Global Development Institute Policy Brief

Regional and Domestic Value Chains: Governance of Decent Work in Sub Saharan Africa

Overview

Research on private governance in buyer-driven global value chains (GVCs) has mainly focused on products sourced from the global South by retailers in the global North. The last two decades, however, have seen rising South-South trade and the emergence of significant regional value chains (RVCs) and domestic value chains (DVCs).

RVCs/DVCs are expanding in sub-Saharan Africa (SSA) coordinated and controlled by retailers within SSA. These operate in parallel or intersect with GVCs. The SSA garment and horticulture sectors are cases in point: SSA retailers increasingly coordinate and control sourcing within their countries and continent. Trade that previously flowed mainly to the global North is now also diverting to the global South via RVCs, or within countries via DVCs.

This research studied horticulture RVCs/DVCs in Kenya and South Africa, which are mainly governed by South African (SA) and Kenyan retailers. Some extend their retail outlets and regional sourcing across SSA. It also studied garments RVCs/DVCs, with a focus on SA retailers or their design houses sourcing from South Africa, Eswatini and Lesotho. The core research questions were: *What are the implications of expanding DVCs and RVCs in SSA for public-private governance of decent work? Who or what are the drivers of governance across expanding DVCs and RVCs in SSA?*

The research found a private governance void on decent work (except for a few SSA retailers) in RVCs and DVCs. But a 'benign transition' is taking place towards greater public governance of value chains at the national level in SSA. Some government policies and initiatives introduced to cover DVCs replicate private governance of GVCs. However, this varies across different sectors and countries, and the implications for decent work are not yet clear. Similar policy trends are not occurring regionally, or through regional trade agreements in Africa. Recommendations are made for more proactive public governance of value chains at national and regional levels to promote decent work.

1. Background context

To answer the above core research questions, Shifting South research examined governance of social standards in regional garment and horticulture value chains to understand:

- what roles private, public and social governance (defined in box below) play in protecting workers
- to what extent private, public and social governance complement each other?
- whether there are significant governance gaps and how they are being addressed?
- what the implications are for workers and small-scale producers in RVCs/DVCs?

We explored these questions by examining how public-private governance has evolved and the policy implications for promoting decent work across horticulture and garments RVCs/DVCs in SSA.

In terms of public governance, Kenya and South Africa have strong labour laws on paper. Lesotho and Eswatini have labour legislation and wage rates that are much lower. Enforcement of legislation by government inspectorates is a challenge across all countries and sectors.

In some sectors collective bargaining agreements (CBAs) via trade unions form a key dimension of social governance. However, CBAs are variable across the countries and sectors under study. In horticulture CBAs are almost non-existent in SA but more prevalent in Kenya. In garments, CBAs are limited in Lesotho and Eswatini, but well-established and sector-wide in SA, raising labour costs of garment workers above those in Lesotho and Eswatini.

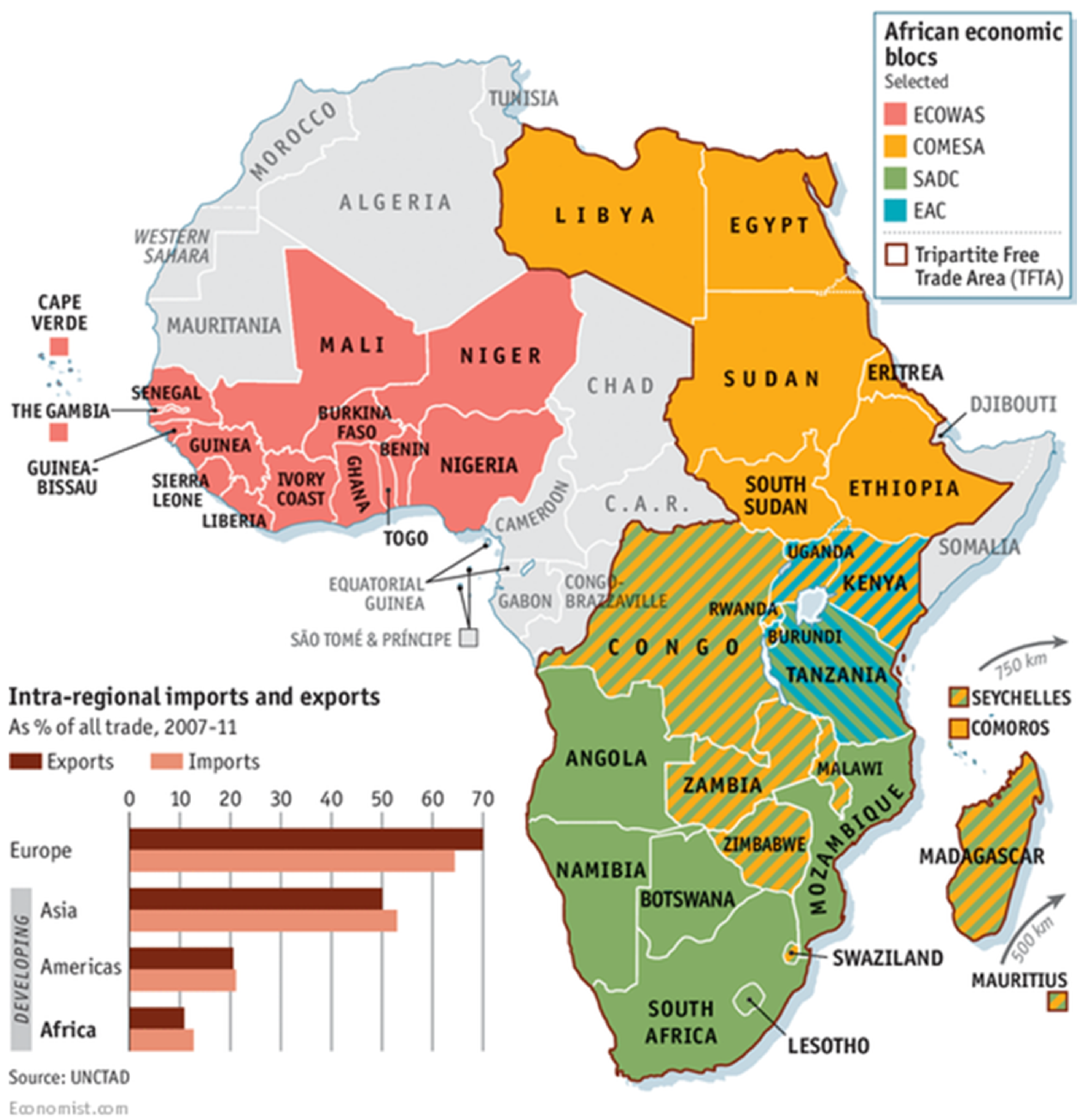
Private, public and social governance in global, regional and domestic value chains

Private governance plays a key role in global value chains (GVCs). This refers to how retailers and brands directly coordinate and control different suppliers along their value chains. This includes contractual terms stipulating what products are to be produced, by whom, where, how, by when and to what specifications. In addition, retailers and brands expect their suppliers to meet a range of private standards. These include: product quality (e.g. food safety requirements); social standards in respect of working conditions; and environmental standards.

Public governance differs from private governance, insofar as it is exercised by public actors. Here, nation states play a central regulatory role. Public governance includes rules and regulations set by national or local government, such as labour laws that impact the conditions of workers. These normally set only minimum standards in GVCs. Other public governance measures, such as industrial policy and trade agreements, can affect decent work outcomes both indirectly and directly through social clauses.

Social governance is driven by civil society organisations (CSOs), such as non-governmental organisations (NGOs) and trade unions. At a global scale, civil society activity includes challenging lead-firm approaches to labour standards in GVCs. At national and local scales, CSOs play a key role in mediating the employer-employee relationship, monitoring working conditions and seeking to raise standards above legislated minima.

Figure 1. Regional Value Chains and South-South Trade: Regional Trade Preferences



2. Garments Research Findings (South Africa, Lesotho, Eswatini)

Over the last 30 years significant changes have taken place in the manufacture, sourcing and trade of garments in the Southern African region, with the SA market at the core of these changes. The implication for governance of labour conditions has been the emergence of a public governance 'sinkhole' in SA, a labour cost 'cliff' between SA and its neighbours Lesotho and Eswatini, and a regional private governance 'void'. A global trade dimension has also influenced these regional changes. The unfolding of this dynamic process is sketched out below.

Global and regional garment trade dynamics under the influence of trade agreements

- From the mid-1990s import tariffs came down steeply in SA and over the next decade cheap garment imports (mainly from China) and a rising volume of illegal imports penetrated the SA market. Much of this trade was organised into value chains by the major SA retailers. But the local garment sector went into crisis, restructured and shrunk.

- Imports of garments manufactured in the region has contributed to a crisis in the SA garment sector. Regional trade was started by SA clothing firms relocating to Lesotho and Eswatini and exporting back to their retail customers in SA. In many cases this constituted the extension of existing DVCs into RVCs. Over time some of the Taiwanese and Chinese firms based in Lesotho and Eswatini switched from supplying the US market to exporting to SA, thereby diverting garments from GVCs to RVCs. This was facilitated by the Southern Africa Customs Union (SACU) which allows duty and quota free trade between its member states. The SA garment market, by far the biggest in the region, became the end-market for the RVCs.

Labour governance differences underpin regional garment trade

- The most important factor that drove the emergence of the garment RVC was the difference in the labour rights and wage levels between the SA garment sector and those in Lesotho and Eswatini. The SACU agreement further facilitated this trade while the absence of a social clause in the agreement perpetuates the labour regulatory differences.

- The SA garment sector has a long history of trade union organisation and sectoral bargaining in major garment producing areas in the country. But in the late 1980s a single powerful national union (SACTWU) was formed, which soon forced manufacturers into a national, sector-wide collective bargaining structure: the National Bargaining Council for the Clothing Industry (NBCCI). SACTWU bargained aggressively to raise wages across the country.

- Garment manufacturers in Lesotho and Eswatini must comply with sector-wide minimum wages set by statutory wage-setting bodies. However, these standards are low. Moreover, trade unions are weak and little or no collective bargaining takes place. The steep labour cost differential (the 'cliff') ensures that garments from Lesotho and Eswatini can compete in the SA market.

- The flood of cheap garment imports has put extreme pressure on collective bargaining and labour standards in SA. This is most visible in a high level of non-compliance with the wages and conditions prescribed in the NBCCI's collective agreements. In some areas (notably the concentration of immigrant Taiwanese and Chinese manufacturers in Newcastle (SA)) the non-compliance manifested as open defiance of the NBCCI. Non-compliance comprises the public governance 'sinkhole' within SA.

- Manufacturers in Lesotho and Eswatini supplying the US through GVCs had to comply with their lead firms' (buyer) labour codes and were subject to private audits; but this did not apply to manufacturers supplying SA through RVCs. Audits conducted by SA lead firms focused on quality and delivery schedules, rarely on working conditions and labour codes. Until relatively recently no SA retailers implemented private governance of labour conditions in their value chains. Furthermore, no manufacturers supplied both the US and SA, so there was no spill-over of private governance from the GVC into the RVC. This created a regional private governance 'void'.

- A few years ago a major SA retailer, Mr Price, joined the UK-based Ethical Trading Initiative (ETI), while another major SA retailer professes to implement the ETI Base Code. Some retailers in the RVC are therefore applying private governance. But, despite these positive initiatives, a private governance void remains, especially in the face of the huge gap in labour costs between SA on the one hand and Lesotho and Eswatini on the other.

The public governance response

- Industrial policy began stabilising the SA garment sector from 2010, but the sector potentially entered a new growth phase when the state initiated a process to produce a Masterplan for the Retail-Clothing, Footwear and Leather Value Chain. The Masterplan is a social compact between government, the major SA retailers, garment manufacturers, and SACTWU.

- The Masterplan aims to grow the SA garment manufacturing sector by steeply reducing imports from China and the rest of Asia through commitments made by the major SA retailers to each increase local sourcing of garments to 65% by 2030 and by the state eliminating illegal imports and non-compliant local manufacturing.

- Compliant local manufacturers and their workers would be the direct beneficiaries. However, established retailers will also benefit because under-cutting by the growing retail 'underbelly' will be curtailed.

- The Masterplan takes an explicit value chain approach to governance, recognising the retail sector as a critical player. It is mainly in the form of an industrial strategy but it links to labour standards through certain incentives attached to compliance.

- The Masterplan is not regulation, i.e. it is voluntary. While the major players in the SA garment value chain have committed to it, the illegal/informal garment value chain and 'underbelly' retailers have not. Whether it succeeds depends largely on the state's ability to significantly reduce illegal imports and local labour non-compliance.

- The Masterplan is national. It does not extend to Lesotho and Eswatini, which have no policies comparable to the Masterplan. To date, there have been no discussions between SA, Lesotho and Eswatini on a regional garment sector strategy.

3. Horticulture Research Findings (Kenya and South Africa)

South Africa has long produced fruit and vegetables for domestic and export markets. Kenya is a more recent export producer, particularly of high value produce. The SA horticulture sector is characterised by medium sized commercial farms employing waged workers. The Kenyan horticulture sector is predominantly small-scale farmers, with some larger commercial export producers with wage workers. They often source additionally from small-scale outgrowers that also use casual labour. Both countries are major suppliers to global supermarkets through GVCs, and increasingly to supermarkets within SSA through RVCs/DVCs.

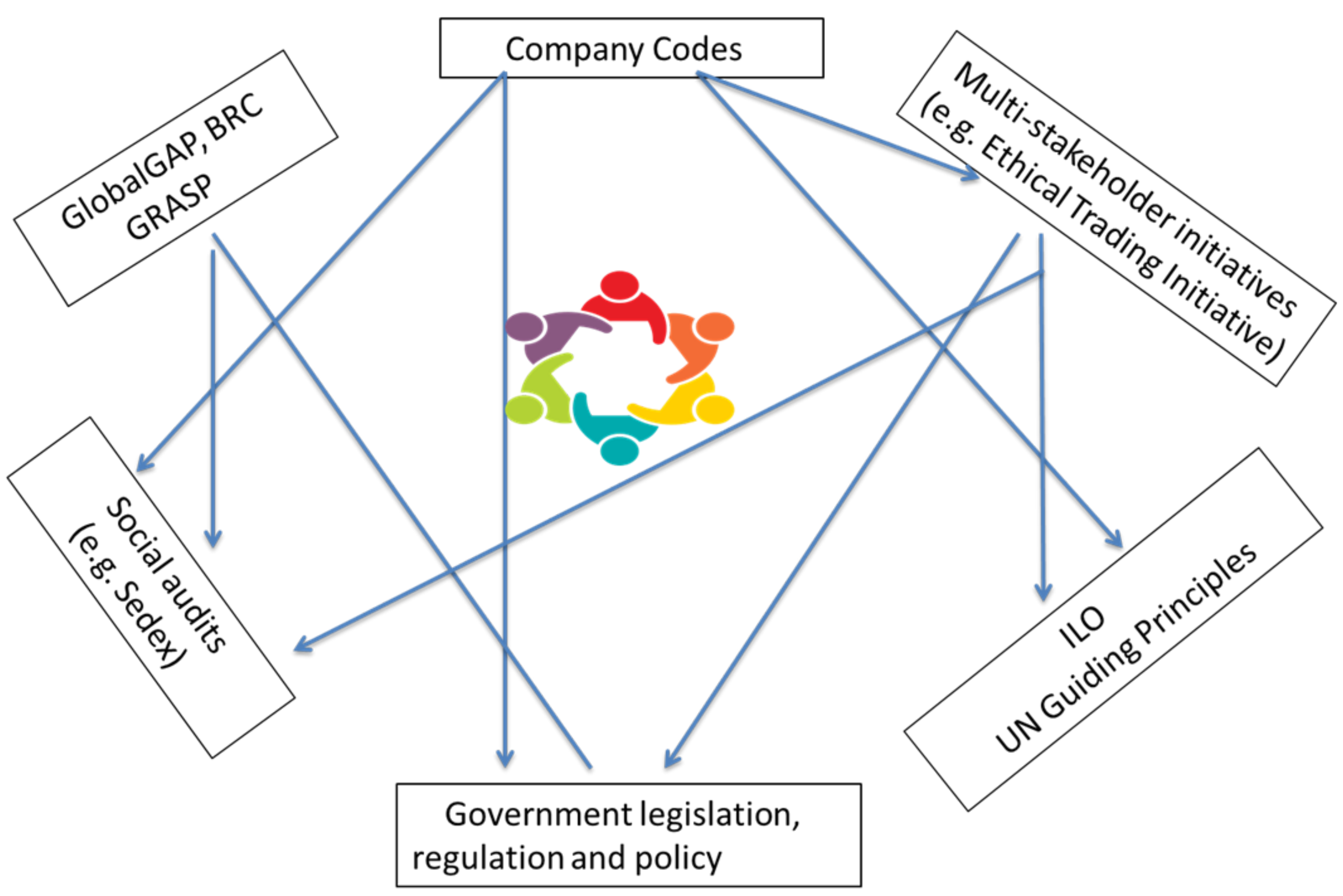
Private governance – limited scope

- Ethical Trade Organisations (ETO): South African private social standard SIZA involves European but few African supermarkets. Kenya currently has no similar ETO.

- Large producers supplying both GVCs and RVCs/DVCs apply European retailer food and social standards. Where value chain overlap occurs, private standards de facto apply in RVCs/DVCs. However, suppliers often complain that European retailer purchasing practices (e.g. demanding lower prices, and requiring suppliers to bear the costs of compliance) undermine the same retailers' codes of labour practice on workers' pay and conditions.

- African retailers (with few exceptions in SA) apply food but not social standards. They also have more heterogeneous sourcing arrangements relative to European retailers– buying product both from large commercial farms supplying GVCs and less regulated fresh produce markets where traceability and private social standards requirements are non-existent.

Figure 2. Social Standards Web



Private-public governance void

Across South Africa and Kenya, we observed a private-public governance void for temporary farmworkers and smallholders' labourers.

- South African fruit workers: While private social standards mainly protect permanent workers in farms and packhouses exporting to Europe, it inadequately regulates the working conditions of temporary workers leading to exploitation. Labour legislation is poorly enforced by the state.

- Kenyan vegetable workers: On large farms supplying Europe wage workers benefit from private social standards and are unionised. A lack of private standards or implementation of national labour legislation on small-scale farms leaves informal wage workers poorly protected.

This public-private governance void in RVCs/DVCs led to various crises that manifest in different ways across different contexts.

- South African horticulture: a 2012/13 labour crisis, whereby temporary workers in the Western Cape horticulture downed tools demanding higher wages and better working conditions.

- Kenyan horticulture: in 2013 the EU restricted Kenyan horticultural imports after finding maximum residue levels (MRL) exceeding the legal European limit – known in Kenya as the 'MRL crisis'. A growth in cancer cases within Kenya was also linked to excess use of pesticides in domestic agricultural production. These crises prompted the government into action leading to the introduction of the regulatory public standard KS1758.

Driving change - Public Policy Value Chain Initiatives

The crises are driving change, in the form of state-led value chain initiatives to oversee or regulate the DVC. These manifest differently across different country contexts.

South Africa:

- Value Chain Round Table involving industry, trade unions, civil society organisations and the state, but no South African supermarkets to date.

- An Agricultural and Agro Processing Master Plan comprising representatives of labour, industry and the state, but excluding major retailers. The current Master Plan remains silent on key labour challenges in the sector.

Kenya:

- Public standard KS1758 introduced in 2019 replicating private European food safety, social and environmental standards. It involves all value chain actors (retailers, packhouses and farmers) and requires full value chain traceability. It applies to all export and domestic value chains.

4. Implications for decent work and small-scale producers

Question marks remain as to whether public governance of value chains is displacing private governance, and can address decent work for the most vulnerable workers in value chains.

Garment workers

- One of the main intended beneficiaries of the SA Masterplan will be SA garment workers. But the Masterplan does not address labour standards in Lesotho and Eswatini. It appears that major SA retailers will continue sourcing from Lesotho and Eswatini thereby mitigating any negative impact on jobs in those countries. This will however maintain the low labour cost competition pressure on collective bargaining and wages in South Africa.

- The discount and 'underbelly' segments of the SA market are the main areas of garment retail growth. This is the segment most sensitive to labour costs and is being targeted by manufacturers in Lesotho and Eswatini as well as non-compliant manufacturers in SA. It raises the question whether the Masterplan will significantly address illegal imports and non-compliance with labour standards, given that previous efforts have been unsuccessful

Horticultural workers and small-scale farmers:

- South African horticulture: Value Chain Round Tables remain voluntary and lack participation of South African retailers. This is significant given the central and powerful role retailers play in governing DVCs, including their purchasing practices and ability to implement social standards.

- Kenyan horticulture: public standard KS1758 has primarily targeted food safety following the MRL crisis. Whilst it draws on the ETI Base Code to provide for decent work, current evidence indicates this is not being adequately implemented on the ground.

Policy implications across value chains and countries:

Shifting South research thus found a private governance void in RVCs and DVCs that operate in parallel or intersect with GVCs. A 'benign transition' is taking place towards greater public governance of DVCs. The state's focus is on governing the value chain rather than sector, which reflects the private governance of GVCs. This is contributing to a form of 'polycentric governance' in which both public and private governance play a role:

- *Nationally:* Increased involvement of governments in adopting policies that target whole value chains and which have a social dimension is a significant development. National policies, however, are limited by the legal jurisdiction of the country and will at most impact decent work in DVCs.

- Such initiatives and interventions are often context specific. The drivers (in the form of various economic, social and political crises) and mechanisms vary by national and value chain context.

- *Regionally:* A number of regional trade agreements exist within SSA. Some include weak social criteria on workers' rights (e.g. COMESA and EAC in East Africa). Others include no such criteria (e.g. SACU and SADC in Southern Africa). The African Continental Free Trade Agreement (AfCFTA) does not incorporate criteria on workers' rights or a social clause. No regional initiative exists with regard to harmonisation of labour standards.

- *Globally:* The UN Guiding Principles on Business and Human Rights (UNGP) agreed in 2011 are being rolled out. UNGP links government's duty to protect, companies' duty to respect, and remedies for workers where rights are abused. Kenya has committed to the UNGP and introduced a National Action Plan (NAP). In SA this is at an earlier stage of development. The Declaration by the European Commission in 2022 that large companies operating in the EU will be regulated to produce human rights due diligence reports, including in their global supply chain, is likely to increase momentum for UNGP adoption.

5. Policy recommendations

Shifting South research indicates more effective promotion of decent work in value chains within SSA requires that:

- Nation states intervene more proactively and directly in domestic value chains within their national jurisdictions, and should promote social clauses covering labour standards within regional trade agreements.

- This raises the potential for joint and several liability for decent work in value chains. This refers to the state's ability to regulate not only direct employers, but to hold other value chain actors accountable in respect of labour compliance where direct employers are dependent on them for work, including buyers and suppliers across different value chain tiers.

Existing state-led value chain initiatives to address joint and several liability need to be strengthened and more proactively leveraged by the state to achieve decent work.

- Value Chain Round Tables in SA horticulture: need to secure retailer participation and use the forum to effectively negotiate on more effective implementation of private and public labour standards

- In Kenyan horticulture, the state needs to more effectively enforce standards in KS1758 that relate to decent work, which draw on the ETI Base Code principles.

- The NBCCI in SA has a provision for joint and several liability in its collective agreements. It applies, however, to entities that fall within the defined scope of the council, including design houses (used by some retailers to source garments) but not retailers. The Clothing Masterplan, by explicitly incorporating the major retailers, albeit on a voluntary basis, has the potential to start a conversation about introducing a labour compliance dimension incorporating retailers in the SA garment sector.

Significant issues remain regarding private-governance voids in regional value chains, where national levers to address joint and several liability do not apply. This is particularly relevant to garment RVCs, which require regional mechanisms to address decent work deficits.

- One potential leverage point is to include social clauses in regional trade agreements, especially the AfCFTA. This would provide minimum regional standards, although some governments (e.g. Lesotho and Eswatini) are unlikely to support social clauses because their 'competitive advantage' rests largely on low labour costs.

- An alternative is the formation of multi-stakeholder ethical platforms to address decent work at a regional level, ideally through a mechanism to progressively harmonise labour standards for garment workers. While Lesotho and Eswatini would probably be reluctant they could be persuaded if the retail signatories to the Masterplan link continued sourcing to participation in such a platform.

Scaling up adoption and implementation of the UNGPs with a focus on RVCs and DVCs within Kenya and South Africa, and the wider region, would reinforce implementation of joint and several liability linking retailers and suppliers (whether or not they export to GVCs).

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The authors alone are responsible for all research findings reported here.

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