

The Implications of Private Food Governance for the Sustainability and Democratic Legitimacy of the Global Agro-Food System

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1. Introduction

The democratic legitimacy and sustainability of the global food system are fundamental preconditions for the well-being of societies world-wide. Today, neither food security nor food safety are fully ensured. Almost 860 million people suffer from hunger and 6 million people die from malnutrition and contaminated food and water every year. But who can play an active role in guaranteeing food safety and security? In the last decade, business actors have become key players in the governance of the global food system through the creation and implementation of private governance mechanisms. These mechanisms range from corporate social responsibility initiatives (CSR) and the adoption of codes of conduct (CoC) to the development and implementation of private standards, such as organic food labels¹.

According to their own stated objectives, private food governance mechanisms frequently are supposed to ensure the safety and quality of food products as well as foster improvements for the environmental and social conditions of the food system. However, could additional or even alternative goals underlie these developments? Why are private actors interested in fostering sustainability objectives? When looking at the empirical evidence it becomes obvious that economic interests play a major role here. Private governance mechanisms help to maintain market shares, reduce economic risks, further market expansion and rent seeking, and allow the commodification of formerly non-market values. To some extent, this development is driven by consumer pressure, to some extent by the recognition of new opportunities for increasing profits by business actors. What does the presence of economic interests mean for the sustainability implications of private food governance, then? Can private governance effectively address the sustainability problems of today's global agrofood system? Which facets of sustainability are likely to trump and in whose interest?

Next to the question of the implications of private food governance for the sustainability of the global food system, the question of its democratic legitimacy

¹ CSR is designed to foster corporate responsibility for social issues, human rights, and environmental themes. CoCs mainly pursue the same objectives, but, on top of that, are written down in specific guidelines for corporate behavior. Private standard-setting, generally, takes an even more concrete form of specification of rules and regulations. Generally, these standards can be distinguished between product and process standards. Product standards refer to various characteristics of the product itself, while process standards refer to the methods related to the production process. In some cases, the realization of these private governance initiatives leads to cooperation between private, non-state and state actors, thereby operating in the context of public-private and private-private partnerships.

arises. Democracy is the major political achievement of mankind. However, with the shift of political decision-making to private actors, the question of how to maintain basic requirements of participation, transparency and accountability emerges. To what extent can private food governance be considered democratically legitimate? And how can the democratic legitimacy of global agro-food governance be improved?

Interestingly, the implications of private governance in the global agrofood system for its sustainability and democratic legitimacy have received little systematic attention in the scientific debate, so far. The scientific discourse has paid considerable attention to the globalization of the agrofood system as such and has begun to analyze the role of corporations in the system. Empirical research on the impacts of private governance in the global agrofood system is just starting to emerge, however. This is particularly noteworthy, as private governance mechanisms now exist in a vast variety of forms and with a range of foci. At the same time, the private actors creating these mechanisms used to be considered objects rather than subjects of governance, whose activities needed to be regulated in the interest of society. Yet, it is these actors who create and implement rules and standards today and thereby strongly influence the sustainability of the global agrofood system. These developments, then, raise urgent questions regarding the sustainability and democratic legitimacy of private food governance.

- What are the implications of private governance institutions for the economic, environmental, and social sustainability of the global agrofood system?
- What are the implications of private governance institutions in the global agrofood system for its democratic legitimacy, specifically participation, transparency, and accountability?

These questions were the central themes of an international, interdisciplinary symposium on private governance in the global agrofood system, which was conducted by the Chair of International Relations and Development Politics at the University of Münster in April 2008.² At this symposium, scholars from a variety of disciplines and countries as well as representatives of major international organizations in the food sector, such as FAO, discussed the impact of business-led food governance institutions particularly with regards to their implications for sustainability and democratic legitimacy. This discussion paper summarizes the major insights

² The symposium was funded by the Volkswagen Foundation.

from the presentations and discussions at the symposium.³ On that basis, it aims to contribute to the current scientific discourse and state of knowledge on private governance in the global agrofood system and to provide some advice for possible further research agendas.

The next section addresses the implications of private food governance for sustainable development, while section III focuses on the issue of democratic legitimacy. Section IV addresses additional points of pivotal interests as well as further research needs that emerged during the conference. Section V, finally, concludes the discussion paper.

2. Implications for Sustainability

The symposium investigated the impact of private governance institutions on food safety and quality, as well as the implications for environmental and socio-economic conditions, including farmer livelihoods and food security. An analysis of the evidence reveals that private food governance has ambivalent effects on the sustainability of the global agrofood system. Private standards are likely to cover some of these sustainability issues, while excluding others. While sustainability issues that are of immediate concern to the consumer, like product quality and safety, are of primary importance for most private governance initiatives, broader issues, such as farmer livelihoods or the right to food, are less likely to find influential supporters (Fuchs/Kalfagianni, Gregoriatti, Kann/Liese, Partzsch, Sood, Tallontire). In order to guarantee product quality and safety, especially consumers and retailers stress the importance of traceability within the global food value chain. While traceability increases the control and monitoring capacity within the food chain, it puts a high burden of cost on the food producers, who have to fulfill documentation and transparency requirements. This might increase marginalization of small farmers and push them out of the market (see below).

Likewise, private food governance fosters a mainstreaming of “sustainability criteria” and marginalizes local knowledge and practice. There is a trend towards the mainstreaming of the organic sector, for instance, which counteracts many of sovereignty benefits gained by small-scale, low-impact agricultural production in Southeast Asia (Scott et al.). It has been shown that in the cases of Vietnam, Thailand and Indonesia food certification became an instrument of structural power promoted by corporations and retailers fostering mainstreaming. Hence,

³ For more detailed information, please refer to the individual papers.

through buying certified food, consumers are unconsciously undermining sustainable production processes in the exporting countries.

Furthermore, empirical evidence indicates that there is relatively low interest of the private sector to get involved in process-oriented public private partnerships, compared to output-oriented ones (Kaan/Liese). Thus, it seems doubtful that private sector mechanisms will ever adequately deal with issues that concern inalienable rights, such as the right to food. Because the right to food is inherently a political and distributive question, sustainable solutions rest on decisions beyond the scope of monetized market mechanisms. Unsurprisingly, from a profit seeking perspective, process-oriented public private partnerships give fewer incentives for corporate involvement than output-oriented ones.

For the poor, finally, private food governance does not even guarantee narrower sustainability objectives such as food safety (Sood, Fuchs/Kalfagianni). The example of India shows how the withdrawal of the state had detrimental effects on sustainability, particularly affecting food safety regulation in a country with a high proportion of poor population (Sood). The development of a new regulatory regime can be attributed to shifts in Indian society: liberalization was accompanied by the rise of the domestic agro-business industry and consumption-led growth. Together with the corporatization of agriculture through large transnational retail chains and the emerging local retail conglomerates, this has led to the creation of a new food regime that compromises in food and health safety and is accountable to no one. This situation leads to obstacles for sustainable development as a whole (and is highly problematic on the grounds of democratic legitimacy – see below).

The severely limited reach of private standards when it comes to sustainability objectives can be understood as their major caveat. Private governance initiatives may be useful in providing solutions and improvements to narrow and clearly defined problems and issues under certain conditions. They are likely to be able to pursue sustainability objectives in so far as these converge with profit-oriented objectives. However, as it seems, they are less capable to solve broader issues like the right to food, labor rights or the fight against poverty. This shows that the state needs to continue to play a crucial role in providing a broader regulatory framework for food governance.

2.1 Private food governance and small farmers

One of the major shortcomings of private food governance in terms of sustainability objectives appears to be its neglect of if not detrimental effect on the social dimension of sustainability,

especially small farmers. Most fundamentally, private standards affect rural livelihoods. Especially in developing countries, the proliferation of private certification schemes creates problems (Fuchs/Kalfagianni, Tallontire). Small farmers often do not have the resources to comply with complicated regulatory regimes, while being dependent on the world export market at the same time. In most developing countries, there are no alternatives for owners of small farms, as social safety nets are not existent and unemployment is high not just in the country side but also in the urban areas. Hence, the risk of private standards turning small farmers into subsistence farmers, who constitute the largest share of the global population suffering from hunger, is high. In this sense, food safety regulations overrule food security. The argument is closely tied to the question of stakeholder inclusion and participation in the creation of private governance institutions.⁴

At the same time, private standards can work even for small farmers under very specific conditions. The analysis of the Starbucks and Conservation International (CI) alliance (Perez-Aleman) reveals that private standards can benefit developing country producers too, if small-farmers are included in the standard-making process. Likewise, assistance in organizing small farmers and management expertise provided by NGOs and IGOs can allow small farmers to benefit from private standards as the case of mango growers in Kenya shows (Bassoum). For private governance mechanisms to work for small farmers, however, standards need to fit with local realities and conditions and allow a dialogue that involves local suppliers and communities. Furthermore, active assistance by corporations, NGOs, development cooperation and governments providing expertise and capacity building for the implementation of private standards are required. The recognition of these conditions could not only counter the lack of social sustainability of private standards and democratic legitimacy in terms of participation. Rather, it has the potential to provide new opportunities to connect a macroeconomic competitiveness agenda with poverty alleviation.

Alternatively, a number of social movements and civil society organizations engage in the development of structures and instruments to allow small farmers to profit outside of private standards. A more optimistic view on the agrofood networks of farmers in South and Southeast Asia holds that initiatives in this region have been successful in carving out local, alternative agricultural and economic approaches, thereby contributing to food sovereignty and sustainable development (Wright). Similarly, small scale women farmers on Vancouver Island have established their markets independent of large retail corporations and the standards prescribed by

⁴ Similar to the plight of small farmers with respect to private standards, they frequently have found themselves at the losing end in PPPs, as participating corporations have simply replaced them with other farmers when economically beneficial (Gregoriatti).

them (McMahon). The same case shows as well, however, how rigid public food safety regulation and standardization eliminates the opportunities for farmers and farmer networks to create alternatives to the global agrofood system: Meat inspection standards place regulatory burdens on small producers and their alternative ways of farming forcing them out of business, as they cannot bear the ethical and monetary costs of compliance. In other words, one has to question who benefits and who loses from public regulation just as one needs to ask this question for private governance.

3. Implications for Democratic Legitimacy

Many different conceptions and understandings of what sustainable development in the global agrofood system actually means exist among its actors. In consequence, it is crucial to find a consensus on desirable policies promoting sustainability through democratic procedures of decision-making. In this view, the adherence to democratic standards in private governance is necessary to ensure a reconciliation of public good objectives with business interests.

Private actors commonly refer to output legitimacy as the primary instrument for measuring democratic governance. From this perspective, effectiveness and efficiency in the provision of a given public good is central for democratic legitimacy. This concept, however, is highly questionable. Effectiveness can only be measured against a given objective. What the objective of a private governance institution should be will vary with an actor's perspective, however. In other words, different stakeholders will define different aspects of the global food system as the public good that is supposed to be provided. Even if all actors agree that the objective should be sustainable development, they will still differ in the definition of what sustainable development is. In consequence, an "objective" assessment of how effectively private governance institutions provide public goods is impossible (Fuchs/Kalfagianni).

Advocates of the concepts of output legitimacy tend to reject this argument on the basis that the effectiveness of private governance institutions should be their achievement of the goals their creators have explicitly defined for them. Such an approach, however, would imply that institutions with potentially meaninglessly low goals could be attributed output legitimacy, if they effectively reach these low goals.⁵ As such a method of attributing democratic legitimacy can hardly be considered sensible, it becomes obvious that normative criteria need to be involved

⁵ A similar problem results from the frequent vagueness in the definition of the objectives of private governance institutions.

next to effectiveness criteria. This shows that output-legitimacy can only be an indicator for democratic legitimacy if there is a normative discussion on the definition of what the public good is and on who constitutes the affected public. In other words, the question of output legitimacy is necessarily closely tied to the question of participation and therefore the traditional criteria of input legitimacy, rather than providing an alternative source of legitimacy.

Currently, however, a lack of access and participation provides a serious obstacle to the provision of equal opportunities to different societal actors to influence the norms and rules that govern the food system (Fuchs/Kalfagianni, Havinga). There are many examples of private governance initiatives where the participation of major stakeholders has been lacking or embedded in highly unsatisfactory institutional frameworks (Partzsch, Gregoratti). In order to assess the participatory quality of private governance initiatives, questions have to be raised about who is invited to participate, how and who actually gets represented (Havinga). In the biofuel industry, actors from the South are regularly excluded from private governance processes (Partzsch). Similarly, UNDP's Growing Sustainable Business Initiative has completely neglected the need to include Kenya's smallholders, even though they were supposed to be the beneficiaries of the program (Gregoratti).

Apart from participatory problems, the lack of transparency in private governance institutions provides another obstacle to democratic legitimacy. If private actors develop their own rules, then at least these rules should be open to public scrutiny. Private governance initiatives are often lacking information about internal processes and about the distribution in participation and power, however (Havinga). The lack of transparency can render access, even in cases where it exists, meaningless by obscuring the real options actors can "vote" for (Fuchs/Kalfagianni). For example, the implementation of private standard initiatives through new forms of cooperation between state and non-state actors sometimes leads to a lack of transparency giving rise to problems in attributing responsibility.

The role of state involvement in processes of regulation and control, in general, is being challenged by private forms of governance. State jurisdiction is increasingly being replaced by private governance regulating and controlling standards and quality through certification. For the involved participants, this may permit and even stimulate some forms of equitable exchange. Private actors are no longer only rule takers subordinate to the state, but are increasingly engaged in less hierarchical decision-making processes. On the flipside however, it can also create a growing differentiation of food standards by creating multiple ways of certification leading to disorientation for all participants (Busch). Another important consequence of these processes is

that some actors appear to be excluded from private governance. As a result, they are neither governed by private standards nor are they subject to public regulation anymore.

Finally, accountability provides a pivotal criterion for the democratic legitimacy of private governance. Accountability in private food governance can be interpreted in terms of compliance with the rules provided by the private governance institutions as well as the consequences of non-compliance. In order to ensure that private actors comply with private standards it is necessary to clarify whom they should be accountable to. As a way to improve accountability, one may want to give civil society a more active role in the monitoring and implementation of standards (Lorek). After all, without civil society discussion on standardization and certification, the level of regulation would not be as developed as it is today. At the same time, civil society resources are severely limited, compared to the resources of business actors and thus, providing civil society with a more active role will require financial and organizational support for the respective actors.

4. Additional Issues

Besides the general insights on the implications of private food governance for sustainability and democratic legitimacy noted above, some additional points should be of concern to scholars and policy makers alike.

4.1 *Implementation Costs*

The distribution of the implementation costs tends to be highly asymmetric in private food governance institutions. With their private food standards, retailers have “passed the buck” to producers (Havinga). In other words, the costs for ensuring retailers against the risk of consumer backlash in the advent of a food scandal are almost completely born by their suppliers. This highly unequal distribution of cost and profit within the food value chain reflects the power asymmetries between small food producers and much bigger corporations controlling the trading, retail and R&D sectors. Both horizontal and vertical concentration of the food value chain are increasing, resulting in structural power, bargaining power and more direct access to resources for the big corporations. This aspect relates to the questions of sustainability and democratic legitimacy raised above, of course. The extent to which private standards are putting the burden to ensure food safety and quality on the producers in the South without compensating them for the necessary efforts, the results for social sustainability and food sovereignty will be detrimental.

The lack of decision making power of small producers (and consumers) regarding the distribution of the costs of implementation relates to the democratic deficits of private food governance institutions.

4.2 Why now and what is different?

Two questions about the timing of private food governance come to mind: Why has this dramatic expansion in private food governance institutions occurred recently? And is the situation today really different from what it used to be when it comes to the democratic legitimacy of food standards? Regarding the interesting question of why private standards have been becoming more important in recent years, one has to look at the over-arching context of neo-liberalism. Privatization, deregulation and the reliance on market mechanisms have profoundly shaped governance as well as law/rule making (Van der Grijp). Because the state has retreated from some of its former responsibilities, political space for private actors has been created. Moreover, there is a large extent of trust in “experts”.

The question of whether private food governance is really sufficiently different from public international food governance as we have known it to warrant increased scientific attention is more difficult to answer. After all, agricultural trade policies of the North have always had ambivalent sustainability implications at best, as well. More importantly, from the perspectives of producers in the South past international trade practices and politics, in particular standards set by the EU or the US, did not carry any more democratic legitimacy as the new private food standards. However, those standards were adopted by elected governments, in the end. Furthermore, they did not claim to ensure sustainable development in the broad sense. To the extent that private governance mechanisms claim to do this and pretend to be effective at it, however, they may prevent further action on behalf of this objective. Still, the cases of the EU’s agricultural trade politics and the public hygiene standards in Canada mentioned above clearly show that public governance can be just as bad as private governance, especially if it ends up being public governance in the private interest.

4.3 Relevance to the Current Food Crisis

After a historic low for agricultural food prices in 2001, the latest development in the global agro-food system is characterized by a sharp and sudden increase of market prices for almost all food products. A whole number of short and long term factors have contributed to this trend. In the short term, bad harvests and accordingly declining stocks of wheat and rice, rising crude oil

prices, and financial speculation in agricultural futures and export restrictions have put pressure on food prices. Long term factors include developments such as the agricultural trade practices of the North and the associated destruction of family farming in the South, a neglect of the importance of agricultural investment in developing countries, and a change in consumption patterns towards more input-intensive food. In addition, the expansion of the biofuel sector is likely to have an impact, although its extent varies among countries and is far from consensual.

Is there any link between private food governance and the present food crisis? Clearly, private food governance is neither the most important underlying cause nor likely to be the major Auslöser of the present crisis. However, it is important to note that private food governance extends and strengthens some of the trends that have contributed to its development. Specifically, private food governance marginalizes small farmers in developing countries as pointed out above. Thereby it reduces their ability to feed themselves and increases their dependence on food prices (if not even reducing overall production). Moreover, private governance mechanisms in the current regulatory framework are unlikely to address questions of food security, as pointed out above. Thus, these mechanisms can not contribute to the solution of the crisis in any way.

4.4 Research Needs

What are the most important further research needs, given the insights gained so far? New research on private standard initiatives in agro-food chains should consider:

- going beyond actor centeredness and looking at processes when assessing private governance initiatives. In this context, it should acknowledge that the setting in which regulation is happening is not passive. Rather, private governance and regulation can be understood as a dynamic game pursuing moving targets in which the agency of groups is crucial.
- analyzing the question of participation at the relevant multiple levels of governance and focus on the vertical and horizontal dimensions of governance
- exploring the interconnectedness between public and private governance
- conceptualizing private governance institutions as constitutive of actors (interests and identities), not just functional instruments (regulation)

Other than that, there is urgent need to compare the food sector with other sectors, tying the topic back into the wider literature on global governance.

5. Conclusion

Private food governance is increasingly spreading and becoming more and more important for the paramount questions of sustainability and democratic governance within the global agro-food system. The findings of the symposium have given support to a rather critical view on these newly emerging governance methods. In this view, the question of the democratic legitimacy of private governance is crucial, since its implications for sustainability are ambivalent at best. The profound negative impacts of unsustainable global food production processes are unlikely to be resolved by private governance institutions alone. In fact, the conference has highlighted that some of these governance institutions actually worsen an already highly unsatisfactory situation.

Effectively, the gap in access to food is widening: While consumers in the North and rich consumers in the South may be offered better quality food because of private governance initiatives, the percentage of people without sufficient food to ensure their livelihoods is rising. Most of these governance initiatives have been focused on achieving food safety for consumers, which has heightened the importance of certification and standardization. This has had detrimental effects on food security for many developing countries. Further, the nature of private governance institutions is highly exclusionary in many cases. Small producers and civil society interests in the South often get marginalized in private governance processes, primarily because they are shaped by asymmetrical power relations beyond the checks and balances of democratic control.

Shortcomings in achieving both sustainability and democratic legitimacy draw attention to the way in which private governance institutions are embedded into the public regulatory framework. Public actors need to take responsibility in order to ensure that private governance institutions are accessible, transparent and accountable. That way, private governance institutions, which actually worsen the situation for sustainable global food governance, can be identified and transformed. However, even if democratic standards are fulfilled, it is unrealistic to expect private governance to solve crucial issues like the right to food. These issues have to be discussed and solved through wider public involvement and effectively depend on authoritative state regulation.