



Private Food Standards as Responsive Regulation: The Role of National Legislation in the Implementation and Evolution of GLOBALG.A.P.

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Abstract. This article uses a responsive regulation perspective to explore relationships between standards organizations and state agencies in ostensibly private sector regulation of food quality and safety. First we will trace some of the history of the GLOBALG.A.P. private agri-food standard and then, using empirical case studies, highlight how this particular form of responsive regulation has played out in three distinct national contexts: Australia, the Philippines and Vietnam. In each case, the interplay between public and private sector regulation was pivotal in shaping the influence of private standards on social relations of production and on the subsequent evolution of regulation in both spheres. While there is an emphasis within GLOBALG.A.P. on benchmarking and harmonization, the interdependency between standards and national regulatory contexts means that neither the standards themselves nor the products that are certified against them are internationally uniform. Private–public sector interdependence creates competing imperatives at the international and national levels that are obscured by the language of harmonization but that nevertheless challenge the legitimacy and effectiveness of standards as a particular governance strategy.

Introduction

Amongst sociologists of food and agriculture the regulatory context for private food standards has been seen, for the most part, as one in which the capacity of nation states to regulate has increasingly been usurped or passed on to multilateral and private sector organizations (Bonanno et al., 1994; Campbell, 2005; Hatanaka and Busch, 2008; Bain et al., 2013). The growth of private standards such as GLOBALG.A.P. has been interpreted as evidence both of the emergence of new risks to capital accumula-

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tion associated with trade liberalization, such as food safety scares emanating from supply chains dispersed across multiple nation states with differing degrees of food safety regulation and enforcement, and of the increasing power of retailers to pass on responsibility to deal with these risks through their supply chains. Concentration within the retail sector, combined with a strategy of replacing generic with own-brand products has left retailers increasingly exposed to the risk of being blamed for lapses in food safety and quality (Hatanaka and Busch, 2008). At the same time, others argue, a rapid increase in product differentiation has left governments unable to keep pace with the rate of innovation across the food sector (Sporleder and Goldsmith, 2001; Reardon and Farina, 2002) and retailers seeking alternative strategies to ensure food quality and safety (Konefal et al., 2005; Hatanaka and Busch, 2008).

While there is an acknowledgement within this literature that ostensibly private standards often draw on, or are incorporated within, state legislative frameworks (Bain et al., 2013), the overriding assumption is that private standards fill a regulatory void created by the retreat and/or limitations of the state (see Renard and Loconto, 2013). Alternative perspectives are offered by proponents of what have variously been termed responsive, hybrid, collaborative, networked, smart and co-regulation (see Braithwaite, 2006; Baldwin and Black, 2008; Gunningham, 2009a, 2009b; Dorbeck-Jung et al., 2010; Taylor et al., 2012; Connor and Haines, 2013). From these perspectives, private standards are seen not as evidence that the state is retreating from regulation but, instead, as examples of the adoption by government agencies of more diverse, flexible and risk-based regulatory architectures (Gunningham, 2009b; Black and Baldwin, 2010). Standards may assume a number of forms and roles within regulatory architectures, it is argued, which develop recursively through the interaction of public and private institutions and in the context of particular risks to legitimacy faced by both. In the case of private food standards, these risks may be seen to include food safety scares, allegations of labour abuses throughout supply chains, environmental concerns, and so on.

This article will articulate in more detail the concept of 'responsive regulation' before applying this to case studies of GLOBALG.A.P. and the interaction of state and private regulation in three national contexts: Australia, Vietnam and the Philippines. In doing so, the article will both use responsive regulation as an analytical device to explore the varying interdependencies of public and private regulation in these differing national contexts, and reflect briefly on the concept of responsive regulation and its potential to contribute further to critical scholarship in the agri-food sector.

Responsive Regulation

The concept of responsive regulation may be characterized in two broad ways. First, as an inductively derived theory of contemporary governance based on empirical studies in regulation and criminology. Second, and drawing on this theory, as a set of propositions concerning how regulation in a variety of contexts might be improved. With respect to this latter dimension of responsive regulation, it is assumed that the effectiveness, efficiency and legitimacy of attempts to coordinate 'collective action can be enhanced by cooperation between public and private actors' (Dorbeck-Jung et al., 2010, p. 156). Utilizing both multiple policy instruments and a broader array of regulatory actors, it is asserted, will allow, in most circumstances, for more flexible, efficient and effective approaches to regulation (Gunningham, 2009b). Moreover, the involvement of multiple regulatory actors is seen to create opportunities

for democratization and capacity building in developing states with comparatively weak regulatory institutions (Braithwaite, 2006), and to resolve some of the regulatory problems associated with transborder global value chains (Graham and Woods, 2006; Connor and Haines, 2013).

Importantly, while the normative impulse in responsive regulation draws on principles of deliberative democracy and restorative justice (Braithwaite, 2006), the theoretical veracity of responsive regulation depends ultimately on its ability to account for and to inform actual regulatory practices and outcomes (Black and Baldwin, 2010). Setting aside, therefore, normative questions of how states *ought* to govern, responsive regulation theorists argue that contemporary states are compelled to respond to perceived needs for regulation and that they play a critical role, directly and indirectly, in the implementation of ostensibly private or hybrid forms of regulation (Ayres and Braithwaite, 1992). Power is diffuse and multiple institutional orders – including markets, business networks and communities – interact to challenge and reproduce the power of the other. Consequently, states cannot ignore other actors and maintain legitimate rule. At the same time, the legal apparatus of the state system provides the basic framework for regulatory measures implemented by both state and non-state actors (Ayres and Braithwaite, 1992). The point here is not that the state remains always at the centre of regulation but that, as necessary actors within any given attempt at regulation, state agencies act in response to needs, agendas, strategies etc articulated and attempted in other institutional arenas.

The responsive regulation perspective thus problematizes the separation of public from private forms of regulation. To illustrate the variety of, and interaction between, regulatory approaches available within networked governance systems comprising both state and non-state actors, Ayres and Braithwaite (1992) propose a ‘pyramid of enforcement’. At the base of this pyramid are regulatory approaches based on persuasion and, at the apex, approaches based on command-and-control instruments and punishment for non-compliance (e.g. criminal or civil penalties, licence or accreditation suspension, etc.). Self-monitoring and regulation, industry codes of conduct, etc. lie somewhere in between. These latter mechanisms may represent attempts by private-sector actors to head off more direct regulatory controls, and/or they may be implemented with the support of state agencies seeking to influence business behaviour ‘at a distance’ (Braithwaite, 2006). Either way, it is held that punitive approaches to regulation are generally more expensive than self-regulation and that a crucial dimension of responsive regulation thus includes the monitoring of regulatory effectiveness and willingness to move, as appropriate, between different levels within the pyramid of enforcement (Braithwaite, 2006). Environmental standards offer a useful case in point with Western governments moving, in broad terms, from 1. prescriptive standards requiring businesses to maintain emissions below approved levels and/or to adopt specific management practices, to 2. performance standards requiring businesses to meet particular environmental outcomes, and thence to 3. process or meta-standards requiring businesses to implement approved environmental and quality management systems (Gunningham, 2009b).

Braithwaite (2006) acknowledges that networked or hybrid governance does not always lead to democratic or other desirable outcomes, and argues that multiple levels of accountability are required alongside the distribution of responsibilities and authorities among multiple stakeholders. Attempts at responsive regulation, in other words, create opportunities for concentrations and abuses of authority among non-state regulators wherever state regulatory capacity is low, non-government and

civil society groups struggle to mobilize, and/or businesses do not have a strong culture of corporate social responsibility. Critics of responsive regulation also point to practical and conceptual difficulties in deciding what level of enforcement is appropriate for any given sector or entity (Baldwin and Black, 2008). Further, they point to the need to think beyond enforcement and to consider both how 'multiple actors reinforce rule compliance' and how 'the balance within the whole regulatory system is maintained' (Dorbeck-Jung et al., 2010, p. 156). Baldwin and Black (2008; see also Black and Baldwin, 2010) thus argue that for regulatory systems to be both responsive and effective they must address multiple criteria in addition to compliance, including attitudes towards regulation, the broader institutional environment for regulation, interactions between regulatory tools and strategies, performance of the regulatory regime, and changes in each of these elements. The regulatory regime must also be able to perform a number of basic tasks including monitoring, enforcement, review, and so on.

For our purposes here, Baldwin and Black's criteria are integrated with those proposed by Dorbeck-Jung et al. (2010) to assess the effectiveness of hybrid public-private regulation. Specifically, this article will examine:

1. institutional arrangements for the implementation of GLOBALG.A.P. and related standards and regulations in the case-study countries;
2. stakeholder attitudes towards and engagement in regulatory practices, including certification against GLOBALG.A.P. standards;
3. evidence for compliance (including monitoring and enforcement) of relevant regulatory instruments;
4. interactions between regulatory tools and strategies, consistency of those tools and strategies, and regulatory gaps relevant to policy objectives; and
5. regulatory reflexivity with respect to corrective responses and changes in the operating environment.

GLOBALG.A.P. as Responsive Regulation

Traditionally, national governments have assumed primary responsibility for food safety within their own borders (Hatanaka and Busch, 2008). Nevertheless, firm-specific quality assurance schemes covering food safety as well as cosmetic quality attributes became common amongst major supermarket chains during the 1990s (McKenna and Campbell, 2002). This coincided with the development of 'integrated management systems' designed to ensure tighter control of farm-based chemical and fertilizer use, the increasing imposition by governments of requirements to implement food safety programmes based on Hazard Analysis and Critical Control Point (HACCP) principles in 'high risk' food sectors (e.g. meat processing), and the development of various industry-based quality assurance schemes encouraged or mandated by governments and retailers (Lockie, 1998; Campbell, 2005). Business-to-business standards such as GLOBALG.A.P. are not advertised to consumers and, as such, confer no direct competitive advantage on those producing or supplying certified produce. The Euro-Retailer Produce Working Group was thus formed in 1997 with the aim of harmonizing multiple quality assurance schemes while creating an 'environmentally virtuous' audit system for mainstream farming systems (Campbell, 2005). The concept of 'good agricultural practice' was developed and, in 1999, the initial EurepGAP audit system was implemented. The EurepGAP standard

was developed by a series of technical committees with a broad, though not necessarily representative, membership base, a secretariat and an audit agency called FoodPLUS GmbH. In 2007, EurepGAP was renamed GLOBALG.A.P. to reflect its growing reach outside Europe (Tennent and Lockie, 2012). GLOBALG.A.P. currently comprises a series of on-farm standards for a range of products, including crops, aquaculture and coffee, that involve detailed assessment of the end-to-end farm process. GLOBALG.A.P. has also developed modules for on-farm practices, such as the Risk Assessment on Social Practice (GRASP), and Animal Welfare Add-On. These are either voluntarily adopted by producers and/or incorporated by retailers/buyers into their contractual relations with producers.

GLOBALG.A.P. emerged then both *in response to* state failures with respect to food safety (particularly the BSE food scare of the late 1980s) and *in response to* state interventions designed to increase private-sector attention to food safety. The UK Food Safety Act 1990, for example, establishes financial and custodial penalties for acts that render food injurious to health, mislead consumers, etc. (see Aasprong, 2013). However, the Act also allows a number of defences, the most important of which is 'due diligence': a defence that relies on businesses showing that on the balance of probabilities they took 'all reasonable care' to avoid committing an offence (Food Standards Agency, 2009). Establishing the parameters of 'all reasonable care' is delegated to the courts. In practice, however, it is common in the field of risk regulation more generally to defer to standards and codes of conduct when considering what is 'reasonably practicable' in order to reduce and manage risks associated with well-established activities such as those common in the food industry (e.g. Standards Australia, 2004). Even in the absence, therefore, of legal requirements to adopt HACCP-based safety systems such as those imposed in 'high risk' food sectors, the adoption of such systems has, in fact, become more-or-less mandatory for businesses seeking to reduce their legal liability for food safety breaches.

Further, since its inception, GLOBALG.A.P. (and EurepGAP before it) has self-consciously sought to work within the legal frameworks of the countries in which its members and producers are situated. This is evidenced not only by comments made on the GLOBALG.A.P. website but also by public presentations and the regular stakeholder consultations conducted by GLOBALG.A.P. In some instances, GLOBALG.A.P. standards explicitly defer to and draw on relevant legislative frameworks, positioning GLOBALG.A.P. as subordinate to and dependent on sovereign states. This is particularly evident in GLOBALG.A.P. modules dealing with environmental protection and occupational health and safety, which integrate the environmental and social regulations of the countries in which production is located alongside GLOBALG.A.P.'s own specifications for occupational health and safety and production techniques. GLOBALG.A.P.'s Integrated Farm Assurance Version 4, for example, states:

'Legislation overrides GLOBALG.A.P. where relevant legislation is more demanding. Where there is no legislation (or legislation is not so strict), GLOBALG.A.P. provides a minimum acceptable level of compliance. Legal compliance of all applicable legislation per se is not a condition for certification. The audit carried out by the GLOBALG.A.P. Certification Body is not replacing the responsibilities of public compliance agencies to enforce legislation' (GLOBALG.A.P., 2012).

While GLOBALG.A.P.'s own compliance criteria relevant to environmental protection and occupational health and safety are arguably weak (being mostly 'recommended' or 'minor musts'), certified producers are *expected* to comply with relevant national legislation on these matters. However, as the above quote makes clear, they are not required to *demonstrate* this compliance in order to secure GLOBALG.A.P. certification. This raises an obvious question in relation to states with limited capacity for monitoring and enforcement. Even in such cases, however, elements of responsive regulation remain. Nation states, having created markets through laws of contract and competition, have also, in effect, created conditions for the introduction of private standards. Whether or not individual states have purposely supported the development of private quality standards they must, nevertheless, take account of those standards in shaping future regulatory initiatives.

This interdependence of public and private regulation raises several concerns in relation to the potential for a private standard to influence national regulatory frameworks, particularly where regulatory capacity among state agencies is weak (Braithwaite, 2006). First, regulatory frameworks may be configured in such a way as to benefit members of the standard to the detriment of other actors in the food production network. Second, regulatory frameworks may embed activities and targets in a national regulatory framework that are – for cultural, social, economic, agricultural and/or environmental reasons – incompatible with, or inappropriate to, said regulatory framework (see also Campbell, 2005). Third, regulatory frameworks that defer to standards that are not themselves regulated may give rise to unintended consequences as, conversely, may standards that defer to unenforced regulatory frameworks. The sharing of accountability gives rise to the possibility of circularity – that is, of no one agency, public or private, bearing ultimate responsibility to ensure desirable outcomes are achieved (Braithwaite, 2006).

Methods

The three case studies in this article were selected on the basis of their distinct national sociopolitical environments and equally distinct experiences of private standards development and adoption, as evident in the case studies below. GLOBALG.A.P. was selected as a particular focal point due to its international influence – for example, in the development of ASEAN GAP, VietGAP, PhilGAP-VF and a range of other national and international food standards. Indeed, as this article will go on to show, the influence of GLOBALG.A.P. on the evolution of national regulatory regimes has, in some cases, far exceeded its uptake among producers. For the Vietnam case study, a global value chain framework was used to guide data collection in Binh Thuan Province. Semi-structured interviews and participant observation were conducted with around 40 participants in 2011. Interviews were conducted with donor agencies, government departments, research institutions, farmers, packers and post-harvest businesses. In the Philippines, semi-structured interviews were conducted in Mindanao with approximately 30 representatives of export fruit plantations and cooperatives, government agencies, non-government organizations and private research foundations. Data for the Australian study were drawn from a qualitative social network analysis of vegetable supply chains in the Burnie-Devonport Region of Tasmania, undertaken in late 2010. Semi-structured interviews were conducted with 22 people, including vegetable growers, quality assurance consultants, food processors, farm supply firms and researchers.

Vietnam

Vietnam commenced a process of economic renovation, or Doi Moi, in the mid-1980s to take the country from a centrally planned, closed economy to the market-based, socialist-oriented model of today. In the pre-Doi Moi era, regulations required that all foods were registered with the Ministry of Health by producers and/or traders, and detailed information was retained on: produce attributes; processing, transport, storage and delivery details; labelling data; and produce testing results. However, enforcement capacity was low and, with little ownership over production decisions due to either the organization of labour into agriculture cooperatives (primarily in the north) or the establishment of quotas filled through agreements with production brigades (primarily in the south), little regard existed at the farm level for the quality or safety of agriculture products. Today, development in this area entails redefining the nature of regulation, rather than establishing regulatory capacity as is occurring in many developing countries.

Institutional Arrangements

The Government of Vietnam retains a relatively strong role in regulating national food safety to protect consumer health and underwrite the competitiveness of Vietnamese exports. A series of laws were passed in the late 1990s to provide uniform systems to control the safety of goods, although these laws state that international treaties prevail where applicable (for example, ASEAN GAP). Responsibility is divided among a number of departments, with the Ministry of Science and Technology responsible for food quality, and food safety the domain of the Ministry of Health, the Ministry of Agriculture and Rural Development (MARD) and the Ministry of Industry and Trade. (An FAO project is currently underway to assign responsibilities more clearly and facilitate effective working relationships between these Ministries.)

While the Government of Vietnam does focus on food safety, recent attention on food quality has been largely the result of donor activity. GLOBALG.A.P., the focus of this study, was initially promoted in 2000 by a Swiss programme for developing agricultural exports. However, there was no support from government authorities, research institutes or other supply chain actors and the programme failed in its objective of promoting GLOBALG.A.P. as a basis for export growth (UNCTAD, 2007). The next attempt to bring GLOBALG.A.P. to Vietnam exemplifies responsive regulation: the Government of Vietnam played a key role in the implementation of GLOBALG.A.P., both directly and indirectly, in collaboration with a number of actors. The institutional arena was populated by multiple international institutions with various roles, and their presence was facilitated by the Government with the express intent of promulgating GLOBALG.A.P. Key actors included the United States Agency for International Development (USAID) and the Australian Agency for International Development (AusAID), which were, between 2004 and 2009, instrumental in establishing technical, bureaucratic, regulatory and financial capacity among various stakeholders as the result of multiple donor projects. For example, a USAID project provided technical assistance to provincial Department of Agriculture and Rural Development (DARD) officials and extension officers in sanitary and phytosanitary standards awareness, market analysis, phytosanitary requirements, packhouse sanitation, and small farmer linkages to multinational supermarkets. A number of other institutions were involved in various aspects of the project, includ-

ing the Japan International Cooperation Agency, the retailer METROGROUP and the World Bank. The Government of Vietnam facilitated in multiple respects: providing bureaucratic support, such as access to industry expertise through DARD, MARD and various research institutes; coordinating the influx of resources to the province/industry; and facilitating efficient information sharing, policy development and resource coordination between stakeholders operating in the region. Concurrently, these institutions relied on the state system to provide the basic framework for implementation, such as technical expertise on local farming practices provided through key Vietnamese research institutes and DARD.

Stakeholder Attitudes and Engagement

Export-oriented producers and exporters were particularly concerned about the safety of all export-bound Vietnamese produce. They feared that without a good reputation for safe and hygienic produce, there would be difficulty competing with other Asian export nations, such as Thailand. By many accounts their concern is valid. The opening up of the economy in the 1990s availed the country of agrochemicals that previously had been inaccessible, and uptake was rapid, resulting in 354 deaths in 1995 in the Mekong River Delta alone (Shepherd, 2005). While the situation is slowly improving, 25 deaths and more than 3,560 hospitalizations were officially linked to 142 food poisoning incidents in 2011, and the real number is likely to be much higher (*Viet Nam News*, 2012). Indeed, relatively recent data show Vietnam as having one of the highest produce rejection rates in the EU and US between 2002 and 2008 (UNIDO, 2011). The focus was not only on high value markets; most exporters and producers interviewed highlighted that Chinese markets were beginning to request food safety certification, such as VietGAP. It is believed that this will become a market-entry requirement for China from 2013 although no further detail was available at the time of writing. For this reason, while producers and exporters alike viewed GLOBALG.A.P. certification as a production hurdle, many believed it would prove useful for reputational aspects of Vietnamese produce.

Compliance and Enforcement

Inspection and certification for food safety is subsidized by the Government of Vietnam and is undertaken by authorized local agencies, the responsibility for which varies between provinces. The outcomes of this process are varied, and a number of constraints exist in determining the relative safety of food produced, including budgetary restrictions, inconsistent results of analyses, narrow testing capabilities and 'subjective' sampling procedures. The sheer number of food poisoning cases per year underscores the lack of effectiveness in monitoring and enforcement of these regulations. As a research officer pointed out, many of Vietnam's problems around food safety stem from a lack of resources to ensure enforcement rather than lack of regulations or legal apparatus on food safety. As a result of the lack of enforceability of food safety standards and regulations, one major exporter had implemented a memorandum of understanding with producers in a form of self-regulation, to ensure that chemicals prohibited for use by the Government of Vietnam (which were nonetheless commonly used) were not used by producer/suppliers.

Conversely, GLOBALG.A.P. provides an opportunity for independent auditing and enforcement. In Vietnam, at the time of research, the main GLOBALG.A.P. auditing company was SGS, a large, international auditor. By all reports, audits by SGS were conducted stringently against the required criteria. However, a Vietnamese research officer explained that an audit company had existed previously with a reputation for failing to conduct audits in accordance with requirements. This auditor has ceased to exist in Vietnam. The leader of a key donor project also suggested that ensuring producers were certified by a reputable auditor was of key importance for project success. This highlights that, although independent compliance and enforcement is designed to ensure the standardization of food safety and quality along and between supply chains, there may be instances when the legitimacy of this form of standardization is called into question.

Regulatory Interactions and Gaps

There has been significant interplay between the food governance system in Vietnam and GLOBALG.A.P. For example, Binh Thuan DARD introduced procedures supporting Integrated Pest Management (IPM) for farmers in that province to reduce pesticide use and align production practices with those of GLOBALG.A.P. This was put into place as a result of the pervasiveness of development support for export-ready produce (specifically dragon fruit). This process has been successful in mobilizing a number of horticultural producers to certify to GLOBALG.A.P., including seven hectares of star apple and 12 hectares of mango in 2008, followed by further horticultural certifications across the country for pomelo, pineapple, longan and oranges. Nonetheless, despite the interest in GLOBALG.A.P., in Vietnam the number of certified producers is small, and is concentrated in specific industries where substantial technical and financial support has been forthcoming. This is largely the result of the existence of substantial gaps between the Vietnamese regulatory environment – or its enforceability – and the regulatory environment of export produce.

Regulatory Reflexivity

With GLOBALG.A.P. a success and national level regulations lacking, the Vietnamese government has included objectives specifically relating to international certification schemes for agriculture in strategic planning for the industry at the national level. The previous five-year plan for agriculture (2005–2010) included actions to promote granting of product certification and trademarks in line with regional and international standards (MARD, 2005), while the ‘2020 Vision’ for the Ministry of Agriculture and Rural Development places higher priority and allocates more administrative resources to managing international trade rules and standards (MARD, 2008). This could be seen as an effort by the Government of Vietnam to focus limited resources on where they are likely to have the greatest impact, in an environment where they have been compelled effectively, through a number of food safety scares, to play an indirect role in the establishment of regulation. As Ayres and Braithwaite (1992) suggest, the state is acting in response to strategies articulated in the international development arena.

Philippines

Field research for this case study was undertaken on the southern island of Mindanao, an island known both as the centre of the Philippine export fruit industry and as a hotspot of extreme poverty and sectarian violence (Vallema et al., 2011). While bananas are exported from Mindanao under global brands such as Dole, Del Monte, Chiquita and Sumitomo, these companies act, in the main, only as buyers. The vast majority of export bananas are produced under license to multinational fruit companies either on plantations operated by Filipino companies or on grower cooperatives.

Institutional Arrangements

The Philippine Bureau of Agricultural and Fisheries Product Standards (BAFPS) was established in 1997 with responsibility for ‘formulating and enforcing standards of quality in the processing, preservation, packaging, labeling, importation, exportation, distribution and advertising of fresh and primary agricultural and fisheries products’ (BAFPS, 2013, p. 1). BAFPS has developed over 100 product standards in addition to a small number of cross-product standards including the 2003 Specification for Organic Agriculture and the 2007 Code of Good Agricultural Practices for Fresh Fruits and Vegetable Farming (PhilGAP-VF). The agency is also involved in attempts to harmonize standards such as the ASEAN GAP project. Product standards address matters such as cosmetic attributes, varieties and maximum pesticide residues. The GAP-VF addresses a broader range of issues associated with food safety, the farm environment and traceability. While BAFPS has been directed to benchmark PhilGAP-VF against GLOBALG.A.P. (Revision of Administrative Order 25), PhilGAP-VF is comparatively limited in both scope and detail. For example, occupational health and safety and environmental guidelines are included in PhilGAP-VF only to the extent that they contribute directly to food safety (e.g. contaminated run-off should not be stored for use in irrigation).

To encourage certification to PhilGAP-VF, BAFPS is mandated to meet most costs of inspection and testing on behalf of applicants. Despite this, by 2012, only five businesses had been certified (including one export fruit company, Tagum Agricultural Development Company). By contrast, virtually all businesses involved in the export fruit industry were certified to a variety of other food quality standards including, most commonly, the International Organization for Standardization’s series on the development of quality systems (ISO 9000). As a signatory to the International Plant Protection Convention, the Philippines requires that all export fruit meet stringent chemical residue limits, that exporters be accredited by the Bureau of Plant Industry, and that exporters employ quality assurance officers. Residues are monitored at the port of export by the Plant Quarantine Office and again by importing countries. Buyers make frequent visits to plantations and grower cooperatives to communicate requirements and to audit chemical use practices. In the case of bananas, these buyers are predominantly based in Japan, China and the Middle East.

Stakeholder Attitudes and Engagement

There was a general feeling among respondents from both Philippine government agencies and the private sector that the vast majority of fruit buyers had limited

interest in matters other than product quality and safety. With two notable exceptions, buyers were not demanding certification to any standard other than ISO 9000. The two exceptions to this rule were buyers seeking certified organic bananas and the multinational company Chiquita, which required its suppliers to certify to a standard developed by Rainforest Alliance. Other multinational buyers, however, were asking producers increasingly to begin 'alignment' to GLOBALG.A.P. standards. One plantation operator, Davao Agricultural Ventures Corporation, undertook GLOBALG.A.P. certification in 2009 and at least two other plantations certified parts of their operations. On the whole, producers and buyers appeared to be monitoring the development of GAP standards and to be incorporating their requirements within existing quality systems in order to pre-empt any future market or government demands to certify against them. According to third-party certifiers active in Mindanao, exporters were more actively pursuing accreditation to ISO 22 000 food safety requirements than against GLOBALG.A.P.

Compliance and Enforcement

Alignment with GLOBALG.A.P. standards did require changes in plantation management. As in the Australian case outlined below, many of these changes were arguably minor (more latrines were installed, field practices were recorded in a slightly different format, etc.) reflecting the sophisticated quality systems that exporters had in place before buyers began to request alignment with GLOBALG.A.P. Nevertheless, the particular impact of reliance on domestic legislation and regulation as a baseline for certain aspects of environmental performance under GLOBALG.A.P. is important to consider here given accusations of environmental pollution and other abuses routinely levelled at the Philippine export fruit industry (Borras and Franco, 2012). Plantations are required under Philippine law, for example, to secure an Environmental Compliance Certificate (ECC), which is monitored by a regulatory office within the Department of Agriculture. ECCs require, among other things, that treed buffer zones be maintained between banana plants, waterways and populated areas such as houses and public roads. As an NGO representative pointed out, the *only* plantations on Mindanao compliant with this requirement were those audited and certified independently by Rainforest Alliance. Elsewhere, bananas are planted visibly to the very limit of plantation boundaries. The inability or unwillingness of Philippine regulators to enforce compliance with buffer zone regulations is not likely to be redressed by GLOBALG.A.P. due to the proviso within this standard that, while operators are expected to comply with national legislation as a condition of certification, they are not required to demonstrate that compliance.

Regulatory Interactions and Gaps

Following from the above is a parallel failure to ensure compliance with relevant legislation pertaining to the property and human rights of communities affected by plantation agriculture on Mindanao. Many of the corporate plantations offer what are, by local standards, highly favourable employment conditions for rural workers. Critically, the voluntary GLOBALG.A.P. Risk Assessment on Social Practice (or GRASP) module (for which national interpretations are not yet available for the Philippines) deals exclusively with the rights of workers. The rights of stakehold-

ers not employed by the certified operation lie outside the standard. Of particular concern here are neighbouring villagers and stakeholders with competing claims to land titles. In a country in which landownership on a scale necessary for plantation agriculture is legally restricted, allegations are widespread that the establishment of many plantations has relied on manipulation of the Comprehensive Agrarian Reform Program (CARP) and/or Indigenous People's Rights Act (IPRA), financial coercion, violence, and various other forms of state-sanctioned dispossession (see Borrás and Franco, 2005, 2012; Vallema et al., 2011). This is a complex matter that cannot be dealt with adequately here. The point is that GLOBALG.A.P. certification implies a high level of 'social performance'. However, social performance as defined operationally within GLOBALG.A.P. standards (including GRASP) does not consider the relationship between commodity production and regulatory instruments such as CARP and IPRA, which deal with the broader social and environmental context for that production. Neither does it acknowledge gaps in the regulatory landscape such as, in this case, willingness or capacity to protect the legislative rights of non-employees.

Regulatory Reflexivity

The nascent state of GLOBALG.A.P. certification in the Philippines makes assessment of regulatory reflexivity difficult. Nevertheless, it can be observed that the absence of enforcement by government agencies of environmental regulations does appear to represent a concrete example of the risk of mutual accountabilities creating a kind of regulatory circularity referred to above; that is, a situation in which no one regulatory agency actually takes responsibility for ensuring desired outcomes are achieved. Deference within the GLOBALG.A.P. standard to state legislation has proven, in this case, effectively meaningless while reference, moreover, to broader environmental regulations within the domestic PhilGAP-VF standard is simply absent.

Australia

Institutional Arrangements

Food safety is regulated by Food Standards Australia New Zealand (FSANZ), which is an independent statutory agency established by the Food Standards Australia New Zealand Act 1991. This agency has responsibilities that cover food standards and labelling, and policy is set by the Legislative and Governance Forum on Food Regulation. Each of the states and territories is responsible for food safety sampling domestically, while the Australian Government Department of Agriculture, Fisheries and Forestry (DAFF) has responsibility for the inspection and sampling of imported food. The HACCP approach has been adopted by HACCP Australia so that standards are compliant with Codex Alimentarius and international food safety management systems (HACCP Australia, 2011). There are a number of quality assurance and food safety standards applicable to fruit and vegetable growing in Australia. Certification through GLOBALG.A.P. standards among fruit and vegetable producers is limited (but growing) and at least one non-profit extension agency provides training for this and other private and public standards. Domestic private standards include Freshcare, Woolworths Quality Assurance (WQA) and Coles Supermarket

Supplier Management Program. The latter two are supermarket-developed standards. Freshcare, conversely, was developed in 2004 as an 'industry owned, not for profit on-farm assurance program' developed by public and industry experts for quality assurance and safety management (Freshcare, 2013).

Stakeholder Attitudes and Engagement

Interviews with growers revealed considerable concern over the relationships between private standards and state-based regulatory frameworks (see also Tennent and Lockie, 2012; Thompson and Lockie, 2012). Key areas of interaction between public and private regulation, according to growers, include: occupational health and safety; chemical application and regulation; labelling of food (specifically, country of origin); environmental and ethical/social performance standards; branded versus generic standards; and auditing for private standards. Occupational health and safety practices mandated by GLOBALG.A.P., they claimed, differ from standards established by Australian legislation for farm workplaces in relation to signage requirements, visitor farm-entry processes, hiring processes and the banning of children from farm work areas. This could be interpreted private regulation imposing additional requirements in response to perceived gaps in the minimum standards already in place. However, this was contested by growers who argued that some GLOBALG.A.P. requirements were simply different to existing legislative requirements (adding redundant safeguards to those already in place) while others were unnecessary and insensitive to the local social and cultural context for agricultural production (equating family farming, for example, with the use of child labour).

The issue of redundancy was particularly difficult to manage at the farm level in relation to chemical use and storage. While the GLOBALG.A.P. standard specifications for allowable chemicals are subordinate to state chemical legislation (except for chemicals banned in the EU perhaps), the standards do specify the way in which chemicals are to be stored on farms and in this way add to state legislation. Further, GLOBALG.A.P. requirements are prescriptive (specifying how chemicals are to be stored) while government requirements are competency based (accrediting operators on their ability to demonstrate safe handling and storage practices). Growers who are accredited by the state argue that the prescriptive approach embedded in private standards does not add value to mandatory accreditation and that unnecessary costs are incurred in complying with prescriptive standards. This is the case particularly in the certification of multiple private standards (particularly international standards such as GLOBALG.A.P. and Marks and Spencer's Field to Fork) as each requires different in-shed storage arrangements. Growers maintained that areas such as chemical storage and handling should be generic and competency based rather than branded – particularly if safety is the primary concern.

Compliance and Enforcement

Despite frustration over perceived regulatory overlaps, the farmers interviewed were all fully compliant with GLOBALG.A.P. and participated regularly in audits. A number of farmers in the region had been compliant with EurepGAP and GLOBALG.A.P. since its inception (see Thompson and Lockie, 2012); they thus had a view of the standard as being a legitimate private regulatory instrument that al-

lowed access to an important international market. They were well aware of the consequences of non-compliance with auditing, and a private consultancy company exists in Tasmania that focuses specifically on training farmers to comply with various private food standards.

Regulatory Interactions and Gaps

Concerns over regulatory interactions and gaps have influenced both farmer and state engagement with private standards. In 2002, for example, an Environmental Assurance Workshop was held to look at the possibility of developing AusGAP (Foodlink Management Services, 2002). However, the workshop concluded that EurepGAP was not an environmental assurance system and that the existing Australian systems should remain in place and be developed independently. Subsequently, and in response to farmer concerns over the impact of EurepGAP on food export markets, the Australian Government examined the impact and implementation of EurepGAP. *Guidelines for Implementing EurepGAP for Australian Fresh Fruit and Vegetable Producers* were then produced to 'assist businesses to make an objective decision about the implications and impacts of EurepGAP' (McBride, 2004, p. v).

Tasmanian growers participating in this research perceived inadequate regulation of food labelling. As a business-to-business standard, GLOBALG.A.P. is unlikely to come to the attention of consumers. Nonetheless, growers were concerned that consumers and government regulators would regard imported vegetables that were certified against GLOBALG.A.P., or some other standard, as being equivalent to Australian grown vegetables in terms of their quality and the measures to which they had been subjected to ensure produce is fit for consumption. As indicated above, however, the majority of the GLOBALG.A.P. chemical requirements are subordinate to state regulation. Therefore, not all products certified under the GLOBALG.A.P. brand have been grown under the same chemical standards, with the result that growers perceived that chemicals banned in one country may have been used in another to produce the same GLOBALG.A.P. accredited product.

Regulatory Reflexivity

The concern noted above about food labelling resulted in a farmer-driven 'country of origin' labelling campaign in Australia that has involved a review of food labelling law and policy (Blewett et al., 2011) at the national level and a directive from the Australian government for FSANZ to investigate extending country of origin labelling to fruit and vegetables (Food Standards Australia New Zealand, 2006). Outcomes include new labelling requirements for fresh and processed foods, enforced under the Australia New Zealand Food Standards Code – Standard 1.2.11 – Country of Origin Requirements (Australia Only) – F2011C00565 (FSANZ, 2011) as well as the Competition and Consumer Act 2010. This is an example of public regulation being responsive to markets and the perceived need for monitoring and enforcement by the state. An emerging area of regulatory reflexivity in Australia is likely to involve chemical regulation (see Thompson and Lockie, 2012).

Farmers have also been active in developing their own industry-based private standards (e.g. Freshcare) in response both to concerns about retailer-led standards and to the opportunities for market access that certification may afford. These ex-

amples of producer self-regulation differ specifically from retailer-led standards in that they are competency based and apply to the whole farm, rather than being crop specific, as is the GLOBALG.A.P. standard. Private standards are thus interacting with the food governance system in Australia in a variety of ways and generating a range of reflexive responses.

Conclusion

Seen from the perspective of responsive regulation, the three case studies presented here demonstrate that private food standards such as GLOBALG.A.P. are better understood as part of a governance structure rather than as governmental strategies that sit outside the state. All three case studies demonstrated that the GLOBALG.A.P. standard was accepted by the respective state agencies and governments. In some instances, government agencies were instrumental in the implementation of GLOBALG.A.P. standards. In Vietnam, in particular, a collaborative approach between government agencies and development agencies such as AusAID and USAID worked to embed GLOBALG.A.P. standards within the state food safety regulatory framework. In Australia, by contrast, where local regulatory measures were comparatively well developed, producers certifying to the standard reported a degree of redundancy between competing regulatory frameworks (including competing private standards). At the same time, the implementation of private standards in Australia has sparked debate around perceived regulatory gaps in relation to fertilizer use and food labelling. This debate highlights competing regulatory imperatives at the international and national levels that are obscured by the language of harmonization but that, for GLOBALG.A.P. certified producers, challenged the legitimacy and effectiveness of standards as a particular governance strategy.

As a voluntary, private standard, GLOBALG.A.P. is inevitably subject to state regulatory measures. Where domestic measures are highly developed, as demonstrated in the case of Australia, greater attention may need to be given to benchmarking the GLOBALG.A.P. standard against those measures to ensure a high level of equivalence and a minimum of duplication and regulatory burden. Where a state's capacity to regulate is weak, as demonstrated in the case of the Philippines, insisting on adherence to certain private standards can, in part, introduce standards in what may otherwise be a regulatory vacuum; and where state capacity is weak but developing with the engagement of non-state actors such as civil society and aid and development organizations, as demonstrated in the case of Vietnam, the private standard can be a source for improved state regulation. Responsive regulation may be useful primarily as a theory of changes in actual governance practices. Indirectly, however, it may also be useful in providing a clearer understanding of the reality of regulation and governance so that normative approaches to reform are better informed and, ideally, more effective.

Where state regulation of food-related risk is inadequate, insufficient or puts the burden of that risk on the retailer/buyer, the GLOBALG.A.P. standard provides the retailer/buyer with an instrument to manage their risk. Where state regulatory measures concerning environmental protection, working conditions and human rights are similarly lacking, some measures developed by GLOBALG.A.P. may also be useful in raising the standard above the status quo delivered by state measures. Included in the GLOBALG.A.P. standards are 'soft' recommendations relating to the environment, worker conditions and animal welfare. Producers may also im-

plement the GRASP module on social practices. Where a buyer's market power is sufficiently strong, they can exercise that power to include such standards in their contracts with producers. As long as contracting in this way is lawful, the producer can be held to this standard even in the absence of state measures dealing with such social practices. However, as demonstrated in the Philippine case study, where the buyer is not inclined to contract on this basis, state legislative provisions remain the minimum standard. Further, where state capacity to monitor and enforce legislation is limited, GLOBALG.A.P. places no requirements on its own auditors to assume this responsibility.

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