Gender and governance of global value chains: Promoting the rights of women workers

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Abstract. *Private governance channelled through social compliance programmes and gender initiatives of multinational companies have had limited impact in tackling gender discrimination in global value chains (GVCs). The United Nations Guiding Principles on Business and Human Rights (UNGPs) provide a public–private governance framework to address human rights globally, including gender equality. This article considers whether the UNGPs can provide a more effective governance framework for addressing women workers' rights in GVCs. It argues that interlayered forms of governance (involving public, private and social actors) are critical in addressing gender discrimination in GVCs and advancing a gendered approach to human rights due diligence.*

Global value chains (GVCs), largely coordinated by multinational companies, have generated hundreds of millions of jobs in low-income and emerging economies. Women occupy a significant proportion of these jobs and constitute the majority of workers in some industries, such as the garment and food processing industries (Barrientos, 2014; ILO, 2015; Posthuma and Rossi, 2017). However, global sourcing across international borders involves high levels of competition between companies seeking lower production costs, which results in precarious jobs for many workers given that labour is the cost factor that suppliers often squeeze when under pressure from the purchasing practices of multinational companies (ILO, 2017). This especially affects workers in groups discriminated against on the basis of gender, caste, race, religion, ethnicity, physical ability or sexual orientation. In particular, women are disproportionately affected by business activities (United Nations, 2019). Gender discrimination is endemic in GVCs, and women drawn in as a source of low-cost labour are concentrated in the more insecure and less protected jobs with

low pay and poor conditions (Barrientos, 2019). They often lack the ability to negotiate the terms and conditions of work with their employers, organize through independent trade unions or raise grievances.

Many multinational companies, including retailers, brands and some large intermediaries, have adopted voluntary codes of labour practice to ensure minimum labour standards. In many cases, these have been developed in response to pressure from civil society organizations, in particular trade unions and non-governmental organizations (NGOs). Voluntary codes form part of multinational companies' private governance of GVCs and have spawned a large social compliance industry. However, social auditing of the implementation of codes has been ineffective in picking up on or addressing gender discrimination and harassment, and the quality of audits is often poor (BSR, 2018a; Barrientos, 2019). Recognition of the limitations of social compliance to address labour rights is therefore growing.

Some multinational companies that are looking "beyond compliance" have adopted gender initiatives to promote the rights of women workers in their value chains. They have broadened their GVCs governance to include support for women in communities or in the factories and farms from which they source (Scott, 2017). In many cases, delivery of programmes also involves collaboration with civil society organizations. However, an analysis of selected gender initiatives in multinational companies (examined below) found that these are fragmented. They rarely address or prevent the underlying drivers of gender discrimination, or the business operations of buyers and suppliers that can compound women's precarious work in GVCs.

The United Nations Guiding Principles on Business and Human Rights (UNGPs), endorsed by the Human Rights Council in 2011, provide a broader governance framework that some multinational companies are adopting (United Nations, 2011). The first pillar of the UNGPs emphasizes the importance of public governance in promoting human rights (i.e. State duty to protect), while the second recognizes the importance of private governance by companies (i.e. corporate responsibility to respect). The third pillar of the UNGPs establishes workers' right to access remedy and remediation for business-related abuses. The UNGPs apply to cross-border operations and business relationships, in line with the transnational nature of GVCs. They set a global standard of expected conduct that exists above national laws and refers to internationally recognized human rights, including the International Bill of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up. In contrast to "box-ticking" social compliance, the UNGPs require a comprehensive accountability system based on human rights due diligence. The aim is to understand the potential or real impacts of business operations on rightsholders (such as workers and local communities), and ensure that States and businesses take responsibility for mitigating such impacts and providing remedy for people who have been adversely affected or whose rights have been abused.

However, the debate around the UNGPs has only recently begun actively addressing gender as an underlying dimension of abuse (Bourke-Martignoni

and Umlas, 2018). Gender-specific rights violations, such as sexual harassment and abuse, which are prevalent in many GVCs (FWF, 2018), have been overlooked by proponents of the UNGPs, and are significantly under-represented in the scrutiny of other international standards. Gender discrimination is deeply entrenched in the social norms prevailing in most societies, shaping the subordinate role of women in both paid work and unpaid reproductive work (Himmelweit, 2000). Public and private governance have a key role to play but are not necessarily sufficient to address deep societally embedded gender discrimination. Social governance, involving civil society organizations, can also provide a channel for raising grievances and addressing the rights of more vulnerable and precarious workers. However, social governance is often a grey area and its role in the analysis of GVCs and human rights policy is insufficiently recognized. Moreover, many women's organizations that have championed and led efforts to tackle gender discrimination in the political sphere have not been as actively engaged in labour rights issues in GVCs involving the private sector.

This article explores whether the UNGPs have the potential to provide a more effective governance framework for addressing women workers' rights and promoting gender equality in GVCs. It analyses the role that different dimensions of governance (public, private and social) can play in promoting more gender-equitable human rights. It explores the concept of governance in a GVC context, which has until recently largely conflated social with private governance exercised by companies. It examines why private governance, through social compliance (codes and auditing) implemented by multinational companies, has been ineffective in identifying or addressing gender discrimination. It highlights the specific role that social governance can play in contesting private governance of such companies and raising gender rights issues beyond the workplace. It advances a gendered analysis of interlayered private, social and public governance in a value chain context and assesses the combined roles that these can play in promoting gender equality and the rights of women workers in line with internationally recognized human rights.

We also explore the role of multi-stakeholder initiatives, using the Ethical Trading Initiative (ETI) as an example of interlayered private and social governance involving companies, trade unions and NGOs. The ETI has an established and globally recognized voluntary standard, the ETI Base Code, based on nine ILO Conventions that prescribe internationally agreed labour standards. The ETI's model and approach is collaborative – involving companies, trade unions and NGOs in holding companies to account for their commitments and progress on these labour standards. Whereas companies previously regarded this area of work as part of their corporate social responsibility (CSR), the UNGPs have provided the ETI with an enhanced and more strategic framework to support companies in meeting their human rights due diligence responsibilities. There has been a growing body of legislation and regulation to increase requirements for companies to be more transparent and demonstrate human rights due diligence. The ETI has contributed to these

efforts, also recognizing the increasingly important role of governments in regulating the private sector and creating a more level playing field at a time of growing GVC complexity and competition.

This article draws on empirical findings from a study of the gender initiatives of ten ETI member companies to highlight the benefits and limitations of a private governance approach to promoting gender equality in GVCs, even where NGOs are also involved. In particular, we provide an example of a company in the Kenyan tea industry in examining the potential of interlayering private and social with public governance to promote gender equality and workers' rights. This illustrates the role that companies and civil society actors can play in addressing gender rights, where public governance also provides an enabling legislative environment. We argue that the UNGPs provide a useful framework with the potential to address gender rights by linking public and private governance, while anchoring social governance more firmly in its implementation. Trade unions and civil society organizations (particularly women's rights NGOs and experts) can highlight rights abuses experienced by women workers and support them in accessing remedy; challenge the business models of multinational companies that pressure suppliers and reinforce precarious work and gender discrimination; and explore whether multi-stakeholder initiatives such as the ETI can act as effective intermediaries within an interlayered private, social and public governance framework.

The remainder of this article is organized into four sections. The first provides an analytical exploration of governance, examining the limitations of private governance in terms of gender rights, when it is applied through social auditing of codes of labour practice. The second section examines the findings from an analysis of gender initiatives supported by ten ETI companies in their GVCs. It highlights the example of a tea supplier, which has developed an interlayered private, social and public governance framework similar to some Kenyan flower growers in an approach that appears more effective. The third section explores the potential for the UNGPs to provide a framework for promoting gender equality in GVCs involving interlayered public, private and social governance. The fourth section sets out our conclusions.

Governance and gender: Compliance and beyond in addressing gender discrimination in GVCs

The expansion of GVCs since the 1980s has been driven by retailers and brands seeking lower-cost production by sourcing from low-wage developing countries. In many industries (such as garment and agri-food industries), women have been drawn into employment as a source of cheap labour in countries where their participation in the labour force was previously limited. Many women face a decent work deficit with few rights, limited protection, and a lack of voice or freedom to organize through independent unions (Elson and Pearson, 1981; Pearson, 1998; ILO, 2016; Barrientos, 2019). Women face particular challenges arising from combining paid work with unpaid care re-

sponsibilities, and from entrenched discrimination. This often includes sexual harassment and gender-based violence both within and outside the workplace (FWF, 2018; ITUC, 2018).

Some argue that global sourcing contributes to a "regulatory void" in which the governments of developing countries have either chosen or been pressured to lower labour standards (for example, in export processing zones) to remain competitive in global markets (Sengenberger, 2002; Worker Rights Consortium, 2013). In GVCs, labour conditions are affected by the practices of buyers operating beyond the judicial boundaries of their suppliers. Buyers constantly pressure suppliers to reduce costs and increase efficiency through "just-in-time" production, while at the same time requiring them to meet stringent quality standards (Barrientos, 2013; ILO, 2017; Oxfam, 2018). Many suppliers deal with these pressures by increasing their use of casual, temporary or contract labour. They often view women as more "subordinate" and flexible, resulting in their concentration in precarious forms of work.

On the other hand, global sourcing has facilitated a process of transnationalism in labour standard setting. Civil society organizations, including global unions and NGOs, have addressed this regulatory void through diverse strategies of worker organization, advocacy and media campaigns (Waterman and Wills, 2001). In response, many multinational companies introduced codes of labour practice to address poor labour conditions within their supply chains. This led to the rise of private labour governance systems, the better of which are based on the ILO's fundamental Conventions (Hendrickx et al., 2016). The expansion of global sourcing has therefore contributed to different forms of governance of labour standards emerging in cross-border supply chains, involving public, private and social actors. Global Framework Agreements, for example, are signed between global trade union federations (such as the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations) and multinational companies (such as Danone, Sodexo and Melia) on sexual harassment (ITUC, 2018).

GVC analysis

Global value chain analysis has placed much emphasis on the role of governance – the setting of the norms, rules and policies that frame participant actions. For a long time the focus has mainly been on private governance and the strategies of lead firms coordinating their value chains across international borders (Gereffi, Humphrey and Sturgeon, 2005). Social governance has largely been conflated with private governance under the umbrella of social compliance implemented by multinational companies, while the role of public governance has been overlooked. However, there is increasing recognition that value chain governance involves a diverse range of civil society and state actors (Ponte and Sturgeon, 2014; Alford, 2016). Three dimensions of governance – private, public and social – are now identified as playing crucial roles (Mayer and Posthuma, 2012). The differentiation of social governance, we will argue, is particularly important from a gender perspective.

In a GVC context, private governance is defined as the power of lead firms to coordinate and distribute resources along their value chains. This mainly relates to product, environmental and labour standards applied by lead firms and private sector bodies (Gereffi, Humphrey and Sturgeon, 2005; Gibbon and Ponte, 2005; Nadvi, 2008).[1] Public governance involves rules, regulations and government policies within nation states, together with international agreements and multilateral institutions, which can all affect the operation of GVCs (Gereffi, 2006; Neilson and Pritchard, 2009; Smith, 2015; Horner, 2017; Mayer, Phillips and Posthuma, 2017). Social governance relates to the ability of civil society organizations, including trade unions, NGOs, social movements and multi-stakeholder initiatives, to influence social norms, policies, business practices, institutions and markets at national or international levels. This includes advocacy and campaigns that highlight labour rights abuses in GVCs and target the purchasing practices of multinational companies (Mayer and Posthuma, 2012).

Differing concepts have been applied in the GVC literature to analyse the role of multiple actors in governance. These include "modular" (Ponte and Sturgeon, 2014), "trans-scalar" (Alford, 2016), and "hybrid" (Bair, 2017) governance. In this article, we draw on Bartley's (2011) concept of "interlayered" governance, highlighting the combined roles of private and public actors in labour standards. We extend this to also highlight social governance in order to gender the analysis. The three dimensions – private, public and social – form three pillars of governance that can influence outcomes in relation to decent work. We argue that the three dimensions are interlayered as no dimension alone is sufficient to address workers' gender rights, yet combined they can influence the gendered rules and norms governing labour standards in GVCs.

Feminist political economy also informs a gendered analysis of governance and explains why the role of social governance needs to be highlighted in GVCs. Feminist analysis transcends the gender division of labour between the productive sphere for markets, involving paid work, and the reproductive sphere, largely involving unpaid work by women caring for current and future generations within households (Himmelweit, 2000; Hoskyns and Rai, 2007). Societal norms that subordinate the role of women within this gender division of labour also shape the undervaluation of women's paid work when they enter GVCs. Entrenched discrimination is reflected in the concentration of women in lower-paid and more precarious work, their prevalence in home-based informal work and their vulnerability to gendered issues, including sexual harassment (FWF, 2018). Private governance that primarily focuses on the commercial sphere of linkages between firms across borders and on paid work largely overlooks the societal underpinnings of discrimination on the grounds of sex.

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[1] Private governance is defined here as incorporating both internal and external dimensions of corporate policy (including value chains), whereas corporate governance relates, more narrowly, to a company's relation to its own employees and shareholders (Palpacuer, 2008).

As regards public governance, feminist political economy highlights a gendered division between the public and household domains, where men dominate in the public domain of State and government (Goetz, 1997). The embeddedness of institutions in social norms configures the gender profile of public governance. Feminist political economy has contributed to critical analysis of gender bias within national and international institutions (Pearson and Seyfang, 2001; Hoskyns and Rai, 2007; Stewart, 2011). Extending this argument, some posit that markets are themselves gendered institutions that act as bearers of gendered rules and norms (Elson, 1999; Beneria, 2007). However, focusing on public governance runs the risk of overlooking the societal norms and gender divisions of labour that determine the formulation of rules and policies with the potential to affect value chains.

From a gender perspective, the role of social governance is distinct from private governance, which focuses on the commercial sphere alone. Social governance can transcend the spheres of commercial production and social reproduction. It provides a channel for representation and voice for precarious workers whose rights are shaped across both of these spheres. It identifies the influence that some trade unions and NGOs that incorporate a gender focus[2] can have in highlighting the labour rights abuses facing more precarious workers – often women – and in challenging the commercial purchasing practices that compound precarious work. Social governance can in some circumstances challenge gendered power asymmetries entrenched within GVCs. The inter-layering of social with private and public governance, explored below, thus has the potential to promote a more integrated approach to addressing the gender inequalities that arise in the societal sphere and persist within GVCs.

Limits of private governance: Social compliance

Private governance of labour standards arose largely in response to social governance involving advocacy and campaigns by NGOs and trade unions against multinational companies, highlighting poor workers' rights and labour abuses in their GVCs. Poor labour conditions reflect the inability or unwillingness of governments to regulate the private sector on the premise that it would reduce foreign investment and trade. Many governments have effectively exempted companies from adhering to labour standards through the creation of export processing zones. By neglecting their own responsibilities to enforce legislation and protect workers' rights, they have helped to fuel a race to the bottom in labour standards. Retailers and brands have implemented codes of labour practice and CSR strategies as part of a wider private governance of standards across GVCs (Marx and Wouters, 2016). These include product standards, such

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[2] Trade unions and NGOs are not homogenous organizations. Some are male dominated and fail to sufficiently address gender issues. Others (e.g. SEWA in India and Women Working Worldwide in the United Kingdom) are specifically gender focused. The argument here is the need to recognize the potential role that gender-focused organizations can play in addressing gender discrimination within GVCs (Barrientos, 2019).

as technical and safety specifications, and process standards, such as environmental conditions and labour standards (Nadvi, 2008; Henson and Humphrey, 2010). Codes of labour practice allow large retailers and brands to ensure the quality of products, and to avert reputational risk to themselves from campaigns over poor labour conditions. The better codes require implementation of national labour regulation, and incorporate the ILO's fundamental Conventions and related UN human rights conventions (Jenkins, Pearson and Seyfang, 2002; Barrientos and Smith, 2007).

"Social compliance" encapsulates the part of private governance that evolved through the implementation of codes of labour practice and a monitoring logic using social audits. Such auditing led to the expansion of an army of private social auditors deployed to monitor supplier compliance with buyer codes across most consumer goods industries. Social compliance is self-regulatory in nature, and drawn up under a CSR remit. In complex value chains, multinational companies assume the role of accountability holders, externally imposing accountability and auditing practices on developing country suppliers (Sinkovics, Hoque and Sinkovics, 2016). Social compliance is now an enormous industry, valued somewhere between US$15 billion and US$80 billion annually, and involving many large international auditing firms and independent not-for-profit organizations (Terwindt and Armstrong, 2019).

Despite these large resources, social compliance has had only limited impact on improving labour standards in GVCs. A number of studies have shown that, while social audits are more effective at assessing measurable standards that are easily documented (e.g. wages, overtime, health and safety), they have proved ineffective at assessing enabling rights, including freedom of association and discrimination (Barrientos and Smith, 2007). In particular, audits often fail to identify gender discrimination or harassment as instances of non-compliance (BSR, 2018b). For example, a study of social audits undertaken in 2,447 factories in Asia between 2009 and 2012 found less than 1 per cent of instances of non-compliance involving no discrimination (Distelhorst and Locke, 2018). Yet many of the audits were undertaken in countries where gender discrimination is deeply embedded. These include Bangladesh and India, which rank 136 and 130 respectively in the UN Gender Inequality Index.[3] In Indonesia, an independent impact assessment commissioned by the ILO/IFC Better Work programme using a different methodology found that 88 per cent of workers complained that sexual harassment was an issue in their factory – almost the reverse finding to that of social audits (Better Work, 2016; Barrientos, 2019).

Social audits provide an attestation service (Kinney, 1988) to monitor compliance with standards and codes of labour practice on a technical basis. They are based on technocratic practices that often lack social contextualization and take little account of supplier business culture or policies (Locke, 2013). They often involve third party auditors that do not have specific human

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[3] See http://data.un.org/DocumentData.aspx?q=Gender+Inequality+Index&id=391 (accessed 10 October 2019).

rights expertise and lack investigation and prosecution powers (LeBaron and Lister, 2015). One analysis of the garment industry in Bangladesh concluded that the main changes resulting from the social audit process operate on the financial self-interest of the supplier (i.e. maintaining contracts with multinational companies) and are "fundamentally temporary and reversible in nature" (Islam, Deegan and Gray, 2018, p. 212). The Rana Plaza factory collapse in Bangladesh in 2013 killed over 1,100 garment workers – most of whom were women – and occurred only weeks after the factory had passed a social audit (Terwindt and Armstrong, 2019). Social compliance lacks accountability on labour practices, and suppliers often move in and out of compliance (Locke, 2013).

In recent years, recognizing the limits of codes of conduct and social audits in governing global suppliers, a number of leading retailers and brands have started to look "beyond compliance" at wider initiatives to promote social and environmental standards within their GVCs. It reflects a recognition that despite the expenditure of huge resources, poor labour conditions continue to persist in GVCs.

GVCs criss-cross national borders, where regulatory and political frameworks greatly differ from one country to another. There is a disconnect between the real power and influence of multinational companies over the implementation of labour standards, companies' accountability towards stakeholders, and their legal requirements (Ruggie, 2018). As it is, social compliance is generally an add-on – an incremental cost – to normalized business practices and the governance of global chains. It does not effectively challenge the purchasing practices of multinational companies underpinning many labour rights abuses among suppliers (Barrientos, 2019). On the other hand, in GVCs legal compliance is insufficient to impose labour standards, as multinational companies barely exist under international law, and domestic law is usually unable to go beyond national borders to reach companies in their position of international entities coordinating GVCs.

Role of public governance: United Nations Guiding Principles

In the light of the challenges of global governance and the fact that multinational companies have increasing influence on people's lives, a "business and human rights" framework is gaining momentum within the public and private spheres. This transcends the dichotomy between mandatory and voluntary approaches, generating a new regulatory dynamic with the potential to mediate public, private and social governance (Ruggie, 2013). The concept of business and human rights is "in part a response to CSR and its perceived failure" (Ramasastry, 2015, p. 238), and has been encouraged in recent years by the rise of global standards of corporate accountability for human rights developed by international governmental organizations (Islam and McPhail, 2011; Muchlinski, 2003). This is the case, for example, of the UNGPs, endorsed by the Human Rights Council in 2011 (United Nations, 2011), and the OECD Due Diligence

Guidance for Responsible Business Conduct, launched in 2018 (OECD, 2018). The focus shifts from social and legal compliance to corporate accountability, where all the actors in the global governance setting – public, social and private – can benchmark business conduct against internationally recognized human rights standards. Multinational companies are beginning to adopt the UNGPs as part of their move beyond compliance, towards a more integrated approach to workers' rights.

The UNGPs provide a common international conceptual and policy framework aimed at adapting the human rights regime to business. Built on differentiated but complementary duties and responsibilities, they comprise three core pillars: the State's duty to protect against human rights abuses by third parties, including business; the corporate responsibility to respect human rights; and the need for more effective access to remedies (Ruggie, 2008). The direct corporate responsibility to respect human rights exists independently of States' duties and does not entail merely a passive attitude of not doing harm but rather positive steps that go beyond compliance. The UNGPs attribute a role to social actors that is supplemental, recognizing their monitoring function on business impacts, assessment and accountability practices. Affected stakeholders and their representatives – such as NGOs and trade unions – can also advocate for the adoption of context-sensitive practices and ensure the availability of effective grievance mechanisms.

The implementation of the UNGPs represents a site for convergence among heterogeneous governance regimes in value chains that cross global, national and local scales. This is important in a GVC setting, where adverse impacts on human rights can occur as a consequence of the economic activity of multinational companies located beyond the legal jurisdiction of individual suppliers – instead of being confined within national borders (Backer, 2016). The UNGPs go beyond national regulatory compliance and try to overcome the difficulties of operating across different legal regimes, compensating for fragmented State-based authority structures through corporate accountability and human rights due diligence (Ruggie, 2014).

The UNGPs provide a common language for various actors and a shared accountability tool (i.e. human rights due diligence) allowing for greater fluidity among different governance regimes. They are characterized by a dynamic dimension that should "trigger an iterative process of interaction among the three global governance systems, producing cumulative change over time" (Ruggie, 2017, p. 15).

Even if the UNGPs attribute a supplementary – rather than a primary – role to social actors, civil society organizations proactively guide and promote their implementation. Actors in the sphere of social governance are de facto functioning as intermediaries between public and private actors, facilitating the adoption of the UNGPs and other business and human rights standards, thereby enhancing exchange between different governance regimes. As intermediary players, social actors possess governance capabilities, such as technical expertise and direct access to target actors, which public actors lack (Abbott

et al., 2015). Multi-stakeholder initiatives and civil society organizations can play a pivotal role in expanding the reach and effectiveness of the framework of the UNGPs, leveraging all the actors involved to act in favour of rights-holders, and assisting them in the achievement of corporate accountability towards human rights.

Social governance can further enhance the adoption of a gender perspective in the implementation of the UNGPs. Civil society organizations provide workers with collective channels to voice human rights concerns both within workplaces (via trade unions) and in wider communities (via NGOs). Not all unions and NGOs take a gender focus. However, when they do, they can provide a channel for vulnerable groups – such as temporary, casual and informal workers, who are often women – which may be overlooked in more formal institutional and workplace settings (Barrientos, 2013). They can help to raise gender issues (such as discrimination and sexual harassment) underpinned by social norms that subordinate women, and transcend boundaries between commercial workplaces and the wider sphere of social reproduction.

Until recently, the debate around the UNGPs lacked a specific gender focus. In 2017, the United Nations Working Group on Business and Human Rights recognized that inadequate attention has been given to gender in the implementation of the UNGPs.[4] It highlighted the need to differentiate between the impacts of business-related human rights abuses on women and the additional barriers that they face in accessing effective remedies to redress such abuses. In the implementation of the UNGPs, companies have a direct responsibility to respect women's rights in different settings across their GVCs. They need to factor in gender-based considerations in the assessment of their impacts on women, including an evaluation of how societal roles and expectations increase adverse effects, and how these could be addressed to ward against the risk of reinforcing or exacerbating existing gender discrimination by adopting gender-neutral policies (United Nations, 2017, para. 28).

Interlayering public, private and social governance: Company initiatives on gender

Multi-stakeholder initiatives provide an example of partial interlayering of private and social governance, although public governance has to date played a lesser role. Many of these initiatives are long-established ones, bringing together companies, NGOs, and sometimes trade unions, in alliances to promote workers' rights. The move "beyond compliance" has enhanced company participation in multi-stakeholder initiatives. These can complement broader human

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[4] Following the 6th UN Forum on Business and Human Rights in November 2017, the Working Group launched a thematic project to unpack the gender dimension of the UNGPs, aimed at raising stakeholders' gender sensitivity and developing guidance for States and business on the subject. The project concluded in June 2019 with the release of guidance for States and companies. See https://www.ohchr.org/EN/Issues/Business/Pages/GenderLens.aspx [accessed 27 September 2019].

rights principles through the UNGPs, and help drive the business and human rights agenda. Some of these initiatives inform a gender-sensitive approach to workers' rights that links private and social with public governance, based on corporate accountability rather than voluntarism. This section examines the potential opportunities and limitations of company-driven gender initiatives, often undertaken in collaboration with civil society organizations. It considers the advantages of an interlayered governance approach, drawing on an example from a Kenyan tea company informed by experience in the flower industry. This illustrates the potential role that the UNGPs could play in scaling up a gendered approach to business and human rights.

The Ethical Trading Initiative (ETI) in the United Kingdom provides an example of the influence of multi-stakeholder initiatives in addressing gender equality as part of broader business responsibility towards human rights. The ETI, established in 1998, is an alliance of over 90 British companies with a combined turnover of over £166 billion in 2017, as well as 17 NGOs and major trade union federations. All ETI members commit to the Base Code,[5] which is founded on the relevant ILO standards and requires compliance with national labour regulations in sourcing countries. Over the years, in line with regulatory developments both at national and international level, the ETI's institutional logic has been well placed to put the emphasis on a business and human rights approach and shift companies away from a traditional CSR approach. The ETI brings together private and social governance for the affirmation of international labour standards in GVCs, acting as a translator of the public actor goal, that is, the assignment of a direct responsibility to business towards human rights. The ETI provides learning and promotes respect for workers' rights in members' GVCs (e.g. ETI, 2018). It now acts as an intermediary actor between public institutions that have endorsed the UNGPs and target (private) actors. The ETI therefore facilitates an interlayered governance arrangement, also helping public actors (i.e. States and intergovernmental institutions) to educate and mobilize target actors towards corporate accountability.

In consultation with its tripartite members (companies, trade unions and NGOs), the ETI developed its Human Rights Due Diligence Framework, which goes beyond social compliance and interprets the requirements and application of the UNGPs in relation to labour rights in global supply chains.[6] A gender-specific guide was also developed for a more explicit and deliberative approach to tackling gender-related labour rights (ETI, 2018). This involves a four-step approach aligned to the UNGPs human rights due diligence approach: (a) identifying gender and labour rights risks; (b) identifying corporate responsibility and leverage to tackle this; (c) mitigating, remediating and managing labour rights violations affecting women workers; and (d) monitoring, reviewing and reporting on actions taken.

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[5] See https://www.ethicaltrade.org/eti-base-code [accessed 27 September 2019].

[6] See https://www.ethicaltrade.org/resources/human-rights-due-diligence-framework.

ETI gender assessment

As part of the process of developing its gender and human rights strategies, the ETI initiated a gender assessment of ten company members that had adopted gender initiatives as part of the governance of their GVCs. The assessment was undertaken in 2017 by the ETI in partnership with the University of Manchester.[7] The study was not a representative sample of ETI companies or initiatives, nor was the aim to undertake a full assessment of each initiative. The main goals of the study were to: (a) understand the motivation and process through which companies are addressing gender issues within their value chains; (b) gather better data and information on the types of engagement by companies in gender initiatives, given that reporting is very variable; (c) enable companies to learn from one another and inform learning for other ETI members and the development of the ETI gender strategy and Base Code Guidance; and (d) advance the academic knowledge on the implementation of gendered due diligence practices in GVCs.

The analysis drew on an "action research" participatory method through which researchers are directly involved in the co-production and implementation of learning to promote transformative change (Eden and Huxham, 1996; Burns, 2007). The researchers adopted a qualitative and inductive approach to the inquiry, combining multiple data sources. Data gathering included interviews, informal conversations and documentation analysis. The ten companies volunteered by responding to a call to all member companies asking for participants in the study. Participating companies were assured anonymity. The assessments were undertaken by a combination of ETI gender consultants and academic researchers. Each company assessment was based on a review of relevant documentation for that company's engagement in gender initiatives (on average, three or more), interviews in the United Kingdom with relevant company personnel, and Skype interviews with key suppliers and initiatives based in other countries.

The focus of the research was limited to the exploration of the companies' governance approach and strategies to address women workers' rights, which is the main focus of this article.[8] An advisory group that involved representatives of ETI member companies, NGOs and trade unions provided guidance. The process also included three workshops, involving all researchers, companies and ETI staff, and feedback sessions between individual researchers and companies. A short report and infographic were subsequently made publicly available, providing an overview of the findings. Each of the companies was also given confidential feedback reports with recommendations for areas of improvement.

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[7] This gender assessment was funded by an Economic and Social Research Council Impact Acceleration Award to the University of Manchester, and a UK Department for International Development award to the ETI as one component of the Responsible Accountable and Transparent Enterprise programme. The findings presented here represent the views of the authors alone, and not those of the funding bodies or the ETI.

[8] The methodology did not include direct participation by workers, in part due to the focus on governance by companies in collaboration with other stakeholders, and due to time and resource limitations.

Assessment findings

Table 1 provides a brief overview of findings from nine of the assessments, given that one company provided only partial information and has been excluded from our detailed empirical analysis. The companies were separately engaged in 32 initiatives across 12 countries (with some overlaps between countries), covering 115 workplaces involving approximately 170,000 workers and smallholders. However, the data on the workers reached should be treated with caution as they were not gathered systematically by the companies and were not necessarily disaggregated by sex. Not all initiatives were specifically gender focused, but all incorporated women as an important target group. Some initiatives were focused on one issue, but many had a variety of aims.

The assessment indicated that benefits provided for women workers include increased mentoring to advance women's access to skills training, health services, maternity benefits, education, life skills, leadership and financial management. The main focus of the highest number of initiatives (7) was on reproductive health, for example improving workers' health services in factory systems and empowering women workers as health champions. Many initiatives focused on training for skills development (5) or supported workers' capabilities, voice and leadership (5). Three initiatives focused primarily on gender-based violence through, among others, awareness raising and capacity and policy development to address this problem in garment factories in Asia.

Table 1. Summary of company gender initiatives examined

Company	Number of gender initiatives	Number of countries	Estimated number of workers reached*	Civil society collaboration	Government collaboration	Donor support	UNGP/SDG commitment**
A	5	5	2,800	Yes (x5)	Yes (x1)	n/a	No
B	4	3	2,044 (+10,000 over 10 years)	Yes (x4)	No	Yes (x 2)	Yes
C	4	4	54,725	Yes (x4)	No	Yes (x1)	Yes
D	4	3	64,000	Yes (x4)	Yes (x1)	Yes (x4)	No
E	2	2	2,628	Yes (x1)	No	No	Yes
F	3	3	600 (+275 smallholders)	Yes (x2)	No	No	No
G	4	1	11,000 (+15,000 smallholders)	Yes (x4)	Yes	n/a	Yes
H	3	2+	291	Yes (x2)	No	Yes (x1)	No
I	3	2	6,800	Yes (x3)	No	n/a	No

Notes: One company is not reported in the table as insufficient data were provided.   * Data on the number of workers reached should be treated with caution as data gathering was not systematic.   ** In addition to the UNGPs and the Sustainable Development Goals (SDGs), some companies have also adopted other UN-based initiatives, including the UN Women's Empowerment Principles and Social Development Goals, which are not analysed here.

Source: Authors' compilation based on data collected in ETI company gender assessments.

Three initiatives focused on enhancing value captured by women working in smallholder production. Some initiatives aimed to improve pay and conditions for women workers, including progress towards living wages. Others also addressed issues around gender-based violence, and included awareness- and capacity-building training, and new policies and procedures for reporting and remediation where incidents are identified. Some companies aimed to reach out to all workers within selected production sites, whereas others were more intensive and reached smaller numbers of workers within sites.

The overall assessment was that over the past ten years, advances have been made in the awareness and approach of some retailers, brands and suppliers towards women workers in GVCs. Gender equality is now on the agenda of many companies and is beginning to form part of their "beyond compliance" governance strategies. There is evidence that some companies and their suppliers are keen to engage with a wide range of stakeholders to address gender inequality in their GVCs, and to recognize the role that interlayered governance can play. At the same time, a number of limitations were also identified by the assessments – they were diverse in their aims, tended to be fragmented and benefited only specific groups of workers. As such, their ability to be scaled up is limited.

Governance opportunities and limitations

All the initiatives studied here were channelled through private governance, and were mainly handled by the companies' CSR departments. However, the assessment found evidence that they all engaged in a collaborative approach, mainly with civil society organizations, including not-for-profit initiatives, as shown in table 1. Most initiatives involved company participation in independent, external civil society-led programmes, while some (ten) were company-led and undertaken in collaboration with civil society organizations. The types of external organizations involved included international and local NGOs, not-for-profit business consultancies or auditing companies and multilateral organizations. There was some overlap between the initiatives, with more than one company engaged in the same civil society-led initiative, and a total of 27 initiatives involved. Given supplier anonymity, it was not possible to assess whether different companies were engaged in initiatives on the same production sites.

Some initiatives involved links to government programmes supporting women workers to access government services. However, as shown in table 1, this collaboration was far less prevalent than that with civil society organizations. Only one company had a stated policy of government engagement to promote gender equality. This will be examined in more detail below.

The analysis highlighted the limitations of private governance as a channel for addressing gender discrimination in GVCs. At present there is fragmentation across initiatives, and they lack a coherent overall strategy. Companies themselves acknowledged that they lacked a strategic approach and that the

"pieces of the quilt" were often not joined up. Most of the initiatives were not designed based on a needs assessment or as a part of the companies' human rights due diligence process. There was little or no consultation with workers on the design of the interventions in advance. A critical missing element was a lack of engagement with trade unions and other effective dialogue mechanisms, or the use of formal grievance and remedy processes. None of the initiatives was aimed at challenging the business model of cost reduction and just-in-time production that helps to drive precarious work undertaken by women. There was no systematic assessment of the impacts on women, nor of their prevention, mitigation or remediation.

Interviews with company personnel indicated that a number of initiatives were driven more by philanthropic than by human rights motives. The initiatives were part of a "top down" approach by companies as part of their CSR programmes linked to private governance. There was little evidence that the businesses had a policy or strategy to address gender inequality entrenched in their GVCs. As such, there was limited coherence or ambition to replicate these projects or approaches in other parts of the business, to extend them to other suppliers, or to scale them up beyond the scope of the selected factories or farms involved.

In sum, analysis of the initiatives promoted by the companies revealed an approach to gender-related issues within the businesses that was generally neither systematic nor strategic. The initiatives often answered a specific challenge or another institution-led action, even though they usually recognized a business responsibility towards women's rights. These were independent from the State duty to protect women's and labour rights. The initiatives were generally not part of a systematic implementation of the human rights due diligence process set out in the UNGPs.

Kenyan tea: An illustration of interlayered governance

One initiative, however, stood out as making good progress. A tea company, drawing on experience in the Kenyan flower industry, developed a strategy in its Kenyan business that recognized gender discrimination and sexual abuse as human rights issues that were affected by the commercial operations of the business. It provides a practical example of the interlayered roles that social, private and, importantly, public governance can play at different stages as addressing gender issues and rights gains prominence in a company.

Social governance played an initiating role by driving change from the early 2000s in the form of advocacy and campaigns on workers' rights abuses in the Kenyan tea and flower industries. Abuses identified included systematic gender discrimination, sexual harassment of women workers by male supervisors, women concentrated in insecure work on temporary contracts, and lack of worker complaints procedures or remediation (Dolan, Opondo and Smith, 2004; Said-Allsopp and Tallontire, 2015). Public governance later had a catalytic effect when changes to the Constitution in Kenya in 2010 raised gender

equality as a key issue that business needed to address.[9] In line with changes made by some flower companies, the tea company responded to civil society pressure, and to changes in the Constitution to embed policy changes in their core business operations.

The tea company (G in table 1) developed a gender strategy as part of its overall sustainability programme that was later linked to promoting the UN Business and Human Rights framework and the UN Sustainable Development Agenda. Changes included: appointing a Gender Empowerment Manager; developing new policies and procedures to address gender bias in recruitment; and establishing gender committees, providing women workers with channels for raising complaints and accessing remediation.

In accordance with the Kenyan Bill of Rights (2010), the company also set a medium-term target of a minimum of 33 per cent representation of women at every level within the company (including different categories within the workforce and management). The company's longer-term target is to achieve 50 per cent of female representation at all levels of the workforce, including in senior management. It therefore integrated a strategy to promote gender equality across its business operations, rather than a more philanthropic approach supporting specific groups of women workers.

The programme's roll-out began in 2014. The company also introduced monitoring and evaluation procedures to track the effect of its policies. Early signs of progress were positive. Overall, between 2014 and 2017, women's representation rose from 39 to 42 per cent of workers and management across the company. It also developed a talent pool of women able to move to more senior positions in the future. In the company's assessment, it succeeded in moving beyond a narrow focus on compliance, to the implementation of a more strategic approach to gender equality. The company also recognized that gender equality made good business sense – they were able to show raised productivity and efficiency, commercial success, and the ability to produce better quality products.[10]

The ETI study did not include interviews with tea workers as part of the assessment (see footnote 10). However, the tea supplier treads a similar path to that already followed by some Kenyan flower companies that were subject to even more vigorous media campaigns than tea in the early 2000s. These involved trade unions, NGOs – both in Kenya and Europe – and the Kenya Human Rights Commission (KHRC). Kenyan flower companies employ approximately 100,000 workers, of whom 75 per cent are women

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[9] Constitution of Kenya 2010, in particular Chapter 4, "The Bill of Rights", and articles 59 and 60. Available at: http://www.kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=Const2010 [accessed 3 September 2019].

[10] The information provided here is based on a review of company documentation, an independent review and social compliance reports, interviews of company personnel (managers, human resources staff and the Gender Empowerment Manager) and of civil society organizations undertaken in 2017. Further research would be required to assess workers' experiences of the changes.

(Barrientos, 2019). Previous NGO reports and advocacy campaigns in the early 2000s highlighted poor labour conditions including constantly renewed temporary contracts, violation of health and safety rules in greenhouses, and sexual harassment by male supervisors. Supermarkets faced with strong competition pressures in the retail market generated poor purchasing practices, such as short-notice orders (e.g. offering high discounts on selected products). This led to sudden demands for high volume and rapid delivery of products that led to short-notice overtime, causing particular problems for women workers with childcare and other domestic responsibilities. A formal complaint about these practices was made to the ETI by an NGO member in the United Kingdom. The ETI organized a delegation (including UK supermarket representatives) to visit Kenya in November 2002.

Larger flower companies subsequently made a number of improvements in the way that they approached human resource management, and the terms and conditions of employment. Health and safety improved, and a significant number of women workers were switched from temporary to permanent contracts. Some flower farms set up gender committees tasked with addressing issues such as sexual harassment and discrimination, providing a channel for workers to make complaints and seek remediation. Workers in subsequent research studies reported improvements in employment conditions and less on-farm sexual harassment (Oxfam and IPL, 2013; Evers, Amoding and Krishnan, 2014; Said-Allsopp and Tallontire, 2015).[11] More women subsequently became supervisors and moved into managerial positions (Barrientos, 2019). Improvements in Kenya's employment law in 2007 and in its Constitution in 2010 further helped to enhance labour standards (KHRC, 2012). The business benefits of the changes also became clear over time. Enhancing the rights of a largely female workforce led to lower labour turnover, more committed skilled workers, higher productivity and quality (IFC, 2013). However, not all farms made progress, and workers continued to complain that nominal wage rises failed to provide a living wage (Oxfam and IPL, 2013).

In sum, examples from the tea and flower industries provide lessons in relation to gender and the potential roles that interlayered social, private and public governance can play. Companies did not set out to involve different actors, yet over time civil society and government influenced the development of a more integrated approach linked to their business operations. Social governance initially raised gender awareness in the Kenyan flower and tea industries, leading to a collaboration with civil society organizations in developing a gender strategy. Private governance provided the implementation channel, extending a gender strategy within the company to its business operations and human rights commitments. Public governance played a catalysing role by changing the Kenyan legislative environment on gender discrimination and representation of women. These actions by different actors are in line with the inter-

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[11] Incidents of sexual harassment are reported to have decreased on site but the problem is deeply embedded in society and continues at the community level.

national framework for business and human rights set by the UNGPs. The interlayering of different governance dimensions helped to develop and anchor a gender strategy into the business operations of the company.

Gender and interlayered governance of workers' rights

Combining the three governance layers links different channels for addressing gender rights abuses that are societally embedded. Public governance plays an increasing role in setting the standards and demanding transparency and human rights due diligence linked to GVCs. Private governance provides a channel for addressing gender rights within global production, with a recognized direct responsibility for gender rights. Social governance has a central role in the adoption and mediation of the gender-responsive UNGPs, as civil society organizations and multi-stakeholder initiatives put pressure on businesses and demand corporate accountability. As analysed above, some companies are starting to take responsibility for women's rights, even if a proper corporate accountability system towards gender equality is still in its infancy.

To date, aside from some multinational companies that are leading the way, the majority of companies in GVCs struggle to implement systematic human rights due diligence processes and to take full responsibility for their impacts on women (CHRB, 2018). Likewise, until now, States have not paid adequate attention to gender equality in their duties under the UNGPs (United Nations, 2019). As a result, social actors are able to provide a catalyst by pushing others to adopt a gender-responsive due diligence system. Civil society organizations and multi-stakeholder initiatives can benchmark private actors against internationally recognized human rights frameworks (United Nations, 2011, Commentary, Principle 12) and influence the adoption of gender-sensitive norms. They can leverage business to be context-sensitive, recognizing embedded and highly complex gender norms, and making sure that companies do not perpetuate or benefit from intrinsic gender inequalities that go beyond the workplace (Bourke-Martignoni and Umlas, 2018). Social governance often challenges the just-in-time and cost reduction business models that underpin precarious work and reinforce gender discrimination within GVCs.

At the same time, it is important to note that female rights-holders experience business impacts in different ways and cannot be considered as a homogeneous group. Companies lack the knowledge to provide meaningful solutions for the complex and structural forms of inequality in different segments of their GVCs, or for discriminatory social norms, patriarchal power systems and gender stereotypes (United Nations, 2019). Civil society organizations provide context-sensitive guidance and give women workers a voice, acting as intermediaries for a gender-sensitive implementation of the UNGPs.

To promote a gender rights approach, companies should seek to understand the concerns of affected rights-holders by means of direct consultation,

taking into consideration language, cultural and other possible barriers to a dialogic engagement. Where a direct consultation with rights-holders is not possible, companies should refer to civil society organizations (United Nations, 2011, Commentary, Principle 18), ensuring the meaningful participation of the parties involved. This is a key characteristic of a business and human rights approach to gender inequality, which differs from a CSR approach where stakeholder engagement is often symbolic and seeks only external legitimization (Archel, Husillos and Spence, 2011).

Worker representation and engagement remains critical to achieving decent work in GVCs. Through independent trade unions, workers can exercise their right to freedom of association and negotiate the terms and conditions of work directly with their employers. However, the UN Working Group report recognizes that this is not always available to women workers (United Nations, 2019). Where official trade unions and other forms of independent representation are not feasible or available – particularly to vulnerable women workers on temporary or agency-based contracts – the role of intermediaries such as multistakeholder initiatives can help bridge this gap in the short-to-medium term.

The cases illustrated above demonstrate how social governance has a primary and substantive role to play in advancing a business and human rights approach. Currently, public and private actors alone are not able to change the rules of the game, switching from a voluntarist business attitude to one of accountability. A more systematic and integrated approach towards gender inequality is offered by the intermediary role of social actors, through their knowledge, leverage and influence over private actors for the implementation of the UNGPs.

Conclusion

The coordination of GVCs by multinational companies has proved to be highly challenging when it comes to the protection of women workers' rights. Private governance based on social compliance has been largely ineffective in addressing gender discrimination in GVCs. There is greater recognition of the importance of collaboration between company, civil society and government actors for the advancement of workers' rights. This fosters a link between public and private governance regimes, linking the State's duty to protect and the corporate responsibility to respect human rights. This leads to our core argument that social governance also has an important role to play in GVCs.

The adoption of the UNGPs cogently links private and public responsibilities towards achieving the protection of and respect for women workers' rights. However, the implementation of the UNGPs has only recently addressed gender. This article argues that the new regulatory dynamic that emerges from the UNGPs and coordinates public and private governance also needs to integrate social governance for the meaningful engagement and participation of rights-holders, particularly vulnerable groups such as women. Civil society can help to mediate links between public and private actors. Some NGOs and trade unions (by no means all) address underlying gender discrim-

ination and rights abuses that transcend paid work in commercial production and wider societal norms that subordinate women. Some go further in challenging the purchasing practices of multinational companies that compound the types of precarious work in which gender rights abuses are prevalent.

In conclusion, an interlayered governance regime and a systematic approach towards corporate accountability represent the way forward in overcoming the limitations of a CSR-based approach. Public actors set the principles and parameters of reference towards business and human rights. Social governance, for its part, could influence the implementation of new business and human rights standards through trade unions and NGOs, guiding private actors to capture the complexity of business-related impacts on women in global production. Both public and social actors can hold private actors accountable for their direct responsibility towards women's rights, demanding the identification, prevention, mitigation and accounting on potential or actual abuses against internationally recognized rights. Combined, an interlayered approach involving public governance by States and intergovernmental institutions, private governance by companies, and social governance by civil society organizations and multi-stakeholder initiatives have the potential to provide a more effective route to gender equality in GVCs. However, the promotion of gender equality through the human rights agenda and the implementation of the UNGPs still has a long road to travel.

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