3)		1727	1,727	26.7
<b>Total</b>	<b>2,018</b>	<b>4,438</b>	<b>6,456</b>	<b>100.0</b>

**Source\* Del Monte Management Report 2001** The management of Del Monte and the Unions were unable to provide KHRC with gender desegregated data. The percentages of women workers given for the plantation and factory workforce of 60% and 70% respectfully are useful.

The seasonal factory workers were paid Kenya shillings 34 an hour corresponding to about US 50 cents. The seasonal plantation workers are paid more or less the same as casual workers (14 and 12 shillings per hour respectively). In the months of March, April, May, June, July, November and December, the main harvesting periods, there can be as many as 2,500 casual labourers on the plantation bringing the total number of workers up to 7,000.

### Other Violations

The use of casual and seasonal workers in permanent posts is a clear violation of domestic labour laws. But unfortunately it is not the only violation. The trade unions denounced Del Monte's habit of formally assigning their workers tasks at a lower level than the appropriate levels for work carried out in order to justify paying lower wages. The unions also denounced anti-trade union practices. For example, in April 1997, the company sacked 1,700 workers who were taking part in a strike which had been organised in defiance of legal requirements that are immoral,<sup>10</sup> and sent lorries to recruit casual labour from the neighbouring poor areas.

<sup>10</sup> Under the Kenyan labour laws there can never be a legal strike because the Minister of Labour has to consent to the strike. Of course no minister has ever consented to a strike. All the workers are told after a strike is that the strike is illegal. The workers regard this law as immoral and have consistently disobeyed it.

In 1994, 17 drivers were sacked because they joined a trade union that the management disapproved of. The reason the union was disapproved of was because the shop floor leadership defended workers' rights with committed determination. The 17 who were sacked went to court, subjecting themselves to a long, slow process. It is unlikely that the workers will obtain justice, not because the company will be declared innocent, but because perhaps there will never be a final judgement. All cases against Del Monte drag on for years with regular adjournments which exasperate the workers and ruin them financially with the cost of stamp duty, lawyers, more stamp duty and journeys to the capital. In the end, they give up and stop attending the hearings thus enabling the judge to dismiss the case due to the injured party having given up their claims. In any case, this situation makes Del Monte arrogant because the management feel they are in a state of impunity. Consequently, they abuse their power regarding recruitment, wages and of course, compensation to be paid in the case of accidents. Del Monte does not even pay when its responsibility is clearly evident. Many families have been fighting for the last 10 years for compensation after the 1988 crash involving a company lorry which caused the death of 34 people and injured 20 others.

The workers' anger is exacerbated by the fact that while they are denied decent wages and minimum health care, managers and foreign experts receive astronomical sums. The personnel manager, for example, is guaranteed a monthly salary of about 4 million lire (USD 2,000) (15 times higher than an office clerk) in addition to having all expenses paid by the company for his/her children's education and for treatment in the best hospitals in Kenya for all members of his/her immediate family. It is not known how much foreign managers earn, but Italian experts are allegedly guaranteed 11 million lire (USD 5,500) a month (paid in dollars) as well as, as the workers allege, the trip back to Italy every two months paid for by the company.

To conclude, we have a picture of an extremely class-conscious Del Monte: starvation wages and exploitation for the African workers and handsome salaries for the foreign and middle class local managers. Furthermore class discrimination is evident on visiting the villages that Del Monte has built to provide accommodation for a section of its employees. The managing directors, all foreign, live in luxury villas in the midst of fabulous private parks patrolled by armed guards. Needless to say, inside, an army of servants paid for by the company tend to their every need.

Moving on to the village built for middle management (supervisors, heads of department, office managers) we note a lowering of standards even if they are guaranteed houses with 4 rooms equipped with electricity, water, electrical appliances and a bathroom. When we get to the villages built for labourers the difference is clear for all to see. The 'houses' consist of one room, 3 metres by 4 metres, for families of six to eight people. Some do not even have windows and the roof is made of sheet metal which makes the house an oven the moment the sun rises.



Needless to say, these huts are without electricity, water and toilets. People have to queue up in front of communal latrines of which there are two for every village, about one for every 100 inhabitants. Not only are the latrines few and far between, they are also nauseating. They consist of a hole in the middle of a pit which is about a foot deep and which has to be emptied every so often. It is not difficult to imagine the disgusting stench which pervades these places and the quantity of flies which thrive there. These are the conditions under which powerful Del Monte, thanks to its employees, reaps the large profits every year from their work.

### **Setting the Stage for the Boycott**

Ouma's report, therefore, set the stage for the implementation of a proposition by the CNMS to carry out a boycott campaign of Del Monte's products in Italy and the European markets to force the company to improve the conditions of workers in its factory and plantations. The report confirmed the stories the leadership of the CMNS had heard from Italians visiting Kenya. Here was a fund of crucial evidence for the CMNS to use its well known expertise in campaigns against multinationals that make huge profits by exploiting workers who work under illegal and immoral working conditions.



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## **CHAPTER THREE**

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### 'People Over Profit':<sup>11</sup> The Launch of Consumer Campaign in Italy

<sup>11</sup> We improvise this title from Noam Chomsky, Profit over People: Neoliberalism and Global Order (New York: A Seven Stories Press, 1998).

**OUMA'S** report showed that on the plantation serious violations occurred which required an answer on the part of the consumer. That is why the CNMS started to organize a pressure campaign against Del Monte, or rather Cirio, which at that time owned 70% of the shareholding at Del Monte. The CNMS knew from experience that campaigns in defence of workers rights could only be successful if they were supported by the workers. It was on this basis that Gesualdi, the Executive Director of the CNMS, asked Ouma to arrange a meeting with Trade Union leaders of the unions with membership at Del Monte. In June 1999 Gesualdi flew to Nairobi. In a small bar in Thika in June 1999 an important meeting took place that was decisive for the continuation of the campaign.

Despite the fact that three trade unions were represented at Del Monte, only the Kenya Union of Commercial, Food and Allied Workers representing the workers in the canning factory, was willing to help. The other unions, Kenya Plantation and Agricultural Workers Union and the Kenya Union of Domestic, Hotel, Educational Institutions, Hospital and Allied Workers, showed no interest. Two people represented the Kenya Union of Commercial, Food and Allied Workers namely, Erastus Kioni, the provincial secretary and Daniel Kyule, the chief shop steward at Del Monte. Right from the start it was clear to Gesualdi, a trade unionist himself, that Kyule was going to be the greatest asset to the campaign. Kyule had been for many years the chief shop steward and he knew everything about the productive complex of Thika. In this meeting Kyule concisely summarised the history of the plantation, described the miserable working conditions especially for the casual and seasonal workers. He also described how Del Monte was demoting workers from permanent to seasonal status and from seasonal to temporary status. Kyule told Gesualdi about the constant threats he received from the personnel Director, Wallace Mantu, a Kenyan. Fortunately for Kyule, as Gesualdi found out, at that time Carlo Zingaro was Managing Director. Zingaro, on many occasions had intervened to dampen the intransigence of his colleagues in the management. Wallace Mantu never tired of reminding Kyule that in a short time Zingaro would retire and there would be nobody to defend him. Kyule refused to be intimidated and continued his struggles for the rights of the workers.

Kyule gladly accepted the CNMS's idea of organising a boycott campaign against Del Monte. Kyule was convinced the boycott would force Del Monte to improve the working conditions of the workers. Gesualdi first step was to invite Kyule to Italy to take part in an international meeting. In that meeting Kyule would give an account of what was happening at Del Monte. Kyule was a guest of the CNMS in September 1999, and the CNMS took advantage of Kyule's presence to clarify the details of the boycott campaign.

While analysing Del Monte's customers the CNMS discovered that their customers included COOP Italia, an important Italian supermarket chain which sold pineapples from the Thika plantation using their own COOP Italia trademark. Kyule confirmed that canned pineapples with the COOP Italia label printed on them leave directly from Thika.

For the campaign this fact was particularly crucial not only because COOP Italia is the biggest supermarket chain in Italy, but above all, because COOP Italia had always demonstrated great awareness for social and environmental problems. Because of this awareness COOP Italia had applied for, and obtained, the SA 8000 certification the year before, a social quality certification, which is granted to companies demonstrating respect for the fundamental rights of their workers and demanding the same respect from their suppliers.

### **What is the certification under SA 8000?**

SA 8000 is the short form for Social Accountability 8000. This system has been created in order to define, control and certify companies' conformance to some of the basic workers' rights. SA 8000 is based on the principles of the International Labour Organization conventions, such as:

- the freedom of association and collective bargaining;
- the right to join trade unions;
- the payment of a wage which is adequate to the cost of living;
- the limit of working hours within 48 hours per week;
- a safe working environment;
- the respect of the minimum age for employment;
- the same treatment for performing the same work; and
- the absence of forced labour.

The system which is controlled by a private organisation named SAI (Social Accountability International) was established in 1997 as an initiative of the Council on Economic Priorities (CEP) an American association which has been active in the problems of ethical investment and consumption<sup>12</sup> for many years. The CEP became involved in these issues because they realised that in the globalisation age, one of the most serious problems was represented by the violation of workers' rights. They felt there was an urgent need to find a system to ensure the improvement of the social conditions in which the production takes place. Thus the mitigation of the inhuman effects of globalisation was seen by the CEP as crucial for its survival. The CEP must also have realised these standards would be important in the ongoing monopolistic competition. Those corporations that did not comply would be forced out of business as social corporate outcasts. The system is therefore based upon four main points:

1. The definition of a code of conduct which shall be subscribed and applied to the companies seeking certification;

<sup>12</sup> Let us not forget that the consumers in the North want commodities that are produced in a clean and non-poisonous environments. At least this is an interest of a consumer in the North that is of great importance to a worker in the South.

2. The requirements of complying with the code of conduct to ensure that the criteria of the code of conduct applies to all suppliers in the chain;
3. The creation of a list of Certification Bodies qualified to verify the compliance with the code;
4. The definition of procedures which shall be followed by Certification Bodies and the definition of other safeguarding measures in order to assure the seriousness of verifications and the reliability of certificates issued.

Up until now the following Certification Bodies have been qualified to verify compliance with SA 8000 requirements: Société Générale de Surveillance (SGS-ICS), Det Norske Veritas (DNV), Bureau Veritas Quality International (BVQI).

The CNMS understood straightaway that COOP Italia's involvement was an advantage for the campaign and its leadership was determined to turn this company into an ally. For this reason the CNMS decided to steer the campaign in two directions: one towards Cirio/Del Monte because they were directly responsible for the working conditions at their Thika factory and plantations, and the other towards COOP Italia because they were a SA 8000 certified client. The CNMS prepared a postcard for Cirio and one for COOP Italia, printed 100,000 copies and launched the campaign with the help of the media and groups that distributed the material to sensitive groups all over Italy. The letter, reproduced in appendix IV was sent by the consumers to the owner of the majority shares at Del Monte. The letter demanded immediate improvement in the areas of wages, freedom of trade union activity, housing, training and the provision of protective devices for the plantation workers.

A similar postcard was sent to COOP Italia emphasising the concern of the Italian consumers: The postcard in part read:

**"As a responsible consumer I was shocked to hear the terrible conditions of exploitation and pollution under which pineapples are produced in Kenya. Given that COOP [Italia] sells, under its own brand name, pineapples supplied by Del Monte I would ask you to exert pressure on this multinational to stop the abuses and to support the requests put forward by this campaign ... I believe the above to be in line with the SA8000 certificate which COOP [Italia] has recently obtained. I look forward to hearing from you."**

The campaign was launched on November 1st and caught everyone by surprise. As was to be expected COOP Italia reacted immediately and informed the CNMS that they would soon take the necessary measures to verify the truthfulness of the accusations levelled against Del Monte. But Del Monte, on the other hand, sent the CNMS a fax denying all accusations. Del Monte decided to maintain the same defensive position also in public and on November

24th, during a press conference in Milan, the company put out the following press release that ended by quoting the words of Francis Atwoli reproduced earlier.



**Del Monte Italia**  
Lombardia - Via Magliabiscia 11/13 - 20121 - Milano  
Tel. +39 02 47194111 - Fax +39 02 47194118

**Press Release**  
**London, November 24, 1999**

## **DEL MONTE ROYAL FOODS LTD**

### **Del Monte refutes defamatory allegations regarding its Kenyan Operation**

Milan a number a number of false and defamatory allegations involving Del Monte's Pineapple manufacturing operation in Kenya have appeared in certain Italian media. These are the results of statement by Centro Nuovo Modello di Sviluppo (CNMS). These claims are without substance. Paul Danowa, President and Chief Operating Officer of Del Monte Royal Foods, said:

*Del Monte Kenya Ltd (DMK) is a valuable part of our organisation, and we are committed to the region. We have a good reputation in the country, both as a responsible employer and as an experienced operator. We have transferred international expertise and technical know-how to the local management and we will continue to develop our operation to help the Kenyan pineapple industry remain competitive with Thailand and Indonesia. This report is clearly misleading and shows a lack of understanding of the workplace in Kenya and our company.*

#### **Overview**

Del Monte Kenya Limited is based in Thika which is one of Kenya's larger industrial towns with a population in excess of 200,000. Del Monte has had a presence in the region for 35 years and has a long-term commitment to the area. Del Monte employs over 5,500 workers in permanent and seasonal positions. It is Del Monte's employment policy to transfer international technical expertise to develop local management. This approach has been successful in Kenya where almost all of the management is local. There are only three expatriates in the management team.

#### **Defamatory and Unsubstantiated Claims**

The CNMS campaign demonstrates a fundamental lack of understanding of Del Monte's business and its role as a farmer and employer in Thika. Specifically:

CNMS claims that Del Monte does not care about the land. With Del Monte's long term commitment to Thika it would be foolhardy for the company to misuse one of its vital assets. To maintain the land in the most productive form, Del Monte uses organic matter and proper farming methods to minimise soil erosion.

CNMS also reported that DMK uses an excessive amount of fertiliser and pesticides. However, DNK practices intergrated Crop Management. This means that use of pesticides is made only when absolutely necessary and where there are no alternative control measures. Pesticides and chemical products used approved and licensed by the Pest control Products Board in Kenya. There is no evidence of environmental impact on birds or fish and both are thriving in the company's dams and surrounding bushland.

Due to the rigorous control in the use of chemicals, there is no residue in the produced fruits. A continual monitoring programme and annual chemical testing is carried out on all DMK products by an international recognised independent food research association in Europe.



- DMK participates in Gifap (International Group of National Associations of Manufacturers Of Agro-chemical Products), an association which runs a programme for the responsible use of pesticides Training has been given to all DMK staff by the company and Gifap which runs the Kenya safe use project. DMK is also a member of the Pesticides Chemical Association of Kenya which promotes the proper use treatment of pesticides.

- DMK regards the safety of employees coming into contact with pesticides as paramount and among other things, there is a monthly medical supervision programme. All these Employees are provided with protective clothing, respirators where necessary, and boots. All Clothing is required to be washed after use and showers are provided.

- Del Monte provides resources to cover adequate medical service for all employees. For Example, agricultural employees have 24 hours access to medical facilities and treatment is at the company Emergencies are covered by the company ambulance service.

- Contrary to CNMS reports there has been no evidence to point to any illness or disease or fatalities at the site resulting from unsafe industrial practices.

- CNMS states that Del Monte employees are inadequately paid. Del Montes policy is to pay wages well above Government wage guidelines and which are at least equal or better than the market rate in Kenya.

- On the DM plantation there are eight nursery schools, three primary schools and social halls and adequate housing and toilet facilities. Facilities are continuously being improved and compare favourably to surrounding areas, security, landscaping and maintenance of housing are carried out by Del Monte.

- DMK has a security department responsible for supervising all the company property. The department is manned by well-trained security personnel and equipped with radio, transport and other equipment necessary for effective performance of their duties. The security force works closely with police authorities, and contrary to the statement, is not armed-in anycase carrying arms is illegal under Kenyan law.

- It is a flagrant defamation to suggest DMK has any influence over the Kenyan legal system.

- DMK works closely with the key trade unions in Kenya in addressing employee issues and concerns. *Francis Atwoli, General Secretary of the Kenya Plantation & Agricultural Workers Union, has written the following statement. On a recent visit to the farm... we were very impressed in the manner our shop stewards openly expressed the good co-operation between the management and workers. As far as we are concerned as a responsible Trade Union in the Country, we assure you of our total co-operation and support and we have no complaints or any problem with your company as far as workers satisfaction at work is concerned.*

For further enquiries

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The absurd thing about Del Monte was that it denied everything not only in Europe, where it is easy to fool consumers, but also in Kenya where the workers, trade unions on the ground and non-governmental organisations know what is happening in the plantations. For example, on November 22nd, 1999 during a protest press conference called by the Solidarity Committee with Workers at Del Monte, the personnel manager for Del Monte Kenya, Wallace Mantu, intervened before a crowd of journalists and bitterly attacked the trade union representatives at the conference and denied all allegations. He concluded by saying that Del Monte had nothing to hide and that the journalists could go to the plantation whenever they wished to see the excellent working conditions for themselves!

The Solidarity Committee took Mr. Mantu at his word and along with reporters, arrived unannounced, at the Canning factory on December 3rd, 1999. They asked for permission to enter but it was denied. The reporters protested and even though it was only 11 a.m. the management had the brilliant idea of sending the workers home so that the "tour" could be conducted with the machinery at a standstill. But what Del Monte least wanted did, in actual fact, happen. Outside the factory gate the workers mingled with the reporters, speaking with complete frankness. With the members of the Solidarity Committee and the reporters, the workers marched in a spirit of defiance. Del Monte had, indeed brought about a demonstration against itself. The next day newspapers and television programmes spoke of the terrible conditions on the Del Monte factory and plantations. The ensuing outcry was so great that it caught the attention of the Kenya government.

Earlier, on November 26, 1999 Dr. Kang'ethe Gitu, the permanent secretary in the ministry of labour and human resources and development had met the Del Monte management. Under their guidance Dr. Gitu toured the Del Monte facilities. The permanent secretary stated "...the allegations [raised by the campaign] were alarming and the government was keen to look into the root causes of the allegations." It was in this tour that Dr. Gitu stated that "the Kenya Human Rights Commission has no business involving itself in this matter." Dr. Gitu also attempted to intimidate the Chief Shop Steward, Kyule, by rebuking him in public for travelling to Italy with the "aim of tarnishing Del Monte's name."

The KHRC responded to Dr. Gitu's intimidation on November 30, 1999. It clarified its mandate in the matter and indeed that of the entire Solidarity Committee. The Commission called for a dialogue to discuss the issues raised in the campaign. The Commission also challenged the Kenyan government to protect the rights of its citizens and demanded to know why the government had nominated P.J. Mbugua to the Board of Del Monte. The Commission strongly came to the defence of Kyule and supported his Italian visit as crucial for the campaign. If anybody was guilty of tarnishing the name of Del Monte, the Commission argued, it was Del Monte itself.

However, instead of starting to admit the existence of 'one or two problems', on December 10, Del Monte published the following full-page announcement in the Daily Nation, the leading Kenyan newspaper, refuting all charges and declaring itself a victim of sabotage by rival enterprises.

DAILY NATION, FRIDAY, DECEMBER 10, 1999

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## Del Monte Kenya Limited

P.O. Box 147 THIKA TEL: (254) 0151 21601 FAX: (254) 0151 21414 TELEX: 22549

Advertiser's Announcement

### DEL MONTE KENYA LIMITED REFUTES ALLEGATIONS SURROUNDING THIKA PLANT "False and baseless" accusations disturb company officials

**PRESS RELEASE - FRIDAY, 10TH DECEMBER, 1999**

December 8, 1999- Thika, Kenya – Del Monte Kenya Limited (DMKL) officials are concerned about the company's image in the wake of an apparent smear campaign. Recently, the company has received bad publicity stemming from a barrage of unsubstantiated allegations ranging from sexual harassment, unsafe pesticide use, to inhumane working conditions and withheld salaries.

#### Smear campaign Suspected

"This smear campaign is designed to make the company look bad by raising so many issues simultaneously. Legitimate interest groups with constructive agendas address one issue at a time and go through the appropriate mechanisms to find solutions." Said Carlo Zingaro, Managing Director of Del Monte Kenya Limited (DMKL). Furthermore, calls for a boycott of Del Monte products in Kenya could threaten the competitive position of the pineapple industry in Kenya and the livelihood of more than 5,000 employees and their dependant."

DMKL is regarded as a responsible employer in Kenya. The company is committed to paying competitive wages which are well above government guidelines, and to providing adequate infrastructural facilities for Kshs. 100 million ensures a decent standard of living for employees which DMKL believes is crucial for them to carry out their jobs to the best of their ability.

"I have been assured that there is no truth to these allegations," said Paul Danowa, President and Chief Operating Officer of Del Monte Royal Foods the holding company. "These are serious charges and we do not take them lightly. Del Monte does not, nor will it, tolerate mistreatment of its employees under any circumstances."

#### A Committed and Responsible Employer

DMKL adheres strictly to all safety requirements and where chemicals and pesticides are involved, necessary precautions are always taken to protective clothing and equipment, safe storage, continuous and regular training of employees on safe usage of chemicals and pesticides and regular medical supervision and testing to all requirements are met.

DMKL operates within a dynamic industrial relations environment dealing with three unions and all terms and conditions of employment are negotiated with the relevant unions. The resulting contracts are registered by the industrial Court after passing legal and economic tests and are well above the law and equal or better than market. Furthermore regular monthly meetings are held with elected shop stewards during which time problems are aired and necessary action taken to make improvements.

#### Along term commitment to Thika

DMKL is committed to Thika and the land on which it farms. To ensure that this land remains in its most productive form, the Company uses organic matter and other nutrients in addition to using proper farming methods to minimise soil erosion.

DMKL practices intergrated crop management. This means that pesticides are only used when absolutely necessary. All products used are approved and licensed by the pest Control Board in Kenya. There is no evidence of environmental impact on birds or fish, both are thriving in the company's dams and surrounding bushland and there is no residue in the produced fruits.

DMKL participates in Gifap (International Group of National Associations of Manufacturers of Agro-Chemical products), an association which runs a programme for the responsible use of pesticides, and the Pesticide Chemical Association of Kenya which promotes the proper use and treatment of pesticides. Training has been given to all DMKL staff by the Company and Gifap, which runs the Kenya Safe Use Project.

#### An open Door Policy

DMKL welcomes visits from its customers and other responsible organisations. Recent inspections have been carried out by the Kenyan Government, a major Italian customer and a newswire media service. All have been satisfied with the operation and operation and DMKL's commitment to the welfare of its employees.

#### Misleading Information

At the beginning of this campaign, Father Alex Zanotelli of Kanobangi South Catholic Church who was quoted as a source has since confirmed to DMKL that he had never been to Thika and did not know what DMKL did in the area.

The Kenyan Human Rights Commission embarked on its negative campaign before visiting DMKL to verify their allegations.

In conclusion it is our sincere hope that the foregoing has cleared out any misunderstanding about DMKL that may have arisen from the false and baseless allegations

**DEL MONTE KENYA LIMITED**  
9-Dec-99

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## **CHAPTER FOUR**

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### What Good are Inspections?

**WHILE** Del Monte was trying to deny all charges, COOP Italia had nearly discovered the truth. On November 12, 1999 the CNMS was told by COOP Italia that the inspection, which had already been planned for December, 1999 had been brought forward to November 23, 1999. Such an inspection was to be made by BVQI, an important multinational certification company which issued SA 8000 certification to COOP Italia itself.

COOP Italia's duty was very simple. It was to verify if there were any situations on the plantations and factory at Del Monte that were not in conformity with the rules stated by the SA 8000 protocol. The CNMS was rather satisfied with COOP Italia's decision, but did not have any direct experience in the certifying process. For that reason the CNMS asked COOP Italia and Del Monte to allow the CNMS to commission another Certification Company that it would pay to carry out a parallel inspection.

The CNMS received a positive answer and decided to entrust the SGS, another important SA 8000 Certification Corporation. In a few days the CNMS was informed by the general manager of SGS Italy that Ms. Rossella Ravagli, an Italian officer experienced in SA 8000, was the person in charge of the inspection. The CNMS immediately called her to arrange a meeting and Gesualdi met her in Milan at the SGS offices. They talked for quite a long time about the whole situation at Del Monte and the boycott campaign. Gesualdi was quite convinced that the people in charge of inspections should be informed of the critical situation at the plantation, although he questioned whether this was in line with SA 8000 rules. Fortunately, Rossella assured Gesualdi that this briefing conformed with the SA 8000 policy.

Ms. Ravagli carried a parallel inspection for the SGS for the CNMS. She later gave Gesualdi a copy of the report she made from the Thika Inspection on November 22 and 23 1999. The report, that strictly followed the SA 8000 rules and procedures, found abuses and violations by Del Monte. In part this report stated as follows:

"The stage of preparation and planning before any plantation inspection is extremely important. To prepare any inspection you have to look for and collect all relevant information about the company which is going to be checked (i.e. number of employees, workers, wages, native spoken languages, different ethnical groups, local and national laws, social, political and economic conditions in which the company is established, a proper selection of consumer goods for the calculation of the minimum salary, statistics, critical areas).

It is also very important to involve NGOs (Non-Governmental Organizations) and other concerned parties in the process of collecting information before, during and after the actual audit. This involvement can be realized with/by meetings with the NGOs working in that area or with/by the analysis of documentation and reports published by trade unions or other concerned parties – either governmental or not – working on these matters and internationally well known.

The more the inspectors can get relevant information concerning working conditions in a company, the more their investigations have good chances to be successful and go deeply into the matter. This process of informal investigation is an effective means to collect information about possible critical areas, and to encourage local organizations to continuously verify and keep controlling the state of conformity of the factory over the time. These consultations reduce the risk that inspectors leave out possible areas of non-conformity.

During these meetings inspectors have to pay attention to the different claims or appeals. They must also learn about the different methods by which NGOs, trade unions, religious communities and other concerned parties mobilize when dealing with a situation of non-conformity or a case where there is lack of respect to the defined conditions for workers. For this reason it is extremely important to involve NGOs in the SA 8000 audit, since they provide a kind of control with much more credibility and transparency.

Interviews, both with individuals or groups, are also of great importance in planning and carrying out the audit. Interviews with workers, in the factory or outside their working environment, can support, complete or invalidate other kind of information/arguments coming from other sources/authorities and lead up to cross-examination to test answers reported from other interviews with the managing department. Such interviews have to be conducted in the native spoken language and must guarantee the anonymity of the interviewees. Anonymity is essential in the process of an audit. If workers do not feel absolutely assured that their interview will be kept confidential, they could feel intimidated by possible retaliation from the management and consequently not speak freely about critical matters. Interviews should include many items of the SA 8000 procedure, especially focusing on those matters that are likely to be the critical ones. The interviewing process requires much attention and care: the interviewer's duty is to make the interviewee feel at ease and to gradually investigate critical matters.

The examination staff must be allowed to enter any part of the factory/company, not only without any interference, but with the support of the management. In no case may the management attend interviews with workers, nor need they be informed about details or results of the interviews. Another important point on which the examiner must focus attention on is verifying whether the workers' salary is fair. A fair salary should allow workers to satisfy their own needs, and provide them with an additional income to be spent as they please. The audit is founded on a set of qualitative and quantitative methodologies whose fulfilment results from different elements such as: consulting with NGOs and other concerned parties, interviews with workers, taking into account accessibility to basic consumer goods.

In order to check the conformity of a working situation, examiners must obviously be familiar with local and international laws in force, and with the implications of these laws in relation with the implementation of SA 8000. Being familiar with SA 8000 procedures is a necessary requirement, and the examiner must also have knowledge of specific norms, professional training, labour laws and safety regulations.

Reports, interviews and documentation of the working environment make up the objective evidence, and essentially the foundation for, the results of the examiners' controlled investigation. The more accurate the audit is, the easier it is to find new opportunities to improve the working conditions.

SA 8000 cannot be a solution to all problems, but it can be a helpful way to guarantee that companies will respect labour legislation. It may also begin the process of improving workers' conditions by involving parties concerned in the same matters (like NGOs) and providing continuous monitoring.

The audit process as described above in all its different stages was applied to the inspection of the plantation in Thika in November 1999. We started the preliminary study in Italy by collecting and analyzing all useful information and documents concerning the company and its commercial activities. We also researched the different kinds of pesticides used in the industry, the applicable safety standards, and the effects they had on the environment. Thanks to the collaboration with our representative office in Nairobi we succeeded in finding out laws and relevant information concerning the social, economic and cultural situation. We were also able to contact NGOs, local governmental authorities and representatives of the trade unions established in Kenya, mostly in Nairobi.

The preparation stage continued until our arrival in Nairobi, where we planned our visit to the plantation together with other colleagues the following day. During our visit we were aware of the following facts:

- Every inspection can be considered to some extent "critical" (nobody likes to undergo a control or an examination especially if it is not the company that asked for it).
- The specific kind of inspection: the aim of the SA 8000 is to control the production processes only in cases where the workers' rights are not respected.
- In Kenya some kinds of discriminating practices may be common, or at least not so unusual. With this background we knew that there could be a hostile attitude towards foreign inspectors.
- Our visit was taking place at the same time as a boycotting campaign.

On our arrival to the plantation we – together with another group of examiners – were welcomed by the company management; during our first meeting we explained to them the reasons and aims of our visit. The management permitted us to carry out the visit, although they seemed quite skeptical about the issues rooted in the boycotting campaign.

The first day we visited the site with another team of inspectors. This other team was employed by a customer of the plant to inspect the site and used the same criteria as we did. We conducted several interviews with single persons, workers' groups, trade union representatives, maintenance and laboratory staff, women workers and personnel.

Our questions were focused on particular matters such as: working time, salary, overtime work, labour contracts and agreements, workers' rights, and some information about safety (for instance use of Personal Protective Equipment [PPE]). In the offices we examined documents such as payslips and different kind of employment contracts (seasonal, casual, and permanent). Based on what we saw during our first day, we planned another visit to concentrate on other critical matters. We employed a technique of cross-examining all reports and data that we already possessed in order to delve more deeply into the issues.

After the first opening meeting on the second day, we went on another visit to the site separate from the other examiners. We visited the plantation, the pineapple cannery, the maintenance department, an infirmary and some small villages. We continued interviewing workers at the plantation and the cannery, as well as inhabitants of the villages. We asked them about labor rights, working times, salary, health and safety conditions, types of training, infirmary services offered, the ways in which pesticides were stored, if there were any PPE and whether people had been trained to use them.

Visiting the surrounding villages enabled us to see what kind of "houses" and "sanitary devices" the people had. The second day of the audit process was a bit slower and more difficult than it had been the day before; particularly the interviews with workers. This was probably due to the activity of two examiners groups doing similar investigations. The management often accompanied us on our visit and tried to have us to check some places and not others. We pointed out the necessity of collecting information outside the working plant and were told that we could find everything we needed to know inside the plant.

The workers in the factory seemed less embarrassed during our interviews than the plantation workers did. Some of the plantation workers became frightened during the interviews, and the process became so difficult that the interviews could not be used. We found documents and registration procedures, and noticed that at times workers and managers attempted to cover up situations that were not in conformity with standard regulations. When this happens, it is the examiner's duty to expose such behaviour and make sure that the temporary treatment of the non-conformity aspects continues.

To properly check its effectiveness as well as to verify whether the management is aware of it and taking advantage of those irregularities.

Most of the interviews made during the first and second day (some of them individual, some others in a group) were made in the native spoken language, Swahili (sic). The attendance of our local collaborators allowed us to have a complete and careful control on this matter.

At the end of the day we thanked the management for the permission to visit the plant and provided them with some general impressions and information without disclosing any details. Because we did not have much time at our disposal, and since there were problems that emerged during the talks that needed to be examined more deeply, we decided to continue our research. We planned some follow up meetings for the next day in order to clear up some issues within our evidence. The day after we succeeded in making interviews outside the place of work, thanks also to the collaboration of non-governmental organizations and religious communities.

In addition we also had a meeting with Kenyan Human Right Commission (KHRC) of Nairobi, which provided us with useful information about basic consumer goods and some other evidence which was in agreement with what we had seen during our visit. This meeting was of great help in collecting further evidence, proof, details about the social, cultural, political and economic context about the local industrial situation as well as to crosscheck some critical aspects which had already been noticed during the first two days. We also discussed the composition of the basic consumer goods and their economic value. With this additional information, and also by referring to the formula suggested by the CEPAA (Council on Economic Priorities Accreditation Agency) guide, we were able to calculate the minimum salary estimated to satisfy the fundamental needs.

At this stage of the investigation we had all the necessary information to verify the situation so far. We left Nairobi and returned to Italy to write our final report. The network of the involved organizations (NGOs in Italy and in Kenya, SGS Kenya, SGS Italy) allowed us to quickly receive and analyse some additional, and quite relevant pieces of information, and to delve more deeply into some particular, final aspects.”<sup>13</sup>

Upon reflection, the CNMS’s decision to entrust another organisation it chose was very good. Experience has taught the campaign that inspections can be made using different methods and consequently achieving different results. This fact is perhaps the Achilles heel of inspections and it has to be addressed by the human rights movements the world over. The inspections conducted by the BVQI and the SGS at Del Monte call for this reflection.

<sup>13</sup> The final SGS report is in Appendix V.



For example, unfortunately the CNMS was not able to read the BVQI final report because, due to a formal agreement with suppliers, the inspection reports cannot be made public. Nevertheless, COOP Italia provided the CNMS with the final results of the inspection. It was really astonishing that the BVQI report did not refer to any severe deficiencies such as payment of salaries far below the satisfaction of fundamental needs of workers and violations of labour rights which have been guaranteed to all trade unions. The BVQI report, however, captured some non conformities with the SA 8000 during the audit made by BVQI on November 22—23, 1999. Paraphrased, these non conformities are:

1. There is no objective evidence that the company has established a healthy and safe place of work and supplied proper measures to prevent accidents and health damages.
2. There is no evidence that the company has provided workers in the plantation with drinkable water.
3. There is objective evidence that the company makes or supports discriminatory actions in the employment of women subjecting them to a pregnancy test.
4. The company tolerated an abusive behaviour of a senior manager letting him enter the women's bathrooms at the plant.
5. The company has required overtime work warning workers of possible unpleasant consequences in case they refuse to do it.

Differences between the BVQI and the SGS reports were pointed out not only in the results but also in the way they developed their inspection. For example, the BQVI did not consult NGOs. The only contact Gesualdi had personally made with the BVQI was with Mr. Franceschini, the person in charge of the BQVI in Italy, who called Gesualdi on the November 17, 1999. During their phone conversation Franceschini did not mention the problems existing in the plantation. He appeared more concerned by the CNMS's appeal to the SGS to undertake a parallel inspection and the possible embarrassing situation that working together with a competitor company might cause to the BVQI.

For both the BVQI and the SGS reports the period of inspection was very short. Almost all the interviews were done in a hurry. This could have compromised the details that the process, undertaken over a longer period, could have brought forth. A hurried inspection may attract unnecessary critique that the findings of the inspection were neither objective nor reliable.

In this regard, the audit of the SA 8000 system was brought to question. The constituency that was to be consulted needed broadening. Almost a year later, when the BVQI was approached to do a follow-up inspection by COOP Italia, they were given specific instructions to consult members of civil society. This was a positive step towards the realisation that what was happening at Del Monte was the concern of not only the tripartite members, but also the other social dialogue partners and human rights monitoring groups.

After the first inspection and on December 18, 1999 the Solidarity Committee with the Del Monte Workers and the CNMS held a meeting in Nairobi to draw strategies on the continuation of the campaign. Gesualdi represented the CNMS. On December 20, 1999 KHRC, on behalf of the Solidarity Committee, wrote to COOP Italia reiterating that the conditions of the workers at Del Monte violated the letter and the spirit of SA 8000. The letter also criticised the BVQI inspection report and called for a new inspection. The letter identified four specific flaws with the BVQI report: 1) the workers were supplied with new overalls specifically for the inspection; 2) the production line in the factory was stopped so that the inspector could not meet the workers; 3) the inspector was accompanied by the senior management of Del Monte including the acting Managing Director, Barry Twite. This fact resulted in intimidation of the workers who were interviewed. Workers who were considered dissidents were not allowed to be interviewed; and 4) some of the workers were ordered by their inspectors to hide in the plantations as the inspector passed by their work stations.<sup>14</sup>

So, what good are inspections? Inspections, therefore, can be double-edged swords. They can either highlight some of the violations of the rights of workers; or they legitimise the violations of the rights of workers; or they can expose the violations of workers rights and thereby call for reforms. The procedures and the rules of inspections must constantly be reviewed by the campaigners while bearing in mind that properly used the SA 8000 is a tool for mitigating the plight of the workers.

<sup>14</sup> Onger, a worker in the plantation reported "...I did not know what was going on, but I saw a white man coming from far. We were 20 of us and the supervisor advised us to take cover. We hid in the plantation."

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## **CHAPTER FIVE**

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### Like All Struggles, the Campaign Seesaws

ON December 10, 1999 or thereabouts, the SGS Report was in the CNMS's possession and they published it immediately. Two weeks later, COOP Italia informed the CNMS that the BVQI Report was also ready and claimed that it was more or less similar to the SGS report. COOP Italia undertook, therefore, to formally request that Del Monte rectify any violations that did not adhere to SA 8000 standards. On December 27, 1999 at long last Del Monte Italia admitted that the issues raised in the campaign were true and confirmed that they were committed to discussing remedial measures with the parties involved in the campaign. Soon thereafter, on December 29, 1999, the CNMS received another telephone call from the COOP Italia telling them that Del Monte had already given a signed undertaking. The CNMS declared its satisfaction with these results but pointed out that, apart from its pledge to COOP Italia, Del Monte should have made the same commitment to the organisers of the campaign. COOP Italia, however, was extremely clear on this point: "Del Monte does not want to know about dealing with anyone else apart from ourselves".

In view of this situation, the CNMS requested to see Del Monte's letter of commitment. COOP Italia replied on January 15, 2000, in a letter signed by Claudio Mazzini, which in part stated the following:

Dear Gesualdi,

As agreed, I am informing you of the formal commitment made by Del Monte following the COOP SA 8000 inspection carried out 22–23 November at Thika. Of course, the pledges listed below are only the 'headings' of the areas of improvement in which Del Monte, on our request, has promised to take concrete corrective action and in particular:

- Reassessment of workers' wages with particular attention to the short-term categories;
- Improvement of existing and planned protective measures and more attention to workers' training;
- Improvement of socio-living on the plantation (one example – supply of drinking water on the plantation during harvest); and
- The setting-up of a research programme for integrated production.

We also are convinced that the relevant proposals to be put forward by Del Monte quite soon, should, in some way, be approved of and validated by the parties involved in the Kenyan cause.

Towards this end we will make every effort to see that Del Monte accepts this point because it is quite clear that only coordinated efforts by different organs (industry, trade unions,

general public, government) will obtain positive and long-lasting results in the long-term. Del Monte will be required to give the relative guarantees and time limits for rectification of instances of non-conformity. Verification of the actual implementation of the commitments will be effected by a further inspection in Kenya.

The contents of the letter from COOP Italia only confirmed the view held by the CNMS that the campaign was still way off its goal because the commitments were too vague. There was no definite implementation dates specified and no monitoring-system involving the trade unions and other campaign participants was foreseen. All of these points needed to be clarified directly with Del Monte. The question remained how this could be achieved in view of Del Monte's closed-door attitude?

Shortly afterwards there appeared a little chink because a new actor stepped on to the stage and the thawing-out process began. The newcomer was Pime, a missionary institute that had already acted as an intermediary during a previous campaign. Their strategy was to open up a dialogue between the parties with invitations to a public round table discussion. Initially, Del Monte Italia declined the offer but then, at the last moment had second thoughts and sent an external consultant, Gianpaolo Girona, director of a public relations agency. On March 16, 2000, in the presence of about one thousand people in Milan, Claudio Mazzini representing COOP Italia, Gianpaolo Girona representing Del Monte Italia, Guido Paglia representing Cirio and Francesco Gesualdi representing the CNMS, sat down together at the same table for the very first time. Gad Lerner, the well-known Italian journalist, hosted the proceedings.

The meeting was rather animated mainly as a result of the attitude adopted by the representative from Cirio. In spite of this, relationships with Del Monte took a definite turn, and Gesualdi was able to fix an appointment to see Girona in private. Gesualdi aim was to start discussing all unsettled matters in order to prepare a draft agreement to be examined later in Nairobi during a combined meeting of trade-union leaders and members of the Solidarity Committee. Gesualdi had already done some good groundwork with Girona when, on May 12, 2000 he received a report from KHRC, which contained shattering news.

Del Monte Kenya knew which side their bread was buttered. Since they knew that the campaign was focused on the market, they wanted to make sure that they satisfied the campaign actors in Italy. Meanwhile the local management in Kenya disregarded the local Solidarity Committee. In fact, the local management turned out to be more oppressive and intolerant to the trade union leaders than the corporate management. The Managing Director, Barry Twite, and the Personnel Director, Wallace Mantu, were particularly aggressive and insisted that the Solidarity Committee had no business commenting on the working conditions at Del Monte Kenya. The Committee responded by insisting that its mandate to monitor human rights violations cut across all borders.

It reinforced this assertion by citing the Vienna convention of 1993 that states that human rights are interrelated and indivisible. The committee also cited the relevant ILO conventions.

Both Twite and Mantu continually denied the workers' representative permission to attend to workers' issues. Kyule was forced to apply for a day off out of his leave in order to attend a meeting with the Permanent Secretary at the Ministry of Labour and Human Resources office. His problems in dealing with the management continued, and are accurately captured through his description of an interaction with Twite.

Twite, was appointed acting managing Director of Del Monte Kenya Limited on January 1, 2000. In the first week of his appointment, Twite called Mantu and Kyule to his office and warned Kyule by reminding him that he was now in charge at Del Monte and he would not tolerate unnecessary influences to his decisions. Twite pointed out that he was the final man in decision making at Del Monte. He further reminded Kyule that his management skills and tact were different from those of his predecessor, Mr. Carlo Zingaro. Twite told Kyule, "If you don't change your aggressive behaviour towards the company, you are going to see the back of gate 2." Gate 2 is the entrance to the company usually used by the workers into the factory compound. Kyule did not understand what Twite meant by aggressive behaviour and asked Twite what he meant. But before Kyule got his answer, Mantu shouted at him, "You must learn to listen!" At this point Twite became more angry and ordered Kyule out of his office.

The threats by Twite, and Del Monte's every Managing Director's perpetual sidekick, Mantu, were nothing as serious as a visit Kyule had from Honourable Marsden Madoka, Minister of State in the Office of the President and Honourable Joseph Ngutu, Minister for Labour and Human Resource Development. This visit took place in the factory of Del Monte sometimes late March, 2000. Both honourable gentlemen, and by implication the government, told Kyule that they could not guarantee his security if he persisted in his struggles for the rights of workers. KHRC in April 2000 wrote to the two ministers accusing them of blatantly violating the rights of Kyule as "a trade unionist, a worker and a citizen of this country. This intimidation would also reflect to what great lengths our ministers would go to protect private capital at the expense of the rights of Kenyans they are supposed to represent and to protect." The Commission had no doubts whatsoever that the visit was requested and instigated by Del Monte Kenya.

After further threats by Del Monte, Kyule regularly reported them to KHRC. It so happened that at the end of April 2000, the Commission had organised a seminar to plan its programmes. In this seminar a fundamental issue was how the Commission would contribute to the protection of the rights of the workers. Kyule was invited to this seminar. As required by the industrial relations procedures, his union, Kenya Union of Commercial, Food and Allied Workers, wrote to request Twite to give him a day off to attend the seminar.

Twite summoned Kyule to his office and warned him that the day he hears that he has held any meeting with the human rights people, that would be his last day at Del Monte. KHRC wrote to Twite on this fresh round of intimidation. The Commission reminded Twite that he was violating Kyule's rights. The Commission cited the domestic laws that Twite was violating as well as ILO conventions, and in particular, ILO Convention 98.

It was really incredible to think that while in Italy the CNMS was negotiating improvements, the situation on the ground at Del Monte Kenya was actually deteriorating. When the CNMS was informed of the situation on the ground, the CNMS reacted immediately. Gesualdi sent off a very strongly worded letter of protest to COOP Italia, Del Monte Italia and Del Monte International. Gesualdi also called on other European associations to expose the situation at Del Monte Kenya in their own countries. The most committed response came from African Caribbean Pacific (ACP) Human Rights, accredited to the European Union. ACP Human Rights sent exposure letters to the European Commission on Human Rights and various members of European Parliament.

This mobilisation of the local and international actors caused Twite to contact Kyule in June, 2000. Twite realised that he would have to mobilise some support from Kyule to retain his job. KHRC wrote yet another protest note to Twite demanding that he stops intimidating Kyule. On receiving this letter, Twite called Kyule to his office and locked himself and Kyule in. According to Kyule Twite appeared nervous, shocked and annoyed. Looking at Kyule straight in the eye he said, "I have worked with you for many years but I have never understood you. Please could you write a note to our London office saying that there was no more Intimidation directed to you from me?" At that moment, Mantu who seemed to be aware of what was happening was allowed in Twite's office. He was ordered by Twite to write a small note for Kyule to sign. While Mantu was writing this note Twite walked again to the door, closed it and ordered Kyule to listen. According to Kyule, Twite told him, "Kyule, you have always hoped that I would be sacked and thus destroy my life here. My boss is annoyed with me because of you. Yet I tell you to save my neck and you refuse. Listen, you either sign or I know what to do with you now." Kyule took some time to think over the issue. In Kyule's opinion the note was to communicate to Twite's bosses that there was no more intimidation directed towards him. Kyule, therefore, sought to know from Twite if he signed the note that it would signal the end of Twite's intimidation of him and of other workers' representatives. Twite promised the end of intimidation. Kyule finally signed the note. Kyule and Twite thus agreed on a truce.

Meanwhile, the working conditions at the factory and the plantations did not improve. On May 20 and May 24, 2000 separate chemical accidents occurred at the Del Monte factory. The Solidarity Committee called for thorough investigation. As if this was not enough on May 29, 2000 Del Monte security dogs attacked two young men for allegedly trespassing into Del Monte property.

The international news on the campaign was also seesawing. In May 2000 it was reported that Del Monte International in collaboration with COOP Italia had chosen Gironda to facilitate a discussion with the parties involved in the campaign to develop an improvement plan which, upon being signed, would conclude the campaign. Coupled with this appointment of Gironda, Del Monte Italia and Del Monte Kenya Limited promised several improvements in the working conditions. On July 20, 2000, however, Del Monte International disagreed with the idea of developing an agreement on improvements. Gironda resigned and COOP Italia recommended that another inspection be done in October 2000.

The Solidarity Committee, therefore, in view of what was happening undertook to help the union leaders to intensify workers mobilisation. A public rally was thus organised for Sunday, September 24, 2000. In this rally, the workers revisited the success that they had attained so far. There were testimonies from the women leaders on the working conditions at Del Monte. Several of these leaders were interviewed by the press and the *People*, the newspaper that was always supportive of the campaign printed the interviews the following day. Gesualdi spoke on the international dimensions of the campaign. Willy Mutunga spoke on the clarion call "human rights are workers rights; workers rights are human rights." Kyule, Okoth-Korombo and other union leaders spoke and urged the workers to continue the struggle. Young artists sang songs of struggle and Gesualdi danced with the workers. Everybody sang the workers songs and ended with a clear resolve: Solidarity Forever. Honourable Stephen Ndicho, the Member of Parliament for Juja attended this rally and had the last word. He asked the communities neighbouring Del Monte and all his constituents to support the campaign. He also used the platform to warn other companies in Thika that were exploiting and oppressing workers that their turn would surely come.

It was, however, clear that Del Monte was panicking. In fact Mantu and John Ngoru witnessed the rally from a distance. They were able to report back to the management the mood of the workers. The rally resolved to call for the immediate removal of Twite and Mantu as the main stumbling blocks to negotiations on the improvement of the conditions of workers at Del Monte.

In the press release earlier on the same day, September 24, 2000, the campaign made the following demands:

- End to intimidation and bribery of trade union leaders at the shop-steward level;
- Start off the job evaluation and differentiation of factory workers and seasonal respectively;
- Implement the award of the industrial court ordering the payment of security employees the unpaid overtime dating back to 1981;
- Better transportation for plantation workers who are currently transported in lorries also used to transport produce;



- Elimination of guard dogs used to attack innocent Kenyans; and
- Arrest and subsequent charging of security personnel that unleashed a dog on Moses Muiruri in April 2000.

The rally had been preceded by a workshop for the shop stewards at Del Monte on September 10, 2000. The workshop was attended by shop stewards from both the plantations and the factory and representatives of the Solidarity Committee. The workshop was to take specific stock of the improvements that had taken place as a result of the campaign. It also discussed strategies for the ongoing struggle. This workshop was followed by a similar one between the CNMS and the Solidarity Committee on September 23, 2000. There was serious brainstorming around crucial issues in the campaign in Europe and Kenya. It was in this meeting that the project of documenting this story was given to KHRC and the CNMS. The following day, September 24, 2000 the Solidarity Committee and CNMS held a press conference at Chester House, Nairobi and called upon the government and Del Monte to act swiftly on the issues raised by the campaign. A few days later both KHRC and the CNMS wrote letters to Del Monte's London office demanding that Twite be dismissed from his position as acting Managing Director of Del Monte Kenya. It was after the receipt of these letters from the Commission and the CNMS the Del Monte International decided to come to Nairobi.

The Del Monte management both in London and Kenya came to terms with the strength and commitment of the workers at Del Monte and their allies in the Solidarity Committee. On October 2, 2000, the president of Del Monte International, Mr. Paul Danowa and Rebecca Shepherd of the Coltrin and Associates, a public relations firm doing work for Del Monte International, visited Nairobi. From their base at the Stanley Hotel in Nairobi city centre they met the media. They particularly singled the People newspaper for intimidation, threatening to sue them. The paper stuck to its motto: fair, frank and fearless. After the press conference a meeting with the stakeholders was scheduled. Among the stakeholders they invited to meet was the Solidarity Committee. When the members of the Committee arrived at the Stanley Hotel, Ms. Rebecca Shepherd told them that Danowa would only meet the representatives of KHRC. The local Del Monte management of Twite, Mantu, and Mbugua sat at a distance. Mutunga and Ouma told Ms. Shepherd in the presence of the members of the Solidarity Committee, and within the hearing distance of the local management, that the struggle was in support of the workers and under no circumstances would negotiations to take place in the absence of the leaders of the workers.

Lest this principled position be misunderstood, the Solidarity Committee wrote an open letter on the same day to the Company's President, and copied it to the press, pointing out the issues of concern to the Del Monte workers and the neighbourhood communities in Thika. In his response, the President dismissed all the allegations of the workers and the Solidarity Committee. The President further asserted that they were keen to hold dialogue

only with the relevant parties to dispute, echoing the tripartite<sup>15</sup> argument that was the darling of the government, COTU and FKE. This position, however, seemed to last two days. On October 4, 2000, the personnel director, Del Monte International, Tim Hunt, replied to the open letter to president Danowa. In this reply Del Monte International stated it was open to dialogue with the workers and the Solidarity Committee.

The workers and the Solidarity Committee then decided on an unlikely strategy: to engage the officials of the Ministry of Labour. There was a basis for this strategy. The Committee knew that the Permanent Secretary, Ministry of Labour and Human Resources Development, had reneged on his earlier position of unequivocal support to tripartite arrangements. In a meeting held in his office on October 4, 2000, the permanent secretary, Dr. Kang'ethe Gitu, after hearing all concerns upon which the campaign was launched, promised to organise a meeting between the Committee and the Del Monte management.

The meeting took place on October 24, 2000. The Office of the President was represented. Del Monte maintained its adamance by saying that they would only talk to the tripartite members. The Permanent Secretary underscored the position that there was need for change in the company. FKE Executive Director, Tom Owuor, dismissed the meeting as one with 'aliens' arguing that its composition did not comply with the tripartite arrangements. The Solidarity Committee argued that it had the mandate based on human rights covenants and in any case the tripartite arrangements did not represent the non-unionised workers and the neighbouring communities at Del Monte.

Tom Owuor put his views on paper on October 25, 2000 in a letter to the Registrar of Trade Unions<sup>16</sup> and the Minister of Labour and Human Resource Development and copied to all the big wigs in government and unions:<sup>17</sup> "Practically all their demands, except a few outrageous ones like the removal of some senior managers, fell within the purview of a trade dispute. I personally attended the meeting to establish for myself the extent to which these people were involved in disruptive behaviour in enterprises." In his opinion two of the members of the Solidarity Committee, namely KHRC and the Labour Caucus, should have been charged with acting or purporting to act as an officer of a trade union under section 29A of the Trade Unions Act which attracted, upon being found guilty, a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or both. Powerful argument but false and untenable because neither members of the Solidarity Committee acted or purported to act as officers of a trade union.

<sup>15</sup> Traditionally the welfare of the workers has been the business of their unions, their collective employers and the state. That is the trinity that makes the exploitation and oppression of workers complete in cases where the unions no longer represent workers.

<sup>16</sup> A state functionary. His/her mandate is to register and deregister trade unions and monitor their activities. His/her duties are provided for under various statutes pertaining to trade unionism.

<sup>17</sup> This letter was copied to the former Head of Civil Service, Dr. Richard Leakey, the Permanent Secretary, Ministry of Labour and Human Resource Development, the Labour Commissioner, John Mbogua, Director, Government Relations, Del Monte, Barry Twite and JJ Mugalla the General Secretary of KUIFCAW.

This show of tripartite indignation was sealed on November 10, 2000 when a tour of Del Monte factory and plantations took place and was attended, at the invitation of the permanent secretary, ministry of labour and human resource development, by the members of Solidarity Committee. This time it was the Central Organisation of Trade Unions (COTU) who refused to share a platform with the members of Solidarity Committee. The representatives of the Central Organisation of Trade Unions (COTU) marched out of the meeting, that was also graced by the minister of labour and human resource development, gave a press conference where they extorted the values of tripartite arrangements and condemned the members of Solidarity Committee. It was clear that while the workers and their shop stewards at the factory and at the plantations valued the work of the Solidarity Committee, the top leadership of the Unions did not. While the top leadership of the union movement represented the interests of the state and capital the grassroots trade union leadership had not sold out to the state and capital.

The Registrar ultimately called what the Solidarity Committee was doing an "invasion of the labour movement by various types of interlopers and busy bodies" and urged that it be stopped at all costs "for the sake of peace in industry and the labour movement in the country." This letter was copied to the same individuals as Owuor's letter.

"...I would like to inform you that in this age of globalisation in all sectors of human endeavour issues such as child labour, conditions in the working place, health of the worker and generally, the workers' environment if not attended by relevant bodies and organisations can easily attract the attention of civil society such as Kenya Human Rights Commission and Labour Caucus. Such bodies are bound to use their foreign correspondents to give our country a negative image and our products may be black-listed and boycotted by foreign consumers if it is established that our farmers and producers do not pay attention to the factors I have mentioned above."

Paul Omondi Mbagu, the Registrar of Trade Unions replied Owuor's letter on November 3, 2000. The registrar stated up-front what was obvious: that neither KHRC nor the Labour Caucus were registered with him as trade unions. The registrar has some advice for the likes of Owuor in two breathless sentences:

Tom Owuor noted in this letter that some of the cut-flower industries had been subjected to harassment by "these amorphous bodies." Then he went on to ask, "Why should trade unions be subject to the rigorous application of the law when social interlopers are permitted by the Government to usurp their role?" His conclusion was concise: "We therefore consider the Government's role in giving these people audience on labour matters as inconsistent with the law and as likely to undermine our industrial relations machinery." He sought guidance from the government so that he could advise the members of FKE "on how to deal with these disruptive elements."

On November 14, 2000 the Secretary General of the Central Organisation of Trade Unions (COTU), Joseph Mugalla, wrote to the minister of labour and human resource development complaining about the invitation of the members of Solidarity Committee to Del Monte. "In this respect, we wish to hereby register our protest and dismay in the manner your officers are trying to destroy the well established and renown industrial relations which has lasted since the year 1962." Mugalla said KHRC and the Labour Caucus were "a group of individuals funded by the distractive (sic) NGOs" and accused the ministry of destroying the "existing strong trade unions in the country." He wondered whether the Kenya government had changed its mind "as far as the norms of tripartism are concerned." Mugalla copied his letter to the same individuals Owuor had copied his letter. The tripartite conspiracy against the legal mandate of other members of civil society<sup>18</sup> was sealed. But none of these tripartite members bothered to consider what was in the best interests of Del Monte International in a boycott that was costing the multinational profits.

The meeting at Del Monte on November 10, 2000 also highlighted the differences of opinion in the Ministry of Labour and Human Resource Development. While the attitude at the ministry has been very negative there was a change, thanks to the change of the attitude by the Permanent Secretary<sup>19</sup> in the Ministry, Dr. Gitu. Gitu seemed to agree that the Solidarity Committee had a legal and moral mandate to intervene in the issue of the working conditions at Del Monte. His minister, however, thought otherwise. At this meeting at Del Monte the minister had to accept the advice of Gitu and allowed the Solidarity Committee members to attend the meeting. Gitu revoked the decision by the public relations officer at Del Monte, which had the minister's blessing, cancelling the invitation of the Solidarity Committee to attend the fact-finding mission at Del Monte. Soon after this meeting Gitu retired. The Solidarity Committee would want to think that his retirement had a lot to do with the Del Monte debate. At this juncture in the campaign Gitu appeared to be the 'rogue elephant'.

But the options for Del Monte were minimal. Change was inevitable. By October 11, 2000 BVQI had commenced its second inspection following the decision to do so by COOP Italia. The Solidarity Committee met the local office of BVQI on September 19, 2000. In this meeting a concept paper on the content of the inspection was discussed. The Solidarity Committee relied heavily on the write-up of the SGS and made sure that the inspection would be properly conducted. The BVQI conceded that the Solidarity Committee had the mandate to monitor the inspection. It was Twite who denied the BVQI access for full inspection. The Solidarity Committee and the shop stewards consequently called for a boycott of the inspection.

<sup>18</sup> Trade Unions forget that they are members of the civil society. This correspondence, however, shows that in practice top trade union leadership is a partner of the state and the private sector in Kenya.

<sup>19</sup> The top bureaucrat in a ministry of the government.

Del Monte understood it had no choice but to change its management and its policies. It was, indeed, victory for the campaign that Twite was fired abruptly. A new post of chief executive officer was created and given to a newcomer Dr. Lorenzo Bertolli. It was clear to the Solidarity Committee that Del Monte had to carry on the negotiations and to do so the fall guy was going to be Twite and perhaps Mantu would follow. Twite who had taken a physical fall in a hunting expedition was on sick leave. He was not allowed to resume duty after he recovered. The Solidarity Committee, however, went ahead to also demand for the removal of Mr. Wallace Mantu for his mistreatment of the workers and intimidation of the trade unionists at Del Monte over a very long period. The fact that Mantu still works at Del Monte is not encouraging. It is perhaps a testimony to a Del Monte that will struggle to claw back whatever concessions it has given to the workers. It is on this basis that the Solidarity Committee and the CNMS have been keen to set up firm structures for consolidating the concessions and ensuring that promises are honoured and no further violations of the rights of the workers take place.

The appointment of Bertolli as the chief executive officer of Del Monte was a piece of great corporate timing given his credentials. A son in the olive-oil household name 'Bertolli' he refused to run the family business and ventured into Kenya which he had loved at first sight. He started his own company, making "Elianto" from sunflower oil and later from other vegetable oils. He carved for himself a reputation as a caring employer who was fair to the trade unions. He later sold his shareholding interest in the Elianto venture and took up jobs as a consultant in his area of expertise. Clearly Bertolli was the pretty face at Del Monte when it really mattered.<sup>20</sup>

On November 21, 2000 Bertolli visited KHRC for an informal discussion. Present were some of KHRC's members of staff, Willy Mutunga, Wambui Kimathi, Mugambi Kiai, Githli wa Mweru and Stephen Ouma. Also present was Father Alex Zanotelli. The new chief executive officer of Del Monte visited an enemy territory and said he was committed to a truce and negotiations. KHRC agreed there was need to have formal discussions to address the issues raised in the campaign. The Commission was mandated to call a formal meeting after reporting back to the Solidarity Committee for approval.

The trade unionists at Del Monte welcomed this new initiative and so did the Solidarity Committee. A formal meeting with Bertolli took place on November 28, 2000 and the benchmarks for negotiations were agreed upon. The formal discussions started on December 4, 2000. In all the discussions the CNMS was kept fully informed and its advice sought. It was clear that both sides needed something from each other and the goodwill to continue negotiations was so visible that on December 14, 2000 both parties agreed to suspend the campaign.

<sup>20</sup> Clearly Bertolli was part of that new crop of business leaders who understand social issues as well as social responsibility in business. The company's reputation becomes an important part of the goal of profit maximisation. Listening and learning from all stakeholders is also important to these business leaders. These are members of Human Capitalism Campaign. They accept a new business paradigm of maximising profits while being lauded as sensitive and ethical corporate citizens.

In a press conference at Chester House on December 21, the boycott campaign was suspended to pave way for discussions on improvements at Del Monte.

The discussions on improvements at the workplace took place amidst improvements that Del Monte implemented as a sign of good faith. The specific improvements sought are contained in Appendix VI and they were the subject of two months, January-February 2001, of serious negotiations. The improvements were based on detailed documentation since the Ouma report, supplemented by documentation from the collective bargaining agreements and other grievances that the workers had documented over years.

In the midst of this, Bertolli decided to be the new human face at Del Monte. He agreed to engage in a series of discussions with Kenya Human Rights Commission and the Solidarity Committee. He knew that the key issue was to have Del Monte comply with the demands of the campaigners. A series of negotiations took place at the company premises. These were essential sessions for the management of Del Monte and the shop stewards. These meetings culminated in the signing of an improvement plan agreed to by all the campaign parties on March 3rd, 2001. Key concessions by Del Monte was the transformation of casual workers into seasonal ones; new houses were being built; training on the fundamental aspects of the workers' environment was to take place; the enjoyment of workers' rights was emphasised including the right to organise; increase of wages to meet the basic needs of workers was put on a sound footing; and very important were structures put in place to monitor the implementation of the agreement by the workers, the neighbouring communities and the Solidarity Committee with the Del Monte workers. But even then, a Mr. Francis Waweru, the Kenya Plantation and Agricultural Workers' Union Deputy Secretary-General, who was present during the signing of the agreement, sent a warning to the human rights bodies not to meddle in the affairs of trade unions. "Any agreement on matters touching on employees of the company can only be signed by the two unions. The [Commission] has no business whatsoever, as they do not feature anywhere in the tripartite system of operation laid down in the Trade Disputes Act," Mr. Waweru said. One must recall here that this agreement would benefit the plantation workers more than any other employee of Del Monte Kenya limited. This negative thinking on the part of the union that has the biggest membership in the country did not take away the great victory of the campaign.

A joint statement<sup>21</sup> was signed at Del Monte on March 3, 2001. The ceremony took place in a primary school inside one of the Del Monte plantations. Earlier that morning the members of Solidarity Committee and Gesualdi visited Kyule's office at Del Monte and all signed the 'Visitor's Book'. Now the leadership of the workers had an office and were accorded the respect expected even under the tripartite arrangements. The District Commissioner Thika, Mwangi, was in attendance. So were two Members of Parliament for the Gatanga and Juja constituencies (where Del Monte factory and plantations are). These are Hon. Murathe and Hon. Ndicho respectively. The three addressed the public as did Mutunga, Bertolli, Kyule, Francis Waweru (the Deputy Secretary-General of Plantation and Agricultural Workers Union) and Gesualdi. It was made clear by both Mutunga and Gesualdi that the agreement was a cease-fire document. They expected Del Monte to honour the agreement, carry out the improvement plans and keep the spirit of negotiations alive. It was made clear also that the structures set up to monitor violations, strengthen the workers' leadership and involve the neighbouring communities will be permanent and will keep close alliances with the Solidarity Committee and the CNMS.

On this day the new extensions of a primary school inside the Del Monte plantations was opened by the District Commissioner, Mwangi. The visitors also saw the new houses that Del Monte was constructing for the workers. They were a great improvement from the hovels that the Ouma report describes in sordid detail.

<sup>21</sup> A joint statement is Appendix VII





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## **CHAPTER SIX**

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# Exposing the Soft Belly of the Multinational Beast

**ONE** of the questions that observers of the campaign against the Del Monte Kenya Limited raise is why the multinational was chosen for a campaign of this kind. Why was Del Monte Kenya Limited the 'soft belly' of the multinational 'beast'?

What concerned the campaigners in answering this question was one crucial consideration: What were the prospects of a successful campaign? There are multinationals in Kenya, and even national corporations, that have a worse record of violation of workers' rights than Del Monte Kenya Limited. Yet the campaigners chose Del Monte Kenya Limited. What were the prospects for success of the campaign against Del Monte Kenya Limited? The campaigners considered the following factors:

The majority of shares in Del Monte Kenya Limited changed hands at the time discussions on a possible campaign against Del Monte Kenya Limited were taking place in Kenya and Italy. Sergio Cragnotti, a rising Italian entrepreneur who also owns a famous Italian Serie A football club, Lazio, bought the majority shares. Here was a famous Italian, well known to the press and Italians. Cragnotti would, therefore, provide "saleable" material to the media during the campaign.

An activist Italian NGO, the CNMS had worked on campaigns in Asia and other parts of the world but not in Africa. The changed ownership at Del Monte Kenya Limited was a Godsent opportunity for the CNMS to use its vision and expertise in Africa. As a consumer organisation in the North the CNMS had, among its mandate, the promotion of ethical consumption in the North.

Italy has perhaps the best grassroots commitment for such campaigns in Europe and this external factor was crucial for the campaign. The campaign was planned to start in Italy and then spread over Europe if need be. The CNMS had strong European networks for such a campaign. Coupled with these factors was the prominence of two Italians in the grassroots movement in Italy. Father Alex Zanotelli has been a super priest in Italy. He is well known and has written regularly in the Italian press. Francesco Gesualdi is well known in the numerous Third World shops in Italy. The shops are part of this powerful grassroots movement in Italy.

The ethical and moral commitment of COOP Italia in upholding the legal positions of international standards in the production and distribution of commodities it handles was crucial if Del Monte Kenya Limited, which sold over US \$150 million worth of its products per year in Italy through COOP Italia, was to face the full wrath of economic activism. Any multinational would have to listen to any agitation that affected its markets and consequently its profits. COOP Italia also kept a principled dialogue with the CNMS and Del Monte Italia. It was also fortunate that under great publicity under SA 8000, COOP Italia had held itself out as an ethical distributor.

The situation at Del Monte, if not checked, could result in this publicity backfiring and COOP Italia's reputation as an ethical distributor would suffer.<sup>22</sup> The contradiction COOP Italia was caught in on this issue was well exploited by the campaigners.<sup>23</sup>

At the factory floor of Del Monte Kenya Limited there was a powerful, committed trade union leadership of shop stewards under the direction of the chief shop steward, Daniel Kyule. This leadership was further strengthened when Okoth Korombo, who is the Kenya Union of Commercial Food and Allied Workers (KUCFAW) branch representative at Thika office, and whose mandate includes Del Monte Kenya limited, strongly supported the campaign. Okoth Korombo is also a representative of COTU in Thika.

Del Monte Kenya Limited is a small part of the big Del Monte multinational and had a management that became arrogant because of the support it received from the collaborative and exploitative trinity, the so-called tripartite partners comprising the Kenya government, the Central Organisation of Trade Unions (COTU) and the Federation of Kenya Employers (FKE). The exploitation and oppression of the workers at Del Monte Kenya Limited provided great material for launching the campaign. The workers, as the slogan goes, had nothing to lose but their chains. This unholy trinity had no understanding of how globalisation was building resistance to it and part of that resistance was the international human rights movement. The unholy trinity also failed to see the forging of International solidarity against the ravages of International capital. As the correspondence exchanged between the trinity clearly shows, the only weapon the trinity could use was abuse and intimidation.

Over the years, Del Monte Kenya Limited had a public image that was awful and was bound to haunt the company one day. The 'person-eaters', the dogs at Del Monte Kenya Limited had been part of this awful public image since 1981.<sup>24</sup> Del Monte Kenya Limited was, therefore, vulnerable once this public image was spotlighted in a campaign.

A national human rights organisation, KHRC, was willing to join the campaign. The Commission understood how the discourse of human rights, as reflected in the international human rights movement, could be invoked in the clarion call "human rights are workers rights; workers rights are human rights." This human rights discourse could be invoked to challenge the backward tripartite arrangements and their crusade of 'industrial peace' that was reflected by draconian and repressive colonial and neo-colonial laws that govern trade union activities. KHRC was also aware of the need for international solidarity in campaigns of this nature having kept good relations with the international human rights movement.

<sup>22</sup> See [www.unimondo.org/altreconomia](http://www.unimondo.org/altreconomia)

<sup>23</sup> COOP Italia's ethical position was not permanent! COOP Italia has behaved differently in the case of bananas from Costa Rica.

<sup>24</sup> The Del Monte management always said that the dogs were used when the guards were attacked. This does not make sense when the victims are children and unarmed persons. In any event if armed thugs invaded Del Monte the dogs and the guards would be no match for the thugs. Clearly it was a policy of Del Monte as it had been in the Philippines, to use the dogs to deter trespassers, a use of force that was excessive.

KHRC was also emerging as a leader of the embryonic Kenya human rights movement based on the solidarity of the human rights NGOs and other civil society organisations. KHRC was, therefore, able to mobilise the Solidarity Committee with the Del Monte workers. The work of the Solidarity Committee with the Del Monte Workers was crucial to the success of the campaign.

There was emerging a culture by multinationals world wide that they observe ethical behaviour in their respect for human rights. This culture, paying lip service to the respect of human rights, was borne out of monopolistic competition among multinationals. It was a strategy for seizing the markets of those multinationals who kept a visible ugly face of capitalism. This strategy could, and was, also be used against Del Monte Kenya Limited.

In both Italy and Kenya there was a civil society leadership that was able to take advantage of the unique political space that presented itself and start the campaign. It was clear that all parties in the campaign, namely, the trade union leadership at Del Monte, the Solidarity Committee, the CNMS and Del Monte itself, wanted to win something and the environment was simply ripe for such shared victory: Del Monte Kenya Limited would try to sanitise its image if possible; the workers and their supporters from civil society would celebrate improved workers' conditions and use the success of the campaign as a bridge for other campaigns.

CO-OP Italia who is certified under the Social Accountability 8000 has insisted that its suppliers and producers comply with such certification. Del Monte Kenya Limited was to be subjected to SA 8000 and this was to put the company on international and national spotlight.

Since multiparty politics was decreed in Kenya in 1991 the trade union movement had hardly stirred from its slumber during the one party dictatorship. However, an alternative trade union leadership had been growing. The trade union leadership in Kenya still kept the movement as an appendage of the ruling party in Kenya. The new trade union leadership found allies in the human rights movement. Forces in the civil society felt very strongly that the trade union movement in Kenya had to take its place in the struggle for democracy. The campaign against Del Monte brought on board three organisations of this alternative trade union leadership.<sup>25</sup> This leadership gave invaluable advice to the campaign, and in particular, how the campaign was to deal with the trade union leadership in Kenya.

<sup>25</sup> The Labour Caucus, Labour Awareness and Research Programme and Kenya Women Workers Organisation.

The involvement of the people was important. It gave the campaign the popular base it required. The neighbouring communities at Del Monte had a history of unaddressed grievances against Del Monte. Not only were the retired workers living among these communities but they were also the labour recruitment areas for Del Monte. Del Monte had not given much back to the community in the areas of social services. The Del Monte killer dogs did not make Del Monte a popular citizen in these communities. Although Del Monte tried to mobilise one of the communities, using a religious organisation to rally support for it, this strategy was seen for what it was, a confession that was hypocritical. The fact that the trade union leadership in Del Monte was part of these communities was crucial in mobilising them against Del Monte. So crucial was the mobilisation of the communities by the campaign that the Members of Parliament for Gatanga and Juja became part of the campaign.



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## **CHAPTER SEVEN**

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# Invoking the Discourse of Rights in Workers' Struggles

THE tripartite basis for industrial peace is based on structures that bring the representatives of workers, employers and the government together. The Trade Disputes Act sets up these structures including an Industrial Court that has two Judges to hear industrial disputes. Any reading of the history of the trade union movement in Kenya,<sup>26</sup> and indeed in East Africa,<sup>27</sup> will confirm the genesis of colonial and neo-colonial repressive labour laws and how these laws have been used to weaken the trade union movement. The analysis will also show how the right to strike has been lost to workers.<sup>28</sup> That history also shows how the leadership of the trade union movement in Kenya has been co-opted by the state and at some point in 1970s and 1980s COTU was a partisan appendage of the ruling political party in Kenya, KANU. Amendments to these labour laws moved the restrictions to the shop floor by curtailing the powers of shop stewards to call strikes. Kenya's trade union movement was, therefore, caged, gagged and enslaved.

The decreeing of multiparty politics in Kenya on December 3, 1991 unleashed forces in civil society that continue to make civil society vibrant. Among the emerging positive developments in the forces of civil society was an embryonic human rights movement that argued that the liberal discourse for rights that was the kingpin of the international human rights movement could be invoked in Kenya. That movement argued that the liberal bourgeois laws and standards<sup>29</sup> that were now found in the international bill of human rights (the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights), the ILO Conventions and Resolutions and the international standards such as SA 8000 were a positive and revolutionary arsenal to the trade union movement in Kenya. Under the clarion call "workers rights are human rights"<sup>30</sup> the human rights discourse was invoked to rescue the backward legal regime that kept the workers movement enslaved and exploited. The human rights discourse broadened the perimeters of the struggle of the workers for their rights.

<sup>26</sup> Markhan Singh, *The History of Trade Union Movement* (Nairobi: EAPH, 1969); Markhan Singh, *1952-56 Crucial Years of Kenya Trade Unions*, ed. B.A. Ogot, (Nairobi: Uzima, 1980); Micheal Chege, "The State and Labour: Industrial Relations in Independent Kenya" in eds., Coughlin & Iktara, *Industrialization in Kenya: In Search of Strategy* (Nairobi: Heinemann: 1988), 169; Zeleza, *Imperialism and Labour: The International Relations of the Kenya Labour Movement* (Nairobi: Anyange press, 1987); Alice Amsden, *International Firms and Labour in Kenya, 1945-70* (London: Frank Cass, 1971); Clayton & Savage, *Government and Labour in Kenya, 1895-1963* (London: Frank & Cass, 1974); Richard Sandbrook, *Proletarians and African Capitalism: the Kenyan Case 1960-1972* (London: C.U. P. 1975).

<sup>27</sup> Issa Shivji, *Law, State and the Working Class in Tanzania* (London: James Currey, 1986).

<sup>28</sup> The international covenants that touch on this issue and which we discuss below did not anticipate a situation where the right to strike would be outlawed by the domestic legislation! What the domestic legislation in Kenya has done is to make the right to strike subject to the consent of the Minister of Labour! History of labour struggles in Kenya shows that this has never happened and it was always easy for the Minister to declare strikes illegal because no consent was ever expected. The domestic legislation, by outlawing the right to strike, is immoral and illegal and destroys the spirit of the international covenants on the supremacy of the right to strike.

<sup>29</sup> For a more reasoned argument on this position see, Murunga, "Constitutions, Law and Civil Society: Discourses on the Legitimacy of People's Power" in ed.; J. Oloka-Onyango, *Constitutionalism in Africa: Creating Opportunities, Facing Challenges* (Kampala: Fountain Press, 2001), 129; Murunga, *Constitution-Making from the Middle: Civil Society and Transition Politics in Kenya 1992-1997* (Nairobi/Harare: Mwendu/Sareat, 1999), Preface; 232-4.

<sup>30</sup> George Caffentzis, "Workers Rights are Human Rights." The Scope and Limits of an Anti-Globalization Strategy' A talk given at the National Organization of Legal Service Worker's Biannual Conference at Boston University on June 13, 1998. Caffentzis observes that "the original 1948 slogan was "Human Rights are Worker's Rights."



The strength of the workers movement in Britain, the role that British intelligence played in supporting the socialist project,<sup>32</sup> are all crucial pointers to this mitigation. It is this discourse, and in particular the right to self-determination, that the fighters for independence were to successfully invoke in their struggle for independence.

In our invocation of the International Covenant for Economic, Social and Cultural Rights some specific articles became crucial. These were articles guaranteeing the enjoyment of just and favourable conditions of work,<sup>33</sup> national and international freedom of association,<sup>34</sup> the right of everyone to an adequate standard of living for himself/herself and his/her family and the fundamental right of everyone to be free from hunger;<sup>35</sup> and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.<sup>36</sup>

In our invocation of the articles from the International Covenant on Civil and Political Rights we picked specifically articles 6,<sup>37</sup> 8,<sup>38</sup> 18,<sup>39</sup> 19,<sup>40</sup> 21<sup>41</sup> and 22.<sup>42</sup> These articles deal with

<sup>32</sup> J. Costello, *The Mask of Treachery* (NY. William, Morrow & Co Inc. 1988). 'Article 7: Subject to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of the trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of the trade unions to function freely subject to no limitation other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

<sup>33</sup> The State Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

<sup>34</sup> Article 8.1. The State Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice.

<sup>35</sup> Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to continuous improvement of living conditions....

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes which are needed....

<sup>36</sup> Article 12.

<sup>37</sup> Every human being has the inherent right to life

<sup>38</sup> The provisions of this article are in substance to similar article 4 of the Universal Declaration of Human Rights (UDHR) reproduced above.

<sup>39</sup> The provisions of this article are in substance similar to article 18 of the UDHR reproduced above.

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(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

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the right to life, the outlawing of slavery, the freedom of thought, conscience and religion, the freedom of expression, the freedom of association and the right to peaceful assembly.

Kenya has ratified these covenants as well as the African Charter for Human and Peoples' Rights that has provisions similar to the ones reproduced and invoked here.<sup>43</sup> It has been argued that these provisions have not been domesticated and that the exceptions that are found in Kenya's Bill of Rights<sup>44</sup> provide the legal regime within which to operate. We have already made the argument that it is because of the restriction of legal rights that the invocation of discourse of international human rights becomes important. The international community has the legal and moral authority to demand that the provisions of the International Bill of Human Rights be observed by member states. It is also arguable that the global civil society has the legal and moral power to implement these standards and norms if the States and international organisations do not respect and implement them. There is now strong jurisprudence for this view.<sup>45</sup> The global voice of the global civil society is gaining momentum and is the basis of global solidarity. Global solidarity will invoke not only the legal and moral basis of these discourses for future campaigns but the political basis as well. The latter is of course powerful and bears immediate results.<sup>46</sup>

The International Labour Organization Conventions were also invoked, namely the Freedom of Association and the Protection of the Right to Organise Convention, 1948 which allows the workers and the employers the right to organise; the Right to Organise and the Collective Bargaining Convention, 1949; the Convention concerning Labour Inspection in Industry and Commerce and the Convention concerning the Protection and the Facilities to be Afforded to Worker's representatives in the Undertaking.<sup>47</sup>

The Social Accountability 8000 Standard has nine social accountability requirements, which in the case of Del Monte Kenya Limited were invoked.

<sup>42</sup> The provisions of this article are in substance similar to article 8 of the International Covenant on Economic, Social and Cultural Rights.

<sup>43</sup> The relevant provisions of the OAU (Banjul) Charter are: Article 4: the right to life; Article 5: outlawing of exploitation in all forms, the respect of human dignity; Article 9: the right to information; Article 10: the freedom of association; Article 15: the right to work; Article 16: the right to health.

<sup>44</sup> Chapter V of the Constitution: The chapter has been called the 'Bill of Exceptions'.

<sup>45</sup> John Rawls, *The Law of Peoples*; Dias, *Jurisprudence*, 4th Edition, (London: Butterworths, 1976), 105; Hampstead & Freeman, *Lloyd's Introduction to Jurisprudence*, 5th Edition, (London: ELBS with Stevens, 1885).

<sup>46</sup> See the Judgement of the Women's International War Crimes Tribunal, [Tokyo 2000] delivered at the Hague on December 6, 2001.

<sup>47</sup> Articles 1 and 2 are important.

Article 1

Workers' representatives in the undertaking shall enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements;

Article 2

Such facilities in the undertaking shall be afforded to workers' representatives as may be appropriate in order to enable them to carry out their functions promptly and efficiently.

These requirements comprise the banning of child labour and forced labour; the provision of a safe and healthy working environment “bearing in mind the prevailing knowledge of the industry and of any specific hazards;” the respect for the right of all personnel to form and join trade union of their choice and to bargain collectively; the banning of discrimination in hiring, compensation, access to training, promotion, termination or retirement based on race, caste, national origin, religion, disability, gender, sexual orientation, union membership or political affiliation; the banning of engaging or supporting the use of corporal punishment, mental or physical coercion, and verbal abuse; the banning of working in excess of 48 hours per week; ensuring that wages are “sufficient to meet basic needs of personnel and to provide some discretionary income;” and management systems requiring the monitoring and implementation of the Standard. One of the crucial elements of the management systems is the addressing and taking corrective action on concerns of employees and other “interested parties. “Interested parties” are defined as “individual or group concerned with or affected by the social performance of the company.” It is crucial to note that the peasants neighbouring the factory and the plantations and the human rights groups supporting the workers campaign at Del Monte were covered by this definition of “interested parties.”

The invocation of the human rights discourse, the international labour and other standards clearly placed the campaign against Del Monte Kenya Limited on a high moral ground. The invocation coupled with evidence of clear violations of not only the collective bargaining agreements but of these rights and standards placed the campaigners, the workers at Del Monte Kenya and their supporters from the civil society, at an advantage. When the capitalistic ethic of maximising profits and minimising losses was attacked and faced serious threat, the Del Monte Italia and elsewhere had to focus on its branch at the margins of Thika in Kenya. A new form of trade unionism that invoked the slogan of “workers rights are human rights” brought solidarity within the sectors of civil society that the tripartite trinity had overlooked. Democratisation in Kenya had received very scanty attention from the trade union leadership that continually backed the status quo. Now an alternative leadership was going to challenge the old leadership from within and from without. It is the old trade union leadership that was soon to be caged, gagged and enslaved and thrust in the dustbin of dying trade union movement.

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## **CHAPTER EIGHT**

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### Conclusion: Lessons Learnt

**THE** campaign against Del Monte Kenya Limited teaches us the following lessons if such future campaigns against multinationals and national corporations will be successful:

- Before engaging in any campaign research that guarantees accurate information of all the key issues is invaluable. There is no room for speculation. Some of the research is scientific as the case of Del Monte shows. Chemicals had to be analysed abroad, all relevant literature read and the problem was thoroughly understood. The stronger the foundation of knowledge on all the key elements of the campaign, the more successful the campaign would be.
- An organised, committed and courageous trade union leadership at the factory or plantation is crucial. Such a leadership is a great guard against the propaganda that the campaign is external, foreign backed and the work of dissidents and anti- government elements.
- The trade union leadership should be the first to recognise the usefulness of the external support to the struggle for the workers' rights. It is this leadership that has to invite the external support from the national and global civil society.
- The trade union leadership should see the external support as part and parcel of its struggle for the rights of workers and should lead and direct this support at all times.
- Economic activism is about targeting the profits of a multinational and in that vein international solidarity is crucial. The reason for this is simple: the international market for the commodities produced nationally becomes important. In the case of Del Monte Kenya Limited, its Italian market was crucial for the campaign's success. The role played by the CNMS in organising the boycott of commodities from Del Monte Kenya Limited in the Italian market and in convincing COOP Italia of the legitimacy of the campaign played a key role in the success of the campaign. The local boycott of commodities of Del Monte Kenya Limited did not take off and was, indeed, not necessary for the campaign to succeed. The local market was insignificant and the local campaign did not have the capacity to organise it. Fortunately for the campaign the international boycott was key to the success of the campaign.
- The solidarity from other organised sectors of civil society is crucial, too. This solidarity is as external as the foreign support. Both forms of support cannot succeed without a strong and committed trade union leadership or any other organisation that has to be the corner stone of the campaign.
- To avoid manipulation, disinformation and a possibility of being divided, constant communication among all partners of the campaign is crucial.

Such communication enables all partners to know their tasks in their respective countries and to forge and implement a common strategy in the campaign.

- Any campaign of this kind is a political struggle and the success of the campaign in part depends upon the political mistakes made by either side. Del Monte Kenya Limited was not well represented by Messrs Twite and Mantu. The two managers were arrogant and underestimated the tactics of the trade union leaders and their supporters from the civil society. Del Monte International recognised this problem and they quickly appointed Lorenzo Bertolli as Chief Executive of Del Monte Kenya Limited. Bertolli quickly diffused the tensions by simply opening up dialogue with the trade union leaders and their supporters.

- The support of the neighbouring communities is also crucial in a successful campaign. This support brings in its wake the support of politicians. The establishment of high moral ground in the campaign is important. In this campaign Del Monte Kenya Limited was put on the defensive from the outset and lost the initiative in the struggle for legality and morality.

- Although the media support for the campaign ceased during the campaign but the media strategy designed by one of the journalists in the Solidarity Committee was very helpful.

- Mass action is the language of the trade unionists and in the case of the campaign this language was spoken whenever it was necessary.

- There is need to understand that inspections and audits under the various codes of conduct available in industry and agriculture can be double-edged swords. It is important the campaigners seize upon what is positive about the inspections and audits. It is equally important to monitor the inspections and audits. Local monitoring organisations must now be set up so that the workers and the people around these farms and industries become day-to-day monitors of any violations of the rights of the workers. The inspectors and the auditors have to have their monitors!

- Flexible and undogmatic political analysis is of fundamental importance in campaigns. Political astuteness is needed to make use of whatever political spaces present themselves. Perhaps the best example of this point is the use that was made of Dr. Citu, the then permanent secretary, ministry of labour and human resource development. Dr. Citu's initial attack of the Solidarity Committee did not stop the committee from presenting its position once the chance arose. Dr. Citu ultimately supported the cause of the workers and was retired for it, perhaps a better legacy than if he was fired for other reasons.

- Whatever success any campaign brings, the sustainability of what has been achieved cannot be ignored. Concessions are clawed back, the pretty face of the multinational is replaced and the struggle starts all over again. It becomes very important to set up internal structures that will protect and consolidate the gains made. Such structures would also monitor any violations of the agreements as well as keep the solidarity with the external support. In the case of Del Monte Kenya Limited this struggle is continuing.
- The communities neighbouring the site of the campaign should also be organised to support the workers struggle. Ultimately the struggle at Del Monte Kenya Limited has to become a national one where national forces support the workers' achievements.
- The tripartite arrangements are not to be underestimated. The hostility from the Federation of Kenya Employers (FKE), the Central Organisation of Trade Unions (COTU), the office of the president, the office of the registrar-general all emphasise the importance of solidarity within the civil society if such campaigns are to be successful.
- There is need to explore other avenues of support. For whatever it is worth the campaign should target the foreign missions, the mission of the foreign country involved, and invoke the discourse of human rights. The campaign did not target the Italian mission or the European Union (EU). This is an avenue to be tried in future campaigns.
- You cannot fix everything in the campaign. Focusing on specific issues is to be preferred. After all the campaign has to be conducted within the economic and social realities of the society where it takes place. One of the dangerous weapons Del Monte used was the threat to pull out of Kenya. Through in-depth research the campaigners knew this was a strategy they would invoke in the last resort. The campaigners were not agitating to close them down. The weapon was used only once and the campaigners shot it down. It is crucial, therefore, to analyse the strengths and weaknesses of the multinational in any campaign.
- No one campaign can be completely replicated in another. There is always the danger of replication that results in a dismal failure of other campaigns. The specifics and peculiarities of each campaign need a specific approach while lessons become beacons for the entire terrain of the campaign.



- It is important well before setting out the campaign and during the campaign to keep analysing the key issues in order to determine what the simplifying and complicating factors of the campaign might be/are and develop appropriate strategies in terms of building coalitions, mobilising resources etc.
- Leadership role in a campaign: It is important to recognise that while all stakeholders bring in important strengths, there has to be a leader who bears 'convincing authority' – one who is well placed/motivated, has the expertise and credibility to steer others along. KHRC is indebted to the Solidarity Campaign who took the bold decision to accord it this leadership position.



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## **EPILOGUE**

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**ON** 2nd April 2000, the chief executive of Del Monte Dr. Lorenzo Bertolli, and a representative of Kenya Human Rights Commission held a meeting with the Ndula Community. This was part of the agreement in the Improvement Plan. In this meeting, the community discussed with Del Monte, the possible areas of support and principles needed, to ensure close cooperation and partnership between the two. It was agreed that access to basic facilities, should be the first priority. DMKL agreed to start working with the Ndula community.

Del Monte is currently in the process of installing the beacons for the water line. The Ndula water committee (the members are, Athman Kariuki, Dominic Chege, Robert Manza, Maulid Seif, Athman Kariuki, Abi Githinji, Mrs. Mwanjia) on the other hand, is working on the finer points of the memorandum of understanding, between itself and DMKL. The committee is also taking the lead in raising funds from the community, in an effort to support the digging of trenches for the water-piping network. Such is the valuable contribution of the community to this project.

Hot on the heels of the agreement were yet other victories. Among them was the protection of the concessions the workers' had gained through the campaign. Fundamental among these gains was the negotiation space created between the workers and the management. A seminar<sup>48</sup> conducted by KHRC for the Del Monte management and the management of other companies in Thika has sensitised management to the rights of workers. The workers in Thika also agreed to form the Workers Rights Watch. The Watch, which is an association of shop stewards, has a dual role of promoting and protecting the rights of the workers at Del Monte while mobilising the workers in other companies in Thika to join the Watch.

The monitoring infrastructure at Del Monte was further strengthened by the victory of union leaders to national leadership of the Kenya Union of Commercial, Food and Allied Workers Union. Kyule, was elected the chairperson of the Union's Thika branch while Wilfred Wambua, who represented the Labour Caucus on the Solidarity Committee, was elected the Thika branch secretary as well as the national deputy secretary of the same Union.

The Company has provided an office for the Shop Stewards in the cannery. The Company has over time, worked towards improving all the areas which were raised in the campaign. Key amongst these areas were:

- Assessment of all employees performance and job evaluations.
- Conversion of 1,500 casuals in the plantation sector, to seasonal staff.
- Donation of Policing Booths to the Kenya Police in Thika Town.

<sup>48</sup> The Seminar, co-funded by DMKL and KHRC, brought together management staff from Trax Kenya Ltd, Bein Kenya Ltd, Kenya Nut Ltd, Carnaund Metals Thika and Del Monte Kenya Ltd.

- Revision of the medical policy, to fully cover all seasonal workers.
- Compensation for workers who were being under paid.

The Solidarity Committee and CNMS revisited DMKL (now renamed Cirio Del Monte Kenya Limited) on 15th May, 2002. The meeting reviewed the Improvement Plan. It was evident that the relationship between the Management and the Shops Stewards had improved significantly. There is, however, the need for further improvement, by making it a Company policy. The Company was also interested in re-examining the situation of casuals and improving their working conditions accordingly.

The workers at Del Monte have now an organised voice of over 7,000 people. This voice is going to count in the forthcoming general elections and other future elections in the two constituencies. No councillor or Member of Parliament within the Gatanga and Juja constituencies can dare ignore the voting power of the Del Monte workers.



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## **APPENDIX I**

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### Press Statement by Del Monte Kenya Shopstewards

### THE PLIGHT OF DEL MONTE WORKERS

The workers of Del Monte Kenya Limited have a series of complaints about their living and Working conditions which they wish to air publicly and alert all Kenyans about.

There is the issue of their working conditions. Through a programme called "seasonalisation," Del Monte Ltd has introduced cheap labour into the company through which workers who were formerly permanent were converted into seasonal workers and their pay reduced. For example, an individual who was earning Ksh 59 per hour as a permanent worker in December 1998 is now earning Ksh. 34 per hour at the same job. Seasonal employment comprises 84% of the workers in the factory. These employees, who are the backbone of the workforce, get no severance pay although some have worked for Del Monte for the last 30 years. In the engineering department, a general technician is earning Ksh. 5000 less than is stipulated in the union contract. All this inhuman.

Also inhuman is the fact that workers at Del Monte are not given adequate protective cover due to the fact that they are working in an environment with a high chemical content. The medical policy is one where a worker is denied treatment at the company clinic if he or she is off duty. There is no educational facility for the children of workers.

There is the additional issue of the housing conditions of workers at Del Monte. Due to low wages and housing allowances the workers of Del Monte cannot live in single-roomed stone houses which cos between Ksh. 1,500 and Ksh. 2000 per month. Hence they are now residing in slums in Thika, which are consequently expanding.

The workers of Del Monte are demanding for:

1. Equal pay for equal work;
2. The management of Del Monte to respect the contracts of work between itself and the workers;
3. An end to the seasonalization programme which is exploitative of cheap labour;
4. The open health policy where workers can get due medical attention as the need arises;
5. The provision of humane working and housing conditions and an educational facility for the children of the workers
6. An immediate meeting between the workers and management of Del Monte together with all other concerned parties to a humane settlement of this crisis.

Threats to workers or their representatives will not solve the problems at Del Monte. What the workers are calling for is a measure of humanity from the management of the company.

Signed:

Del Monte Shopstewards

Kenya Union of Commercial, Food and Allied Workers

Daniel Kiyuka  
1 Gregory Mwen  
Stephen Mutitu  
Geoffrey Mungana



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**APPENDIX II**

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**The Benevolent Condominium  
Research Questionnaire**

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Kenya Union of Commercial, Food and Allied Workers

Daniel Kiyuka ~~Shopsteward~~  
1 Gregory Mwen ~~Shopsteward~~  
Stephen ~~Shopsteward~~  
Geoffrey ~~Shopsteward~~

1. Description of the social/economic conditions in the region where Del Monte pineapple plantations are to be found (population, literacy level, availability of drinking water, housing conditions, division of land ownership).
2. About Del Monte in Kenya
  - 2.1 Number and size of the Del Monte plantations.
  - 2.2 Who owns the land on which Del Monte has its plantations? When rented, what's the sum paid by Del Monte (specify which currency, period of time, and extension of land involved)?
  - 2.3 How long has Del Monte been in Kenya?
  - 2.4 Are the plantations always on the same land?
  - 2.5 If these are changed periodically, is this done on the basis of normal rotation or because intensive cultivation has rendered the land unproductive?
  - 2.6 If the land used is not always the same, how often are the changes made? Who takes over the land discarded by Del Monte? What yield do the agricultural workers get from this land?
3. About Del Monte productivity
  - 3.1 What is the total quantity of pineapples produced in the Del Monte plantations?
  - 3.2 What is the yield per hectare?
  - 3.3 What market is there for Del Monte's pineapples?
4. About the production stages
  - 4.1 What are the main phases of work on the plantations?
  - 4.2 Is canning included in these?
5. About the workers, employees
  - 5.1 What is the total number of persons employed by Del Monte?
  - 5.2 How many directors? And managers? And employees? How many agricultural workers? How many workers involved in the canning process?
  - 5.3 What is the proportion between male and female workers in each category?
  - 5.4 What percentage of agricultural labours work on a permanent basis? What percentage of the workers in the canning process work on a permanent basis?
  - 5.5 How long does a seasonal contract usually last?
  - 5.6 Why is seasonal labour employed? Just because they do really exist specific periods of time when there is more work, or simply because seasonal labourers have less rights than those hired on a permanent basis?
  - 5.7 Is there usually much interchanging of seasonal workers or are the same ones hired for short spells?

6. On child labour
  - 6.1 What is the minimum age for workers in Kenya?
  - 6.2 Does the above apply to both agriculture and industry?
  - 6.3 Are children under age [according to the law] to be found on the plantations and in the canning factories?
  - 6.4 If so, how many are there? What jobs do they do? How much do they earn?
  
7. On trade-union rights
  - 7.1 Does the law in Kenya allow any freedom to set up trade-union associations?
  - 7.2 Does the law impose specific regulations for the setting-up of a trade-union organization which can negotiate on a legal basis?
  - 7.3 Are there any trade-unions groups on the plantations? What are their names? How many members have they got? Have these trade-unions groups been organized on an independent basis or are they merely an expression of Del Monte in the service of Del Monte?
  - 7.4 Does Del Monte acknowledge the right of the workers to form these groups?
  - 7.5 Are there any episodes of discrimination or intimidation? If so, what is their precise nature?
  - 7.6 Does the right to strike exist in Kenya? How can it be put into effect according to the law?
  - 7.7 Do the strikers meet with reprisals from the management? If so, in what do they consist?
  
8. On working hours
  - 8.1 Are working conditions fixed by law or by contract?
  - 8.2 What are the legal contractual daily working hours?
  - 8.3 What are the usual working hours?
  - 8.4 Is production continued at night in Del Monte's factories?
  - 8.5 Are women allowed by law to work on night-shifts?
  - 8.6 Do women work on night-shifts?
  
9. On wages
  - 9.1 Are wages fixed by law or by contract?
  - 9.2 How much is the daily wage?
  - 9.3 Is the daily wage in accordance with the law?
  - 9.4 Is there any discrimination between wages for men and wages for women?
  - 9.5 What can an agricultural labourer or a factory worker buy with his wages for a normal day's work?
  - 9.6 Are the members of an agricultural worker's family adequately fed or do they show signs of undernourishment? If so, which signs?
  - 9.7 Do the labourers' children go to school? Up to what age?

- 9.8 What kind of houses do the labourers have? Have they got drinking water? Have they got electricity?
- 9.9 Have the labourers' families got bicycles?

10. On social rights

- 10.1 How many days are worked in a week?
- 10.2 What are the usual working hours?
- 10.3 Is there a day off each week?
- 10.4 Are holidays provided for? For how long? Are the holidays of real benefit?
- 10.5 Is there any sick pay? What are the rules for it? Are there any medical allowances?
- 10.6 Is there any maternity leave? What are the rules for it?

11. On accidents and occupational diseases

- 11.1 How many accidents on the Del Monte plantations and in the factories have occurred in the last 12 years?
- 11.2 How did they happen?
- 11.3 How many were the cause of death?
- 11.4 What kind of compensation is given to workers in the case of permanent disablement, of death, or of occupational illness?

12. On the use of pesticides

- 12.1 What type of pesticides are used on the plantations?
- 12.2 Are the workers usually instructed on how to manipulate pesticides in a safe manner?
- 12.3 How many case of poisoning have been recorded in the last 3 years?
- 12.4 How many cases of chronic illness caused by pesticides are present on the plantations?
- 12.5 What is the quantity of pesticide used per hectare?
- 12.6 What effect do they have on the land?
- 12.7 What effect do they have on the environment (water beds, rivers, lakes)?

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**APPENDIX III**

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The Pesticides In  
The Del Monte  
Warehouses  
(1999)

Product	Function	Toxicity*
Nemacur (organophosphate)	worm killer	1a
Temik (carbamate)	worm killer, insecticide	1a
Telone (1,3 D)	worm killer, insecticide	F
Vydate (carbamate)	insecticide, worm killer	1b
Gramoxone (paraquat)	weed killer	2
Sumithion (organophosphate)	insecticide	2
Diazinon (organophosphate)	insecticide	2
Decis (pyrethroid)	insecticide	2
Dursban (organophosphate)	insecticide	2
Brestan	fungicide	2
Amro	insecticide	3
Gesapax (triazine)	weed killer	3
Kocide 101	fungicide, bactericide	3
Delax	fungicide	3
SNA	weed killer	3
Bayleton	fungicide	3
Bromacil (oracile)	weed killer	U
Diuron	weed killer	U
Aliette	fungicide	U
Ethrel	growth regulator	U
Round up	weed killer	U

\* This classification has been established by the World Health Organization

1a = extremely dangerous

3 = slightly dangerous

1b = highly dangerous

F = fumigant with a potentially high risk

2 = moderately dangerous

U = harmless if used correctly

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**APPENDIX IV**

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Postcard Sent By  
Consumers To  
Del Monte  
Shareholders



**Sergio Cagnotti**

c/o Cirio

Via Fondi di Monastero, 26

00131 Roma

Dear Mr. Cagnotti,

I have heard about the appalling working conditions on the pineapple plantations owned by Del Monte Kenya, a company in the Del Monte group, which you control.

As a responsible consumer I was shocked to learn that casual labourers earn a daily wage corresponding to 3kg of maize flour and that they use pesticides which are harmful to the workers, the population at large, the environment and perhaps also to consumers.

Consequently I ask Del Monte:

1. To increase wages to dignified levels;
2. To guarantee workers all the rights established by law and in their contracts;
3. To safeguard the workers' health and not use pesticides which have been condemned by the international community;
4. To allow an independent commission agreed upon by the organizers of this campaign to check working conditions.

I inform you that my protest will continue until Del Monte has agreed to these requests.

I look forward to hearing from you.

Yours sincerely,

-----  
-----

ANCC (Coop)

Via Panaro, 14

00199 Roma

**Sergio Cragnotti**

c/o Cirio  
Via Fondi di Monastero, 26  
00131 Roma

Dear Mr. Cragnotti,

I have heard about the appalling working conditions on the pineapple plantations owned by Del Monte Kenya, a company in the Del Monte group, which you control.

As a responsible consumer I was shocked to learn that casual labourers earn a daily wage corresponding to 3kg of maize flour and that they use pesticides which are harmful to the workers, the population at large, the environment and perhaps also to consumers.

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3. To safeguard the workers' health and not use pesticides which have been condemned by the international community;
4. To allow an independent commission agreed upon by the organizers of this campaign to check working conditions.

I inform you that my protest will continue until Del Monte has agreed to these requests.

I look forward to hearing from you.

Yours sincerely,

-----  
-----

ANCC (Coop)  
Via Panaro, 14  
00199 Roma

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**APPENDIX V**

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SGS ICS s.r.l. –  
International  
Certification  
Services

Del Monte Kenya Ltd  
Audit Report





## AUDIT REPORT

Company: Del Monte Kenya Limited  
Audited site: Thika  
Ref.: SA/003/99  
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SGS ICS s.r.l-INTERNATIONAL CERTIFICATION SERVICES



Company: Del Monte Kenya  
Audited Site: Thika  
Date of Audit: 22<sup>nd</sup> and 23<sup>rd</sup> November 1999  
Type of audit: 2a Party Audit-SA8000

Audit team members:

Rossella Ravagli (Lead Auditor)  
Kioko Ndolo (Auditor)  
Evarita Kamau (Auditor)

**IMPORTANT NOTICE: THE PRESENT REPORT ONLY BE REPRODUCE IN ITS INTEGRAL FORM IN ORDER TO PRESERVE THE INTERGRITY OF INFORMATION CONTAINED HEREIN**



## AUDIT REPORT

Company: Del Monte Kenya Limited  
 Audited site: Thika  
 Ref.: SA/003/99  
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## AUDIT REPORT

Company: Del Monte Kenya Limited  
 Audited site: Thika  
 Ref.: SA/003/99  
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### Introduction

A 2<sup>nd</sup> Party Audit was performed at Del Monte Kenya on behalf of CNMS (Centro Nuovo di Sviluppo), by the SGS ICS audit team: Rossella Ravagli, Kioko Ndolo (first day), Evarita Kamau (second day)

1. Objective of the Audit: The objective of the audit was to measure the level of compliance of the auditee against the standard SA 8000: 1997.

#### 2. Audit Methodology:

1. Interviews to randomly-selected employees from the main relevant departments/ operational areas within and outside the company
2. Direct observation of working conditions at the operational areas: cannery factory, maintenance department, laboratory of analysis, part of plantation, two villages
3. Random Review of personnel records

#### 3. Reference documents for the audit

1. SA 8000 Standard (October 1997)
2. CEPAA Guidance (April 1999)
3. Agreement "Kenya Plantation And Agricultural Workers Union"
4. Agreement "Del Monte Kenya Limited and Kenya Union of commercial, Food & Allied Workers"
5. Agreement "Kenya Union of Domestic Hotels, Educational Institution Hospitals and Allied Workers"
6. Workmen's compensation Act 226
7. Regulation of Wage and conditions of employment Act cap 229

4. Activity of the company : production, picking, processing, canning of pineapple.

#### 5. Representatives of the company

Sig. Carlo Zingaro	General Director
Sig Wallace N. Mantu	Human Resources and Industrial Relations Director
Sig Barry Twite	Production Director
Sig John Maluki Ngoru	Resources Manager

#### 6. Meetings With third parties

A local NGO (Kenya Human Right Commission of Nairobi) was met and interviews outside of the company were also carried out.

#### 7. Audit site description

At Del Monte Kenya Limited plant are employed approximately 5600 workers. There is one canning factory, one maintenance department for the machinery, one laboratory of analysis, 1 medical centre, 3 primary schools, 6 dispensaries, 6 nurseries.

*Note: SGS ICS conducts all audits according to the highest professional standards based on ISO 10011. However, it must be taken into consideration that each audit is based on a sampling approach. Therefore, there may be issues, which have not been discovered or identified during the course of the audit. It is the responsibility of the auditee to identify those issues through its own monitoring processes.*



## AUDIT REPORT

Company: Del Monte Kenya Limited  
 Audited site: Thika  
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### CONCLUSION

It was appreciated that Del Monte Kenya agreed to be audited according to SA8000 in spite of the fact that the relevant Social Accountability System, as required by clause 9 of the applicable Standard (1997 Edition) doesn't appear at present implemented and documented yet.

This last circumstance caused some difficulties when carrying out the audit, in particular as far as the research of objective evidence regarding Clauses 5 and 6 of the Standard (Disciplinary Practices) was concerned.

A satisfactory implementation of clauses 1 and 2 of the Standard (Child labour and Forced labour) was verified.

It is recommended to establish an action plan aimed at obtaining a full implementation of clauses 3,4,7 and 8 of the SA8000 Standard (Health and Safety, Freedom of association, Working Hours, Compensation) This plan ought to take into consideration the findings detailed in the report.

It is recommended to establish an action plan aimed at obtaining a full implementation of clauses 3,4,7 and 8 of the SA8000 standard (Health and Safety, Freedom of association, Working Hours, Compensation). This plan ought to take into consideration the findings detailed in the report.

The audit results gave the audit team sufficient confidence that the requirements of SA8000 standard could be complied with, after the adoption by the Company of appropriate remedial actions (relevant to the findings). Results were based on a sample of records made available and examined on site, on interviews with workers, as well as on the awareness declared by the Management regarding the opportunity to improve some aspects of their System.



## AUDIT REPORT

Company: Del Monte Kenya Limited  
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### AUDIT FINDINGS

**Preliminary:** The report is divided in the following sections:

Objective evidence found during the audit, in accordance with the points of SA8000 standard;

Other information and collected details.

Ref. SA8000	<b>1.CHILD LABOUR</b>
Objective evidence	No evidence of direct or indirect use of child labour on site
Other details/information	The policy adopted by Del Monte requires the age for employed personnel to range between 25 and 45 years

Ref. SA8000	<b>2.FORCED LABOUR</b>
Objective evidence	No evidence of use of forced labour on site
Other Details/information	None

Ref. SA8000	<b>3. HEALTH AND SAFETY</b>
Objective evidence	<ul style="list-style-type: none"> <li>• The list of toxic substances does not appear to be either approved or dated;</li> <li>• The records of the training carried out for use of the individual protective equipment to be worn during pesticide treatment and information related to health hazards of pesticides were not available for all personnel involved. (A training course for the use of pesticides is planned for 10-02-00);</li> <li>• Some fire- extinguishers in the factory are labelled and are not properly identified;</li> <li>• The factory safety exits are not indicated;</li> <li>• Records of the fire brigade inspection were not available</li> <li>• An emergency plan was not available</li> <li>• Inside the factory no "first aid kit" appeared to be available ; the "first aid kit" held in the laboratory of analysis was found to be empty;</li> <li>• Records of Personnel training on health and safety hazards since their employment were not available;</li> <li>• In the pesticide storage the sign and labels are only in english language;</li> <li>• Female workers in the cannery factory were not wearing the protective equipment against noise, in spite of the high level of noise;</li> <li>• A worker in the picking of pineapple in the plantation was not wearing the protective overall;</li> <li>• Inside the canning factory; a welding worker had no protective equipment while working on a machinery, and some women were not wearing the safety shoes.</li> </ul>





## AUDIT REPORT

Company: Del Monte Kenya Limited  
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Ref. SA8000	3.HEALTH AND SAFETY
Other details / information	<p>Following some interviews with workers of the plantation and of the factory, the following emerged:</p> <ul style="list-style-type: none"> <li>• Claims related to the dispensary service (it was indicated as an example the case of a worker deceased on August 5<sup>th</sup> 1999); similar claims for the villages*dispensary service</li> <li>• Incomplete protective equipment provided by the company (protective masks for pesticides, shoes and gloves for female workers in the canning factory);</li> <li>• Inadequate means of transports with the kinyangi village:it is possible to reach the school only on foot;</li> <li>• Inadequate transports between the villages and the workplace (e.g.: open roof trucks)</li> <li>• Lavatorios are inadequate (number and cleanliness) in the audited villages: Anglo French (2000 people) and Kinyangi (500 people)</li> </ul> <p>Housings in the Kinyangi village (round huts of approx. 3x3 m) have no illumination or electricity, have an iron roofing and one window (without any glass and covered by a mosquito net). Each house hosts a family (averaging 6 members). The interviewed workers declared they have asked for repairs along time ago, but until now no repairs have been made.</p> <p><u>Note:</u> it would be useful investigate, during future audits, the use and toxicity of the following products currently in use:</p> <ul style="list-style-type: none"> <li>• Gramoxone (paraquat)</li> <li>• Temik (carbonate)</li> <li>• Telone II (1,3- dicholopropene)</li> <li>• Vydate (oxernyl)</li> <li>• Diazinon</li> <li>• Hyvar-X</li> <li>• Namacur</li> <li>• Fruitone CPA</li> </ul> <p>In addition, the following points also ought to be verified:</p> <ul style="list-style-type: none"> <li>• Adequate protective gear for machinery;</li> <li>• Protective equipment for workers employed in the maintenance of contaminated vehicle;</li> <li>• Training of the factory, maintenance department, and laboratory;</li> <li>• Schools nurseries, other villages and other dispensaries;</li> <li>• Analysis of the related health hazards;</li> <li>• Appointment of a Health and Safety Representative.</li> </ul> <p>It is also suggested to carry out a phonometer analysis in the canning factory, in order to determine the actual noise level, eventually leading to the necessity of wearing individual protective equipment.</p>



## AUDIT REPORT

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<b>Ref.</b> SA 8000	<b>4.FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING</b>
<b>Objective Evidence</b>	<p>Upon their employment, workers automatically join the relevant trade union:</p> <ul style="list-style-type: none"> <li>• Kenya Union of Commercial Food and Allied Workers, for the factory workers;</li> <li>• Kenya Plantation &amp; Agricultural Workers Union, for the plantations workers</li> </ul> <p>It was not possible to find evidence of meetings among the workers' Representatives of the plantation trade union</p>
<b>Other details / information</b>	<p>During the interview, the workers Representative (chief shop Steward) of the Kenya Union of Commercial Food Allied workers reported having been threatened of dismissal, having no possibility to make or receive telephone calls.</p> <p>Following interviews with the workers, allegations that trade union members are discriminated against were made.</p> <p>A letter dated 21/11/99 was produced, issued by the Trade union Kenya Plantation and Agricultural Workers Union, where a general satisfactory situation among workers is described. In spite of this, interviewed workers expressed widespread dissatisfaction in respect of; inadequate salaries, "voluntary" overtime, health and safety hazards, rent costs.</p>

<b>Ref.</b> SA 8000	<b>5. DISCRIMINATION</b>
<b>Objective Evidence</b>	Company policies and/or procedures relative to the prohibition of discrimination in the workplace do not appear to be defined.
<b>Other details/ Information</b>	Witnessing were collected from female workers, regarding the obligation to undergo pregnancy tests upon employment

<b>Ref.</b> SA 8000	<b>6.DISCIPLINARY PRACTICES</b>
<b>Objective Evidence</b>	Company policies and/or procedures relative to the prohibition of disciplinary actions do not appear to be defined
<b>Other details/ Information</b>	None



## AUDIT REPORT

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<p>Ref. SA 8000 Objective Evidence Other details/ Information</p>	<p><b>7.WORKING HOURS</b></p> <p>It has been verified that the security guards involves 60 hours for week. Kenyan legislation (n 23 on the 28/05/99-<u>Workers Compensation Act 236</u>) requires 46 hours as the weekly maximum number of working hours (and a day off a week) The overtime must be remunerated 1,5 times the normal salary and 2,0 times the normal salary during holidays.</p> <p>Working hours for permanent workers in the plantation 46 hours/week (Monday to Saturday)</p> <p>Working hours for permanent workers in the factory: 45 hours/week (Monday to Friday)</p> <p>Working hours for permanent workers in the factory: working week Monday to Saturday. The overtime is paid after the 9<sup>th</sup> working hour each day.</p> <p>During interview with workers it was reported that the overtime is not always carried out in a voluntary manner and that it is not paid in conformity with the contract.</p>
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<p>Ref. SA 8000 Objective Evidence</p>	<p><b>8.COMPENSATION</b></p> <p>Following interviews with the workers, it emerged that:</p> <ul style="list-style-type: none"> <li>• Casual workers are paid: 12.60-13.30 KSH/hour, no written contract, medical service, severance payment, pension pay or housing allowance are provided;</li> <li>• The "lunch break" it is not always permitted;</li> <li>• Medical assistance is not provided outside working days</li> <li>• People with same job received different salaries;</li> <li>• A seasonal worker in the plantation declared to receive 13.40 KSH / hours</li> <li>• A worker declared he did not receive the acting allowance".</li> <li>• Following medical assistance at the company's medical centre, it wasn't possible to find evidence of payment of the medical hospital fees incurred by a worker,</li> </ul> <p>Following the wage analysis</p> <ul style="list-style-type: none"> <li>• There is no evidence of an incentive and/or professional improvement plan(workers employed at the grade 1 from 23 years, ref. Plantation 'contract for permanent workers);</li> <li>• Some wage slips shifted from permanent worker condition to seasonal without an apparent reason</li> </ul>
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## AUDIT REPORT

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<p>Ref. SA 8000 Other details/ Information</p>	<p><b>8. COMPENSATION</b></p> <p><u>Kenya legislation: (workers Compensation Act 236-legislation supplement n° 23 of the 28/05/99, Regulation of age and conditions of employment (Act cap229)</u>  include the following conditions:</p> <ul style="list-style-type: none"> <li>• Minimum wage: between ,317 and 2428 KSH at month</li> <li>• Minimum wage (per hour): 14.40 KSH</li> <li>• Housing allowances for plantation workers are fixed at 15% of the minimum wage</li> <li>• Employers must provide medical assistance for all workers</li> </ul> <p>At Del Monte Kenya 3 types of contracts are in use :</p> <ul style="list-style-type: none"> <li>• Plantation (july 1997-June 1999)- Kenya plantation and Agricultural Workers Union</li> <li>• Factory Del Monte Kenya- Limited Union of Commercial Food and Allied Workers</li> <li>• Kenya Union of Domestic Hotels, Educational Institutions, Hospitals and Allied Workers</li> </ul> <p>The 3 types of workers are: " casual, seasonal, permanent"</p> <p>At October 30<sup>th</sup> 1999 employed people are the following:</p> <ul style="list-style-type: none"> <li>• Approx. 1500 permanent workers, in the plantation</li> <li>• Approx. 1500 seasonal/casual workers, in the plantation</li> <li>• Approx. 1500 seasonal/casual workers in then factory</li> <li>• Approx. 500 seasonal workers</li> <li>• Approx. 500 permanent workers employed in the other activities (administration, safety, social services, laboratory)</li> </ul> <p>Seasonal workers in the plantation earn, in accordance with their contract, 14.40 KSH/hour (first year) or 16.56 / hour (Second year);  Seasonal factory workers in accordance with their contract, 32.22 KSH/hour;  Seasonal plantation workers do not enjoy medical assistance, severance payment, pension scheme  Seasonal factory workers do not enjoy severance payment and pension scheme</p> <p>Housing allowances are: 700KSH/month(factory)-150KSH/month(plantation)</p> <p>Permanent plantation workers earn a contractual salary of 18.90 KSH per hour minimum;  Permanent factory workers earn a contractual salary of 26.70KSH per hour minimum;  Permanent workers enjoy medical assistance, severance payment and pension scheme</p> <p>Housing allowances range between 110KSH per month (factory) and 400 KSH per month (plantation);</p> <p><u>Basic needs calculation:</u>  On the basis of data provided by Kenya Human Right commission, the amount of money covering the basic needs (foods &amp;rent included) is: 305.66 for day for a family of 6 persons in Thika.  On the basis of the CEPAA formula, the amount of money covering the basic needs is 334.44 KSH for day.</p>
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## AUDIT REPORT

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Ref. SA 8000	<b>9. MANAGEMENT SYSTEM</b>
Objective Evidence	<ul style="list-style-type: none"> <li>• A social Accountability policy has not been established</li> <li>• There is no evidence of a documented social accountability system, and no evidence that a management review has been carried out</li> <li>• No social accountability Representative has been appointed within the company</li> <li>• There is no evidence of an evaluation system for suppliers and subcontractors</li> <li>• There is no management system for corrective actions and remedial actions</li> <li>• There is no evidence of documented procedures or other evidence showing communication with interest third parties</li> <li>• There is no evidence of sufficient records to verify or ascertain a social accountability system</li> </ul>
Other details / information	None

Date December 9<sup>th</sup> 1999

Signed

Rossella Ravagli



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**APPENDIX VI**

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The Improvement  
plan for Del Monte  
Kenya Limited

## THE IMPROVEMENT PLAN FOR DEL MONTE KENYA LIMITED

### Preamble

Since November 1999, a coalition of local and international NGOs and Trade Unions in Kenya, have been involved in a campaign to compel Del Monte Kenya Limited (DMKL) management to improve its labour practices in order to meet local and international standards. The objectives of this campaign towards DMKL were;

- Ensure respect of human rights.
- That the company compensates the workers and the neighbourhood when it is found at fault.
- Advocate for the use of approved fertilizers and pesticides to protect the interest of workers, neighbourhood, environment and consumers.
- Improvement of the living and working conditions for all workers
- Advocate that all workers without any discrimination, be given the same rights.
- That the company meets all its obligations as required by the Kenyan law, international standards and by the collective Bargaining Agreement(CBA).

The concerns had been raised following an independent investigation conducted by the Centro Nuovo Modella di Sviluppo (CNMS) at the DMKL Thika plantation and factory between May 1997 and Nov. 1999. Also following the reports to the Kenya Human Rights Commission by the DMKL workers of long standing grievances regarding conditions of work and violation of the contract between the company and the workers. It has been evident that the DMKL has not always respected the rights of its workers at various levels contrary to what is required of them by the Kenyan law and other international laws and conventions regarding labor. This was corroborated by the SGS and Bureau Veritas Quality International (BVQI) investigators in November 1999 who certified that on the basis of the SA 8000, DMKL showed irregularities as had been mentioned by the earlier reports from the CNMS and KHRC.

Solidarity and the workers have been involved in a series of discussions with the DMKL Management since November 2000. To date these discussions have resulted in a significant improvement in the working conditions at DMKL which has also undertaken to improve and ensure adherence to the laws and standards governing the areas delineated below;

- Social Development
- Workers Rights and Trade-Union Rights
- Environmental Rights; Health and Safety
- Wages and Benefits
- Corrective Measure and Monitoring

The Solidarity Committee with Del Monte Workers and Centro Nuovo Modello di Sviluppo welcomes the improvement plan embarked upon by DMKL as innovative and timely initiative.

Social Accountability 8000, is an international standard whose aim is to improve working conditions globally. The Standard is registered under the Council on Economic Priorities Accreditation Agency (CEPAA)



This plan gives an important boost to the development of responsible corporate citizenship and sets an example for others to emulate. An initiative of this kind in collaboration with the civil society however, does not substitute the role of trade Unions. Effective independence and freedom of organizing free trade unions is critical in promotion of human rights, decent work, environment protection and development at the work place.

### **Social Development**

DMKL recognizes that in pursuit of their objectives and production of pineapples, it has to establish and maintain a good working relationship with the neighbouring communities. The company also appreciates that its workers are entitled to social development. DMKL thus acknowledges its obligation in investing in social facilities as schools and health care facilities. In addition to the investments that the company has undertaken so far, DMKL management has committed itself to:

- Supporting local community initiatives that aim at improving their living standards.
- Develop a working structure between themselves and the neighbouring communities e.g. common committees between DMKL and local communities.
- Address the grievances of the local communities in regard to the activities of DMKL including issues of land, environment, water and security.
- Address the various issues raised by individuals against DMKL with the intention of reaching fair and amicable solutions.

### **Workers Rights and Trade Unions Rights**

DMKL recognizes the right of the workers to organize, and participate in the activities of the trade unions with which it has recognition namely; Kenya Union of Commercial, Foods and Allied Workers (KUCFAW), Kenya Plantation and Agriculture Workers Union (KPAWU). The management is committed to ensuring a conducive working environment for the trade unions and respect for the collective Bargaining Agreement. The management has already done the following to promote this:

- Identified an office for the trade union leaders in the factory and the plantation,
- Improved the access of the trade union leaders to telephone,
- Developed a management system that does not allow intimidation of trade union leaders,
- Taken measures to tolerate and promote the access to the trade union leaders to other sources of information and training that shall enhance their roles as workers leaders.

The company has also undertaken to implement the following:

- Ensure timely implementation of the collective bargaining agreements
- Incorporate the representation of all workers in the Collective Bargaining Agreement.
- Involve the workers through their leaders in decision-making processes that affect them.

**Environment Rights, Health and Safety**

The company undertakes to ensure the protection and sustainable use of its environment. Efforts shall be made to avoid dangerous pesticides to both target and non target organisms. An integrated production method shall be explored and put into use to ensure a sustainable use of soil. The company shall also avoid putting their workers in any physical risks or physical harm and shall compensate accordingly as required by the Kenyan law whenever workers are injured in course of duty. The company shall particularly take caution on the occupational health and diseases. The company shall also continue to respect the Collective Bargaining Agreement and shall strive to offer a conducive, genuine and respectful environment during these negotiations. It is expected that the unions as well will do the same.

DMKL has already undertaken to;

- Provide all the relevant workers in the factory and plantation with the correct and appropriate protective devices.
- Ensure that all the personnel receive appropriate health and safety training.
- Ensure a safe and healthy working environment that shall be monitored by the safety Committees.
- Provide decent housing and sanitary facilities at all the residential areas offered to the workers by the company.
- Safeguard land's biological integrity

For such program, the company has already contracted the occupational Health and Safety Unit to advise on safety and protective devices needed in the various departments in the plantation and the factory. To enhance the above, the company has further invited the workers to elect their own leaders to the Health and Safety Committees.

**Wages and Benefits**

Although in the past there have been irregularities in the compensation of the workers in various areas, DMKL now undertakes to ensure that it complies to the stipulations of the C.B.A. In the Collective Bargaining Agreement, the company shall strive to harmonize its ability to pay, with a workers' pay that covers their basic needs and those of their families. The company has already signed the contract for the "jobs Evaluation" exercise, to ensure a fair balanced and adequate compensation to each employee.

The company has also, since the commencement of the discussions, undertaken the following:


- Assess all cases of inadequate compensation in the factory and plantation and implementation of corrective measure.
- Reviewed all cases that involved changing permanent jobs into seasonal to make sure that this is only done when the nature of the job requires so
- Rationalize overtime and encourage the workers to voluntarily participate in it

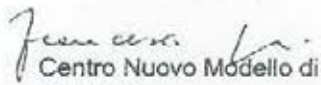
**Corrective Measure and Monitoring**

DMKL is cognizant of the duty of the tripartite members to maintain industrial harmony. In addition to the essential contributions of the trade union, the company regards the involvement of the civil society and the neighbourhood communities to be necessary to basic ethical practices in the operations of local and multinational companies. It is thus committed to learn from their observations in their role as partners in dialogue. The company in agreement with the unions and solidarity committee will put in place monitoring mechanisms to ensure that the remedial actions agreed upon are implemented. The Human Rights Network in Kenya on the other hand through the Kenya Human Rights Commission, shall facilitate the creation of a human rights conscious community in the factory, plantations and its environs. To ensure this, the company has undertaken to have the members of its management attend seminars and training on Industrial relations and workers rights issues. The Company shall also consider the following;

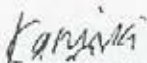
- Highlighting in the NANASI Newsletter its annual social and environmental activities.
- Meeting with social and human rights organizations at least twice per year to be updated on the labor situation in Kenya and the world.


  
**SIGNED**  
 Kenya Human Rights  
 Commission.

  
 Del Monte Kenya Limited  
 management.

  
 Centro Nuovo Modello di  
 Sviluppo

  
 Kenya Union of Commercial,  
 Foods and allied Workers.

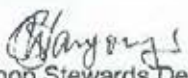
  
 ChemCherni Ya Ukweli

  
 Kenya Plantation and  
 Agricultural Workers Union.

  
 Kenya Women Workers'  
 Organization

  
 Shop Stewards Del Monte  
 Factory

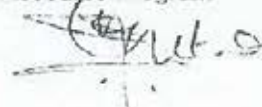
  
 Kinyathi Movement

  
 Shop Stewards Del Monte  
 Plantation.

Kituo Cha Sheria

Labour Awareness And  
 Resource Program

  
 4C's Labour Caucus





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**APPENDIX VII**

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**Joint Statement  
Calling Off  
the Boycott of  
Del Monte Ltd  
Products**

**JOINT STATEMENT  
TO CALL OFF THE BOYCOTT CAMPAIGN  
ON DEL MONTE LIMITED PRODUCTS  
3rd MARCH 2001**

In December 2000, the solidarity committee with Del Monte Workers and Del Monte Kenya Limited management held a press conference in which we announced the suspension of the campaign to boycott the Del Monte Kenya Products. This position had been adopted following the negotiations that started between the parties involved, namely solidarity committee with Del Monte Workers, Centro Nuovo Modello di sviluppo, Del Monte Management and the Del Monte workers. Since then we have had a further series of discussions to all the issues which had been left pending. We are happy to announce that our discussions have now yielded recommendations on how to attend to the issues which had been raised by the campaign. This has led to the development of an improvement plan that is acceptable to all the workers and the management.

**The plan addresses the following issues:**

- **Social development:** Within which the company undertakes to invest in the social facilities like the schools, health, education and many other investments that shall benefit the workers and those living in the company neighbourhood. The unique approach in this is that company shall establish common working structures with the neighbourhood communities. This initiative has already started in the Ndula Settlement scheme.
- **Workers Rights and Trade Union Rights:** Within this initiative, Del monte Kenya Limited management repeats its commitment to respect and to support the workers right to organise. The company shall therefore continue providing the appropriate operational infrastructure for union officials.
- **Environmental Rights, Health and Safety:** Del Monte has always appreciated the importance of sustainable use of land and other resources. The company has therefore undertaken to have integrated farming methods that shall ensure sustainable use.
- **Wages and Benefits:** Del monte has undertaken to give all workers remuneration that is just and compensate those who had been underpaid or placed in categories that are below their real job groups. The process of job Evaluation has also commenced which defines all jobs for the company and assigns the correct grades.

The solidarity Committee with Del Monte Workers and Centro Nuovo Modello di sviluppo, welcomes the improvement plan embarked upon by DMKL as an innovative and timely initiative. This plan is a clear sign of the commitment by Del Monte to be responsible corporate citizen and sets an example that should be emulated by other companies.

**There are several key lessons that emerge from this development, namely:**

- In addition to the essential contributions of the tripartite members in ensuring the workers rights at the work place, the enlightenment of the civil society is crucial to root the benefits to the Workers and other constituencies not represented by the Trade Unions.
- It is important for the corporate managers to ensure a more representative method of management and one that encourages industrial democracy.
- The international labour standards like the International Labour conventions, and Social Accountability Standards among others. Are important in ensuring adherence to acceptable labour standards.

While the Solidarity Committee and the Centro Nuovo Modello di Sviluppo are calling off the boycott, We have, therefore, referred several issues that emerged in this discussion to the Collective Bargaining Agreements between the company and the unions. We shall also facilitate the discussions between Del Monte and the neighbourhood in establishing common working structures. The social dialogue parties involved in the campaign have also undertaken to have an annual review meeting to ensure adherence to the improvement plan. We also highly recommend that Del Monte Kenya Limited pursues certification for the Social Accountability 8000 standards.

**NOTE:**

1. The final document requires that the wages be those that meet the basic needs of the worker and his/her family.
2. There is further emphasis on the improvement of the working conditions of the casual workers.

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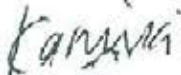
**APPENDIX VII**

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Joint Statement  
Calling Off  
the Boycott of  
Del Monte Ltd  
Products

  
SIGNED  
Kenya Human Rights  
Commission.

  
Centro Nuovo Modello di  
Sviluppo

  
ChemChemi Ya Ukweli

  
Kenya Women Workers'  
Organization


  
Kimathi Movement

Kituo Cha Sheria

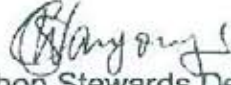
  
4C's Labour Caucus

  
Del Monte Kenya Limited  
management.

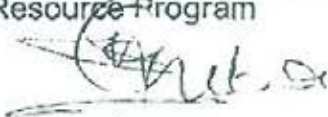
  
Kenya Union of Commercial,  
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Kenya Plantation and  
Agricultural Workers Union.

  
Shop Stewards Del Monte  
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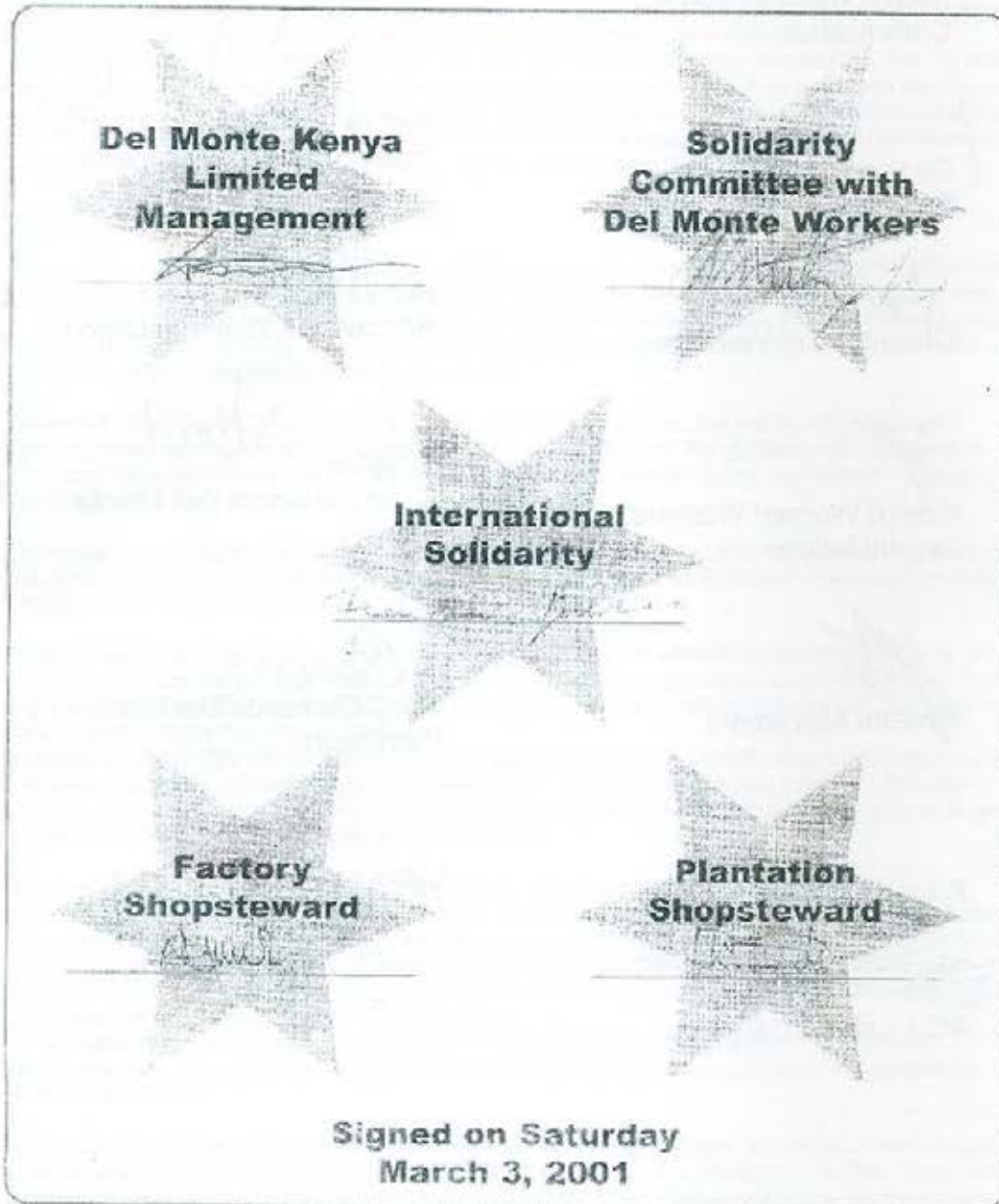
  
Shop Stewards Del Monte  
Plantation.

Labour Awareness And  
Resource Program

  
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**SIGNING FOR AND ON BEHALF OF  
THE CAMPAIGN STAKEHOLDERS**



*Pamoja Tutete Haki*