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LEGAL ADVICE CENTRE  
*we care for justice*

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Dear Mr Polman

We are a group of NGOs concerned about issues relating to corporate accountability in the field of human rights.

We understand that on 24-26 April 2018 the Court of Appeal will be considering the case against Unilever with regard to their tea workers in Kenya. As you will be aware, the claim arises out of Unilever Kenya's failure to protect their tea workers from the foreseeable risk of ethnic violence in 2007. REDRESS has been working on this case along with its Kenyan partners for several years. Together with the other signatories to this letter, we write to express our concern at the way in which Unilever is dealing with this case.

### **The claim**

As you will be aware, in 2007, following the general election, ethnic violence broke out throughout Kenya (a repeated pattern in Kenya's elections). Large groups of attackers invaded the Unilever Tea Plantation and attacked hundreds of workers and their families with clubs and machetes. Several thousand workers fled the Plantation and did not return for many months. The claim is brought by 218 claimants, including the families of 11 victims who were brutally killed, and a large number of people who suffered serious violent attacks, including gang rape. The evidence from the claimants is that the attackers included many of their co-workers who were employees of Unilever Tea Kenya Ltd.

The claim alleges that Unilever had placed their workers in a position of serious risk because many of the workers were from tribes which were not local to the area, so were specific targets of violence from the majority tribe (which surrounded the plantation) at times of social unrest, such as elections. We understand that the claimants contend that no steps were taken to protect the workers and their families from the foreseeable risk of violence, whilst, in contrast, steps were taken to protect company assets and management housing. When the

crisis broke, Unilever management was on holiday and were unable to respond effectively. It would appear that, had a proper crisis management and preparedness plan been put in place, measures could have been taken to safeguard workers.

After the crisis the workers and their families were sent away for 6 months on unpaid leave. The victims lost all their possessions because their houses on the plantation were pillaged. They were each compensated a flat rate of £80 for their pillaged possessions which did not reflect the value of their goods. In addition, Unilever failed to provide any assistance to the victims in the form of medical assistance, either physical or psychological.

We understand that the claimants allege that the relevant crisis management expertise resided in Unilever PLC and that these experts were responsible for ensuring that proper procedures were in place in Unilever Tea Kenya and that people were trained. Because the PLC had failed to put in place proper systems, we understand that the claimants allege that Unilever Kenya entirely failed to assess, plan for or respond to the risk of violence.

### **Our concern**

We understand that the case has been fought hard by Unilever on every point. The company is, of course, entitled to take this approach to litigation brought against it.

However, significantly, we understand that Unilever has been arguing throughout that it has no real involvement with or legal responsibility for its foreign subsidiaries. For us, this is a surprising and disappointing position for Unilever to be adopting, not least because:

1. Unilever has been an enthusiastic (and very public) advocate for business and human rights standards, and your own leadership has been key in promoting both Unilever's current "responsible business" direction, and, at a broader level, the UN Guiding Principles;
2. Unilever's enthusiasm for human rights standards does not sit easily with an apparent attempt in this case to hide behind its corporate structure in order to avoid legal responsibility to these victims of serious human rights abuses; and
3. Such a position would appear to be at odds with its due diligence obligations under the UNGPs.

Indeed, in today's world of multi-national companies with a global reach, Unilever's approach in this regard calls into question whether the UNGPs have any real utility when it comes to victims' access to remedy, and to victims' ability to hold such multi-national corporations to account when things go wrong.

We very much hope that Unilever PLC will reconsider its litigation strategy in this regard.

Yours sincerely

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