

Beyond the vertical: An evolving framework for understanding the governance of private standards initiatives standards in the agri-food chain

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Abstract

Private standards initiatives (PSIs) are increasingly found in agri-food chains as retailers and brands seek to minimise risks and also respond to new demands from civil society. They represent a new form of regulation which raises questions regarding governance in the south. Recognising the policy-driven nature of much work to date in this area, I set out a preliminary framework for critical analysis of PSIs in agri-food chains, focusing on the both vertical and horizontal dimensions of governance. The proposed conceptual framework draws on an extended form of value chain analysis combined with considerations of discursive power, in order to capture the structural, institutional and normative governance implications of PSIs. Preliminary analysis of two Kenyan PSIs using part of the extended value chain framework is discussed. Conclusions are drawn with respect to both the way in which the framework can be used and how the PSIs are evolving in Kenya.

Trade in agri-food products is increasingly characterised by global supply chains dominated by agribusiness that require suppliers to comply with an ever-growing set of standards to secure access to markets. Often, these standards take the form of voluntary standards and codes developed and overseen by new constellations of actors from the private and non-governmental sectors, often working in collaboration in private standards initiatives (PSIs). PSIs represent a new form of regulation which presents questions regarding governance in developing countries supplying food products in global supply chains, that is the *processes* by which power is exercised by different actors involved in the supply chain or indirectly affecting it or affected by it.

What is particularly interesting is that PSIs are now emerging in the south as well as the north where, in the context of managing risk in global chains, they were first initiated. Southern PSIs focusing on food safety and include ChileGAP and KenyaGAP, where producers are developing their own interpretation of Good Agricultural Practice which they have benchmarked to the GlobalGAP protocol (Garbutt and Coetzer 2005, Garbutt 2007). There are also examples of southern PSIs in the field of labour codes of practice, of which in Africa there are the Wine Industry Ethical Trade Association (WIETA) in South Africa and Horticulture Ethical Business Initiative (HEBI) in Kenya (Barrientos 2007, Dolan and Opondo 2005).

How will these initiatives relate to public sector standards, where they exist and are implemented? They may displace other institutions involved in standard setting or monitoring. Will they lead to a process by which previously unheard voices, such as poorer farmers and workers, are recognised? Ultimately the existence of PSIs means that new players, sets of rules and ways of playing the game are emerging, with different implications for governance, compared to the past, which international and national public sector bodies regulated, for better or for worse. The emergence of PSIs in agri-food chains therefore raises interesting questions regarding the constellations of new actors, the rules and practices that are emerging and who ultimately regulates the agri-food chain.

I have developed a framework for critical analysis of PSIs in agri-food chains that I am using in an on-going research project on the Governance Implications of Private Standards Initiatives¹. This project considers how PSIs relate to other institutions including trade unions, non-governmental organisations and public sector regulators. It seeks to explore who ultimately regulates the agri-food chain and is linked to debates about the relationship between corporate social responsibility (CSR) and development, and human rights (e.g. Blowfield 2005).

The framework for analysis of PSIs (set out originally in Tallontire 2007) focuses on governance and potential institutional impacts within the agri-food sector. It explores two dimensions of governance: with respect to the relations along the value chain, vertical governance, and with respect to stakeholders in the supplier country, horizontal governance. The framework draws on elements of an extended form of value chain analysis (VCA) combined with approaches to understanding regulation. The VCA anchors the framework in the material context of value chains and the

¹ ESRC-DFID award no167-25-0195, Governance implications of Private Standards Initiatives in the Agri-food Chain. I am Principal Investigator for this project; other team members are Valerie Nelson and Adrienne Martin of the Natural Resources Institute and Maggie Opondo of the University of Nairobi.

associated south-north structures whilst concepts associated with analysis of regulation enhance the institutional element of VCA by illuminating the functions and impacts of the PSIs, both in the strict regulatory sense and also in terms of the more subtle processes resulting from the interaction of civil society, public and private sector players.

This paper summarises and revises this framework and starts to apply it with respect to private standards initiatives that have emerged in the agrifood sector in selected developing countries. I start by briefly discussing the growth and origins of PSIs in agri-food chains. I then review key concepts that I have drawn on to develop an appropriate framework to extend the critical analysis of these standards and related initiatives. My evolving conceptual framework is then set out. The penultimate section reports on preliminary analysis of two PSIs in Kenya conducted using part of the framework. The concluding section reflects on how the framework can be used and indicates how this work is being developed.

Private forms of regulation in agri-food chains

The use of private forms of regulation such as standards has become a hot topic in agri-food, trade and value chains literature in which the increasing significance of private standards in comparison to public standards, in developed and developing countries, has been mapped (for example by Giovannucci and Ponte 2005; Busch and Bain 2004, Henson and Reardon 2005). There has been considerable discussion about the use of private standard by supermarkets in the context of their global sourcing policies (Vorley 2003, Dolan, and Humphrey 2000, Busch et al 2005). Important developments have been the insistence by certain retailers that suppliers are certified against the GlobalGAP² standard or other standards for good agricultural practice as part of their efforts to ensure the supply of safe food to consumers (Humphrey 2006) and, in certain markets, increased vigilance with regard to the welfare of workers and adherence to labour rights, particularly the UK where several supermarkets are members of the Ethical Trading Initiative³ (Barrientos 2000, 2007).

As Giovannucci and Ponte note, ‘Standards are thus being set outside the classic boundaries of governmental and intergovernmental authority and through amorphous alliances of corporations, NGOs, and civil society groups that tend to reach agreements on the model of collective bargaining’ (Giovannucci and Ponte 2005: 298). I am using the term ‘private standards’ to cover all standards set outside the realms of public sector, i.e. to cover all standards that are not what Giovannucci and Ponte call ‘*mandatory standards*’ (i.e. ‘those set by governments in the form of regulation’).

I have included ‘multi-stakeholder’ initiatives under the broad rubric of *private standards* initiatives to distinguish them clearly from mandatory standards and so permit analysis of the extent to which initiatives permit true *multi-stakeholder*

²Until recently known as EurepGAP, this initiative started in 1997 when retailers belonging to the Euro-Retailer Produce Working Group (EUREP) to develop standards for Good Agricultural Practice (GAP). In particular European markets, notably the UK and the Netherlands, it has become the minimum requirement for producers wishing to sell through the multiple retailers. .

³ The ETI is ‘an alliance of companies, non-governmental organisations (NGOs) and trade union organisations’ which aims ‘to promote and improve the implementation of corporate codes of practice which cover supply chain working conditions’ (www.ethicaltrade.org).

dialogue and action. In this paper the focus is on collective rather than single company standards and more specifically the *initiatives* behind them rather than the content of the standards. By initiatives I mean the coalition of actors, largely within the private sector though also from civil society and the public sector, that establish and govern the standards.

Private Standards Initiatives in the South

The emergence of southern-based PSIs has been cheered enthusiastically from many quarters⁴. For some, private standards could be usefully aligned with public sector monitoring and enforcement functions for reasons of efficiency or to take advantage of potential creative synergies between private and public standards development, inspection and sanctions systems (FIAS 2005). Enthusiasm for PSIs has come from another quarter, founded upon their potential, especially when they involve a variety of stakeholders, localising standards, improving farmer and worker well-being and providing a space for participation for previously unheard groups.⁵ O'Rourke summarises the potential in particular of non-governmental forms of regulation: 'they offer the potential of opening up and strengthening regulatory systems, and bringing in new voices and mechanisms for motivating improvements in global supply chains' (O'Rourke 2006: 911).

However, some warnings have been sounded with respect to the power that private initiatives embody. They may be an instrument through which the private sector can, in the words of Busch and Bain 'reorganize aspects of the market to better suit its needs' in the context of a retreating state (2004: 322). Utting warns that structural factors, specifically 'ongoing economic liberalization', are likely to play an important role in shaping the nature of the regulation of business (2005: iii). Purchasing practices and supply chain management in agri-food chains are likely to affect the way in which rules are formulated and put into practice. Retailers for example maintain control through discursive power to frame the debate and have 'the power to determine which stakeholders are called to the bargaining table and whose voices are validated' (Dolan and Opondo, 2005: 97) and there are risks that 'local multi-stakeholder approaches may simply replicate and reinforce local gender norms' (Tallontire, Dolan, Smith and Barrientos 2005: 569). Indeed even the optimism about PSIs is often hedged and subject to numerous case-specific caveats. The potential of PSIs, whether to improve efficiency or governance, is conditional⁶ and largely untested. Importantly, there is a dearth of empirical understanding in a southern as opposed to a northern context and beyond international standards.⁷

Whilst some interesting questions have started to be raised with respect to PSIs and their broader governance implications, the literature at a chain or even national level, particularly in a southern context is very sparse, policy oriented, largely instrumental and offers little by way of a unifying theoretical framework. There is a need for more

⁴ See Tallontire 2007 for more detailed discussion

⁵ A hope that multi-stakeholder initiatives in the horticulture sector could open avenues for dialogue including previously excluded groups were expressed by NRET (2002) and Barrientos, Dolan and Tallontire (2003); Pattberg (2006) sees the multi-stakeholder forums of the Forest Stewardship Council as a potentially democratising and inclusive forest policy dialogue space.

⁶ Courville (2003) suggests that a key element is effective representation of relevant stakeholders, periodic reviews of standards, and effective monitoring systems. O'Rourke (2003) similarly sets out various conditions for achieving democratic outcomes.

⁷ See Tallontire 2007 for summary of evidence to date.

detailed empirical work on the initiatives that maps out and analyses these processes of change using a conceptual framework. What then are the needs of such a framework that can capture the governance implications of PSIs?

There are three inter-related aspects of PSIs that need to be captured in the conceptual framework. The first aspect is the structural dynamics linked to trade in agri-food products, second the institutional arrangements for regulation of the private sector actors and thirdly the cognitive or normative dimension relating to the processes by which the standards are developed, accepted or adopted by different actors. Thus we need to think about both 'horizontal' and 'vertical' processes of governance.

Key concepts

In my earlier paper (Tallontire 2007) I set out the areas of literature which may provide ideas for such a conceptual framework. I briefly discuss some of the core ideas here. My entry point was Value Chain Analysis (VCA) as it is focused on the structures of international trade and the material context in which PSIs are emerging.

A key feature of some applications of VCA that makes it particularly useful for the analysis of standards is its concern with governance, particularly chain governance, i.e. how key players 'drive' the chain (Gereffi 1994). However, I found that the institutional dimensions within VCA need to be enhanced in order to fully capture the dynamics of regulation through private standards, especially when several actors are involved in the context of a PSI.

My aim in developing the framework has been to balance recognition of the importance of economic structures in shaping standards with recognition of the way in which the imperatives of the supply chain and its vertical governance interact with the institutions and power relations of horizontal governance. I started with the approach to VCA presented by Gibbon and Ponte (2005). Their approach extends the scope of VCA with respect to governance and institutions to go beyond direct participants in the chain, incorporating a 'horizontal' as well as 'vertical' dimension to VCA. Their empirical work on African value chains which includes an assessment of institutions and regulatory structures including standards attempts to redress the 'vertical' bias of much value chain work to date. They remind us that there are other important players and factors as well as the lead agents, who may have some influence on the 'drivers', such as government bodies, civil society organisations and different categories of consumers (the latter especially in the context of product differentiation). They stress that value chains do not operate in 'an institutional and regulatory vacuum', and seek to incorporate international trade policy and the values and views of society, including consumers. They do this through linking convention theory and analysis of quality conventions to their understanding of (whole chain) governance in value chains.

The critical element of Gibbon and Ponte's use of convention analysis is its focus on quality, specifically the particular values which define what quality is and the legitimacy of procedures for measuring quality performance, including different ways in which lead buyers can 'control at a distance' (Ponte and Gibbon 2005: 7-10). Gibbon and Ponte argue that governance should be separated from forms of co-

ordination⁸, echoing Kaplinsky and Morris's earlier distinction between chain co-ordination and chain governance: there may be many nodes in the chain involved in co-ordination but if the chain exhibits governance there is the implication of power asymmetry; there is only one driver or governor whereas there may be different forms of co-ordination.⁹ Thus governance concerns not only direct power over actors in the chain or their power as a result of their structural position, but also their discursive power, or ability to frame the debate (Fuchs and Lederer 2007).¹⁰ For Gibbon and Ponte, the mode of governance and power exerted by buyers or 'functional leadership' in a chain 'does not depend only on economic attributes' and 'the effectiveness of definitions of quality and tools for managing quality' but also how this combines with 'broader narratives about quality circulating within society more generally' (Ponte and Gibbon 2005: 3).

Ponte and Gibbon's combination of VCA analysis and convention analysis is appealing. It gets one beyond the rigid structuralism of value chains and, through a concern with conceptions of quality, to thinking about the range of actors that may influence the norms which govern chains. This helps broaden and contextualise the value chain approach. However, it is less useful when one considers the *initiatives* particularly the shifting dynamics between the private sector, the state and civil society in the context of specific PSIs, in contrast to the standards themselves. In order to capture more clearly the interplay between the different actors involved in PSIs, I have looked to the insights of Kaplinsky and Morris (2001) regarding the 'lens of civic governance'. They use this framework to consider value chain governance, and ask who makes the rules and how and associated discourse (legislative aspects); how conformity is assessed (judicial) and management of participants including the use of incentives and sanctions (executive). This, as I argue below, can be applied to the mechanisms of the PSI.

However, there is a need for a more nuanced analysis of the new forms of regulation presented by PSIs and the interactions between state, civil society and private sector actors. I considered the study of regulation for further insights.¹¹ However, the regulation theorists tend to take an essentially historical, broad canvas approach which is less useful for anchoring empirical enquiry that is focused on more specific phenomenon. As Busch and Bain note, 'it helps explain the broad conditions under which certain processes occur but tells us very little about the specifics' (Busch and Bain 2004: 324).

A more useful set of concepts could perhaps be found in the recent explosion of writing on governance within political science and particularly in international relations, in which a huge literature on global governance has begun to consider authority beyond the state, including from the private sector and also governance in

⁸ Here they critique the analysis of Gereffi et al (2005)'s typology of value chain governance in terms of different kinds of forms of relationship between nodes in the chain.

⁹ Kaplinsky and Morris, op cit, p 29.)

¹⁰ A discursive power approach tends to focus on 'the ideational dimension' of politics and policy and explores how 'discursive power shapes perceptions and identifies' (Fuchs and Lederer 2007: 9). In some approaches to discursive power, power can become anonymised, which, as Fuchs and Lederer (ibid) note, can mean that one ignores the intentions behind power and indeed the role of actors themselves. However, a Gramscian interpretation of discursive power highlights the role of agency.

¹¹ The regulation school was developed 'mainly to understand the crisis of the post-war model of development, Fordism' (Jenson 2006).

the context of cross-sectoral partnerships at the global level (for example Hemmati 2002 and Benner et al 2004). However, whilst this literature may offer some insights into conceptualising governance with respect to specific southern PSIs, its focus is largely on 'the influence of private actors on intergovernmental decision-making processes as an intervening variable between state interests and international policy outcomes' (Pattberg 2006: 580). Moreover, the application of these concepts to particular developing countries is relatively new (ODI 2006, Pattberg 2006).

One exception is the recent analysis of governance with respect to private standards and certification in the forest sector by Pattberg (2006). In his analysis of the Forest Stewardship Council (FSC) he identifies three elements of private governance: focus on rules and regulation, institutionalisation beyond co-operation between non-state actors and a potential to organise public space. From this he suggests three ways in which private governance is exercised: the regulative, the cognitive/discursive and integrative. He argues that through FSC, southern actors have been partially empowered through discursive and integrative processes of governance, through a process of learning and adoption of the PSI's norms into public governance. Whilst few southern actors have materially benefited from forest certification, either in terms of the area of land certified which is largely in the north, or in terms of higher financial reward as a result of certification, Pattberg is positive about the inter-organisational learning that has taken place as a result of the social and particularly environmental networks that have grown around the regular Council assemblies and other meetings and the ways in which developing country actors, including governments, have adopted or endorsed the FSC principles. However, the analysis is missing a material context particularly in terms of an understanding of power relations and between actors in the forest products value chain and, with a macro focus, is reliant on secondary sources of information. Many of the concepts developed however have potential for exploring relationships at a micro level.

The evolving conceptual framework

I have argued that an understanding of the governance issues in PSIs must consider the value chain. However, it is necessary to widen the perspective beyond vertical chain governance if we are to understand the implications of PSIs beyond the actors directly involved in the agri-food value chain; we need new tools to consider horizontal governance, i.e. how this new regulatory institution involves and affects others formally or informally involved in setting, monitoring, improving or implementing such standards.

My framework for analysing southern PSIs brings together insights from an expanded approach to VCA and approaches to regulation. The central focus of the framework is a PSI in a developing country which is then set in the context of the agri-food value chain and the actors associated with the chain and its regulation, public, private and non-governmental. As a first step, the rules which are being developed and implemented through the PSI must be examined. How is 'quality' defined? What are the precedents within the global chain and for the key actors in the chain? The analysis can then move onto the PSI itself and an initial charting of the evolution of the PSI: what are the debates and events leading to its inauguration, both in the home/producer country and along the global chain?

Moving onto the PSI as regulator, this framework uses the lens of civic governance and the separation of powers to unpack the activities and implications of these new institutions and the standards that they are developing and implementing, following Kaplinsky and Morris (2001), discussed above. So analysis under the rubric of legislative governance would be concerned with the origin of the standard, exploring the links it has with other standards, both in the public and private domains. Importantly it would be concerned with identifying who is involved, and those who may be excluded. Is this an industry-only or is it multi-stakeholder? And what is the basis for participation: is there a constitution outlining the different kinds of organisation to be represented? Executive governance is about the processes of standard implementation and the different tools that are used by the PSI to ensure that standards are met. What does non-compliance mean for members? How far down the chain are standards expected to be met? What is the relationship with actors upstream with regard to efforts to promote implementation of the standard? Under judicial governance, the focus would be how compliance is monitored and assessed. Are there formal audit procedures? What is the relationship with other systems of inspection and conformity assessment, including public sector systems or extra-territorial systems? Who is able to audit and what kinds of auditing systems are favoured?

An important part of using the lens of civic governance is mapping who is involved in each of these three realms, particularly focusing on the extent and modalities of participation and representation of key stakeholders. I discuss how this part of the framework has been used to date in the next section of this paper. This is particularly useful for understanding the outputs of politics, the decisions made and rules set and to explore the dynamics of participation. However, there is a need to supplement this with an assessment of the more subtle processes by which new forms of governance are legitimated, i.e. the way in which power can be expressed and potentially gained through the shaping of ideas and discourse.

In my earlier article I referred to the ‘discursive’ or ‘cognitive’ and ‘integrative’ effects of a private standard initiative, referring respectively to the ways in which the language of the standard may be adopted and concrete institutional effects such as co-operation between government and private regulators or the adoption of private standards in public regulations, drawing particularly on Pattberg (2006), as discussed above. In addition, I have been increasingly drawn to the concepts of *agency* and *discursive* power to deepen our understanding of how governance of value chains, in its vertical and horizontal dimensions, is shaped and contested by the development and implementation of private standards.

As noted by Riisgaard (2007), most analysis of private standards particularly within a value chain framework has tended not to consider agency beyond the firms involved in the chain. In value chain analysis the ‘agency’ of producers and exporters (though rarely couched in these terms) is usually considered primarily in terms of their ability to ‘upgrade’ i.e. increase the value added retained rather than ability to influence standards, discourse or practice. Riisgaard (2007) highlights the way in which labour has tended to be considered by value chain analysts only in terms of employment statistics or at best impacts on workers, rather than considering labour and labour organisations as an actor with agency - an ability to influence the discourse and

position of workers, as well as the way in which standards are implemented in different contexts.

Through the recognition of both structure and agency in my approach I am moving towards a 'structuration perspective', as originally posed by Giddens (1984) in which one tries to explore the 'soft types of power' and recognises that 'actors are embedded in a social setting determined by discourse and while they may shape that discourse they are enabled and constrained by it' (as explained by Fuchs and Leder, 2007: 9). Blowfield highlights the importance of recognising 'structurally embedded causality', because without this there is a risk of focusing on 'modifying performance standards and the regulatory environment' whereas recognition of structure and extent to which different actors can act as agents makes it possible to 'examine whether the use of standards itself affects the possibilities of CSR and favours the interests of some entities over others'. (2004:65). In this way I aim to explore the ways in which the structural characteristics of a particular value chain, the agency of key actors, and the associated discourses interact, are contested and shaped, specifically in relation to the emergence of private standards.

The framework proposed highlights the importance of analysing the discourse and activities of different local level actors, as they operate both within the PSI and in the supplier country context. To what extent can different actors act with agency, and but also to what extent are their activities circumscribed by the structural and discursive power of the lead actors in the chain, the retailers? Accessing the export market and meeting the requirements of lead buyers and other influential stakeholders, are key reasons why PSIs are established. The PSI must be recognised as a regulatory institution at only one node in the chain along which different forms of co-ordination are being pursued. An important question that must be addressed is whether the PSI represents a form of 'control at a distance' on the part of lead buyers. That is, local level analysis, both institutional and symbolic, must be complemented by an assessment of the governance of the value chain, i.e. the way in which the lead buyers and other stakeholders influence the actions and constraints of the players in the PSI both in terms of ways in which the nodes in the chain are co-ordinated and discourse that defines quality or standards, their implementation and assessment.

PSIs and governance in Kenyan horticulture

I have begun to apply this evolving framework to on-going research on PSIs that have emerged in the Kenyan horticulture sector. In this section I wish to discuss initial insights that have emerged from analysis of PSIs in Kenyan horticulture using the framework to date. This is preliminary and partial analysis as it is based on secondary data and it has not yet been possible to undertake analysis of the *discourse*.¹² It however provides a useful basis to map key players and identify emerging issues with a view to planning fieldwork and a more detailed analysis of the discourse as well as offering lessons as to the usefulness of the framework.

¹² Fieldwork in Kenya is planned. This will involve workshops with participants in the two PSIs and related initiatives and also focus groups with workers and smallholders who have and have not been party to the debates and processes related to the PSIs, but which are involved the relevant agri-food chains.

Amongst sub-Saharan countries, Kenya is a significant exporter of horticultural produce (fresh fruit and vegetables and flowers). Horticulture exports, including flowers, were over US\$330 million in 2002; 135,000 people were directly employed and 25,000 smallholders involved in the sector (World Bank 2005). The sector has been the arena for a considerable number of PSIs and seems to have been a testing ground for different institutional arrangements with regard to standards and market linkages by donors, NGOs and the private sector. Two kinds of standard have been prominent: labour standards and standards for good agricultural practice (GAP), both of which have been implemented as a result of buyer pressure in the agri-food chain. Pressure from buyers, together with civil society pressure in the case of labour standards, has resulted in the emergence of two Kenyan PSIs: (a) KenyaGAP, see Box 1 in Annex and (b) Horticulture Ethical Business Initiative (HEBI), Box 2.

Box 1: KenyaGAP

KenyaGAP is an initiative to produce a ‘locally-owned’ standard that has been benchmarked with GlobalGAP.

GlobalGAP, formerly EurepGAP, was established in 1996 as an initiative by retailers belonging to the Euro-Retailer Fresh Produce Working Group (EUREP) to develop standards for Good Agricultural Practice (GAP). It was a response to consumer concerns and European legislation on food safety and also aimed to fill a regulatory gap. Systems such as GlobalGAP are an effort to demonstrate that a retailer has put in place appropriate precautions to ensure that safe food is delivered to the consumer (Fulponi 2006: 9). For UK retailers in particular it is hoped that improved systems for GAP all along the supply chain would offer a due diligence defence for retailers under the UK Food Safety Act 1990 (Graffham and Macgregor 2007). In particular European markets, notably the UK, Netherlands and Switzerland certification according to GlobalGAP has become the minimum requirement for producers wishing to sell through the multiple retailers (Henson and Reardon, 2005; Jaffee et al. 2005).

In Kenya the larger producers were able to meet the GlobalGAP standard independently or by virtue of compliance with the Kenya Flower Council’s (KFC) standard that was already benchmarked with GlobalGAP. However, it was more challenging for small to medium producers of horticultural products. This led to the establishment of a National Technical Working Group in late 2004 to explore the potential for a KenyaGAP standard that would be more attuned to local conditions. Led by FPEAK (the Fresh Producer Exporters Association of Kenya), many of whose members include more medium and small scale operators compared to KFC, the initiative was private sector led. However, government bodies have also played an important role in the discussions to redevelop the FPEAK standard. Donors such as Coleacp PIP and USAID have helped with finance and advice and technical assistance and training was offered by NGOs and ‘experts’ (Garbutt 2007).

Box 2: Horticulture Ethical Business Institute (HEBI)

HEBI was registered as a legal entity in 2003 as a result of a local and international civil campaign against workers’ rights violations in horticulture and then interventions

from the UK's Ethical Trading Initiative (itself a PSI with stakeholders from the private sector, NGOs and trade unions) and donors (DFID and the Dutch Embassy). In fear of losing Kenya's most significant market, rival Kenyan stakeholders came together for the first time to lay the groundwork for the formation of HEBI.

A multi-stakeholder approach to code implementation was initiated and a tri-partite Stakeholders Steering Committee (SSC) was formed comprised of members from civil society organizations and trade associations/employers, observers, and government representatives as regulators. Unions were invited to participate as one of the tri-partite stakeholders yet declined to take part. It had two broad terms of reference a) to harmonize stakeholder interests and involvement, and to develop a participatory social audit system; and b) to use the social audit system to assess the social conditions on flower farms and establish a baseline for future activities.

Donor funding helped establish HEBI and by 2005 it had undertaken the following activities:

- Developed a Social Base Code, which was effectively the ETI base code interpreted in Kenyan context
- Training in Participatory Social Auditing (PSA) offered to individuals and firms so they can offer quality social audit services within the horticultural industry (at least 23 local auditors trained in PSA).
- Social ethics stakeholder workshop, planned to take place annually
- Pilot social audit, 10 farms, findings presented stakeholder workshop (Jan. 2004).
- First and Second Party Auditor Service launched

Source: Dolan and Opondo (2005), Hale and Opondo 2005, ETI 2005 and <http://www.hebi.or.ke/index.htm>

I have undertaken a preliminary analysis of these two initiatives using part of the framework discussed above, drawing on key-informant interviews and grey literature.¹³ In the table below I consider HEBI and KenyaGAP under three headings relating to their 'legislative', 'judicial' and 'executive' roles, together with brief comments on the wider governance context. This table refers to some wider processes and suggests areas for more in-depth research and analysis, particularly of the discourse. It is particularly enlightening to consider the two initiatives together, as they provide part of the context for each other. Understanding of the emergence of KenyaGAP and the international debates about standards for Good Agricultural Practice (GAP) is particularly important for understanding the reasons why HEBI may be stalling. Examination of the broader stakeholder basis of HEBI may provide some insights into the extent to which KenyaGAP can deliver on its stated aims of localising GAP standards and making them more applicable to smallholders.

¹³ This preliminary discussion draws on a paper in draft for another conference on the implementation of GlobalGAP in Kenya and the emergence of KenyaGAP and a presentation jointly produced with Valerie Nelson on multi-stakeholder labour standards initiatives including HEBI, WIETA in South Africa and an incipient multi-stakeholder process in the Colombian floriculture industry.

LOCAL PSI	HEBI	KenyaGAP
Dimensions of governance		
1. Governance context	Media and NGO allegations stirred up antagonism, but also incentive for suppliers to participate	UK retailer requirements for GAP assurance mechanism; donor concerns about implications of certification requirements on smallholders
2. Legislative	<i>(who makes the rules and how);</i>	
<i>Origins of PSIs</i>	National and international social and environmental codes adopted by exporters and producers in 1990s. But following media exposes, NGO campaigns, and ETI intervention – multi-stakeholder initiative established 2003 (with donor funding).	Concerns regarding challenges that smaller producers faced in certification and a desire to develop a local interpretation of GlobalGAP. Establishment of a National Technical Working Group in late 2004. Donor funding
<i>Members/players</i>	<ul style="list-style-type: none"> • Exporters / Exporter Association (e.g. KFC) • NGOs • Government as observer (Ministry of Labour and Ministry of Trade) • Donors as observers (Dutch Embassy, and until recently UK Department for International Development) • Trade unions refused to take part, (but later Central Organisation of Trade Unions named as member of Board) 	<ul style="list-style-type: none"> • FPEAK association (representing medium and small scale operators) • Government • Donors (Coleacp PIP, USAID) NGOs and ‘experts’ • Farmers mentioned as participants but it seems that smallholders’ interests are represented by proxy through donors, NGOs and experts • Workers are not represented at all
<i>Standard content</i>	Developed with other stakeholders, ETI base code interpreted in Kenyan context Greater detail than the ETI base code and more guidance for auditors (NB ETI base code is not an auditable standard)	Re-working of GlobalGAP standard with greater focus on smallholders and local agronomic conditions (e.g. use of rain-fed agriculture rather than irrigated by some and using manual rather than mechanical application of pesticides). Supplemented by a Quality Management System template
3. Judicial	<i>(how conformity is assessed; procedures for auditing and why whom)</i>	
<i>Auditing approach</i>	Participatory social auditing methodology adopted and developed but not in widespread use	Formal auditing against detailed set of CPCC.
<i>Who audits?</i>	HEBI has trained local social auditors. Other local social auditing services exist, commercial and non-governmental, some commercial are branches of	Accredited third party auditors

LOCAL PSI	HEBI	KenyaGAP
Dimensions of governance		
4. Executive	<i>(management of compliance including the use of incentives and sanctions)</i>	
<i>Buyer expectations</i>	The major buyers for many exporters of horticultural produce are UK retailers, the majority of whom are members of ETI and have made a commitment to improving labour standards in their supply chain. There are differing approaches to implementation of social codes, despite the ETI's assertion that the Base Code represents a 'minimum requirement for any corporate code of labour practice', for some compliance is 'aspirational'. Moreover, there are no financial incentives for producers and compliance does not mean that a supplier is guaranteed a market, indeed the signals from buyers can be mixed	Retailer members of GlobalGAP (predominantly in the UK and Netherlands) began to require their suppliers to be certified against the GlobalGAP standard from January 2004. Will recognize local standards that have gone through a rigorous benchmarking process (e.g. KenyaGAP). Lack of certainty however regarding how long the KenyaGAP standard will be recognised (unless modified) now that a new version of GlobalGAP has been launched
<i>Role of importers & exporters</i>	Exporters have been proactive with regard to social standards: the UK is major market and producers are keen to protect reputation. HEBI however, is not the only social standard with which they are involved: there are a range of international flower industry standards and labels with social dimensions (e.g. MPS, Flower Label Programme) and some are involved in Fairtrade. Some of the importers who have particularly close links with Kenyan exporters are also members of the ETI and have been proactive social standards debates.	Producers must make the necessary investment to ensure that they meet the retailers' requirements and who pay for certification, but retailers and importers may assist in the process by providing advice and information, especially for preferred suppliers
<i>Role of other actors in promoting change/compliance</i>	Some NGOs are starting to specialise in ethical sourcing; others more campaign oriented, so differences are emerging between NGOs involved with HEBI. Considerable antipathy between NGOs and trade unionists: NGOs claim that KPAWU does not adequately represent women or temporary workers; the trade union claims that NGOs have no mandate to speak on behalf of workers	Some NGOs and donors have assisted producers, especially small scale producers, in meeting certification requirements.

Legislative governance

First of all I consider legislative governance with respect to the origin of the standard, its content and who is involved as members and the way in which they may participate. Initial conclusions from analysis of legislative governance highlight similarities and differences in the organisations involved in the two initiatives. As both initiatives are part of the same value chain one expects many of the same players involved, most obviously the exporters and importers.

Non-governmental organisations have played a pivotal role in both organisations. Campaigns by local NGOs, which then linked up with international networks, raised awareness of the labour rights issues that were prevalent throughout the horticulture, particularly floriculture industry, to the extent that the exporters and then retailers decided that they could no longer act defensively but had to act to change practice (Dolan and Opondo 2005, Hale and Opondo 2005). Interestingly the NGOs that have been associated with KenyaGAP, as advisors and to train farmer groups are local offices of UK NGOs. Standards for food safety and good agricultural practice are presented by the KenyaGAP and GlobalGAP, and to a certain extent by the bilateral donors, largely as a technical matter where stakeholders admitted to discussions are largely 'technical experts'. Nevertheless in recent years in GlobalGAP there has been an emphasis on local level interaction and the public private partnership that is embodied, in the 'national technical working groups', such as that behind KenyaGAP. The chair of GlobalGAP has stated that it is 'committed to building strong links to the public sector, and Non Governmental Organisations through public private partnership projects'.¹⁴

The involvement of trade unions was a critical part of the model on which HEBI was based, which draws on the experience of the Ethical Trading Initiative as multi-stakeholder initiative (ETI 2005, Dolan and Opondo 2005, Blowfield 2002). However antagonism between the sectoral union (Kenyan Plantation and Agricultural Workers Union, KPAWU) and local NGOs has meant that union representatives refused to take the seats on the Steering Committee reserved for them (Dolan and Opondo 2005). The lack of union participation creates a problem for the credibility of *multi-stakeholder labour* standards initiative. Moreover, there have been challenges for some of the NGOs in switching from campaigning to cooperation with business.

Donors have played an important role in the early stages of both initiatives; in the case of HEBI the major donor pulled out when there was little evidence of progress with business planning for the organisation. Donors contributed to the process of benchmarking KenyaGAP and have played an active role more generally in enabling smallholders to meet and be certified against GlobalGAP (Humphrey 2006, Graffham, Karehu and Macgregor 2007). It is not clear if external funding will continue for the KenyaGAP organisation, given the questions raised about the costs of current mechanisms for smallholder certification and current donor focus on lobbying of GlobalGAP itself, for example through funding the Africa Observer/ Smallholder Ambassador.¹⁵ The use of outside resources for both organisations raises questions

¹⁴ Email to author 28 March 2008

¹⁵ The Africa Observer/ Smallholder Ambassador is an individual who has been funded by DFID and GTZ and is based at the GlobalGAP offices to provide technical support to members in developing countries and to act as a smallholder ambassador who can identify ways that can facilitate the

regarding the sustainability of the initiatives and particularly their ability to include all relevant parties: should they become reliant on private sector resources those number of invited participants may become smaller. One issue to be further explored in the case of KenyaGAP is how the voice of small producers is articulated within the organisation.

The content of both standards has been based on an externally developed standard, the ETI Base Code for good labour practice and GlobalGAP's normative document for certification which includes *control points* for agricultural activities from preparation of the ground to harvest of the raw product, including: chemical use, post-harvest handling, environmental protection and worker welfare. While both standards refer to national law, they are in many respects more stringent and more detailed than national law. Both the HEBI code and the KenyaGAP standard attempt to interpret these international standards for local conditions.

Judicial governance

Judicial governance in relation to private standards is concerned with the auditing procedure – i.e. what compliance means, how it is assessed and certified. In terms of judicial governance there are some key differences. For KenyaGAP certification by an internationally accredited auditor is compulsory. The central tool within GlobalGAP and hence KenyaGAP is compliance with the standard, however, the chair of GlobalGAP has said that ‘Certification is not the be all and end all...it’s about the practices...’¹⁶

In contrast the HEBI initiative places less emphasis on compliance with the standard than the institutionalisation of a certain approach to social auditing that tries to awareness of key stakeholders within the industry in order to promote improvements in labour standards, drawing on ideas of participatory social auditing (PSA) (Auret and Barrientos 2006). It appears that it is with respect to judicial governance that HEBI has had most obvious difficulties as the model of social auditing that it embodies is facing several challenges, as highlighted by a recent report by the ETI which argues that there is a ‘growing crisis’ in social auditing in retailer and brand name supply chains, not just in Kenya (ETI 2007). It seems that social auditing is increasingly seen as wanting as it has not picked up continued labour abuses, even with respect to criteria that are relatively easy to monitor (such as excessive working hours), audit fraud is increasingly widespread and it is increasingly expensive (Blowfield and Murray 2008). There is also a widening gap between accepted good practice (participatory methods, worker interviews, inspection of records and triangulation of information) and the way in which the commercial social audit firms undertake social audits (characterised by a representative of one ETI member company as ‘five interviews and a photo’¹⁷) (Blowfield and Murray 2008).

Participatory approaches to social auditing is also threatened by the strengthening of the GlobalGAP standard's criteria on worker health, safety and welfare (WHSW)¹⁸

compliance of smallholder farmers with GlobalGAP standards, <http://www.africa-observer.info/index.html>

¹⁶ Interview with author, 18 March 2008.

¹⁷ Interview with author, 14 December 2007.

¹⁸ Note that WHSW in the GlobalGAP standard is primarily concerned with occupational health rather than core labour rights.

and the experimentation with a 'voluntary module' on social standards, GRASP (Good risk-based agricultural social practices). GRASP is not a complete social audit and is described as a 'tested tool to support farmers demonstrating their legal social compliance with documentary evidence' and can help demonstrate that a good social management system exists on the farms.¹⁹ The emergence of GRASP demonstrates a managerial or technical approach to labour standards that leaves little room for the voice of workers.

The high profile of GlobalGAP in Kenya (as a concern of the industry, donors and the government) and the emergence of KenyaGAP have meant that HEBI has been increasingly over-shadowed; key industry players that were involved in HEBI have been pre-occupied with dialogue on food safety and GAP.

Executive governance

Under executive governance I have considered the expectations of retailers regarding GAP and labour standards and the response from the suppliers. Certification with GlobalGAP is a requirement for producers to enter into a relationship with UK (or Dutch) supermarkets. Benchmarked standards such as KenyaGAP are also recognised as proof that the supplier has invested in appropriate systems to ensure that safe food is delivered. It is the responsibility of the supplier to pay for and provide evidence of certification but retailers and importers may assist in the process by providing advice and information, especially for preferred suppliers (Humphrey 2006: 582). In contrast, whilst most UK supermarkets sourcing from Kenyan suppliers are members of ETI and have made a commitment to improving labour standards in their supply chain, completed social audits are not always required for market access. Thus, whilst supermarkets aspire to good working conditions, the signals from the retailers can be mixed. Nevertheless many of the Kenyan producers and exporters have of late been active in their support for social standards, especially when the gaze of civil society has been on them.

Governance processes in Kenyan PSIs: preliminary conclusions

It can be argued that certain non-chain actors can play a role in legislative governance, and to a certain extent judicial governance (e.g. donor support to African certification bodies). Civil society actors may have a role in legislative governance (shaping the standards themselves to some extent, offering insights into local conditions which can influence how certain criteria are interpreted) and perhaps in judicial governance through their involvement in participatory social auditing, though this appears to be weakening. However, executive governance, i.e. the co-ordination within the chain, which is based on structural power, tends to be beyond the reach of most actors involved in the PSIs.

Conclusions

This paper presents and starts to apply an evolving conceptual framework that aims to examine the governance implications of PSIs by bringing together an expanded value chain framework that considers discourse and agency on the part of a wide range of stakeholders involved in PSIs. My aim is to facilitate conceptual analysis of PSIs that

¹⁹ GRASP project final report and interview with one of the project officers, Jenni Heise, 11 December 2007.

includes both vertical and horizontal aspects of governance that is able to capture the structural, institutional and normative governance implications of PSIs.

This preliminary application of part of the conceptual framework highlights the importance of considering executive governance, the vertical dimension of VCA. It emphasises the dominant role of the lead buyers in executive governance, sometimes aided by other actors in the chain, most directly the importers but also other actors such as donors, through their implicit support for the standards initiatives, most notably GlobalGAP. With respect to executive governance, the temptation may be to focus just on the links between key nodes in the value chain, between the exporter, importer and retailer. This risks losing sight of whole chain governance, as highlighted by Ponte and Gibbon (2005), and indeed wider *horizontal* processes of governance, including how the scope of key debates are constructed. It is with respect to legislative governance in particular that the horizontal dimensions of governance can be unpacked.

So far this analysis is largely based on grey literature and as such the issues must be investigated more thoroughly through primary research and validated through dialogue with key actors. There is also a need to supplement this analysis with consideration of the more subtle processes by which new forms of governance are legitimated, i.e. the way in which power can be expressed and potentially gained through the shaping of ideas and discourse. However, the extended VCA focusing on the ‘civic governance’ categories presented here raises important questions and areas to follow up, including when and how different actors got involved and the perspectives of different stakeholders and the discourse that they use with respect to the standards and related institutions. The comparative analysis of the two Kenyan PSIs discussed here facilitates a consideration of how different debates on standards are constructed and framed. It warns us against focusing on just one type of standard and initiative, which has a danger of looking solely inwards and becoming preoccupied with procedural issues, but rather considering developments in other standards and other issues in the context of the agri-food chain.

Southern PSIs have emerged in a context of limited state regulation in response to concerns and pressures interpreted by actors in and associated with the value chain. They have been developed often as a response to the new demands of the agri-food value chain, particularly to the dimensions of quality and processes of quality control set in place by lead buyers, as well as efforts to demonstrate corporate social responsibility. The preliminary analysis using the legislative, executive and judicial aspects of southern PSIs is useful for understanding the outputs of politics, the decisions made and rules set and to explore the dynamics of participation. It also highlights the complexity of ‘control at a distance’ through the use of standards and PSIs in the agri-food chain. PSIs are not a feature of simple ‘de-regulation’, but manifestations of an ongoing process of ‘re-regulation’ of agri-food markets.

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