

## Karuturi going down? A summary of recent developments

as of 13 Feb 2014



*Karuturi workers block South Moi Road, in Naivasha, Kenya, demanding their wages*

### Financial collapse in Naivasha

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#### **Workers in trouble...**

- Early August 2013, **3,000 workers** at Karuturi's 200 ha flower farm in Naivasha, Kenya, went on strike due to unpaid wages. This was not the first work stoppage in recent times, but perhaps the beginning of the most serious downward spiral since Karuturi bought the farm in 2007.<sup>1</sup> Employees even took a manager hostage for a portion of the day.
- In mid-August 2013, the **Karuturi Hospital**, belonging to the flower farm, was closed. The farm had, at that point, an unpaid electricity bill of EUR 140,000 and so the power supply was shut off.<sup>2</sup> The hospital previously served 30,000 people per month.

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1 Strikes were held several times in 2010 (poor wages and working conditions) and 2012 (nonpayment of salaries). The last notable one was in December 2012 when farmworker put down their tools to protest against unpaid wages. This came after management fired 900 workers due to financial difficulties. See Lyudia Matata, "Karuturi flower farm workers down their tools", The Star, 5 Dec 2012, <http://tinyurl.com/pg5y83z> and George Murage, "Anxiety as Karuturi sacks 900", The Star, 1 Nov 2012, <http://tinyurl.com/q5ebln8>.

2 "After hospital, Karuturi school closes", AllAfrica.com, 2 Oct 2013, <http://tinyurl.com/ppxhsve>

- By the end of September 2013, reports emerged that **Karuturi School**, serving the children of the Karuturi farmworkers, was shut down "indefinitely". Teachers who, like the farmworkers, were also not being paid suddenly found themselves out of work.<sup>3</sup>
- On 1 October 2013, **Nakuru Senator** James Mungai criticised the labour unions for not intervening when things "started going wrong" at Karuturi Flower Farm.<sup>4</sup>
- On 5 October 2013, Francis Atwoli, secretary general of the Central Organisation of Trade Unions (**COTU**), wrote to Kenyan Labour Secretary Kazungu Kambi calling for the arrest and prosecution of Karuturi management for failure to pay over 4,000 workers in Naivasha for a total of six months.<sup>5</sup> Karuturi responded in a public advertisement statement that the union was in fact inciting workers not to take their salaries.<sup>6</sup>
- On 10 October 2013, the **local courts** ordered Karuturi to address the "deteriorating" living and working conditions of its workers, notably the lack of water and electricity.<sup>7</sup>
- Several **suicide attempts** by the farm workers have been documented. On 24 September 2013, three workers tried to commit suicide due to family suffering as a result of unpaid wages.<sup>8</sup> In December 2013, it was reported that one Karuturi farm worker, who had not eaten in seven days, hung himself, naked, outside the gates of the farm also in desperation.<sup>9</sup>
- On 29 December 2013, **COTU** again appealed to the government, this time addressing President Uhuru Kenyatta directly, to intervene, stating that the workers had not been paid since 1 year now.<sup>10</sup>

Time and again, Karuturi Farms management have either denied the issue of unpaid wages or blamed it on the banks or the labour unions themselves. Shareholders, meanwhile, back in India have brushed such troubles off as "a cash flow problem".<sup>11</sup>

### ***...and creditors, too***

- On 7 August 2013, **Allpack Industries Ltd**, member of the IPS Group of companies operating under the Aga Khan Fund for Economic Development, filed a petition against Karuturi Ltd.<sup>12</sup> The petition called for the closure of Karuturi on the grounds of financial

3 George Murage , "Students' exam scare as Karuturi school closes", The Star, 28 Sep 2013, <http://tinyurl.com/nq7bw63>.

4 George Murge, "Cotu blamed for flower farm crisis", The Star, 1 Oct 2013, <http://tinyurl.com/pua2qwf>

5 Irene Wairimu, "Cotu demands the arrest of Naivasha Karuturi officials", The Star, 8 Oct 2013, <http://tinyurl.com/or3v7yf>.

6 Daily Nation, 11 Oct 2013, <http://tinyurl.com/q5aazx7>

7 George Murage, "Karuturi court orders action", The Star, 10 Oct 2013, <http://tinyurl.com/p5dr2nd>

8 See Kirera Mwiti, "Farm workers bid to commit suicide over late pay aborts", The People, 25 Sep 2013, <http://tinyurl.com/p2jfk5> and Kenya Television News, "Karuturi workers demonstrate along Naivasha Nakuru highway over their pay", 26 Sep 2013, <http://youtu.be/4YYx6Digu5Q>.

9 Frans van den Houdt, "'Karuturi has no business being in the flower industry'", Floraculture International, 18 Dec 2013, <http://tinyurl.com/mh6pq75>.

10 See COTU, "Intervention in failure by the management of Karuturi flower farm, Naivasha", 29 Dec 2013, <http://tinyurl.com/q8c537f>

11 See Karuturi's public statements of 26 Sep 2013 (<http://tinyurl.com/ommdahw>) and 11 Oct 2013 (<http://tinyurl.com/pczgfqs>), as well as the Moneycontrol message board for Karuturi investors (<http://tinyurl.com/q9r2gm6>).

12 Kenya Gazette, 6 Sep 2013, [http://kenyalaw.org/kenya\\_gazette/gazette/volume/316](http://kenyalaw.org/kenya_gazette/gazette/volume/316). Allpack, a company

insolvency. Karuturi owes Allpack US\$465,000 and KSh50,000 (US\$580) for unpaid cardboard deliveries made between September 2011 and May 2013. It demanded that the Kenyan State assume and settle Karuturi's outstanding obligations towards creditors as well as the workers, and put the company into receivership. Presumably, this would allow the once booming flower farm, churning out nearly one million roses a day, to be sold to more responsible owners.

- As of December 2013, **Kenya Plantation Agriculture Workers Union** and **ten Kenyan companies** had joined the lawsuit led by Allpack against Karuturi. The ten companies are: AgriChem & Tools, Juanco SPS, Signode Packaging Systems, Comhard Ltd., Shanghai Plastics Company Polythene Industries, IRRiCO International, Maina Njuguna & Associates, CFC Stanbic Bank and Inter Labels Africa.
- The **court hearing** on the petition was originally scheduled for 25 Oct 2013 but the court failed to sit that day. It was then postponed to 13 Dec 2013 but did not proceed due to public holiday. It was then postponed again to 2014. The lawyer for the petitioner is **Daly & Figgis**.<sup>13</sup>
- End 2013, reports were coming in that deliveries were no longer being made to Karuturi's farm and that rose production has **virtually stopped** at the Naivasha facility.<sup>14</sup>
- On 24 January 2014, India's Investment Information Credit Rating Agency Ltd (**ICRA**) downgraded Karuturi's term loans and fund based limits from "B+" to "C", factoring in recent delays in the company's debt servicing. Instruments with ICRA's "C" rating are "considered to have **very high risk of default** regarding timely servicing of financial obligations."<sup>15</sup>
- On 10 February 2014, Karuturi Ltd was **put into receivership** by CFC Stanbic Bank with a view to disposing of the firm's assets and recovering payments to settle over KSh 400 million (EUR 3.5 million or USD 5 million) of debt. To COTU's satisfaction, the new managers assured workers that they would cover unpaid wages up to December 2013. However, on 12 February 2014, Karuturi officials got the Kenyan High Court to issue a restraining order against the new managers.

## **Sudden shift in the tax dispute in Nairobi**

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- On 11 December 2013, it emerged that Karuturi was **granted a reprieve from the Kenyan Revenue Authority (KRA)** in their tax dispute.<sup>16</sup> Just months earlier, in April 2013, it was revealed that KRA had determined that Karuturi owed nearly US\$11 million in unpaid corporate income tax due to transfer mispricing, part of a larger set of tax disputes with government authorities that amounted to a quarter of the firm's 2012 sales.<sup>17</sup> This

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with annual revenues of US\$1.5 billion, produces corrugated cardboard and polypropylene bags.

13 Ironically, this is the same firm that helped Karuturi take over Sher Agencies Ltd and its successful flower farm in Naivasha back in 2007.

14 See van den Houdt, op cit.

15 ICRA, 24 January 2014, [http://icra.in/Files/Reports/Rationale/Karuturi%20Global\\_r\\_24012014.pdf](http://icra.in/Files/Reports/Rationale/Karuturi%20Global_r_24012014.pdf)

16 For background on this case, see Tax Justice Network et al, "Karuturi guilty of tax evasion", 22 Apr 2013, <http://www.grain.org/e/4698>, and Felicity Lawrence, "Kenyan flower industry's taxing question", The Guardian, 1 April 2011, <http://tinyurl.com/nac8xvo>.

17 Raghuvir Badrinath, "Karuturi Global wins reprieve in Kenyan tax claim", Business Standard, 12

finding only concerned the fiscal years 2008-09, while KRA was still planning to audit the firm for 2010-12. Yet, for some reason, KRA reduced the amount due to US\$4 million and settled the matter there.<sup>18</sup>

We were unable to get any explanation from the government of Kenya as to why there was such a dramatic drop in the amount determined as due from transfer pricing.

## License to operate in Ethiopia in doubt

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- By the end of 2012, **Karuturi was well behind on its plans** for its large agricultural projects in Ethiopia. The company's first crop at its 100,000 ha concession in Gambela was destroyed by flooding in 2011 and Karuturi's management revealed that the company had only been able to cultivate 4,000 ha of maize in 2012 and planned to reach a mere 5,000 ha by April-May 2013.<sup>19</sup> The company's contract, renegotiated in 2010, stipulated that it would cultivate the full 100,000 ha within two years. In January 2012, the company claimed it would cultivate nearly 60,000 ha of land over two seasons.<sup>20</sup>
- **Ethiopian authorities are frustrated** by the slow progress. "I have to be frank, they didn't meet our expectations," said Minister of Agriculture, Tefera Derbew, in a June 2013 interview with The Hindu. "We would like to get the land developed in a short period of time... [but] Karuturi, Saudi Star and the like, their implementation is not to our satisfaction."<sup>21</sup>
- In March 2013, **92 Ethiopian workers** at Karuturi's Gambela site filed a complaint with the Department of Labour and Social Welfare claiming that their salaries were delayed by up to 20 days and that the company did not provide identity cards, safety equipment, medical treatment or proper residence. The department found workers living in cramped metal shacks without proper ventilation and begins investigating allegations that employee pensions deducted from workers salaries by the company were not deposited with the relevant government department.<sup>22</sup>
- In May 2013, the Karuturi workers told The Hindu that the company is so **short of cash** that they don't have diesel for their tractors and that the company is leasing out its equipment to other investors in Gambela.<sup>23</sup>
- On 23 November 2013, the Ethiopian magazine The Reporter wrote that Karuturi's Ethiopian operations were "**on the verge of collapse**".<sup>24</sup>
- By December 2013, a source within the regional government of Gambela confirmed to Anywaa Survival Organisation (ASO) that Karuturi and several other foreign investors with

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December 2013, <http://tinyurl.com/pgs2kuj>.

18 Karuturi press release, "Kenyan tax claim", 11 Dec 2013, <http://tinyurl.com/p2sn38j>

19 Karuturi Management Discussion, <http://tinyurl.com/kc5blv8>

20 Aman Sethi, "When the levee breaks", The Hindu, 19 May 2013, <http://tinyurl.com/py8ea6c>

21 Aman Sethi, "Karuturi debacle prompts Ethiopia to review land policy", The Hindu, 1 Jun 2013, <http://tinyurl.com/m7gucot>

22 Aman Sethi, "When the levee breaks", op cit.

23 Idem.

24 Kaleyesus Bekele, "Saudi Star rice project feels the pinch," The Reporter, 23 Nov 2013, <http://tinyurl.com/p82xzl2>

large agricultural leases are **being investigated for illegal activities**, including corruption, environmental destruction and failure to uphold the terms of their contracts. Local sources also told ASO that Karuturi's farming operations in Gambela have shut down, and that the company has removed its tractors and other farm machinery from the farm.<sup>25</sup>

- By this time, things appear to be going badly for the company's **Ethiopian flower operations** as well. In December 2013, a local ASO source said that Karuturi's flower farm in Holeta, Oromia, has ceased operating. Meanwhile, a Bloomberg journalist told GRAIN that Karuturi's Addis Ababa office was closed down and people are saying the office is being moved to another location.

- On 10 January 2014, Africa Intelligence reported that during the last week of December 2013 the Ethiopian Investment Agency (EIA) posted **a list of 3,000 investment permits** granted to Ethiopian and foreign companies that the Agency intends to revoke because the awardees have not proceeded with their investment projects within the agreed time frames. One of the companies on the list was reported to be Karuturi Global Ltd. The EIA said that the companies may be able to maintain their licenses if they "provide a persuasive and acceptable reason".<sup>26</sup>

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25 ASO, "Authorities in the Gambela region of Ethiopia are investigating Karuturi Global and other farmland grabbers for criminal activities", 20 Dec 2013, <http://tinyurl.com/q5r23hs>

26 African Intelligence, "EIA cracks down on tardy investors", India Ocean Newsletter n°1371, 10 Jan 2014, <http://tinyurl.com/nrtxb3f> and Eskedar Kilfe, "Investment Agency revokes licenses of over 1,000 companies", Capital Ethiopia, 10 Feb 2014, <http://tinyurl.com/ka899rp>.