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Int. J. Food System Dynamics 7 (1), 2016, 14-23

INTERNATIONAL JOURNAL ON FOOD SYSTEM DYNAMICS

Value Chain Governance and Governmentality of Horticultural Exporters by Developing Economies: A perspective of Kenya's Fresh Fruits and Vegetable Export Sector

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Received October 2015, accepted November 2015, available online January 2016

ABSTRACT

The domain of governance has largely been extolled by Nations, States or governmental and intergovernmental actors especially in upholding Nations' sovereignty and values. While this still holds, governance complexity has been reinforced by establishment of global value chains such as in food and agriculture commodities increasingly being influenced and controlled by non-state actors in different parts of the world by both corporate and retail actors through private governance mechanisms. These mechanisms often fall short of universal standards and the resultant effect is ramified through proliferation of standards that result to state of governance that is constantly being redefined as 'codes of colours'. This paper thus seeks for an alternate dimension based on Foucault's governmentality theory. The quest for this overarching theory is based on its mediatory role that regulates the excesses of private interests in regulations while not prioritizing any state's sovereignty but views governance inclusively to both the State and non-state actors; this view promotes the broader understating of global value chains in the global economy of the 21st century. The paper's methodology is based on literature review pertinent to governance theory, value chain governance, governmentality as its key variables in light of the agrifood sector. It applies the value chain discourse and governmentatity in light of the Kenya's Horticultural export and strategic positioning to the EU market. This paper's novelty in light of the discourse and building on the body of knowledge and for the plausible ways and means to re-articulate value chain governance in the global economy while creating a viable alternative between the States, and Non-State actors for the benefit of both the upstream agents and downstream customers

Keywords. Value Chain Governance, Governmentality, Horticulture, Private Standards & Legality

1 Introduction

Governance to inter-firms and institutional relationships is understood as a mechanism through which non-market coordination of activities in the chain is achieved (Humphrey & Schmitz, 2001). Governance in the context of global value chain approach is expressed in such a way that firms in the chain set or enforce the parameter(s) under which others in the chain are to operate. Governance to value chain management matters since it serves as the key to market access, expedites on acquisition of production capabilities, distribution of goods, leverage on policy initiatives and aids in formal and technical assistance (Humphrey & Schmitz, 2001:6); this forms the backdrop to this research under which agrifood value chains are evaluated in line with the governance intricacies and akin theories that affect it as it fulfils the core objective of customer satisfaction in the globalised economy. From sourcing of food products from various countries of origin to the adoptive strategies adopted by these actors in the wake of legal pluralism due to myriad of regulations, standards & accreditations set from the demand side to the increased customer sensitivities and quality competition governance is highly involved. An alternate dimension based on Foucault's govermentality theory is in this research proposed to encapsulate the varied and complex setting that relates to emerging concerns, trends and typologies in the trajectory of agri-food chain governance. This paper proceeds from the expose of the various value chain governance typologies in literature and the resultant challenges of legal pluralism; the search for legality in the sprawling private regulations is elaborated in light of the standards, accreditation and third party certifications sought. A plausible shift from governance to Foucault's governmentality is explored especially as applied by non-state actors that have subtle yet intangible control of the entire supply chain of given products from the various far removed countries of origin to their destination. Finally, Kenya's Fresh Fruits and Vegetable export sector is evaluated as the case in point for this earmarked shift in value chain governance.

2 Value chain Governance Typologies

Value chain governance concept has been promoted as consequence of the emergent new approaches to supply chain management (SCM) largely based on allocation of resources to core competencies and an increased trend towards outsourcing and sub-contracting of non-core functions. This trend has resulted to a general loss of control over the stages of production and distribution process especially to geographically dispersed regions. Vurro, Russo & Perrini, (2009), led to broadening the concept of value chain governance from inter-firm relationships to global fora due to the coincidence of falling regulatory barriers to international trade; advances in communication technologies and declining transportation costs.

The exposition on governance structures and their different typologies was improved by Gereffi's seminal work (1994, 2001), as based on Williamson's (1979) economic view of governance through which governance was viewed from the extremities of markets and hierarchies. To Gereffi (1994, 2001) the typologies of governance were either producer driven or buyer driven; producer driven commodity chains are found largely in capital intensive sectors that require a huge capital outlay; while buyer driven governance forms relate to retailers or markets providing the leading role in managing the supply chains. The role of the lead firm being the key factor in coordination of activities, goods/services and information along the chain (Ponte & Gibbon, 2005; Gibbon, Bair, & Ponte, 2008).

A further improvement to the governance concept by Gereffi, Humphrey, & Sturgeon, (2005) elaborated that due the wide range of inter-firms governance types in the global industries; there was the realisation of complexity of inter-firms relationships in the global economy. To them, "the key insight is that coordination and control of global scale production systems, despite their complexity, can be achieved without direct ownership" (Gereffi et al., 2005:81). These authors thus reviewed governance taking the form of coordination compared to the prior view of governance as driver that was based on the understanding of global commodity chains. This nuance points to the value dimension of the coordination as it aims in fulfilling customer needs (Zokaei & Hines, 2007) while improving Williamson's economic view of governance as a form of governance with extremities either by market or by hierarchies; Gereffi et al., (2005: 85) added to Williamson's categories three distinct governance types: modular, relational and captive. Consequently, their typology indentified five basic typologies of governance. This typology as we have it today is based on the determinants of: (i) complexity of information and knowledge transfer; (ii) codification of information and knowledge transmitted to actors in a transaction, and (iii) the capabilities of actual and potential suppliers in relation to the requirements of the transactions. Significant to these types of governance structures are the characteristics related to complexity of transactions, ability to codify transactions, capability of the supply base and degree of coordination & power asymmetry (Gereffi et al., 2005; Gibbon et al., 2008). Table 1. summarises these relationship of the various governance types and their determinants.

Table 1.
Key Determinants of Global Value Chain Governance

Governance type	Complexity of Transaction	Ability to Codify transactions	Capability in the supply-base	Degree of explicit coordination and power asymmetry
Market	Low	High	High	Low
Modular	High	High	High	↕
Relational	High	Low	High	
Captive	High	High	Low	
Hierarchy	High	Low	Low	High

Source: (Gereffi et al., 2005: 87)

Against this background of governance typologies; global food supply chain systems seem to combine all the five governance types. However, Martino & Perugini's (2006), call for a specified form of food supply chain governance influenced by food quality and safety; this warranted a specified type of interpretation in governance beyond the generic typologies to the subtle attributes related to food safety and quality. Food safety and quality is a broad concept that includes physical product attributes as well as process attributes. The safety characteristics of a food product are usually classified as corresponding to experience, and prevailing credence classes. "...the quality of a product may be known before purchase (search good), after purchase (experience good) or only with difficulty even after consumption (Credence good)" (Martino & Perugini, 2006:435).

3 Food Value Chain Governance and Legal Pluralism

Fresh fruits and vegetables (FFV) export value chains among other agricultural exports have continually witnessed rapid changes. Some of the changes have been related to: (i) food safety and assurance especially to the developed countries where they were exported to; these changes have renewed the need for an elaborate governance system in the entire food value chain specifying the itinerary from the country of origin. (ii) Governance concerns have further been precipitated by recent paradigm shift from producer driven value chains to demand driven value chains; structural changes related to globalization of supply chains hence cutting down on mass production that was not based on demand; (iv) quality based competition (Lee, Gereffi, & Beauvais, 2012) and (iv) the emergence of high value commodity good also referred to as credence goods have also played a key role in these changes (Reardon, Codron, Busch, Bingen, & Harris, 2001) Safety characteristics of a food product are normally classified as corresponding to experience, and prevailing credence classes.

Traditionally, the domain of governance was left to the governmental and intergovernmental actors; while this still holds for each state or country (McMahon, 2011), governance of food and agriculture commodities on a regional and global level are increasingly becoming influenced and controlled by both corporate and retail actors through private governance mechanisms such as quality and safety standards, private codes of conduct, ethical trading and appeal to corporate social responsibility. Significantly, retail actors have established bodies such as Euro Retailer Produce Working Group for Good Agricultural Practice (EurepGAP) and Global Good Agricultural Practice (GlobalGAP) (Mausch, Mithöfer, Asfaw, & Waibel, 2009) which have imposed private regulations with regulatory protocols relating to pesticide residues, field and pack house operations, and traceability (Narrod, Roy, Okello, Avendaño, Rich & Thorat, 2009; Okello, Narrod, & Roy, 2011) these have been implemented albeit voluntarily to FFV exporters who wish to be prequalified to these premier retailing outlets in the developed countries. To these exporters in the developing economies, this trend means further implementation of requisite resources and infrastructure in order to remain competitive while striving to meet the set certification, standards and regulations.

According to Busch, (2010) standards, play a vital role in the new globalised economy as they often replace formal legal frameworks with far more flexible and responsive law-like rules and regulations. To Busch (2010):

> These differentiated standards allow firms to discipline suppliers as well as to reduce the pressures of price competition…They are market-driven in that the sanctions involved for noncompliance are not enforced by the state, but by the market. Yet it is precisely this fact that has to date made this form of governance largely invisible (Busch, 2010:67).

Although standards are hardly sufficient to a new governance regime, effective governance through standards requires several additional features normally found in legal regimes. These legal regimes are characterized by Busch (2010) as Tripartite Standards Regime (TSR) that consist of standards, certification, and accreditations. TSR develops a chain of proofs through the process of having standards approved by certified bodies and further, these certifying bodies have to be accredited to do the certifications; this constitute the TSR regime. Respectively, this is characterized into three certification levels; first level involves party certification where the seller certifies to the buyer that the product meets standard. Second level certification involves the buyer checking to ensure that the good or service offered by the seller meets the standards while third level involves Third-party certification (TPC). TPC involves independent agencies doing the checking and reporting to both the buyer and the seller. As the certifiers take up their roles, the process of TPC is put to question. How are we to know that a given certifier is reliable. The solution is to create bodies that accredit certifier attesting to their conformity to the proper standards of the certification (Busch, 2010: 67-68; Hatanaka, Bain, & Busch, 2005); a further ramification of the entire process. To Jahn, Schramm, & Spiller, (2005) this process is overtly costly and to Gellynck, Verbeke, & Vermeire, (2006) this third party certification process mostly favours procurement agencies in their acquisition strategies compared to the ultimate consumer to whom the certification is mostly designed.

Despite the known motivation of the standards, certification and TPC that are aimed in creating quality differentiation, increase consumers' trust, and reduce exposure to risk of food safety incidents and subsequent liability cases (Hobbs, 1996; Anders, Souza-Monteiro, & Rouviere, 2010); the renewed challenge within the TSR regime remains to be the challenges of governance in the dawn of food globalization. These challenges include (i) proliferation of new international regulatory bodies of enormous scope and complexity;(ii) market-based regulatory bodies whose operation has the force of law although subtly described in terms of being voluntary standards and (iii) the emergence of institutions that are market based and operate on private voluntary standards but are not in the radar of public governance; and (iv) increased synergies and competitive global food supply chain operations.

4 Legitimacy of Private food governance by Standards, Certifications & Accreditation

In light of Busch's (2011) article on "Food standards: the cacophony of governance", sets in motion the discourse on legality of private food governance. This author situates the discussion on legality by contextualising the current scenario that global food chains are faced.

> The current food network is governed by a plethora of standards, laws and regulations that reflect (i) differing national and regional histories, (ii) a patch work of strategic (and sometimes conflicting) actions by individual firms and groups of firms, (iii) a general shift away from direct State-sponsored regulation, and (iv) differing expectations of consumers (Busch, 2011:1).

While Busch's work delves in the legality discourse; Mueller, Gomes, & Seuring, (2009) precisely describes what makes a rule legitimate. To them, a rule is considered legitimate when the procedure of enforcing follows a certain normative requirements. This means that normative legitimacy concept has to fulfill a criterion of integration, discursive quality and democratic control.

Fuchs, Kalfagianni, & Havinga, (2009); Fuchs, Kalfagianni, Clapp, & Busch, (2011); corroborate Busch, (2011) findings that governance of global food and agriculture is being transformed due to globalisation of food systems. In light of this uncertain an unprecedented circumstance necessitated due to globalisation of food; two distinct surveys conducted by:(i) Food and Agricultural Organisation (FAO) between 2003-2005 dubbed "Private Standards in the United states and European Union markets for fruits and vegetables", and (ii) a symposium on private agri-food governance conducted in 2011 revealed unique attributes related to private governance mechanism and their relation to food governance. The symposium rendered explicit that the rise of private governance mechanisms in the agri-food system poses the global constraints of food governance and challenges several fundamental values and core objectives of food governance. Of paramount importance, the observations made by Busch, (2009, 2010, 2011) and Fuchs et al., (2011) under the symposium's running theme of legitimacy in private standards.

The symposium revealed three type of legitimacies notably; First, input or democratic legitimacy that is achieved by a decision making process. It focuses on the process of norm creation and asks if norms are accepted. Kaan & Liese, (2011:390) probe into the decision making process and the demands that this process needs to conform: first, by ensuring whether the relevant stakeholders are represented (participation); seeking whether the decision making can be held accountable (accountability) and whether decision making process is transparent (transparency). Second, by throughput legitimacy is achieved if decision are made on the basis of a fair procedure (discursive quality) and third, output legitimacy is established when a decision fulfils all the relevant claims (Mueller et al, 2009; Kaan & Liese, 2011; Henson, 2011).

On the other hand the two year (2003-2005) survey by FAO (2007) reviewed extensively the available literature covering on various aspects of private standards. The summary of themes covered and the papers under each category covered: On general papers (22 papers); on methodology (8 papers); on impact of governmental regulations (16 papers); On impact of private and voluntary standards (6 papers), and case studies (87 papers). (FAO, 2005).

The analysis of the FAO survey broadly drew the following conclusions that: (i) Phyto-sanitary standards are only found in the regulatory domain and hence no private phyto-sanitary standards were found, (ii) other standards (related to food safety, environmental and social) have a high degree of interaction between corporate, Non Governmental Organisations (NGO) and regulatory standards. In general, governments set minimum regulatory standards while food retail companies competing mainly on quality, position themselves above the regulatory minimum by introducing voluntary standards. In areas of public interest such as food safety, governments may then be tempted to raise the minimum standards, forcing those companies that compete mainly on price also to adopt higher standards. This would have two resultant effects; first, differentiation by quality to the consumers willing to pay for higher quality segments of the market and second, proliferation of private standards would be minimal if the regulatory requirements were close to the maximum levels of food safety thus reducing the perceived differences.

(iii) Due to lack of inclusivity in legitimacy criterion, FAO observed that process based standards tend to be prescriptive instead of results based. Prescriptive standards set requirements on how products should be produced; this standards pose more difficulties for producers. Product standards on the other hand are more results based than process standards. Adherence to product standards is much easier than adherence to processes. (iv) The report also noted that compliance with private standards is more relevant for exports to the EU market than for exports to the US market. “What emerges from the literature is that the main constraint to exporting fresh produce to the US is the government’s phyto-sanitary control system. The main constrains to exporting the EU is the proliferation of private standards”. To the EU, enforcement of phyto-sanitary regulations is considered to be less stringent. (v) Private standards with the highest potential impact on market opportunities for developing countries are the Global Food Safety Initiative (GFSI) and EureGap (FAO, 2007: 141-144).

5 Foucault’s Governmentality theory and related Governance Theories

The ubiquity of the term governance in contemporary discussions, in geo-political space, economic regulations and institutional framework warrants a keen review on governance theories and the akin theory of governmentality. Governance in the business and management has been largely characterized as means that largely seek to maximize objectives of organizations by way of increasing profit or reducing costs for profit making or non-profit making organizations (Ezzamel & Reed, 2008). In this business, management model or epistemology, an organization is viewed as an object stand independent of the subject (owner or agent); this brought forth the theories of transaction cost economics (TCE) theory as a cost minimizing initiative; principal agency (PAT) & property rights (PRT) theories as establishing the role of the owner and the agent and the rights and expectations amongst them as dictated by the nature of the governing contracts; while resource based view (RBV) and network theories (NT reviewing the role and type of resource to be applied (Ezzamel & Reed, 2008; Gachukia, 2015). In summary it is In summary, it is evident from the above discussion that the initial formulations of TCE, PAT, PRT, RBV & NT as developed previously from the works of Coase and Williamson are underpinned by some key notions. First, governance is a mechanism for minimizing transactions costs; and second, emphasis is taming opportunistic behavior. Third, monitoring and contracts are the means of securing effective governance.

The emergence of global governance research agenda in the 1990s produced richer insights where governance was viewed to be better studied as a process and not as an institution, this analytical move made it easier to analyze changes in governance from the typologies of spot market, relational, modular and vertical forms of governance (Gereffi et al., 2005; Gibbon et al., 2008) while improving on the classical economic view of governance through markets and hierarchies. Despite the literature on global governance highlighting governance as a set of interrelated processes, it has also been criticized by Sending & Neumann, (2006) among others that it does not provide first, the analytical tools to study these governance processes. Second, studies of global governance have been accused of perpetuating the similar views that they purport to rise above as their key findings without clarity on sovereignity, authority and legitimacy. Third, studies of global governance have been viewed with a non-value adding conception of power where an increase in the power and influence of non-state actors by fact are defined as a simultaneous reduction in state power and authority; particularly, this criticism has been countered by looking at power and governance as created through interaction in networks and not necessarily having to be following the non-value adding assumption, but allowing for win-win situations on the chain actors (Hess, 2008).

In light of the critique on value chain governance, a radical theme of conceptualization of governance emerged in Michel Foucault works (1978, 1979, 1980, 1991). Foucault was interested in uncovering how governmentality underpins modern forms of political thought and action where in the previously in the 16th Century government the law and sovereignty but from the 18th century onwards this emphasis shifted towards developing instruments of government (Ezzamel & Reed, 2008).

Foucault's governmentality theory thus promotes in mediating the challenges of governance beyond the state or governments and assist in improving the understanding of value chain governance discourse especially in the global scale. Foucault embarked then on investigations of the relationship between power and populations in the context of studies of political rule and political economy with shift in mentalities underpinning how rulers have thought about their art and the different practices of rule they have devised and employed to perfect it. He referred to these mentalities and practices as 'governmentalities' (Merlingen, 2011) or 'mentalities'. The move to governmentality theory conceived as a tool to study networked governance beyond the state (Merlingen, 2011); in retrospect, the role of non-state actors such as civil societies transcends them from passive object of being governed, to entities that are both an object and subject of governance; that is, how we think about governing others and ourselves in a wide range of contexts (Dean, 2010). As a consequence, this refined view proposes that "governance to be based primarily on regulatory, as opposed to legal, interventions, with the aim of forging alignments between the projects of citizens, firms and organizations and the socio-political objectives of public authorities" (Merlingen, 2011:151).

The benefit of governmentality concept is viewed first as a mediator that regulates the excesses of private interests in regulations that brings about the constraint of legal pluralism. As such, governmentality concept does not prioritize state's sovereignty and views governance beyond nations; this view promotes the regional and international networks and value chains. Second, Dean (2010) clarifies that the analysis of government based on governmentality focuses not simply on distribution of power but rather studies on the organized practices and ways that the institution governs itself. Thirdly, a central approach of governmentality according to Foucault concerns the mentalities or ways of thinking about government. To Lemke, (2002) government as a 'conduct of conduct'(Hughes, 2001) is internal and external to the state taking into account the competencies within the state and what is not within it.

6 Food Value chain Governance to Governmentality in Kenya's Fresh Fruits and Vegetables Exports

In line to this mediating role, food value chain governance especially from emerging economies seen to be embracing it albeit unconsciously as reviewed in the fresh fruits and vegetable export sector in Kenya. The historical review of Kenya's FFV development in six decades indicates that transition of governance from spot markets in the 1960s to hybrid forms of governance from the 1990s onwards. Dolan & Humphrey, (2000) survey on the linkages between food actors and exporters of FFV in Kenya, Zimbabwe and UK supermarkets with the underlying theme of governance in Global Commodity Chains (GCC) previous developed by Gereffi (1994), observed that: this mode of governance relates to governance as a drive where much of the attention was the trade-off between producer driven versus buyer driven governance forms (Dolan, Humphrey, & Harris-Pascal, 1999); (Minot & Ngigi, 2004). Of particular importance to Dolan & Humphrey, (2000) were the basic questions related to governance that they sought to answer, namely; which actors define what the chain requires, and how their requirements are transmitted to the various actors in the chain? This research establishes that these questions were further compounded with the entry of European supermarkets chains in the 1990s in the niche markets for fresh fruits and vegetables (FFV) which changed the entire scope of FFV value chain governance.

Since supermarkets being characterized to be in an oligopolistic competition, the need to position strategically through product differentiation emerged by way of offering unique products for their customers. Some of the key competitive strategies emphasized to exporters in order to win the lucrative orders with these chains included assurance of product quality, consistency, variety, value additions-through processing, products combinations, packaging, enhancing reliability and pricing. With the entry of European supermarkets in the FFV supply chain also saw the proliferation of standards and stringent conditions being asked of the upstream agents and exporters for reasons related to due diligence as instigated by UK's Food Safety Act 1990. Proliferation of standards necessarily brought about further changes in FFV chain governance with a huge attrition of smallholders farmers who were not compliant.

The underlying motive of the proliferation of standards was discerned to have both an assurance cum compliance objective to state agents and secondly, and more importantly is the motive of competitive advantage (Konefal, Mascarenhas, & Hatanaka, 2005; Ouma, 2010). This trend is what is currently categorised as the new food regime that is emerging out of a combination of the concerns of consumers, increased supermarket power, and new forms of regulation (Smith, Lawrence, & Richards, 2010).

Despite this governance background on Kenya's horticultural sector for last six decades, Kenya's resilience and strategic global positioning in the horticultural sector has been aided further by the following: First, Nairobi's location as a centre of air transport to various destinations especially Europe; second, preferential treatment and agreement under the Lomè Convention between African Caribbean Pacific Countries and the EU for concessionary access for Kenyan Vegetables to EU (Dolan & Humphrey, 2000); Third, sustained demand for horticultural products all year round; Fourth, Kenya's close co-operation with supermarkets and other market sources Asfaw, Mithöfer, & Waibel, (2010); Fifth, non-interference by government in the commercial transactions; sixth, economies of clustering which provides support in logistics, market penetration and market identity (Dolan & Humphrey, 2000). Seventh, formation of export processing villages (EPVs), most of the small scale Kenyan exporters have under facilation of Horticulutural Crops Directorate (HCD) formerly Horticultural Crops Development Agency (HCDA) have been supported with shared and modern processing systems to meet the stringent regulatory requirements such as traceability, customers quality expectations, post harvesting processes such as product combinations, presentations and packaging, logistics and innovative ways that leverage on the industry's asset specificity of Kenyan location, availability of cheap labour, and the tropical climatic conditions favourable for the year round crop production.

Eighth, due to competitiveness of Kenyan horticultural sector, market channels disintegrations-transfer of functions to new actors- have occurred for competitive reasons; due to effectiveness reasons to reach out to targeted groups, efficiency reasons to decrease distribution costs from producer to final consumers, and equity reasons to strengthen the bargaining power of a group of actors (Dijkstra, Meulenberg, & van Tilburg, 2001:229). In light of the Kenya's position at the moment from the levels highlighted, Reardon, *et al* (2005) categorizes it under medium-large domestic category of firms. As is evident from the explanation by these authors, Kenyan exporters success has been partly also associated with the formation of Fresh Fruits Exporters Association of Kenya (FPEAK) and collaboration with HCD and Kenya Plant health Inspectorate Service (KEPHIS).

Fresh Produce Exporters Associated of Kenya (FPEAK) is Kenya's premier private association which represents growers, exporters and service providers in the horticultural industry. FPEAK provides a focal and coordination point for the horticultural export industry by supporting the growers and exporters through technical and marketing information and training, act as an information centre and run active lobbying and advocacy programmes to enhance the sectors competitiveness. FPEAK's goals include: to update and implement Kenya good agricultural practices to recognized international standards; to influence enactment of a facilitative environment for horticulture industry; create awareness in the horticulture industry on market requirements, changes and regulations and to undertake continuous identification of market opportunities (FPEAK, 2014). Kenya through FPEAK has successfully lobbied for the formation of KenyaGap and Horticultural Ethical Business Initiative (HEBI). These bodies have become collective lobbying agencies for public grades and standards and also played a pivotal role in interpreting the global standards while advising their association members on the current trends and regulations that are to affect them.

The formation of these homegrown standards –KenyaGAP, Kenya Standard 1758 and HEBI- with international benchmarking characterises the Kenyan FFV supply chain as adopting what Tallontire, Opondo, Nelson, & Martin, (2009), consider as governance mechanisms beyond the vertical integration in what they considered as horizontal governance. This is considered as an application of governance typical by interpretation of Foucault's governmentality; that is, how the new regulatory institutions involve and affect others formally or informally by setting, monitoring, improving or implementing such standards at the national levels (Tallontire, *et al.,* 2011). Private Standards Initiative (PSI) and governance through KenyaGap and HEBI relate to global standards' good agricultural practice (GAP) and labour. Of a remarkable note, these private based standards have made considerations to governance by inclusion criterion of accountability, transparency and participation (Fuchs et al., 2009). KenyaGap is an initiative that has been benchmarked with GlobalGAP and EurepGAP while HEBI is a Private Standard Initiative (PSI) that was developed in 2003 as a uniform social code of practice, which translated the UK's Ethical Trading initiative (ETI) code in reference to Kenyan labour laws.

In terms of legislative, judicial and executive governance of the two standards and their relation to Foucault's governmentality, Tallontire *et al* (2011) argue that: First, legislative governance is related to the origin of the standards, it is content, involvement and participation; second, judicial governance is related to private standards with the concern on auditing procedures through compliance means, assessment and certification; and thirdly, executive governance of the two standards is considered from the fulfilment of the desired GAP and enforcement of labour standards.

7 Conclusion

The trajectory of value chain governance has been punctuated by factors such as economic transactions as related to complexity of transactions, ability to codify transactions, capability of the supply base and degree of coordination & power asymmetry; and determined by complexity of information and knowledge transfer; codification of information and knowledge transmitted to actors in a transaction, and the capabilities of actual and potential suppliers in relation to the requirements of the transactions. This research establishes that significant to these types of governance structures is the role played by non state actors through private standards as witnessed in voluntary standards, accreditations and third party certifiers. In export of fresh fruits and vegetable especially from developing countries its noted that such standards such as phyto-sanitary standards and maximum fertiliser residue are only found in the regulatory domain of the state agencies; other standards related to food safety, environmental and social have a high degree of interaction between corporate, Non Governmental Organisations (NGO) and more of the private or voluntary regulatory standards. In general, governments set minimum regulatory standards while food retail companies competing mainly on quality, position themselves above the regulatory minimum by introducing voluntary standards. Due to lack of inclusivity in legitimacy criterion the rise in legal pluralism as an affect of proliferation of private standards especially to the EU market, this has characterised governance in this export sector as ‘cacophony of governance’ or ‘code of multiple colours’ to these agrifood supply chains; the implicit application of Foucault governmentality theory can be seen a moderator of this excesses.

Specifically to the Kenyan’ case the application of Foucault governmentality theory as witnessed especially by FPEAK is its involvement as an industry stakeholder with the retail chains in promoting competitiveness of Kenya’s horticultural exports while moderating the excesses private interests in regulations by steering the adaptation of the KenyaGap standards from the larger GlobalGap standards. This approach also clarifies that the analysis of government based on governmentality focuses not simply on distribution of power but rather studies on the organized practices and ways that the Kenyan horticulture export institution governs itself. Foucault’s central approach of governmentality concerning the mentalities or ways of thinking about government has promoted a synergistic development of the Kenyan oversight bodies of horticultural Crops Directorate and Kenya Plants Health Inspectorate service to partner in promoting what is best for the market while appreciating the role of non-state actors and private players and agencies’ role in promoting value in global economy.

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