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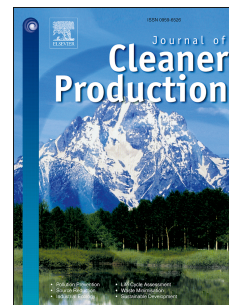
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Private food standards, regulatory gaps and plantation agriculture: social and environmental (ir)responsibility in the Philippine export banana industry

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agriculture: social and environmental (ir)responsibility in the  
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# Private food standards, regulatory gaps and plantation agriculture: social and environmental (ir)responsibility in the Philippine export banana industry

## Abstract

The expansion of retailer-led food production standards over recent years has seen certification against such standards become a de facto condition of access to numerous supply chains. GLOBALG.A.P. standards, in particular, have extended the traditional focus of retailer-led standards beyond food safety to include compliance points addressing environmental protection and labour welfare. This has stimulated considerable research on the implications of standards compliance for small producers. However, little attention has been paid either to the relationships between so-called private standards and state-based regulatory regimes or to the implications of standards compliance for corporate farms, their employees and neighbouring communities. This paper examines these relationships and implications in the context of plantation banana production in the Philippines, focusing, in particular, on gaps that emerge between the ideals of social and environmental responsibility embodied in private standards and actual practices of regulation. It finds that while compliance with private standards is associated with comparatively favourable treatment of labour, deference to poorly enforced national legislation conceals ongoing human rights and environmental concerns.

## Keywords

Environmental regulation, GLOBALG.A.P., human rights, Philippines, private standards

## 1. Introduction

In April 2006, three leaders of the Philippine land reform movement were assassinated. Among them was Enrico Cabanit, National Secretary of the National Coordination of Autonomous Local Rural People's Organizations, gunned down in a public market in Panabo City, Davao Norte, on 24 April (Franco and Borrás, 2007). Cabanit had just come from a meeting with officials of the Department of Agrarian Reform which had discussed manipulation of land distributions made under the Comprehensive Agrarian Reform Program (CARP) by the Floirendo family, former Marcos cronies and operators of the largest Cavendish banana plantation in the Philippines (Franco, 2008). Two years later, another plantation operator, Fresh Del Monte Produce Incorporated, was caught illegally transporting 10 tonnes of the chemical endosulfan on a passenger ferry which sank near Romblon Province. In neither case have those responsible been prosecuted – a situation that critics take as evidence of complicity on the part of regulators as opposed to innocence on the part of plantation operators (Franco, 2008). Certainly, these were not one-off incidents. Evidence of intimidation, violence and corruption, on the one hand, and dangerous and illegal chemical use practices, on the other, has been manifest within the Philippine plantation industry for some decades (Borrás and Franco, 2005). Further, neither were these incidents unique to the Philippines. Similar controversies over

human rights and environmental practices have dogged the plantation fruit industry in Latin America and elsewhere (Shumate and O'Connor, 2010).

Private-sector food standards developed by industry bodies, non-government organizations (NGOs) and/or retailers and other buyers have grown rapidly in response to the risks posed by these issues (Bain et al., 2013). Increasing requirements for businesses at each link in the value chain to certify their activities against detailed quality standards are intended to provide some reassurance that threats to the safety and sustainability of food products – along with associated threats to the reputations and profitability of food retailers and other large buyers – have been identified and managed appropriately. With a small number of very large firms dominating food retail and trade in most advanced economies, compliance with preferred standards has become a *de facto* condition of access to many export markets (Colen et al., 2012; Tennent and Lockie, 2012). Privately-established and regulated quality standards have expanded both in scale and in scope as traditional emphases on the cosmetic and safety attributes of foods have been supplemented with criteria addressing various aspects of environmental and social performance. By 2012, the world's largest retailer-led standard for food production, GLOBALG.A.P., boasted 49 retail members and over 123,000 certified producers across 111 countries (GLOBALG.A.P., 2013).

A considerable body of literature has emerged interrogating the benefits and limitations of standards as tools to improve value chain sustainability (see Seuring and Müller, 2008). As Seuring and Gold (2013) point out, achieving sustainability often obliges firms to take action that exceeds their own organizational boundaries. For retailers and other large buyers, requiring suppliers to comply with minimum standards offers a practical strategy through which to take such action. At the same time though, the extension of influence implied by standards requirements has led to concerns that: (1) existing economic and political inequalities will be amplified due to the exclusion from mainstream markets of small enterprises which cannot afford the costs of changing practices or certifying against standards; and/or (2) that global standards will impose universal production requirements at odds with the local ecological and social specificities of sustainable agriculture (see Bain et al., 2013; Lockie et al., 2013). Research has demonstrated that while improved livelihood outcomes for family and peasant farmers engaging with standards are possible (Henson et al., 2010), so too is the replacement of small-scale producers with plantation or corporate farms better able to absorb the financial and management costs of certification (Hansen and Trifović, 2013; Swinnen and Maertens, 2007).

The fate of small farmers is an important focus of research. However, there are two major gaps in the research literature on private food standards that this paper seeks, in a small way, to address. First, comparatively few studies have examined the impact of private standards on the social and environmental performance of large farms and plantations (for exceptions, see Colen et al., 2012; Melo and Wolf, 2005, 2007). Second, comparatively few studies examine the relationships between private systems of regulation in the food sector and state-based regulation (Lockie et al., 2013). These absences are addressed in this paper through an exploration of standards compliance and regulatory practices relevant to banana plantations operating on the Philippine island of Mindanao. More specifically, the paper investigates: (1) stakeholder engagement in regulatory practices including certification against private standards;

(2) evidence for compliance (including monitoring and enforcement) with relevant regulatory instruments; and (3) interactions and gaps between regulatory instruments.

Before turning to the specifics of this case study the paper will provide some background on the emergence of private standards. It will then examine the conceptualization of private standards and the relationships between such standards and other regulatory instruments and approaches relevant to social and environmental performance.

## **2. Global food, global standards**

By the mid-1990s, major retailers across many of the world's advanced economies were demanding that food producers and processors develop verifiable quality assurance processes (Lockie, 1998; McKenna and Campbell, 2002). At the same time, governments were requiring businesses operating in 'high risk' food sectors to implement safety programs based on Hazard Analysis and Critical Control Point (HACCP) principles and promoting among farmers, more generally, the use of integrated management systems in order to minimize risks associated with farm chemical and fertilizer use (Campbell, 2005). Even the so-called 'alternative' food sector was developing increasingly sophisticated standard-setting and audit processes compliant with international agreements established through Codex Alimentarius and the International Organization for Standardization; facilitating the increasing penetration of mainstream markets by foods labelled organic, biodynamic and fair trade (Lockie et al., 2006). Producers thus faced a plethora of options and requirements for quality assurance and certification including firm-specific retailer or buyer standards, industry-developed codes of practice, quality assurance programs and standards, and legislated quality processes and standards. The standards embedded in these options took a variety of forms including: (1) prescriptive standards requiring the implementation of specific management practices; (2) performance or product standards requiring the demonstration of particular quality outcomes; and (3) meta-standards requiring the implementation of approved quality management systems (see Gunningham, 2009a).

Maintaining certification against multiple standards with often inconsistent management and reporting requirements imposes a range of financial and other costs on producers and other supply chain actors. Not surprisingly, many question whether these costs lead to additional food safety, social or environmental benefits relative to certification against one standard and/or compliance with existing government regulations (Tennent and Lockie, 2012; Thompson and Lockie, 2012). Further, as the reach of buyer-driven private standards has extended, so too has their complexity and the compliance costs they impose (Ponte and Gibbon, 2005). The notion of quality has expanded from intrinsic product attributes obvious to the consumer such as appearance and taste to include less immediately discernable product attributes such as food safety, along with a host of what are referred to as credence attributes. These may include any quality or value associated by consumers with the product including, for example, the environmental, social and animal welfare performance of production and distribution chains, the perceived trustworthiness of value chain actors or regulators, the authenticity or naturalness of production systems, and so on (Ponte and Gibbon, 2005). Some of the aforementioned standards associated with alternative

food networks have, of course, a long history of appeal to credence attributes. Where certified products use such appeals to attract distinct price premiums producers are potentially compensated for additional costs. However, retailer-led standards function, for the most part, as business-to-business standards that are not advertised to consumers. They are, simply, a cost of doing business that may, or may not, enhance profitability through improved market access (Henson et al., 2010).

GLOBALG.A.P., as mentioned above, is particularly interesting in this light due to its rapid growth, global reach, and explicit focus on rationalization and harmonization. The GLOBALG.A.P., or Good Agricultural Practice, standard grew out of an initiative launched in 1997 by the Euro-Retailer Produce Working Group (EUREP) to harmonize multiple quality assurance schemes relevant to mainstream farming systems (Campbell, 2005). EUREP released its first standard covering fruit and vegetable production in 1999. While ostensibly based on HACCP principles of identifying and monitoring risks the standard was, in fact, highly prescriptive and detailed specific management practices in relation to: (1) food safety and traceability; (2) the environment; and (3) worker health, safety and welfare. Additional modules were subsequently developed covering other aspects of food production and supply chain management and, in 2007, EUREP was renamed GLOBALG.A.P. to reflect its growing reach outside Europe (Tennent and Lockie, 2012). The GLOBALG.A.P. Certificate, or Integrated Farm Assurance Standard, may now be applied to all horticulture, agriculture, livestock and aquaculture activities and producers have the voluntary option of including add-on modules that extend requirements in relation to social performance and animal welfare. According to GLOBALG.A.P.:

By complying with a single harmonized global standard for safe and sustainable food production, producers can demonstrate their commitment to Good Agricultural Practice. GLOBALG.A.P. Certification stands for food safety, sustainability, social responsibility, traceability, quality assurance and reliability. This means wider access to new markets for your products and added reassurance for your business partners and consumers worldwide (GLOBALG.A.P., 2013: 26).

Regardless of GLOBALG.A.P.'s reach, its actual ability to harmonize standards and rationalize costs is limited in at least two key ways.

First, many competing quality assurance programs remain in the market and are likely to remain there through their links to other influential supply chain actors, NGOs and others. The Rainforest Alliance Sustainable Agriculture Standard (SAS) is particularly relevant to this paper due to its uptake by several Philippine banana plantations (see Section 4 below). Developed by a network of conservation NGOs in the early 1990s, the SAS now covers more than 60,000 farms in over 25 countries (Sustainable Agriculture Network, 2010). These include all banana farms owned by Chiquita – one of the world's largest fruit producers, buyers and distributors – and a growing number of independent farms supplying Chiquita (Shumate and O'Connor, 2010). Relative to GLOBALG.A.P., the Rainforest Alliance SAS contains more detailed and prescriptive environmental and social requirements but no specific food safety and traceability requirements. Environmental components, or 'principles', include ecosystem conservation, wildlife protection, water conservation, integrated crop management, soil management and conservation, and integrated waste



management, while social components include fair treatment and good working conditions for workers, occupational health and safety, and community relations. Rainforest Alliance also functions as a meta-standard, requiring certified farms implement social and environmental management systems based on principles of continuous improvement.

Second, GLOBALG.A.P.'s capacity for harmonization and rationalization is limited by variability in state-based legislative requirements applicable to food production, processing and retail. Private sector standards are necessarily brought into interaction with other regulatory tools and potentially vary, as a consequence, in their operational content, effectiveness and impacts across jurisdictions. It is this relationship between ostensibly universal private-sector standards and the regulatory context of the nation-state with which the next section of this paper is particularly concerned.

### **3. Private standards as regulatory tools**

By increasing the visibility of actors' actions to others in the value chain standards enable the maintenance of trust in relationships that are distant or indirect. Nevertheless, as Mol (this issue) points out, enhanced visibility or transparency is not equally distributed. While producers and processors are subject to increased surveillance and regulation by buyers, the reverse is rarely true (see also Mutersbaugh, 2004). As regulatory tools, standards empower those with capacity to control the content of standards and/or to impose demands for certification on others. This is generally seen as responsible for something of a realignment of power in the agrifood sector from transnational agrichemical, commodity trading and food processing businesses to large retailers (Bain et al., 2013). However, a key factor in the rapid growth of retailer-led private standards from the early 1990s was the threat that if retailers did not do more to protect the integrity and safety of their supply chains then governments would force them to do so.<sup>1</sup> The UK Food Safety Act 1990, for example, established financial and custodial penalties for a variety of acts including those that render food injurious to health or which mislead consumers (Aasprong, 2013). To defend themselves against such charges in the event of a food safety incident businesses must demonstrate 'due diligence'; that is, that 'all reasonable care' has been taken to avoid committing an offence (Food Standards Agency, 2009). As Lockie et al. (2013) point out, demonstration of due diligence in the management of risks associated with well established activities is usually achieved through reference to standards and codes of conduct. While legal directives to implement HACCP-based safety systems may focus on a small number of 'high risk' food sectors, the due diligence requirement in food safety legislation makes adoption of such systems more-or-less mandatory for any business seeking to reduce its potential liability for safety breaches.

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<sup>1</sup> It does not necessarily follow from the growth of private standards that power as exercised through those standards is always centralized and hierarchical. Producers, for example, may use certification against multiple standards as a strategy to reduce reliance on one major buyer (Tennent and Lockie, 2012). In light of evidence that standards-governed value chains are exclusionary (e.g. Schuster and Maertens, 2013) the key factor here is producers' capacity to mobilise resources to pursue one or more certifications (Melo and Wolf, 2007).



Private food standards have developed and continue to evolve, therefore, through interaction with state-based regulatory regimes. HACCP principles function in these interactions as meta-standards to guide the evolution of private standards in ways that meet the objectives of government agencies. But food safety laws are not the only legislative requirements relevant to private food standards. Explicit attention is thus paid in the GLOBALG.A.P. standard to additional legal requirements pertaining, most particularly, to environmental protection and the rights, occupational health and safety of employees. In order to explain the relationship between government and private requirements, GLOBALG.A.P.'s Integrated Farm Assurance Version 4 states that:

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: 5; emphasis in original).

The GLOBALG.A.P. standard is thus positioned as subordinate to state legislation wherever the requirements of that legislation exceed those of GLOBALG.A.P. In practice, this is likely to be often. The majority of GLOBALG.A.P. compliance points relevant to worker welfare and the environment impose prescriptive requirements to produce risk assessments, plans, procedures, records and training opportunities but provide little (with the notable exception of chemical use and storage practices) guidance as to the level of performance expected. Businesses wanting a more tangible endorsement of social performance may certify against the GLOBALG.A.P. Risk Assessment on Social Practice (GRASP) voluntary add-on module. However, GRASP Assessments are available only for countries with National Interpretation Guidelines specifying relevant legal requirements including national minimum wages, maximum working hours, minimum age of employment etc. In other words, all businesses certified against GLOBALG.A.P. are expected to comply with all relevant national legislation. However, unless they have voluntarily sought certification against the add-on GRASP module (and assuming it is available in their country) businesses are not formally required to demonstrate their compliance with labour laws. None are required to demonstrate compliance with environmental laws. Despite the claim cited above that GLOBALG.A.P. certification stands for, among other things, sustainability and social responsibility, GLOBALG.A.P.'s actual requirements provide little environmental or social transparency.

The Rainforest Alliance Sustainable Agriculture Standard, by contrast, states that certified 'farm's upper management must demonstrate a commitment to certification and to complying with the requirements stipulated in the standard *and by law*' (Sustainable Agriculture Network, 2010: 17; emphasis added). Further, the standard requires that legal provisions pertaining to employees' pay and conditions must not only be observed; they must be communicated to workers. Of 99 criteria in the standard, 15 are defined as 'critical' and require 100 percent compliance. Conversely, certified farms are required to demonstrate only 80 percent compliance across all criteria (or 50% against each major principle, such as water conservation), leaving some room for non-compliance with applicable laws.

Ensuring positive regulatory outcomes, however, is more than a matter of establishing and policing what is and is not required of businesses under various legislation and standards. Interactions between private standards and state legislation lead to the development of what regulatory theorists refer to variously as hybrid, responsive, collaborative, networked, smart or co-regulation (see Baldwin and Black, 2008; Braithwaite, 2006; Connor and Haines, 2013; Dorbeck-Jung et al., 2010; Gunningham, 2009a, 2009b; Taylor et al., 2012). According to Braithwaite (2006), multiple levels of accountability are required in hybrid public-private systems to counter the risk of no one agency actually taking responsibility to ensure positive regulatory outcomes. Limited capacity, he argues, among state agencies to monitor or enforce regulations; deference in private standards to laws that are not enforced; and/or deference in government legislation to standards that are not adequately audited and verified can all lead to regulatory failure. Hybrid systems demand, further, that regulators be flexible and proactive in response to the behavior of those they seek to influence – modifying sanctions and incentives as necessary – and that the targets of regulation engage positively, in turn, with regulatory practices (Baldwin and Black, 2008; Black and Baldwin, 2010; Braithwaite, 2006). Reflecting these demands, Section 4 of this paper will present a case study examining: (1) stakeholder engagement with regulatory practices including certification against private standards; (2) evidence for compliance (including monitoring and enforcement) with relevant regulatory instruments; (3) interactions between regulatory tools and strategies, consistency of those tools and strategies, regulatory gaps relevant to policy objectives; and evidence of regulatory reflexivity with respect to corrective responses and changes in the operating environment.

#### **4. Private food standards in the Philippine export banana industry**

##### *4.1 Case study site: Mindanao, Southern Philippines*

Philippine export fruit production is concentrated on the island of Mindanao. By 2012, Mindanao was responsible for approximately 60 percent of total agricultural exports from the Philippines at a total value of over US\$3 billion (Mindanao Development Authority, 2013). 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 on plantations operating under one of two basic structures: (1) grower cooperatives comprising small farmers granted land under either the Comprehensive Agrarian Reform Program (CARP) or the Indigenous Peoples Rights Act (IPRA); and (2) agribusiness plantations operated by mostly Filipino companies. In the latter case, much of the land under the control of commercial plantation operators is leased from agrarian reform beneficiaries and indigenous peoples. This is taken up again below in Section 4.4.

These land tenure and business arrangements have long historical antecedents and remain the focus of considerable conflict and concern. Attempts to colonize the Islamized and non-Islamized (or *lumad*) indigenous peoples of Mindanao through periods of Spanish and America occupation of the Philippine Islands from the 16<sup>th</sup> to mid-20<sup>th</sup> centuries only ever achieved partial success (Federspiel, 1998; Hayase,

2004). Nonetheless, military suppression and an acceleration of Christian in-migration in the early 20<sup>th</sup> century ensured Mindanao's incorporation when the Republic of the Philippines was declared in 1946 (Tigno, 2006). Spontaneous migration following World War Two was supplemented with government programs to resettle landless farmers from Luzon and the Visayas; attempting, in the process, both to defuse peasant unrest in source provinces and to neutralize insurgency in Mindanao (Tigno, 2006). Mindanao, 'the land of promise', was treated as an unexploited frontier and its inhabitants routinely displaced to establish agricultural colonies and agribusiness plantations (Vellema et al., 2011). Resistance to dispossession was not placated but, with the assistance of the Philippine state, the plantation economy continued to expand.

The ongoing relevance of conflict over land is well illustrated by the incident referred to in the opening paragraph of this paper – the 2006 murder of farmworker representatives including Enrico Cabanit, former employee of the Floirendo-owned WADECOR plantation. During the 1980s, the Floirendo family secured control of approximately 8,500 hectares of contiguous land for plantation agriculture in Davao del Norte, including the 5,212 hectare DAPECOL Prison Farm. Resident small farmers were forcibly evicted in order to consolidate these lands (Borras, 2006a). In 1988, the Comprehensive Agrarian Reform Program was legislated by the Philippine Government but export plantations won a ten year deferment of CARP coverage. Toward the end of this period, WADECOR summarily retrenched thousands of workers, including Cabanit, and established controlled unions.<sup>2</sup> Management was then transferred to a separate Floirendo company, TADECO, in 1994 to justify exclusion of the retrenched workers from subsequent agrarian reform (Franco, 2008). Despite continuing legal and extra-legal harassment workers and former workers continued to organize and, in 2001, a portion of the WADECOR property was earmarked for redistribution. Implementation, however, of the redistribution, along with determination of who was eligible to benefit and apportionment of remaining WADECOR land, were delayed by legal action. Inspection of disputed land by the Department of Agrarian Reform scheduled for 27–28 April 2006 was pre-empted by Cabanit's assassination on the 24th (Franco and Abinales, 2007). Those lands that have been redistributed are subject to a 60 year leaseback arrangement that provides worker-beneficiaries with few rights and little additional income (Borras, 2005, 2006b). DAPECOL lands, meanwhile, have been exempted from agrarian reform and the Floirendo's were able to extend their lease in 2003 at approximately five percent of the prevailing market rate (Borras, 2006a).

The Floirendos may have earned a reputation as 'the most despotic and notorious of the country's domestic banana elite' (Franco and Abinales, 2007: 319), but manipulation of the agrarian reform program, financial coercion, violence, and various other forms of state-sanctioned dispossession are by no means confined to Floirendo plantations (Borras and Franco, 2005, 2012; Franco, 2008; Vellema et al., 2011). Land redistributions on Mindanao have largely by-passed those dispossessed by plantation agriculture in favour of Christian settler-workers loyal, or subservient to, plantation operators (Vellema et al., 2011). As Franco and Abinales (2007: 322) point

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<sup>2</sup> Approximately 40 percent of the region's banana workforce was retrenched between 1988 and 1998 (Borras and Franco, 2005). The intent, according to Borras and Franco (2005: 338) was to rid the industry of potential 'troublemakers'; that is, workers 'interested in or capable of organizing autonomously to claim legal land rights once the deferment period ended'.

out, ‘the Philippine state is failing abjectly to fulfill its obligations to respect, protect and fulfill the human rights of the rural poor population’.

If there is any one exception to the rule that plantation agriculture has functioned on Mindanao as a tool of suppression and internal colonization it is the 1500 hectare La Frutera plantation in the Municipality of Datu Paglas, Maguindanao Province. In the 1980s, Datu Paglas was riven by insurrection, clan conflict (*rido*) and lawlessness (de la Rosa and Abreu, 2003). In 1997, the then mayor, Datu Ibrahim Paglas, leased land at below market value to La Frutera (a joint venture involving Chiquita-Unifrutti as well as Philippine and Saudi capital), convinced other landholders to lease land, and persuaded Moro Islamic Liberation Front (MILF) commanders to withdraw forces from the district (International Alert, 2006). Employing over 2000 local workers, including many former MILF combatants, the plantation is seen by many as a model example of peace-building through development. But it is also seen as an example that has not been replicated. Investment in Maguindanao and other predominately Muslim provinces remains sluggish and plantation expansion a focus of considerable social and political conflict. As the largest plantation certified against the Rainforest Alliance standard, La Frutera will be discussed again below.

Fieldwork for this case study was conducted in Mindanao in late 2010. Semi-structured interviews were held with approximately 30 representatives of government agencies, non-government organizations, export banana plantations and cooperatives, and private research foundations. In order to protect the anonymity and safety of research participants, no information is provided on the sources of data used in this paper unless those data are drawn from other publicly available sources.

#### *4.2 Stakeholder engagement in regulatory practices*

In the case of ostensibly private regulation relevant to the Philippine export banana industry, buyers make frequent visits to Philippine plantations to communicate requirements and audit chemical use practices. However, there was little evidence that, to date, they are demanding certification to any standard other than the International Organization for Standardization’s generic series on the development of quality systems (ISO9000). These demands were consistent with government requirements in the Philippines 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. Consequently, virtually all businesses involved in the export fruit industry are certified to ISO9000. Any other certifications are undertaken in addition to ISO9000, not in place of it.

At the same time, the Philippine government has attempted to encourage producer and exporter engagement with more comprehensive private standards. 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). The Bureau has developed over 100 product standards in addition to a small number of cross-product standards including the Specification for Organic

Agriculture (2003) and the Code of Good Agricultural Practices for Fresh Fruits and Vegetable Farming (PhilGAP-VF)(2007). The Bureau 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 the Bureau 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 runoff shall not be stored for use in irrigation).

To encourage certification to PhilGAP-VS, the Bureau of Agricultural and Fisheries Product Standards has been mandated to meet most costs of inspection and testing on behalf of applicants. Despite this, by 2012, only five businesses were certified (including one export fruit company, the Floirendo-owned Tagum Agricultural Development Company (TADECO)). While multinational buyers have reputedly been asking producers to begin 'alignment' to GLOBALG.A.P. standards this appears to have led to little interest in PhilGAP-VS. One plantation operator, Davao Agricultural Ventures Corporation (DAVCO) undertook GLOBALG.A.P. certification in 2009 and at least two other plantations certified parts of their operations. On the whole, producers and buyers appear to have been monitoring the development of GAP standards and to be incorporating GAP requirements within existing quality systems in order to pre-empt future market or government demands. They have not been engaging with GLOBALG.A.P. proactively or demonstrating any motivation other than a readiness to accommodate requests for GLOBALG.A.P. certification should they arise. According to third party certifiers active in Mindanao, exporters were more actively pursuing accreditation against ISO22000 food safety requirements than against GLOBALG.A.P.

The two exceptions to this pattern have been buyers, NGOs and producers involved in certified organic banana production and trade<sup>3</sup> and the multinational company Chiquita which, as detailed above, has been requiring since the 1990s that suppliers begin certifying against the Rainforest Alliance Sustainable Agriculture Standard. On Mindanao, Chiquita has supported training and certification against the Rainforest Alliance standard for a small number of farmer cooperatives. However, beyond La Frutera (described in Section 4.1 above) and Mount Kitanglad Agri-Ventures (operators of a 600 hectare plantation in Lantapan, Bukidnon) interest in Rainforest Alliance and other eco-standards has been limited.

It is certainly the case that certification to Rainforest Alliance standards has imposed costs on La Frutera and Mount Kitanglad Agri-Ventures that other plantation operators may consider onerous; most notably, the removal of land from banana cultivation in order to establish vegetated buffer zones and wildlife habitat. However, compliance costs such as these cannot fully explain the more widespread lack of interest in Rainforest Alliance certification. To begin, the La Frutera plantation in Datu Paglas is reputed to be the most profitable in Mindanao (International Alert,

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<sup>3</sup> Although no data are available on certified organic banana exports from Mindanao, interviews with industry representatives suggest that supply, currently concentrated among a small number of farmer cooperatives, is inadequate to meet demand,



2006).<sup>4</sup> Further, all plantations are required under Philippine law to secure an Environmental Compliance Certificate which requires, among other things, that treed buffer zones be maintained between banana plants, waterways and populated areas such as houses and public roads. In this respect, Rainforest Alliance standards largely replicate state requirements. Additional costs arise, as the next section explains, not through certification and legal requirements per se but through compliance with and enforcement of those requirements.

### *4.3 Compliance and enforcement*

Compliance and enforcement imply a number of capacities on the part of regulators and regulatees. Regulators must be able to detect non-compliant behavior, enforce penalties or implement other strategies, and evaluate the effectiveness of their actions (Baldwin and Black, 2008). Regulatees must understand rules and possess the financial and other resources to follow them (Dorbeck-Jung et al., 2010).

Alignment with GLOBALG.A.P. standards required changes in management that appeared well within the capacities of export plantations. Many of these changes were arguably minor for the large plantations certifying against or ‘aligning’ their practices with GLOBALG.A.P. (more latrines were installed, field practices were recorded in a slightly different format, etc.). Despite complaints about the cumulative financial impact of numerous apparently small changes, these plantations had sophisticated internal quality systems and infrastructure including specialist staff charged with reconciling and managing multiple certifications. 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. As mentioned above, plantations are required to secure Environmental Compliance Certificates which are monitored by a regulatory office within the Department of Agriculture. However, as critics of the banana plantations point out, the only plantations on Mindanao meeting the buffer zone requirements of Environmental Compliance Certificates are those audited and certified independently by Rainforest Alliance. On other plantations, bananas clearly are planted immediately adjacent to plantation boundaries, roadways, residential areas, schools, waterways etc.

The inability or unwillingness of Philippine regulators to enforce compliance with buffer zone regulations raises several issues. First, it begs the question as to whether other regulations, such as those concerning wages and working conditions, are similarly left unenforced. While officers, for example, of the Department of Labor and Employment regularly inspect plantation records they do not necessarily interview workers or undertake other investigative activities that might ascertain the truthfulness of those records. Second, the lack of compliance and enforcement is not likely to be redressed by GLOBALG.A.P. due to the proviso within this standard that, while certified businesses are expected to comply with national legislation, they are not required to demonstrate that compliance. Third, on a strict financial basis this

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<sup>4</sup> The profitability of La Frutera is likely linked to minimum wages for agricultural work which are lower in Maguindanao and elsewhere in the Autonomous Region of Muslim Mindanao than in other major banana growing provinces (232 Philippine Pesos per day in 2012 compared with P291 in Davao Region)(DOLE, 2013). The important point here though is that the plantation is able to maintain this competitive advantage despite compliance costs associated with Rainforest Alliance certification.



places competing standards such as Rainforest Alliance at a distinct disadvantage relative to GLOBALG.A.P. and generic quality systems. The requirement in Rainforest Alliance standards that compliance with all or most applicable law is actually demonstrated has the clear potential to impose significant additional costs on certified businesses in countries and sectors where compliance with relevant legislation is generally low. This is borne out by Melo and Wolf's (2005, 2007) research in the Ecuadorian banana industry which found that farms certified against the Rainforest Alliance Sustainable Agriculture Standard did exhibit a higher level of environmental performance and legal compliance (see also Melo and Wolf, 2005, 2007). In fact, Melo and Wolf (2007: 268) conclude that:

noncertified farms are consistently out of compliance with Ecuadorian laws addressing water quality, agrochemical usage and storage, worker safety, and waste management. Since only a small percentage of Ecuadorian bananas are regulated by certification, the state's failure to enforce existing legal controls is highly significant.

In the absence of buyer pressure or support for certification to standards such as Rainforest Alliance it would appear likely that industry trend towards GLOBALG.A.P. alignment will do little to encourage legal compliance.

#### *4.4 Regulatory interactions and gaps*

Regulatory logics and strategies may interact in hybrid systems to improve regulatory outcomes (Baldwin and Black, 2008). Conversely, they may generate unexpected and/or undesirable outcomes including the emergence of regulatory gaps that allow for significant harm to occur over and above that caused by non-compliance. Effective regulation therefore requires the constant evaluation and adaptation of regulatory strategies by both state and private actors (Gunningham, 2009b).

Enforcement concerns as discussed above notwithstanding, a number of the corporate banana plantations on Mindanao appear to offer favorable employment conditions relative to other agricultural businesses. Plantations cooperating in this research provided workers and their families with housing, education, healthcare, recreation and livelihood opportunities over and above cash wages. Plantation employees interviewed – from field and packing house workers to senior management – were grateful for the opportunities they had been afforded through their employment and proud of their personal and collective achievements. The extent to which these observations may be generalized is, of course, an open question – as is the matter of whether participating plantations were fully compliant with all relevant labour laws. Nevertheless, at least two conclusions regarding the interaction of private standards and state legislation, and the creation of regulatory gaps, can be drawn.

First, the role of private standards in upholding employment conditions and ensuring compliance with legal requirements was negligible. While farms certifying to Rainforest Alliance are required to demonstrate compliance with both local labour laws and international agreements concerning salaries, freedom of association, working hours, child labour etc. this standard was adopted by only two plantations. Other plantations cooperating in this research either met or exceeded legal

requirements in respect to a number of employment conditions (e.g. housing, education and healthcare) while very clearly not complying with a range of other legal requirements (e.g. buffer zones around residential areas to limit pesticide exposure).

Second, favourable employment conditions on a number of large plantations obscure the legally and morally questionable ways in which land has been acquired and with which nearby communities are still treated. The story of the TADECO plantation outlined in Section 4.1, for example, is a story of indigenous peoples' displacement, manipulation of agrarian reform processes, high-level corruption and the violent suppression of dissent. Similar stories can be told of other plantations and Mindanao remains a focus of allegations of national and international land-grabbing (Vellema et al., 2011). Farms certified under the Rainforest Alliance standard are required to consider their relationship with local communities and to demonstrate that farming is undertaken with legitimate land tenure. However, detailed social criteria – as already discussed – are absent from the GLOBALG.A.P. Integrated Farm Assurance standard and from generic quality standards. Even the voluntary GLOBALG.A.P. GRASP module (for which no Philippine National Interpretation Guidelines are yet available) deals solely with the rights of employees. In contrast with Rainforest Alliance, the rights and interests of local communities and the legitimacy of land tenure simply lie outside GLOBALG.A.P. standards and their implicit definition of social responsibility.

## 5. Conclusion

International quality standards lend a veneer of harmonization and equivalence to what remain highly nationalized systems of regulation and enforcement. Despite strong rhetoric concerning the social and environmental responsibility credentials of standards like GLOBALG.A.P. there is very little in this standard or in its inspection and verification procedures to ensure such goals are met. Social and environmental requirements within the GLOBALG.A.P. standard centre largely on the production of risk assessments and plans. Requirements to comply with more demanding national legislation are effectively meaningless where state monitoring and enforcement is weak given that certifying businesses are not actually required to demonstrate legal compliance. By claiming to stand for social responsibility while deferring to unenforced state regulations, on the one hand, and simply ignoring critical issues such as the legitimacy of land tenure, on the other, GLOBALG.A.P. papers over significant regulatory failures and gaps.

While Rainforest Alliance standards are less problematic, it is GLOBALG.A.P. standards that Philippine state agencies have been directed to promote and against which local standards are benchmarked. Even were National Interpretation Guidelines for GLOBALG.A.P.'s voluntary GRASP modules available for the Philippines, the regulatory gaps identified in this paper would remain unfilled. Plantation banana plantations do not, in the main, perform badly in relation to those matters addressed by GRASP (worker health, safety and welfare). It is matters related to the long, violent and continuing history of conflict over agricultural land use that remain conspicuously absent.

It is not unreasonable in light of the Philippine experience to ask just how much can be expected of standards in relation to complex social and environmental issues? Indeed, it could be argued that rationalized systems of monitoring and verification are necessarily limited in scope; that they are suited to encouraging and verifying compliance with a baseline set of reasonably universal expectations, but that consideration of altogether more serious matters of human rights and environmental justice belong to other political spheres. To the extent that this is true, however, it must be acknowledged that certification to standards such as GLOBALG.A.P. stands for a very partial conception of responsibility and sustainability.

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**Highlights**

Private standards and state legislation interact to produce regulatory outcomes.

We examine these interactions in the Philippine export banana industry.

Poorly enforced legislation creates regulatory failures and gaps despite standards compliance.

Failures and gaps are particularly evident in relation to environment and human rights.