LOCALIZING PRIVATE SOCIAL STANDARDS:

STANDARD INITIATIVES IN KENYA CUT FLOWERS

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Contents

Abstract ... 6

1. Introduction ... 7

2. Private social standards and cut flowers in Kenya ... 9
2.1. Reorganising production ... 9
2.2. Private Social standards in cut flowers ... 12

3. Kenyan social standard initiatives ... 17
3.1. Analytical framework & background ... 17
3.2. The Kenya Flower Council (KFC) Code of Practice. ... 19
3.3. The Horticultural Ethical Business Initiative (HEBI) ... 23

4. Conclusion ... 34

References ... 36

Abstract

Since the mid-1990s a range of Southern social standard initiatives have emerged, including in the African horticultural industry. In this paper I analyse two Kenyan standard initiatives in the cut flower sector – a business initiative and a multistakeholder initiative. I investigate how international social standard requirements are 'localized', and how standards are played in different ways by different stakeholders in order to gain influence and to further specific goals. The analysis shows that when the standards are negotiated and performed, the power relations that exist both between local stakeholders and along the global value chain (GVC) for cut flowers are reflected and reproduced. The analysis further reveals a general tension between a focus on private social standards (PSSs) as a technical tool to achieve social compliance based on outcome standards, and a focus on PSSs as a means of enhancing the process through which workers claim their rights. This tension is clearly reflected in the fact that when the multistakeholder standard is endorsed by other local standard initiatives, it is to the exclusion of the multistakeholder institution and to the exclusion of the participatory auditing methodology – the main vehicle through which process rights are promoted. Placing the local standard initiatives in the context of GVC governance, this paper also illustrates how local standard initiatives can be seen as indirectly playing into the governance agenda of retail buyers, because local standards (particularly multistakeholder standards) offer better insurance against conflict and create necessary consensus and 'back-up' from critical voices, both locally and in buyer markets.

1. Introduction

Private Social Standards (PSSs) covering the employment conditions of Southern producers exporting to European markets have multiplied rapidly since the 1990s. Multinational Enterprises (MNEs) and large buyers have increasingly adopted labour standards along global value chains (GVCs), such as the right to form trade unions, and abolishing discrimination, child and forced labour. PSSs, however, remain highly disputed, particularly since the intended positive impact of PSSs by no means is guaranteed. Amongst other things, standard initiatives have been criticised for being Northern driven, for implementing a Northern agenda on Southern producers and workers, for not being sensitive to local specific conditions and for not including local stakeholders (Barrientos et al. 2003, Utting 2005, Blowfield & Dolan 2008).

Most PSS initiatives have been designed in the North. Lately, however, a range of Southern standard initiatives have emerged in the African horticultural industry. These local initiatives are most often run by producer associations, although a few multistakeholder initiatives have also appeared.[1] The Kenyan horticultural industry provides an interesting case, since no less than four local standard initiatives exist in parallel, including two business association standards (Kenya Flower Council (KFC) and the Fresh Produce Exporters Association of Kenya standards (FPEAK)), and a multistakeholder initiative (Kenyan Horticultural Ethical Business Initiative (HEBI)). Additionally, the Kenya Bureau of Standards (KEBS) has also developed a standard for the national horticultural industry. Kenya thus provides an interesting case for exploring what happens when international pressure for minimum social standards is translated into local standard initiatives.

In this paper, I argue that the move towards 'localising' PSSs cannot uncritically be seen as automatically furthering the interests of the intended beneficiaries of social standards (workers, their families and communities) nor as necessarily representing a 'Southern' agenda as opposed to a 'Northern' one. Through case studies of KFC and HEBI, this paper investigates how the introduction of PSS requirements are 'localized' and how standards are played in different ways by different stakeholders in order to gain influence and forward specific goals. Local standards are analysed against the background of local power relations. But local PSS initiatives also operate in

[1] Southern multistakeholder initiatives in the field of labour codes of practice in Africa include the Wine Industry Ethical Trade Association (WIETA) in South Africa, the Agricultural Ethics Assurance Association of Zimbabwe (AEAAZ) and the Horticulture Ethical Business Initiative (HEBI) in Kenya.

the context of GVCs, particularly buyer-driven value chains, where lead firms govern the activity of other firms in the chain (Barrientos 2003, Riisgaard 2007, Gibbon & Ponte 2005, Tallontire 2007). In this paper, the Kenyan PSS initiatives are therefore placed in the context of the GVC for cut flowers, particularly the strand of the value chain that is driven by large European retailers.[2] This enables an analysis of how local standard initiatives fit into the governance mechanisms employed by powerful buyers and a discussion of whether these local initiatives from a value chain governance perspective create contesting terrains.

To carry out the examination of local PSSs, I employ an analytical framework that combines explorations of horizontal interactions between stakeholders at the local level with vertical interconnections to stakeholders related to and involved in the GVC for cut flowers. Global Value Chains Analysis is employed as an overall frame and used to situate the local PSSs in vertical relations of power. Particular attention is paid to the governance mechanisms employed by large retailers. The local level of PSS constitutes the second and interconnected level of analysis. In the forefront here are relations of power and negotiation.

For this purpose, I draw selectively on the conceptual framework developed by Tallontire (2007) to analyse developing country private standard initiatives in agri-food value chains. Tallontire also brings into play GVC analysis, but expands the understanding of governance by adapting concepts from convention theory and from analysis of regulation. I focus on the parts of Tallontire's framework that deal with legislative governance (who makes the rules and how) and judicial governance (how conformity is assessed). Underlying the analysis is an understanding of standards as socially mediated and therefore neither objective nor unbiased. Conversely, standards are always embedded in particular systems of social relations, and standard outcomes often reflect differences in power between different actors (Busch 2000, Hatanaka et al. 2006).

The paper is based on fieldwork I carried out in 2006 covering 10 export flower farms in Kenya. Additionally, a range of interviews were conducted with industry organisations, industry consultants, local and international standard initiatives, labour NGOs and trade unions at national as

[2] The Kenyan-European cut flower value chain entails two distinctive strands (a direct strand driven by large retailers and a strand where flowers are traded at the Dutch flower auctions).

well as district- and farm-branch levels. Follow-up interviews with key stakeholders were carried out in May 2008 (for interview reference key see footnote[3]).

Following this introduction is a section on the developments in the global flower value chain, including discussions of private social standards and the Kenyan context. In section 3, I turn to the Kenyan PSS initiatives focusing on legislative and judicial governance, the motivation and strategies of the different stakeholders, as well as the relation to GVC governance. Section 4 concludes by reflecting on how power inequalities are played out in the localization of PSSs in Kenya and how the local standard initiatives can be seen as indirectly playing into the governance agenda of retail buyers.

2. Private social standards and cut flowers in Kenya

2.1. REORGANISING PRODUCTION

Private social standard (PSS) initiatives, both international and local, operate in the context of GVCs. The production strategies of MNEs have changed substantially since the 1970s. At present, they are often characterised less by direct foreign investment and more by indirect sourcing through GVCs linking them to networks of suppliers in developing countries (Dicken 2007). This shift has been described at length in the GVC literature, which traces the linkages between production, distribution, retailing and consumption. This body of literature highlights the ability of some lead firms[4] to govern the activity of other firms in the chain (e.g. Gereffi &

[3] The Chief Executive Officer of KFC as well as three board members from the HEBI were interviewed by phone in May 2008. Various documents concerning HEBI were also reviewed. For interview key see table below:

Union officials, national level and district level (UN)	9
Union officials, farm level (UF)	6
Representative from works councils, joint bodies or other worker committees (Wc)	5
Farm management (M)	17
NGOs (NGO)	7
Standard representatives (St)	11
Experts (Ex)	4
Total	59

[4] 'Lead firms' refer to a group of firms in one or more functional positions along a value chain being able to 'drive' it.

Korzeniewicz 1994, Gibbon & Ponte 2005). Rules and conditions of participation are the key operational mechanisms of GVC governance (Gibbon and Ponte 2005), and PSSs can therefore be seen as forming part of the mechanisms used to govern GVCs by lead firms.

Governance is defined by Gereffi as "authority and power relationships that determine how financial, material, and human resources are allocated and flow within a chain" (1994:97). Governance thus refers to the process of organising activities with the purpose of achieving a certain functional division of labour along a value chain. It results in specific distributions of gains, and sets terms of participation and of exclusion (Ponte 2008). Gereffi originally distinguished between buyer- and producer-driven[5] value chains to describe two distinct forms of overall chain governance. Producer-driven chains are usually found in sectors with high technological and capital requirements, and here chain governance is exercised by companies that control key technology and production facilities. Buyer-driven chains, such as the retailer-driven 'strand' of the cut flower value chains, are generally more labour intensive, and information costs, product design, advertising, and advanced supply management systems set the entry barriers. In these chains production functions are usually outsourced, and the retailers and brand name companies exercise key governance functions defining what is to be produced (Gereffi 1994).

In general, a move towards buyer drivenness[6] in GVCs can be observed particularly in GVCs led by branded manufactures and retailers (Gibbon and Ponte 2005, Gereffi et al. 2005). In buyer-driven GVCs, a movement can be detected from direct control to more indirect or 'hands off' mechanisms of governance. This includes a heightened explicit role for quality within a framework of control at a distance and the increased importance of standards and auditing technologies and methods (Gibbon and Ponte 2005, Power 1999). The heightened importance of quality (broadly defined) relates to a shift from an economy of quantities to an economy of qualities (Callon et al. 2002), where quality is becoming a central component of economic competition, and where private quality standards and their ability to differentiate products therefore are becoming increasingly important (Hatanaka et al. 2006). This shift is mirrored in GVCs by an

[5] The distinction between buyer- and producer-driven chains describes only one aspect of governance. For example, GVCs can move from one category to the other (Ponte 2008). Furthermore, actors external to the chain can have an important say in how a GVC is governed – these actors can be NGOs, trade unions, 'experts', certification bodies, and/or providers of support services (see Ponte 2008, Riisgaard 2007, Herod 2001, Coe et al. 2007).

[6] 'Drivenness' is a measurement of power and describes the degree of capability in determining the functional division of labour along the value chain, in setting quality and other demands, and in dictating the terms of participation or exclusion, as well as the rewards of participation (Raikes et al. 2000, Ponte 2008) The degree of drivenness can differ significantly ranging from highly driven GVCs to GVCs that are not driven.

extension of governance to wider issues, such as management standards, environmental standards and, more recently, social standards that are observed by suppliers (Nadvi 2008, Nadvi K & Wältring 2004, Reardon et al. 2001, Gibbon & Ponte 2005, Tallontire 2007, Hatanaka et al. 2006).

Restructuring the cut flower value chain

The move towards buyer driveness is evident in the cut flower value chain, where structural shifts in distribution channels in EU markets are taking place, with the growing importance of supermarkets sourcing directly from suppliers in developing countries, cutting out wholesalers and the Dutch auctions[7] (Thoen et al. 2000, CBI 2005). The world market for cut flowers has grown consistently since the early 1980s, but has experienced a slowing growth in demand over the past five to ten years, especially in the EU. At the same time, increases in production (especially in developing countries) have led to a downward movement in prices. Consumers in EU markets are demanding greater variety and are increasingly interested in the environmental and social dimensions of production. This is leading to a proliferation of social and environmental standards in the industry (Thoen et al. 2000, CBI 2005).

The Kenyan-European cut flower value chain entails two distinctive strands (the direct strand and the auction strand). The Dutch flower auctions have historically been the most important channels through which flowers are distributed to European wholesalers and retailers. But lately the proportion of flowers imported into the EU from East Africa that goes through the Dutch flower auctions has diminished, and direct sourcing by large retailers is increasing. The auctions still remain the most important world market outlet for cut flowers, however, and the most significant way that cut flowers from East Africa reach European wholesalers and retailers (Thoen et al. 2000). Since standards are a requirement only for producers participating in the 'direct' strand of the GVC, which is driven by large retailers, in this paper I focus on this particular strand (hereafter simply named the flower GVC).

The increase of direct sourcing by large retailers is having a significant impact on governance (due to the retailers' considerable market power) as well as an increasing demand for compliance with social and environmental standards. More complex consumer demands and a more demanding regulatory environment faced by retailers have posed demands on retailer governance practices

[7] The Dutch auctions basically function as a distribution centre, absorbing large quantities of flowers that are repacked and sold to buyers from all over the world. The system is based on three key components: the concentration of supply; a public price discovery system; and a cooperative organisation structure (Thoen et al. 2000).

and how they manage their value chains, both to avert negative publicity and to differentiate their products. One way that retailers have achieved this is by codifying the knowledge required to meet quality specifications in standards and grading systems. Social and environmental standards are an extension of this process and one way in which retailers seek to reduce risks and govern their value chains (Barrientos et al. 2003). In cut flowers, PSSs therefore form part of the mechanisms that are used by retailers to govern the GVC. Supermarkets externalise non core functions, such as monitoring of quality and coordinating supply logistics, upstream in the chain towards exporters. The best example of this is seen in Kenya where larger growers have tailored their operations to sell directly to retail outlets in Europe through offering value-added production and supply chain management to supermarkets. This has been achieved through vertical integration down-stream into freight forwarding, clearance- and sales agency (ibid). The direct strand for flowers is highly driven by supermarket buyers, particularly UK retailers.

2.2. PRIVATE SOCIAL STANDARDS IN CUT FLOWERS

Critique in consumer markets of appalling working conditions in factories and plantations in developing countries producing consumer goods for the Northern markets spurred the formulation and adaptation of PSSs. Standards covering the employment conditions of Southern producers exporting to European markets increased rapidly throughout the 1990s, and MNEs and large buyers have increasingly adopted labour standards along GVCs, such as the right to form trade unions and abolishing discrimination, child and forced labour.

The nature of cut flowers and the character of the flower trade have set the frame for some highly criticised working conditions in the industry. The Kenyan flower industry in particular has been one of the favourite targets for campaigns, both locally and in Europe, demanding better environmental and social conditions. Export of cut flowers from East Africa is an example of how tightened quality regulations and increasing concerns with social and environmental issues have created a highly codified industry. For producers participating in value chains driven by large retailers, adopting social and environmental standards is a requirement, and it is not unusual for producers to comply with half a dozen different social and environmental standards (cf. Collinson 2001, Barrientos et al. 2003).

Social standards differ significantly in origin (both in terms of geography and actors involved) as well as in content, implementation and monitoring procedures. Initially, these standards mostly took the form of unilateral business initiatives, but later they have also included broader business and multistakeholder initiatives. The majority of standard initiatives were conceived and formulated in Europe, but in recent years a variety of standard initiatives have also been initiated in pro-

ducer countries. Cut flower export trade associations in Kenya, Uganda, Zambia, Zimbabwe and Colombia have all developed their own social standards (CBI 2005, Dolan & Opondo 2005). In all, at least 16 different social and or environmental standards (international and national) exist for cut flower export (CBI 2005, Riisgaard 2007).

With the demand for standards also comes a demand for auditing and certification. Depending on the individual standard, different actors qualify (and often compete) to carry out services in the audit and certification market. Furthermore, standard creation, adoption and implementation affect terms of inclusion and exclusion in value chains. It is therefore of importance to examine who sets these standards and what issues are subjected to standardisation and how. As argued in Brunsson (2000:9): "the creation of standards can seldom be seen as natural, straight forward or harmonious processes. Rather many factors are important: which actors are able to participate or allowed to do so, how the decision processes are designed, and so on." Standards are thus not objective and neutral mechanisms, but socially mediated and embedded in particular systems of social relations and power (Busch 2000, Hatanaka et al. 2006). Studies by Hughes (2001) highlight that when all costs of complying with social standards is borne solely by suppliers, then PSSs can actually reinforce an already adversarial supply chain relationship and retailer dominance. In this way, as Freidberg (2003) puts it: "cleaning up down South comes cheap", and PSSs can be seen as reinforcing existing power imbalances and as a new mechanism of control through self-control. Additionally, when PSSs touch down in local settings, they invariably interact with local relations of power and politics and should not be viewed as neutral market tools (Ponte 2008, Riisgaard 2007, Hatanaka et al. 2006). Local PSS initiatives therefore need to be seen as sights of struggle and contestation, which might reinforce or change roles and inter-relationships (Tallontire 2007, du Toit 2002). Thus, the emergence of local standard initiatives needs to be addressed in the context of power relations both within the GVC and between the local stake-holders. Before proceeding to explore how this unfolds in Kenya cut flowers, a critical discussion of the potential and limitations of PSSs is presented.

The potential and limitations of PSSs

The benefits of PSSs remain highly disputed. First of all, they are almost exclusively limited to export industries. Secondly, reviews have highlighted that many are weak in content, especially in terms of workers' right to organise and bargain collectively, as well as in relation to gender issues (Barrientos et al. 2003, Barrientos & Smith 2007, Blowfield & Frynas 2005). Recently, the adverse effects of corporate buying strategies (particularly price cuts, short lead times and rapid turn around) on labour conditions have been highlighted and there is growing recognition of the limits of PSSs as a means of improving working conditions in global production and particularly as a

means of altering the power relations between labour and capital (Barrientos et al. 2003, Barrientos & Smith 2007, Riisgaard 2007, Utting 2005, Blowfield & Dolan 2008, du Toit 2002).

Serious inadequacies have been reported in the way standard compliance is monitored by companies and by the burgeoning social auditing industry. Auditors have tended to rely heavily on management information, with little involvement of workers and the organisations representing them. Additionally, audits have focused most attention on the more visible aspects of standards, such as health and safety and working hours, rather than more embedded issues such as discrimination (Barrientos & Smith 2007). Research has shown that the use of a participatory social audit methodology[8] is more likely to build trust, promote dialogue and expose sensitive workplace issues – the method is, however, also more challenging and costly to apply (ibid, Dolan & Opondo 2005, Blowfield & Dolan 2008).

This relates to a point highlighted by Barrientos and Smith (2007), namely the distinction between outcome standards and process rights. Process rights, for example the principles of freedom of association and no discrimination, describe intrinsic principles of social justice that enable workers to claim their rights. These process rights provide a route to the negotiation of and access to other entitlements and specified conditions of employment, such as a health and safety policy, minimum wages, working hours and deductions for employment benefits such as health insurance and pensions. These entitlements and specified conditions of employment are labelled outcome standards. Most PSSs are now based on ILO core conventions and thus comprise both outcome standards and process rights. Nevertheless, in a comprehensive study of the effects of PSSs amongst suppliers to members of the ETI[9], it was found that while PSSs were having an effect on outcome standards, they were having little or no effect on process rights (Barrientos & Smith 2007).

[8] A participatory approach to codes of labour practice puts greater emphasis on involvement of workers and workers' organisations in the process of standard implementation and assessment. It is based on developing partnerships between different actors (companies, trade unions, NGOs and preferably governments) in developing a locally sustainable approach to the improvement of working conditions. This approach is sensitive to uncovering and thus addressing more complex issues such as gender discrimination and sexual harassment. A participatory approach can be developed at different levels. At a minimum, it involves the use of participatory tools in the process of social auditing. At its broadest level, it involves the development of local multistakeholder initiatives forming an independent body able to oversee the implementation and monitoring (Auret & Barrientos 2004).

[9] The ETI is a UK initiative to promote and improve the implementation of corporate codes of practice which cover supply chain working conditions.

That PSSs have more impact on outcome standards than process rights relates to auditing methods and reflects the dominance of a technical compliance perspective. Checklist auditing and self-assessment have been the main ways of monitoring PSS implementation. This system is compatible with other forms of technical and financial auditing, and is often carried out by companies who also specialise in those activities. While technical social auditing is able to identify outcome standards, such as health and safety provisions and wages, it has proved less capable to identify process rights (Barrientos & Smith 2007). This in turn reflects a general tension between a focus on PSS as a technical tool to achieve social compliance based on outcome standards, and a focus on PSS as a means of enhancing the process through which workers claim their rights. In multi-stakeholder initiatives, to which I will turn shortly, this tension often plays out as a tension between civil society and commercial actors.

This tension is also evident in a wider debate concerning the kinds of issues that are addressed and, more importantly, *not* addressed in PSSs. As highlighted by Blowfield & Frynas (2005) and Blowfield & Dolan (2008), the meaning of PSS initiatives is represented as being self-evident, but in effect it is highly significant which issues are open for discussion and which are not. Studies demonstrating the relationship between retailer buying practices and adverse labour conditions at the producer end are a case in point (Barrientos & Smith 2007, Hughes 2001). As argued by Hughes (2001) and du Toit (2002), amongst others, attention needs to be paid to the contractual relations between retailers and suppliers in addition to issues of worker welfare at sites of production, if PSS initiatives are to make a more significant difference to the organisation of global supply chains. At present, apart from Fair Trade standards, PSS do not include buying practices in the value chain, such as the extraction of favourable pricing terms and discounts, the avoidance of legally binding contracts for supply, the setting of tight product specifications and supplier switching. Another example comes from the Kenyan cut flower industry, where the final buying order from the retailers arrive at 10 am on the day of delivery, leaving little possibility to plan work hours in advance (cf. Hale & Opondo 2005).

Multistakeholder initiatives, Southern initiatives and issues of power and representation

Retailers have responded to criticism by creating alliances with the very groups that criticise them in so-called multistakeholder initiatives where NGOs, multilateral and other organisations encourage companies to participate in initiatives that set social standards, monitor compliance, promote social reporting and auditing, and encourage stakeholder dialogue and social learning (Utting 2002). Multistakeholder initiatives, however, are also open to criticism. There are important questions about representation: Who is included? Who is excluded? Who speaks on behalf of workers, especially more marginalised informal workers, many of whom are women?

(Dolan & Opondo 2005, Barrientos 2003, Blowfield & Dolan 2008, Tallontire 2007, du Toit 2002).

Furthermore, tensions can easily arise between different stakeholders, who are representing or reflecting different interests and occupy different positions of economic power linked to the global value chain (Hughes 2001). As argued by Utting (2002), corporations might encourage multi-stakeholder initiatives and other forms of collaboration with NGOs as a means of (a) accommodating threats to their dominance that derive from civil society activism and (b) exercising what Gramsci has referred to as "moral, cultural and intellectual" leadership as a basis for rule via consensus as opposed to coercion. In GVC language, this argument touches upon the potential role of multistakeholder standard initiatives as a tool that indirectly reinforces the governance agenda of buyer-driven value chains, because they enable cooperation and consensus while securing against conflict.

Another criticism concerns the fact that many multistakeholder initiatives and PSSs in general, have been developed in the North, and there is concern that these fail to incorporate Southern stakeholders and the concerns of workers in developing countries (Barrientos 2003, Tallontire 2007, Blowfield & Dolan 2008). Southern initiatives have occurred to counter this trend. According to Barrientos (2003), Southern initiatives reflect a move away from a Northern-based focus towards local engagement in how standards and standard implementation can more genuinely address and improve the needs and rights of workers. In this view, Southern initiatives are better able to address worker needs at a local level and in the specific local context. Discrimination based on gender or race may, for example, be embedded in social norms and thus require different strategies in one context compared to another. Furthermore, local initiatives can address more context specific and more complex issues at an ongoing rather than an on-off basis (Barrientos 2003).

Blowfield and Dolan (2008) highlight how African standard initiatives, no more than Northern initiatives, are formulated by the workers they purport to benefit. It is also questionable exactly how local the local initiatives actually are. Do they represent a new position that in any substantial way contests existing Northern initiatives or the dominant position of Northern buyers? The following sections will show that local standards can to some degree play into the governance agenda of buyer-driven value chains.

3. Kenyan social standard initiatives

3.1. ANALYTICAL FRAMEWORK & BACKGROUND

In this part of the paper I turn to an analysis of relations of power, contestation and negotiation in local PSSs in Kenya. The analysis is based on the understanding that the content of standards and how they are performed is often the outcome of strategic actions and negotiations between involved stakeholders reflecting existing power differences (Hatanaka et al. 2006, Bingen & Siyengo 2002, Juska et al. 2000). Each stakeholder has its own agenda and ideas about quality (in this case ideas about what constitutes acceptable social conditions) that it seeks to implement, and standards are used to further this agenda. Thus, the way standards are negotiated and used may reflect and reproduce power relations that exist both between local stakeholders and along the GVC.

As recommended by Tallontire (2007), I start by analysing the rules which are being developed and implemented through the PSSs. A next step is charting the evolution of the PSS opening up for discussions about who makes the rules and how (what Tallontire refers to as 'legislative governance'). This concerns the origin of the standard, the extent to which it draws on international standards or includes locally specific criteria, the links it has with other standards, both in the public and private domains, and identification of who is involved and who may be excluded. This is particularly pertinent in relation to worker representation, as new forms of worker representation are legitimised through NGO advocacy. Attention is also given to what Tallontire names 'judicial governance', referring to the way compliance is monitored and assessed. This issue is particularly relevant since the initiatives differ substantially in this area. Finally, the initiatives are set in the context of governance of the cut flower GVC and the important question of whether these local PSSs actually represent a form of 'control at a distance' on the part of lead buyers.

Focus is on the KFC and HEBI standards, the two initiatives developed explicitly for the flower industry. These two standard initiatives provide appropriate grounds for comparison, since they are substantially different both in relation to the structure of the standard initiatives and in the methodologies they employ for assessing compliance. Two other local standard initiatives (FPEAK and KEBS) were not specifically designed for cut flowers, but contain general standards for horticultural products. The FPEAK and KEBS standards are not analysed in this paper, but since they are relevant in relation to both KFC and HEBI, they are briefly introduced in the following together with a short overview of other relevant local stakeholders.

The development of local PSSs in Kenya

Kenya is one of the top players in the world cut flower industry (the 4th largest) with a value of USD 313 million out of a total export value of USD 354 million from Sub Saharan Africa (the global value was USD 5.5 billion in 2007).[10] The export flower industry in Kenya started to take off in the late sixties and cut flowers are now the nation's second largest source of foreign exchange in agriculture (after tea), providing employment to an estimated 50,000 workers. Although there are an estimated 5,000 flower farms in Kenya, a tendency can be seen towards concentration, with three-quarters of the exports supplied by about 25 large- and medium-scale operations (Opondo 2002, Thoen et al. 2000).

The Kenyan flower industry has been one of the favourite targets for campaigns both locally and in Europe demanding better environmental and social conditions. Since the 1990s, producers (particularly producers supplying EU retailers) have adopted a range of social and environmental standards (see also Riisgaard 2007), and four local standard initiatives have emerged (all the Kenyan standards are named 'codes', so in the following codes and standards are used interchangeably). The first local standards were launched by the Fresh Produce Exporters Association of Kenya (FPEAK) in 1996 and Kenya Flower Council (KFC) in 1998. KFC has about 50 members representing more than 70% of the Kenyan flower export. FPEAK has around 70 flower exporters as members. Compared to KFC, which counts many of the largest flower growers, FPEAK caters more for medium- and smaller-size flower exporters (Thoen et al. 2000, www.fpeak.org). Both the FPEAK and KFC standards relate mainly to good agricultural practices but also cover environmental management and occupational health and safety of workers.

In 2002 the Kenya Bureau of Standards (KEBS) launched the 'KS1758 Code of practice for the horticulture industry'. Although KEBS is a statutory organisation of government and the national standards body[11], it did not develop the standard. The forces behind the establishment of the KEBS standard were FPEAK and KFC. Together they drafted a harmonised standard based on their own standards. This document was handed over to KEBS, which merely corrected the format and sent it to the Standard Council for approval (interviews St2/St7/St8 2006).

[10] Data from UN COMTRADE, HS 2002, product category 0603.

[11] KEBS develops and acts as custodians of Kenyan standards (like e.g. the Diamond seal of excellence product quality) but KEBS also certify to system certifications like ISO 22000/2005, ISO 9000/2000, ISO 14000 and HACCP (interview St7 2006, http://www.epzakenya.com/UserFiles/File/Presentation%20by%20KEBS%20-%20Mr%20Masila.pdf accessed 20.08.07).

At the time of its approval (on Valentine's Day 2002), local NGOs launched a public campaign criticising the failure of existing social standards to protect workers' rights (Hale & Opondo 2005). As a direct outcome of this critique, the multistakeholder Kenyan Horticultural Ethical Business Initiative (HEBI) was formed in 2003 and the HEBI code, which deals exclusively with social issues, was released (Hale & Opondo 2005, ETI 2005). The board of HEBI has representatives of NGOs as well as employers' associations (FPEAK and KFC) and individual producers (Hale & Opondo 2005, www.hebi.org). In 2004, a second edition of the KEBS standard was approved (interview St7 2006). The 2004 version was aligned to EUREPGAP (now GLOBALGAP) and incorporates provisions on worker health, safety and welfare from the HEBI standard (KEBS 2004). Both KFC and FPEAK have announced that they endorse the HEBI standard.

International actors, particularly European NGOs, European-based standard initiatives and European buyers have been influential in the development of the local Kenyan standard initiatives. How this has taken place will be discussed in the following sections, where the KFC and HEBI standard initiatives are examined in turn.

3.2. THE KENYA FLOWER COUNCIL (KFC) CODE OF PRACTICE.

3.2.1. Rules & genealogy

In 1998 KFC was created by five of the largest farms as a reaction to a flurry of negative media attention in the UK and pressure from NGOs in Kenya as well as abroad (Hughes 2001). The KFC standard was motivated by a wish to 'clean up' the image of the flower export industry and in this way accommodate critical civil society voices, both locally and in buyer markets, while at the same time accommodating new retailer demands. The KFC code of practice details the standards to be met in environmental, social, health and safety and good agricultural practices by all KFC members. The authors of the standard are the KFC council directors, comprising eight financial and production managers of the major farms. The standard, now in its seventh edition, is based on European standards (particularly UK retailer standards) for good agricultural practices and social and environmental performance, but with references to Kenyan legislation.

All KFC members have to comply with the KFC Silver standard within one year and can choose to move up to the optional Gold standard thereafter (interview St2 2006). Members are mostly large Kenyan flower growers, while associate members are EU importers, UK retailers and Dutch auctions (Hughes 2001, www.kfc.org). Apart from a yearly certification and six monthly surveillance audits, KFC also carries out unannounced audits in 10% of the member farms every year. The Silver standard is audited by KFC's own auditors. However, due to changing demand from international buyers, since 1999 KFC audit procedures are evaluated by accreditation bodies that

are qualified and recognised by the International Accreditation Forum, such as SANAS or BVQI (Hughes 2001).[12]

3.2.2. Integration, recognition and accreditation

The KFC standard is built on the basis of other standards designed for the global flower and horticultural industries. When there are developments in the latter (new market demands or developments in other standards), the KFC standard is also revised. In June 2005 KFC became the first national growers' association to achieve benchmark status with the EUREPGAP (now GLOBALGAP) Ornamentals Scheme (UNCTAD 2006).[13] After being awarded equivalence status to GLOBALGAP, KFC started the process of aligning the KFC Quality Management System to the ISO guide 65. This is necessary in order to be accredited to certify to an internationally recognised standards such as GLOBALGAP. If successful, this means that when certified to the KFC standard, members will for a small amount be able to become certified to GLOBALGAP without further auditing (interviews St2/St4 2006, http://www.kenyaflowers.co.ke/audit.htm Accessed March 2008).

KFC has a recognition agreement with the largest UK supermarket chain, Tesco, which has an on-going assessment of KFC's standard and audit procedures in order to ensure that the procedures of the KFC standard are complying with the Ethical Trade Initiative (ETI) requirements, which TESCO adheres to. KFC has provisional recognition as of September 2006 (http://www.kenyaflowers.co.ke/audit.htm accessed March 2008).

Apart from these accreditation and recognition agreements, KFC also cooperates with local standard initiatives. As mentioned earlier, KFC is a board member of HEBI and has together with FPEAK been the driver in establishing the KEBS standard. The KEBS "National code of practice for flowers" is based on the forth edition of the KFC standard, so KFC members already comply with it. KFC, together with KEBS, FPEAK and HEBI, are lobbying to make the KEBS standard a national requirement for export licenses (interviews St1/St2/NGO3 2006, St1 2008). So far KFC has obtained an accreditation agreement (in 2007) with KEBS to audit flower grow-

[12] The Gold Standard audit is carried out by an independent third-party auditor like BVQI or SGS (www.kenyaflowers.co.ke/).

[13] The KFC silver standard has status as a provisionally approved standard (i.e. a standard that has already completed the benchmarking procedure). All benchmarking documents have undergone the assessment process and have been acknowledged as a GLOBALGAP equivalent. The corresponding benchmarking agreement has already been signed. The only missing link here is the formal accreditation of the responsible Certification Bodies. (http://www.globalgap.org/cms/front_content.php?idcat=31 accessed March 2008.)

ers against the KEBS standard and collect standard levy fees on behalf of KEBS (http://www.kenyaflowers.co.ke/audit.htm).

Integration with international and national standard initiatives through accreditation, recognition and cooperation has constituted an important tactic for KFC since its first code was drawn in 1998. Alignment with international standards serves the purpose of keeping members up-to-date with buyer standard demands and thus helps members to remain competitive. At the same time, it makes the KFC standard more attractive (and less costly) to flower growers by offering a 'one off' audit (interview St2 2006). In turn, this allows KFC to capture a larger chunk of the auditing and certification market. Alignment with international standards is moreover necessary to gain reputational recognition amongst buyers.

Integration and cooperation with local standard initiatives likewise offers several advantages. As mentioned, KFC is lobbying to make the KEBS code a national requirement for export licenses. This would compel growers to become members of KFC (or FPEAK), since this would be the easiest and cheapest way to obtain the required certification to acquire an export licence. Around 120 flower growers are members of either KFC (approx. 50) or FPEAK (approx.70). This leaves out some 4000 flower growers, most of which are smallholders. In practice, they would have to become members (and pay membership, audit and certification fees) if they wanted to continue exporting. But many of the existing smaller producers may not have the management system in place to comply and to document compliance with the standard. For the larger exporters, compliance will not cause a problem, since they are already complying with various private international standards. While making the KEBS code a national requirement for export licenses would certainly broaden the reach of social standard implementation in the industry, there is a real danger that it could also lead to further consolidation and exclusion of smaller actors.

KFC participates in HEBI at board level, thereby engaging at the institutional level with the NGOs, which have been the main critical voice in the country. Hereby, they accommodate critical voices both locally and abroad and are able to 'contain' some of the negative publicity (this is considered in more detail in connection with the analysis of HEBI). At the same time, the involvement with HEBI plays into the existing conflict between NGOs and unions in the sector. Thus, KFC effectively recognises labour NGOs as preferred partners when discussing labour rights issues and social standards in the industry.

3.2.3. Localization and relation to GVC governance

While KFC founders had some autonomy in drafting the code, it was powerfully shaped by UK supermarket standards and audit procedures. Global institutions like ILO and WHO have form-

ulated the conventions that form the background for the writing of standards in the area of chemical use and labour standards. National level legislation informs many of the specific requirements laid out in the code, especially with regards to labour issues, but also on the usage of chemicals (the standard demands relevant licenses, e.g. a license to store chemicals obtained by the Pest Control Products Board and certificates from the Department of Health and Safety). UK legislation shapes the recommendations on issues like the storage of pesticides which is necessary to meet UK retailers demands on traceability and quality control (Hughes 2001, Kenya Flower Council code seventh edition).

The KFC social standard to some extent represents a localization move due to its reference to specific parts of the national legislation. However, this is not unambiguously a process towards local sensitivity and empowerment. On the contrary, the KFC initiative can be seen as a move towards alignment with international standards and audit procedures which focus on documentation and traceability and employ a technical checklist approach to measuring standard compliance. In this way the KFC standard, as most other PSSs, can be presented as a technical tool to achieve social compliance based on outcome standards as opposed to a focus on PSS as a means of enhancing the process through which workers claim their rights.

Both legislative governance (who makes the rules and how) and judicial governance (how compliance is assessed) of the KFC standard is strongly shaped by the demands of retailers. Furthermore, the standards does in no way contest the power of large buyers in the value chain. In other words, what is agreed upon in the KFC standard is already accepted and increasingly demanded by EU flower buyers. Even though the standard initiative is local, it is shaped around the same managerial audit culture as the buyer standards. The emergence of the KFC standard can therefore be seen as a move towards 'self regulation' by producers in developing countries, and in this way it plays into a general governance move towards more indirect forms of governance in buyer-driven value chains. By being local the standard is helping to avoid conflict through its ability to detect and address non-compliance and disputes at an early stage and in a continuous way. In this way the local standards indirectly can aid buyers in creating the necessary 'back-up' from critical voices both locally and in the buyer markets.

Perhaps somewhat paradoxical is the fact that even though pressure from civil society at both ends of the value chains was influential in bringing about the KFC standard, civil society did not participate in standard setting and is not involved in monitoring. The realms of both legislative and judicial governance are exclusively confined to the largest producers and EU buyers (the

most important of which are associate members of KFC)[14]. In this way, both smaller producers and all other stakeholders are excluded from this process as well as from implementation. So even though the KFC standard represents a localisation move, the standard caters to business interests to the exclusion of the end-beneficiaries or organisations purporting to represent them.

3.3. THE HORTICULTURAL ETHICAL BUSINESS INITIATIVE (HEBI)

3.3.1. Rules and genealogy

The HEBI code, released in 2003, draws on established African and international standards but resembles most closely the Ethical Trading Initiative (ETI) Base Code.[15] It includes provisions on child and forced labour, discrimination, regular employment, living wages, health and safety as well as freedom of association and the right to collective bargaining (www.hebi.or.ke/hebi-code.htm.). However, what sets the HEBI standard apart from most other social standards is detailed instructions for how to implement and audit the standard using participatory social auditing methods. This methodology is based on thorough participation in the audit process by all groups of workers as well as unions and NGOs. The methodology includes as key elements the use of participatory interview techniques (such as e.g. focus groups or the use of drama, storytelling or problem ranking) and an awareness day prior to the audit where awareness raising activities are carried out by HEBI with both workers and management. The methodology also involves independent auditing and audit shadowing by and consultation of trade unions and NGOs (HEBI 2005, HEBI not dated). The HEBI initiative thus falls within a tradition of focusing on PSS as a means of enhancing the process through which workers claim their rights.

[14] Associate members are; Aalsmeer Flower Auction BV, Agrotropic AG, East African Flowers BV, Flora Holland, Flower Plus Ltd., K. N. Airlink, Marks and Spencer PLC, Omniflora Blumen Centre GmbH, Sainsbury's, Tesco, World Flowers Ltd and Van Beek Bloemen BV (http://www.kenyaflowers.co.ke/members/associates.php accessed 17/7 2007).

[14] The Gold Standard audit is carried out by an independent third party auditor like BVQI or SGS (from KFC web page).

[15] The ETI is a UK initiative to promote and improve the implementation of corporate codes of practice which cover supply chain working conditions (not restricted to cut flowers). It was developed in 1998 by a consortium of companies, trade unions, and NGOs. Supermarket members of the ETI are: ASDA, the Co-Op Group, J Sainsbury, Marks & Spencer and Tesco. They are applying codes to all their 'own brand' products, including fresh produce. ETI has a base code and provides a generic standard for labour practices. All corporate members are required to submit annual progress reports on their code implementation activities (ETI website 2008)

As mentioned, HEBI was a response to the perceived shortcomings in the PSSs that were introduced in the Kenyan industry from the mid-1990s. A campaign publicly launched on Valentine's Day in 2002 by the Workers' Rights Alert (WRA – a loose coalition of workers rights NGOs)[16], criticised the failure of these standards to protect workers' rights (Hale & Opondo 2005). The national campaign successfully raised public awareness in Kenya and highlighted the poor conditions for workers in the flower export industry. This was followed by an international conference in May 2002, where the UK-based labour NGO and ETI-member Women Working Worldwide (WWW) attended. An increasingly large percentage of Kenyan flowers were being bought directly by UK supermarkets that had signed up to the ETI initiative. Therefore it was possible for WRA through WWW to use the procedure in ETI that enables NGOs or trade union members to report violations of the ETI code. The companies in question then have an obligation to investigate the situation and take appropriate action. Following the ETI investigation in Kenya, the multistakeholder initiative HEBI was formed and officially recognised in 2003 (Hale & Opondo 2005, ETI 2005). The board[17] of HEBI include three NGO representatives, three employers' associations (KFC, FPEAK and AEA – the Agricultural Employers Association) and three individual producers, with seats also available for representatives of the Kenya Plantation and Agricultural Workers' Union (KPAWU) (Hale & Opondo 2005).

So far, HEBI has resulted in the development of the HEBI social base code. HEBI has conducted pilot audits on ten farms and a secretariat has been set up using grants provided by ETI and other donors. HEBI offers specialised-training programmes in participatory social auditing to individuals and firms within the horticultural industry and has a pool of about 30 local social auditors which have been trained in the participatory social auditing methodology. It is yet to be decided if and how certification to the HEBI code will be carried out in practice, but it has been decided that all audits against the HEBI code have to be sanctioned by HEBI and shadowed by HEBI auditors (www.hebi.org, interview St2/St3 2008). It seems, however, that HEBI has somewhat halted its activities the last few years, and at the moment activities are confined to occasional board meetings and an available pool of auditors trained in the specific participatory

[16] The WRA-coalition consists of Kituo Cha Sheria (a lawyer NGO pursuing individual and group worker cases in civil court), Kenya Human Rights Commission (KHRC), Kenya Women Workers organisation (KEWWO) and Workers Rights Watch (WRW) (interviews NGO3/NGO4 2006).

[17] The board members are: KFC, Homegrown, FPEAK, Workers Rights Watch (WRW), Kenya Women Workers organisation (KEWWO), Karen Roses, Kenya Human Rights Commission (KHRC), Shera Agency (via Martin Ole Kamwaro) also representing the Agricultural Employers' Association (AEA) (Interviews St1/ St10 2006).

methodology (interview St1/ St2/ St3 2008). According to several board members, the performance and long term viability of HEBI is questionable, particularly due to lack of funds since external donors have pulled out (interview St1/St2/M1/M8 2006, St1/St2/St3 2008). The HEBI secretariat, which before had its own office and a project manager, is now reduced to temporarily borrowing a room at the KFC office. The HEBI staff (which have not been paid wages for several months) have been reduced to a secretary and an office assistant (interviews St1/St2/St3 2008).

3.3.2 Motivation and power – a stakeholder analysis

As mentioned earlier, HEBI was formed because – despite the existence of initiatives that address labour standards on cut flower farms – a number of workers' rights violations persisted on these farms (ETI 2005, interviews St3 2008). The main problem seemed not to be the content of the standards, but the way in which compliance was assessed. At that time, many organisations were using their own auditors. Some standards were industry bodies with farms as members and the same body policing those farms led to potential conflicts of interest, with little transparency or involvement of external, independent stakeholders. Additionally, very few had established on-going links with local trade unions and NGOs and none were using a participatory audit methodology (ETI 2005).[18]

The mandate of HEBI was to develop a social audit system that was participatory in nature and that would be able to remedy the mentioned shortcomings while being acceptable to all stakeholders, including retailers in the North. HEBI was to develop detailed terms of reference for the audit of flower farms, raise funds to finance the audit process and appoint and contract independent auditors and approve the audit process (ETI 2005, www.hebi.org). An important aspect of HEBI was at the same time to ensure dialogue and contain damaging press amongst former adversarial stakeholders. The different stakeholders in the flower industry, however, had diverse and sometimes opposing motivations for participating (or not participating) in HEBI as well as diverging agendas for the desired performance of HEBI. In the next sub-sections I examine the local stakeholders invited to participate in HEBI.

[18] Examples of problems listed in the ETI report from 2005 include: Workers unaware of their rights, very few workers selected for worker interviews, workers interviewed in the presence of management, little contact between auditors and local trade union and NGO representatives, only permanent workers interviewed, too few female auditors considering (ETI 2005).

The trade unions

The Kenyan trade unions have never participated in HEBI and this has raised questions about inclusiveness and representation. But neither Kenyan stakeholders, nor ETI members, have been able to build contact between the established trade unions and HEBI (ETI 2005). This situation needs to be seen in the broader context of a highly problematic relationship between labour NGOs and unions, both purporting to represent workers. NGOs claim that since only 3,400 (out of around 50,000) flower workers are unionised and since unions are tailored to service male permanent workers, they cannot adequately represent the flower workers (which are often female and non-permanent). Unions, on the other hand, contend that NGOs have no right to stand in as worker representatives in labour market conflicts. The NGO-union relation seems to have grown worse with the introduction of private social standard initiatives, because these cooperate with NGOs but rarely with the unions (Hale & Opondo 2005, Riisgaard 2008). COTU (the Central Organisation of Trade Unions) has categorically declined to fill the seats available to them in HEBI due to the presence of labour NGOs in HEBI (interview UN3 2006, see also Riisgaard 2007).[19] The unions have chosen to position themselves against the initiative and thereby refuse to attribute it legitimacy. Also at the international level, the global union federation representing agricultural workers unions (the International Union of Foodworkers and Allied - IUF) does not endorse the HEBI initiative. According to the IUF Africa representative there are already too many standards, and the IUF has chosen to lobby on standard harmonisation through the international Fair Flowers and Plants (FFP) initiative (interview Ex3 2006).

The rejection of HEBI by the Kenyan trade unions does not only mean that the trade unions are not represented in the HEBI initiative. It also means that when buyers, employers and employer associations choose to endorse the initiative, they at the same time play into the conflict between NGOs and unions and effectively recognise labour NGOs as preferred partners when discussing labour rights issues and social standards in the industry.

Industry members

For the agricultural employers association (AEA), participation in HEBI was at the outset conflictual. The director of FKE (Federation of Kenyan Employers) was at that time set against AEA getting involved in an initiative where Kenya Human Rights Commission was also involved, but despite this the AEA chose to participate anyway (interview St9 2006). In this way,

[19] In late 2005, COTU agreed to nominate a representative to the board (the deputy secretary general). However, in practice the unions have never participated or even attended any meetings (interview St1/UN1/UN2 2006).

the AEA engages in two different structures: a collective bargaining agreement with the trade union[20]; and HEBI with the labour NGOs (interview M8 2006).

HEBI was set up in a situation of heightened awareness of the significance of labour issues and this led several of the largest producers to immediately join the initiative (Hale & Opondo 2005). Also, the industry organisations KFC and FPEAK were swift in joining it and both have endorsed the HEBI code. However, it remains unclear how (and if) this will manifest itself in practice (interview St1 2006, St2/St3 2008). For both the large flower farms and the industry associations, participation was strongly encouraged by their main UK buyers. In addition, public allegations in Kenya compelled producers to move beyond industry centered solutions into dialogue and cooperation with their conventional adversaries. The producers had an interest in silencing the damaging press coverage for which the labour NGOs were responsible. While this changed the traditionally conflictual relationship between NGOs and producers, at the same time it reinforced the conflict between NGOs and unions in the industry and thus to some degree reinforced the divide amongst worker advocates. Producer participation in HEBI plays a powerful legitimising role and helps satisfy critical voices (both national and international). However, producers and producer organisations also have an interest in not yielding influence over business procedures to NGOs. Particularly there is an interest in not adapting practices that complicate auditing by being more costly, more time-consuming or potentially leading to more profound changes in the relationship between employees and employers.

Labour NGOs

Three labour NGOs participate in HEBI; Kenya Human Rights Commission (KHRC), Kenya Women Workers organisation (KEWWO) and Workers Rights Watch (WRW). Although they differ in focus point (KHRC focuses on human rights broadly, KEWWO focuses specifically on woman workers, while the focus of WRW is on workers in general), they all fight for the rights of workers and they have a tradition of being activist NGOs and very critical of the cut flower industry conditions as well as existing social standards. Through HEBI, they have tried to push local standard practice towards a more participatory framework by promoting participatory social

[20] Most flower farms are also members of the Agricultural Employers Association, which has a sector-wide collective bargaining agreement (CBA) with the Kenya Plantation and Agricultural Workers Union (KPAWU). Although a sector CBA setting minimum conditions for workers is normally seen as a sign of a powerful trade union, the Kenyan agricultural CBA has been accused of being used by employers as a CSR-decoy and an excuse to avoid on-the-farm trade union representation and especially individual farm-CBAs (interviews St6/St8/UF4 2006, Riisgaard 2007).

auditing. But the HEBI initiative also yields other benefits for the participating labour NGOs. By getting the industry players to engage in HEBI, they have gained recognition and influence. In HEBI, they have an influential position as the only labour representatives, and as industry watch-dogs with connections to solidarity groups in consumer countries. Through HEBI, they engage the biggest business actors in the industry at board meetings and potentially gain access to part of the audit economy by conducting audits against the HEBI code and by offering training and awareness-raising activities. In this way they have managed to be accepted as relevant stakeholders that merit active engagement. As a result, the labour NGOs can to some extent claim to have succeeded in influencing the local standard agenda. The Kenyan NGOs thus actively play the standard agenda and the mechanisms inherent in social standard initiatives to gain influence. In getting the industry players to engage, the labour NGOs exploited their indirect connections to the market (through ETI members), as well as their ability to damage the local industry reputation. At the same time, they indirectly outmanoeuvred the trade unions. What they give in return for gaining influence is (relative) silence. The NGOs active in HEBI, however, diverge in focus. The three NGOs represented on the HEBI board are continuing a very activist approach, while an NGO observer to HEBI (Africa Now) has become more substantially involved in the economy of social auditing[21] and close cooperation with business. This divide creates tensions among the civil society representatives between an activist as opposed to a more cooperative and service-oriented approach.

An important aspect of HEBI concerns the wish to resolve problems through dialogue, thereby diminishing critical media attention that damages the industry. All board members and observers have signed a confidentiality agreement which prohibits them (in their individual capacity) from releasing sensitive information such as audit results (Dolan & Opondo 2005, interview NGO3/NGO4 2006). According to several HEBI representatives, the practice of this confident-iality is interpreted in different ways amongst the stakeholders. The first serious test of what business actors had hoped would be an alliance of dealing with criticism within HEBI (avoiding damaging press) occurred in early 2006, when one of the NGO representatives from HEBI publicly criticised conditions on flower farms without notifying the board of HEBI (interviews, St2/St4/NGO3/NGO4 2006). A board meeting was called immediately after to sort out the situation, and before this meeting the position of the NGO representatives (including the HEBI Chairman) was that if the board could not solve problems, then the NGOs would use other channels, like the press, thereby retaining their activist leverage point (interviews

[21] The UK-based ETI member Africa Now has an 'Ethical Business Services unit' that offers ethical audits to businesses (www.africanow.org). They have conducted audits for amongst others Finley and Homegrown.

St2/NGO3/NGO7 2006). Another conflictual situation is being played out in 2008, where audits against the HEBI code carried out by the NGO Africa Now is seen by civil society representatives of HEBI as being compromised because the audits have not been sanctioned by HEBI nor shadowed by HEBI auditors. These allegations are the subject of internal discussions within the board of HEBI, but they have also been communicated to UK retailers and the ETI. In this way the NGO representatives of HEBI are trying to activate support and pressure from the buyer end of the value chain (interviews St2/St3 2008).

HEBI can thus be seen as an initiative where conflicting interests are at play and where the different stakeholders have different leverages. The labour NGOs exploit their indirect connections to the market (through ETI members) as well as their ability to damage the local industry reputation. In return for gaining influence, they award their (relative) silence. The trade unions in Kenya have not been able or willing to pull the lever of damaging the sector's reputation abroad, and thus they have not proved as important for the flower producers to cooperate with (or to be seen to cooperate with). The more traditional source of trade union power, namely the threat of disrupting production, has not been employed by the Kenyan trade unions, whose members count only around 6% of the flower workers. Business actors in HEBI award legitimacy and influence to former NGO adversaries by recognising them as actors with whom to cooperate on social issues. However, as illustrated in the next section, in terms of standard content the flower producers only accommodate what is already expected by ETI member buyers, and at the same time they satisfy critical voices at home and in buyer markets by being seen to cooperate at an institutional level with critical local civil society representatives.

3.3.3 Integration

HEBI has chosen specific ways of promoting its standard. Like the other Kenyan initiatives, the strategy of integration has been particularly important, and all stakeholders seem to agree on the need to link up to other local standards. Particularly, efforts have been put into incorporating the HEBI standard into the KEBS standard, a national Kenyan standard and government regulation. The 2004 version of the KEBS standard does include the general provisions of the HEBI standard, although with far less detail.[22] However, so far HEBI as an institution has been sidestepped in the process of standard creation and monitoring. Only the business associations (FPEAK and KFC) were involved in setting up the KEBS standard and, more importantly, the KEBS standard does not mention the participatory auditing procedures even though this can

[22] E.g. the KEBS standard does not recommend three months maternity leave or spell out how regular employment is provided (KEBS 2004)

arguably be considered the most important aspect of HEBI. Like KFC, HEBI is lobbying to turn the KEBS standard into a requirement for obtaining export licences. This would massively broaden the reach of the HEBI code – or at least the parts of the code that are included in the KEBS standard (interview St1/M1 2006). According to the former chairman of HEBI and the former HEBI project coordinator, the desired role of HEBI would be to implement the social aspect of the KEBS standard via: 1) training auditors and organising an association of trained auditors; and 2) conducting social education and auditing (interview St1/NGO3 2006).

In discussions about private social standards, critical voices highlight their voluntary nature and advocate more mandatory measures, often via integration with public regulation (e.g. Utting 2005). The incorporation of the HEBI standard provisions into the KEBS standard is an example of such a move. However, as the KEBS standard is not (at the moment) enforced by government inspectors, this link with public regulation does not seem to lead to more effective enforcement.[23] KFC has made an agreement allowing them to audit compliance to the KEBS standard amongst KFC members. This means that amongst KFC members there is potentially some enforcement of the KEBS standard, however, to the exclusion of HEBI as an institution and its participatory auditing methods.

Whilst the HEBI code has been endorsed by both FPEAK and KFC, it is unclear what this means in practice. It appears, however that it does not include adopting the participatory auditing methodologies developed by HEBI. Indeed, the auditing procedures of FPEAK and KFC remain modelled on international technical audit procedures, which are not participatory in nature.

The KFC representative (when asked what it means in practice that KFC endorse the HEBI standard) explained that it means that they work with HEBI, they find it a suitable standard for the industry, and in the KFC standard they make reference to the HEBI code and say that it is a

[23] It is unclear what exactly the current status of the KEBS standard is. At the time of fieldwork, the implementation of the KEBS standard was cursory, at best. Relevant government institutions had been given copies of the standard and were expected to take into account any sections of relevance to their specific domain while carrying out their normal procedures and inspections. In practice compliance to the standard was not inspected (interview St7/St8 2006).

good and useful document (interview St1 2008).[24] However, when talking to NGO representatives from HEBI and when looking at KFCs description of their auditing, it appears that adoption of the HEBI participatory auditing methodology is selective, at best. (interview St1 2008). On the website of KFC the auditing is described[25] and there is no mention of any participatory techniques (such as e.g. focus groups or alternative interview techniques), it does not include an awareness day prior to the audit, it does not involve audit shadowing or consultation of trade union or NGOs[26] neither does the KFC consistently employ independent auditing – all elements in the HEBI participatory auditing methodology (www.kfc.org, HEBI 2005, HEBI undated). Civil society representatives[27] from HEBI claim that the current auditors of KFC have not been trained by HEBI (although KFC did send three auditors for training, these are not the ones currently listed as KFC auditors). According to them, KFC continues to employ a technical auditing method where workers are asked a range of yes-no questions, and they have refused to use HEBI auditors to audit the social aspects of their standard (interview St2/St3 2008).

In sum, it appears that when the HEBI code is integrated into or endorsed by other standard initiatives it is to the exclusion of HEBI as an institution and to the exclusion of at least key aspects of the HEBI participatory auditing methodology.

As mentioned, HEBI is currently not very active and has not lived up to the expectations of either donors or HEBI members (interviews St1/St2/St3 2008). While the reasons for this are complex, according to civil society representatives some actors are trying to eliminate HEBI

[24] Asked about the participatory auditing methodology developed by HEBI, the representative explains that they endorse all of HEBI, including the participatory methodology. In practice, for example, they require gender and health and safety committees on the farms and this, according to the representative, facilitates participatory auditing. Furthermore the KFC auditors have been trained by HEBI. Unfortunately I was not allowed to see the KFC auditing procedures since these are regarded as internal documents (interview St1 2008).

[25] According to the website their auditing includes: A review of documents (terms and conditions of employment, crop protection practices, post harvest, quality control, maintenance of health and safety and hygiene, nursery stock propagation, traceability of all activities, training of workers, medical care, provision of personal protective equipment, waste disposal, company policies, risk assessment, emergency procedures, work instructions, internal audits, stock records). A review of all facilities on the farm. Interviews of managers and supervisors and farm workers sampled randomly from various departments. A report given at the end of the audit, entailing the Corrective Actions Requests that require to be implemented before the company can be certified, signed by the company management and the KFC auditors.

[26] At the time of fieldwork in 2006, there was no audit shadowing or consultation of trade unions or NGOs.

[27] Two out of three representatives were interviewed (the third NGO representative had only just started and was not interviewed).

slowly by not using it, by being reluctant to participate in meetings and by saying that they endorse HEBI while in practice only adopting small parts of HEBI (interviews St2/St3 2008). Lack of funds also seriously weakens the functioning of HEBI, and one could argue that multistakeholder initiatives inherently are prone to conflict and difficult to move beyond mere dialogue. Certainly participatory social auditing is inherently more complex and time consuming than more technical social audits and therefore also more challenging to implement. Another reason for the difficulties facing HEBI is that in terms of private standards, social standards are not the only or even main concern to local producers. Particularly good agricultural practices are of uttermost importance if wanting to export, and this is reflected in the accreditation or alignment to GLOBALGAP by the KFC, FPEAK[28] and KEBS standards alike.

3.3.4 Localization, representation and GVC governance

Critical voices have questioned the wider legitimacy of HEBI as a multistakeholder initiative (Dolan & Opondo 2005, Hale & Opondo 2005, Blowfield & Dolan 2008). First of all, not all stakeholders are called to the bargaining table and it can be argued that HEBI represents a select group of stakeholders to the exclusion of small and medium-sized producers, trade unions (although invited) as well as the workers themselves. As stated by Dolan & Opondo (2005:95). "In fact, workers are the most marginalised group of primary stakeholders within HEBI as it is assumed that their interests are adequately served by the civil society organisations representing them." The representation that is awarded through the HEBI initiative is one of NGOs speaking on behalf of workers. One way that HEBI does seek to award some form of direct representation to the end beneficiaries is through the participatory auditing process but, as mentioned, this particular element of the HEBI initiative has found it hard to endure.

In spite of this criticism, the HEBI initiative does represent a move towards more sensitivity to local issues and inclusion of and ownership by local stakeholders, especially in comparison to KFC. The HEBI code has borrowed heavily from the ETI Base Code, but it also contains additional and more specific clauses. For instance, it states that "pregnant and breastfeeding mothers shall not be assigned duties which would expose them, or their babies to risk". It is also specific on sexual harassment as a form of discrimination and it entitles three months maternity leave, and extends coverage to seasonal and casual labourers under the Compensation and Regular Employment sections (Hale & Opondo 2005, Dolan & Opondo 2005, www.hebi.org). The extension of coverage to the seasonal and casual labourers is particularly important and

[28] The FPEAK's Code of Practice for the horticultural sector has later been renamed KenyaGAP in 2005, FPEAK proceeded with benchmarking to EUREPGAP (now GLOBALGAP) Vegetable Scope (UNCTAD 2006).

constitutes significant improvement compared to most other standards in the industry. But most of all it is the participatory social auditing techniques employed by HEBI that places the HEBI initiative as more than just a copy of existing initiatives in the sector. However, even though the HEBI initiative was initiated exactly because of deficiencies in the way compliance to social standards was assessed – participatory social auditing is precisely the element that does not seem to survive when the HEBI standard is endorsed or incorporated into other local initiatives.

HEBI is modelled on the ETI, and ETI retail members strongly encouraged their Kenyan producers to participate in the initiative. The UK supermarkets thus became key players in the establishment of HEBI, first by agreeing to listen to workers' grievances (through the ETI investigation), and then putting pressure on their suppliers to work together with the NGOs in developing HEBI (Hale & Opondo 2005, ETI 2005).[29]

Seen from a GVC governance perspective, the HEBI initiative (even when including its participatory auditing principles) like most PSSs does not contest the power structure of the retailer-driven GVC (such as e.g. addressing buying practices which lead to and uphold adverse working conditions). What is does, however, is indirectly to offer retailers some safeguard against conflict, create necessary consensus and 'back-up' from critical voices locally (and in buyer markets), and thus present a means of governing at a distance. For local business the participatory social auditing mechanisms potentially represent contested terrains, because the adaption of these methods is more laborious and potentially leads to more profound changes in working conditions and employer-employee relationships. But as shown, this 'obstacle' seems to have been quite effectively circumvented by local inter-standard cooperation deselecting this particular element of the HEBI initiative.

[29] This pressure also led the large integrated Kenyan flower companies to join ETI in the UK. Thus World Flowers, Flamingo Holdings and Lingarden all joined ETI as new members during 2003/2004 and all three actively participated in the ETI Flower Forum. The ETI Flower Forum was a working group of interested members established in April 2003. It aimed to discuss and address issues existing in both the market and supply sides of the flowers supply chain and to share information and good practice. In December 2004, the Flower Forum ceased to meet separately and has been integrated into the ETI Food Group, a quarterly meeting of members supplying and retailing food and fresh produce (ETI 2005).

4. Conclusion

In this paper I have analysed how PSSs are localized in the Kenyan cut flower industry and illustrated how this localisation process reproduces existing power inequalities (both local and in the GVC). The analysis furthermore shows how local PSSs can be seen as indirectly playing into the governance agenda of retail buyers.

Analysing the legislative governance (who makes the rules and how) of the two Kenyan standard initiatives reveals a business association standard which is strongly shaped by international standards and the demands from retailers. Although with references to local legislation, the KFC standard is an image of existing international standards and inclusion of local stakeholders is limited to larger producers. HEBI, on the other hand, does in several areas go beyond average international social standards and includes local civil society stakeholders (although workers are still not directly represented in the initiative). Through HEBI, civil society organisations have gained better access to workers in the industry and engaged in critical dialogue with business actors. At the same time, new forms of worker representation are legitimised through NGO advocacy. This may have positive implications for women workers and other marginalised groups. However, the conflict between NGOs and unions has intensified and the unions face challenges to their legitimacy as worker representatives and in relation to the traditional tripartite industrial relations structure.

The judicial governance (the way compliance is monitored and assessed) of these standards has proved particularly contested and interesting, not least in relation to integration and interrelations between local standards. While the KFC standard mainly employs a technical audit methodology, HEBI employs participatory social auditing methods, and this is where HEBI distinguishes itself from most existing standard initiatives. The KFC initiative can be seen as a move towards alignment with international standards and audit procedures which focus on documentation and traceability employing a technical audit approach to measuring standard compliance. Thus the KFC standard falls within a tradition of seeing PSSs as a technical tool to achieve social compliance based on outcome standards as opposed to a focus on PSS as a means of enhancing the process through which workers claim their rights (as advocated by HEBI). In other words, one could say that the way quality (in relation to social concerns) is defined, differs substantially between civil society actors focusing on process rights and commercial actors focusing on outcome standards. In the ongoing negotiation of the HEBI initiative this tension is reflected most clearly in the fact that when the HEBI standard is integrated into or endorsed by other local standard initiatives it is to the exclusion of HEBI as a multistakeholder institution and to the exclusion of

key aspects of the HEBI participatory auditing methodology - the main vehicle through which process rights are promoted.

The analysis provided in this paper shows how stakeholders entered HEBI with different agendas and different power leverages. These power asymmetries to some degree determine what issues are negotiated and whose interests count, and partly explain why it is the participatory social auditing method that seems not to have endured cooperation and integration with other Kenyan standard initiatives. In these processes of integration and endorsement, existing power relations are reflected and reproduced. Seen in this light participating in multistakeholder dialogue with conventional adversaries comes cheap for the Kenyan producers.

Placing the local standard initiatives in the context of GVC governance, illustrates how local standard initiatives can be seen as indirectly playing into the governance agenda of retail buyers. First of all, the standards are not contesting the power of retailers. Secondly, by reinforcing demands already posed by retailers the standards constitute a move towards 'self regulation' by producers in developing countries. Thirdly, by being local the standards are helping to avoid conflict through their ability to detect and address noncompliance and disputes at an early stage and in a continuous way. In this way the local standards can aid buyers in assuring producer compliance to social standards. Lastly, local standards, particularly multistakeholder standard initiatives, can enable consensus and cooperation while securing against conflict and criticism (by critical voices locally and in buyer markets) which could potentially disrupt sales. In this way localisation of standards can be seen as indirectly playing into the governance agenda of buyer driven value chains, where the lead firms now endorse (and at times actively promote) local standard initiatives not least because they offer better insurance against conflict, create necessary consensus and 'back-up' from critical voices locally and in buyer markets, and present an effective means of governing at a distance.

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