Case Study 1.1: Slavery in the Chocolate Industry[1]

In 2012, CNN published a series of investigations as part of its "Freedom Project," which found that "child labor, trafficking and slavery are rife" in the chocolate industry. The CNN investigations revealed that large numbers of children were being held as slaves on cocoa farms in Ivory Coast, a small nation on the western coast of Africa.

Forty-five percent of the chocolate we consume in the United States and in the rest of the world is made from cocoa beans grown and harvested on farms in Ivory Coast. Few realize that a portion of Ivory Coast cocoa beans that goes into most of the chocolate we eat was grown and harvested by children who work as slaves. The slaves are boys between 12 and 16—but sometimes as young as 9—kidnapped from villages in surrounding nations and sold to the cocoa farmers by traffickers. The farmers whip, beat, and starve the boys to force them to do the hot, difficult work of clearing the fields, harvesting the beans, and drying them in the sun. The boys work from sunrise to sunset. Some are locked in at night in windowless rooms where they sleep on bare wooden planks. Far from home, unsure of their location, unable to speak the language, isolated in rural areas, and threatened with harsh beatings if they try to get away, the boys rarely attempt to escape their nightmare situation. Those who try are usually caught, severely beaten as an example to others, and then locked in solitary confinement. Every year unknown numbers of these boys die or are killed on the cocoa farms that supply our chocolate.

The plight of the enslaved children was first widely publicized at the turn of the twenty-first century when True Vision, a British television company, took videos of slave boys working on Ivory Coast farms and made a documentary depicting the sufferings of the boys. In September 2000, the documentary was broadcast in Great Britain, the United States, and other parts of the world. The U.S. State Department, in its *Year 2001 Human Rights Report*, estimated that about 15,000 children from the neighboring nations of Benin, Burkina Faso, Mali, and Togo had been sold into slavery to labor on Ivory Coast cocoa farms.

Although slavery is illegal in Ivory Coast and the minimum age of employment is 14, the laws are poorly enforced. Open borders, a shortage of enforcement officers, widespread poverty, and the willingness of local officials to accept bribes from people trafficking in slaves all contribute to the problem. In addition, prices for cocoa beans in global markets have been depressed most years since 1996. As prices declined, the already impoverished cocoa farmers—who earn less than $2 per day on average—turned to slavery to cut their labor costs. Although prices began to improve during the early years of the twenty-first century, cocoa prices fell again in 2004 and remained low until the summer of 2010, when they again began to rise. The poverty that motivated many Ivory Coast cocoa farmers to buy children trafficked as slaves was aggravated by other factors besides low cocoa prices. Working on small isolated farms of one to three acres, cocoa farmers cannot communicate among themselves nor with the outside world to learn what cocoa is selling for. Consequently, they are at the mercy of a local middleman, a "traitant" or "pisteur," who drives out to the farms, buys the farmers' cocoa for half of its current market price, and hauls it away in his truck. Unable to afford trucks themselves, the farmers must rely on the middlemen to get their cocoa to market. The traitant takes the cocoa beans to a warehouse in a nearby large town where they are combined with the beans harvested on other farms, and where the major exporters, such as Archer Daniels Midland (ADM) and Cargill, purchase the cocoa beans to export to their processing plants.

Chocolate is a $13 billion industry in the United States, where Americans consume over 3 billion pounds each year. The names of the four largest U.S. chocolate manufacturers—all of whom use the morally "tainted" cocoa beans from Ivory Coast in their products—are well known: Hershey Foods Corp. (maker of Hershey's milk chocolate, Reeses, and Almond Joy), Mars, Inc. (maker of M&Ms, Mars, Twix, Dove, and Milky Ways), Nestlé USA, (maker of Nestlé Crunch, Kit Kat, Baby Ruth, and Butterfingers), and Kraft Foods (which also uses chocolate in its baking and breakfast products). Less well known, but a key part of the industry, are the names of ADM Co., Barry Callebaut, and Cargill Inc., all of whom serve as middlemen who buy the cocoa beans from Ivory Coast, grind and process them, and then sell the processed cocoa to the chocolate manufacturers.

Pressure Leads to Action

That many farmers in Ivory Coast use slave boys to farm their cocoa beans was already known to American chocolate-makers when media reports first began publicizing the issue at the beginning of the twenty-first century. In 2001, the Chocolate Manufacturers Association, a trade group of U.S. chocolate manufacturers (whose members include Hershey, Mars, Nestlé, and others) admitted to newspapers that they had been aware of the use of slave boys on Ivory Coast cocoa farms for some time. Pressured by various antislavery groups, the Chocolate Manufacturers Association stated on June 22, 2001, that it "condemned" "these practices" and agreed to fund a "study" of the situation.

On June 28, 2001, U.S. Representative Eliot Engel sponsored a bill in the U.S. House of Representatives that aimed at setting up a labeling system that would inform consumers whether the chocolate they were buying was "slave-free" (i.e., guaranteed not to have been produced by slave children). The measure passed the House by a vote of 291 to 115. However, when U.S. Senator Tom Harkin introduced the same bill in the Senate, it met resistance. The U.S. chocolate industry—led by Mars, Hershey, Kraft Foods and ADM and with the help of lobbyists Bob Dole and George Mitchell—mounted a major lobbying effort to fight the "slave-free" labeling system. The companies argued that a labeling system would not only hurt their own sales, but in the long run could hurt poor African cocoa farmers by reducing their sales and lowering the price of cocoa, which would add to the very pressures that led them to use slave labor in the first place. As a result of the industry's lobbying, the "slave-free" labeling bill was never approved by the Senate and so never became law. Nevertheless, Representative Engel and Senator Harkin threatened to introduce a new bill that would

Cocoa Production in Ivory Coast

Forty-five percent of the chocolate on the world market today is made from cocoa beans grown in Ivory Coast. A portion of those cocoa beans was grown and harvested by children who work as slaves.

Interactive

A farmer works with cocoa beans at a farm in southwest Ivory Coast. Cocoa, the main ingredient of chocolate, is a highly profitable crop in West Africa. Ivory Coast leads the world in production and export of the cocoa beans, supplying 33 percent of cocoa produced in the world.




prohibit the import of cocoa produced by slave labor, unless the chocolate companies voluntarily eliminated slave labor from their production chains.

The members of the Chocolate Manufacturers Association and the World Cocoa Foundation, caught in the spotlight of media attention, announced on October 1, 2001, that they intended to put in place a system that would eliminate "the worst forms of child labor," including slavery. In spring 2002, the Chocolate Manufacturers Association and the World Cocoa Foundation as well as the major chocolate producers—Hershey's, M&M Mars, Nestlé, and World's Finest Chocolate—and the major cocoa processors—Blommer Chocolate, Guittard Chocolate, Barry Callebaut, and ADM—all signed an agreement to establish a system of certification that would verify and certify that the cocoa beans they used were not produced by the use of child slaves. Known as the "Harkin-Engel Protocol," the agreement also said the chocolate companies would fund training programs for cocoa bean farmers to educate them about growing techniques, while explaining the importance of avoiding the use of slave labor. The members of the Chocolate Manufacturers Association also agreed to "investigate" conditions on the cocoa farms and establish an "international foundation" that could "oversee and sustain efforts" to eliminate child slavery on cocoa farms. In July 2002, the first survey sponsored by the Chocolate Manufacturers Association concluded that some 200,000 children—not all of them slaves—were working in hazardous conditions on cocoa farms and that most of them did not attend school.

Unfortunately, in 2002, Ivory Coast became embroiled in a civil war that continued until an uneasy peace was established in 2005 and finalized in 2007. Rebel forces, however, continued to control the northern half of the country. Reports claimed that much of the money funding the violence of both the government and rebel groups during these years came from sales of cocoa, and that buyers of "blood chocolate" from Ivory Coast were supporting this violence.

Far from Achieving Goals

The 2005 deadline the major chocolate companies and their associations had set came and passed without the promised establishment of a certification system to ensure cocoa beans were not being produced by slave children. At this point, the chocolate companies amended the protocol to give themselves more time by extending their own deadline to July 2008, saying that the certification process had turned out to be more difficult than they thought it would, particularly with the outbreak of a civil war. Although the companies did not establish a certification system while the civil war raged, they did manage to secure enough cocoa beans to keep their chocolate factories going at full speed throughout the war.

By early 2008, the companies had still not started work on establishing a certification system or any other method of ensuring that slave labor was not used to produce the cocoa beans they used. On February 15, 2008, *Fortune* magazine reported that child slavery in Ivory Coast was still a continuing problem and that the chocolate companies were doing virtually nothing to eliminate it. The companies issued a new statement in which they extended to 2010 their deadline for complying with their promise to establish a certification system. According to the companies, they had been investing several million dollars a year into a foundation that was working on the problem of child labor. However, the investigative reporter who wrote the 2008 *Fortune* article stated that the foundation had only one staff member working in Ivory Coast. Moreover, the activities of that lone staff member were limited to giving "sensitization" workshops to local people, during which he would explain that child labor is a bad thing. The foundation was also helping a shelter that provided housing and education to homeless street children. The *Fortune* reporter found no evidence that anything was being done to develop the promised certification system. By now monitoring and certification systems had been developed and were being used on fair trade and organic cocoa farms in other parts of the world. Although some of these systems had been functioning for several years, the chocolate companies who sourced their cocoa from Ivory Coast seemed unable or uninterested in learning from their example.

On September 30, 2010, the Payson Center at Tulane University issued a report on the progress that had been made on the certification system the chocolate industry had promised to establish, as well as on the progress the industry had made regarding its promise to eliminate "the worst forms of child labor" from Ivory Coast cocoa farms. The report was commissioned by the U.S. Department of Labor, which had been asked by Congress to assess progress on the "Harkin-Engel Protocol," and which gave Tulane University an initial grant of $4.3 million in 2006 and an additional $1.2 million in 2009 to compile the report. According to the report, "Industry is still far from achieving its target to have a sector-wide independently verified certification process fully in place . . . by the end of 2010." The report found that between 2002—the date of the original agreement—and September 2010, the industry had managed to contact only about 95 (2.3 percent) of Ivory Coast's cocoa farming communities, and that to complete its "remediation efforts," it would have to contact an additional 3,655 farm communities. While the Tulane group confirmed that forced child labor was being used on the cocoa farms, it also found that no industry efforts to "remediate" the use of forced labor "are in place." Two video documentaries—*The Dark Side of Chocolate* and *Chocolate: The Bitter Truth*—reported on the continuing use of enslaved children on Ivory Coast farms in 2010. Representatives of the chocolate companies interviewed in the films denied the problem or claimed they did not know anything about it.

By the middle of 2010, it was clear that the companies would again fail to meet their deadline. So on September 13, 2010, they signed yet another agreement promising now to reduce "the worst forms of child labor in the cocoa sectors of Cote d'Ivoire [Ivory Coast] and Ghana . . . by 70 percent in aggregate" by the year 2020. This time, they agreed to work with the U.S. Department of Labor, Senator Harkin's Office, and the Government of Ghana to achieve this goal.

The problem of certification remained unresolved as 2011 began. The manufacturers and distributors buying Ivory Coast cocoa beans seemed unable to find a way to "certify" that slavery was not used to harvest the cocoa beans they purchased. Representatives of the chocolate companies argued that the problem of certification was difficult because there are more than 600,000 cocoa farms in Ivory Coast, most of them small family farms located in remote rural regions that are difficult to reach and that lack good roads and other infrastructure. Critics, however, pointed out that these difficulties did not seem to pose any obstacles to obtaining cocoa beans from those same farms.

In February 2011, fighting between the rebels in the north and the Ivory Coast government in the south broke out again for a brief period in a dispute over who was the legitimate winner of the 2010 presidential election. The fighting ended in April 2011, when one of the candidates finally conceded the election, allowing the other candidate, Alassane Ouattara, to be declared the legitimate president. The fighting, however, provided the chocolate companies with another reason for being unable to implement a certification system.

Mixed Responses

Although the industry still seemed to be dragging its feet, some companies had begun to develop their own responses to the call for a certification system. Hershey, for example, announced in 2012 that it had asked the Rainforest Alliance (an NGO headquartered in New York with offices around the world) to implement a certification system for its Dagoba and Bliss lines of chocolate products. In 2013 Hershey announced that by 2020 its entire cocoa supply would come from certified farms, and in 2014 it reported that 18% of its cocoa supply was certified by the Rainforest Alliance or other NGOs. Nestlé announced that by 2014 the cocoa used in its Kit Kat candy would be certified by UTZ Certified (an NGO headquartered in Amsterdam that provides traceability services for palm oil, tea, and cocoa). Kraft/Cadbury announced that, like Hershey, it was working to have the Rainforest Alliance certify its cocoa.

With the new presidency of Alassane Ouattara, the government of Ivory Coast also began to try to deal with the problem of child slavery and child labor. In 2012, the government launched a "National Action Plan Against Trafficking, Exploitation, and Child Labor" and created a Joint Ministerial Committee for "the Figh against Trafficking, Exploitation, and Child Labor." But the Committee lacked resources. Only 25 government labor inspectors worked on child labor, and total funds budgeted to fight child labor were only the equivalent of US$588,566. Because of the lack of funds and vehicles, no labor inspections were carried out in the agricultural sector. The national police of the Ministry of Justice was charged with enforcing criminal laws against child trafficking and forced child labor, but in 2012 only five police officers were assigned to the anti-trafficking unit, and they had to share one vehicle and only investigated seven cases that year; five additional officers were hired in 2013.

In the United States, three former child slaves sued Nestlé, ADM, and Cargill, claiming that the companies knew that the farmers supplying their cocoa were using child slaves, yet the companies continued to support the farmers by buying their cocoa; although they controlled the Ivory Coast cocoa market, the suit claimed, the companies had failed to use their control to stop slavery and instead facilitated it. The three former slaves based their lawsuit on the Alien Tort Statute, a federal law that allows foreigners to sue companies that participate in violations of their human rights. Although a district court initially dismissed the case, in 2014, the 9th Circuit Court of Appeals overruled the district court and allowed the case to proceed. The three former slaves charged that they were trafficked as children into Ivory Coast and forced to work for 14 hours a day on cocoa farms. According to the lawsuit, they were fed scraps and frequently whipped and beaten. One said he saw guards cut open the feet of children who tried to escape.

While some cocoa is now being certified as "slave-free," the great majority of the cocoa sourced from Ivory Coast is not. The cocoa beans tainted by the labor of slave boys are, therefore, still being quietly mixed together in bins and warehouses with cocoa beans harvested by free paid workers, so that the two are indistinguishable. From there, they still make their way into the now tainted chocolate candies that Hershey's, M&M Mars, Nestlé, and Kraft Foods make and that we buy here and in Europe. Without an effective system of certification, much of the chocolate we eat that is made from West African (Ivory Coast and Ghana) cocoa probably contains a portion of tainted chocolate made from beans harvested by enslaved children.

WRITING PROMPT

Journal: What Are Your Views on the Nature of Wrong?

1. What are the systemic, corporate, and individual ethical issues raised by this case?
2. In your view, is the kind of child slavery discussed in this case absolutely wrong no matter what, or is it only relatively wrong (i.e., if one happens to live in a society such as ours that disapproves of child slavery)? Explain your view and why you hold it.
3. Who shares in the moral responsibility for the slavery occurring in the chocolate industry?
4. Consider the bill that Representative Engel and Senator Harkin attempted to enact into a law, but which never became a law because of the lobbying efforts of the chocolate companies. What does this incident show about the view that "to be ethical it is enough for businesspeople to follow the law"?

▶ The response entered here will appear in the performance dashboard and can be viewed by your instructor.

Submit

Case Notes

1. Sudarsan Raghavan and Sumana Chatterjee, "Child Slavery and the Chocolate Trade," *San Jose Mercury News*, June 24, 2001, p. 1A; Stop Child Labor, "There's Nothing Sweet about Child Slave Labor in the Cocoa Fields," *The Child Labor Coalition*, accessed April 26, 2004, at http://www.stopchildlabor.org; Sharon LaFraniere, "Africa's World of Forced Labor in a 6 Year–Old's Eyes," *New York Times*, October 29, 2006; Rageh Omaar, "The World of Modern Child Slavery," *BBC News*, March 27, 2007, http://news.bbc.co.uk/2/hi/programmes/this_world/6458377.stm; Christian Parenti, "Chocolate's Bittersweet Economy," *Fortune*, February 15, 2008; Payson Center for International Development and Technology Transfer Tulane University, *Fourth Annual Report: Oversight of Public and Private Initiatives to Eliminate the Worse Forms of Child Labor in the Cocoa Sector in Cote d'Ivoire and Ghana*, September 30, 2010, accessed March 10, 2011 at http://www.childlabor-payson.org/Final%20Fourth%20Annual%20Report.pdf.

Case Study 1.2: Aaron Beam and the HealthSouth Fraud

In 2015, Richard M. Scrushy's website described him as a "Speaker, Businessman, Entrepreneur." The website does not mention that he is also a convicted felon and that only two years earlier he had finished spending six years and ten months in a federal prison plus three years of supervised probation as his sentence for being found guilty of bribery, conspiracy, and mail fraud. The website also describes him as "a business visionary [with] a successful business career" and "the HealthSouth mogul . . . [who] served as Chairman and Chief Executive Officer of HealthSouth for nearly twenty years." The website omits any mention of the fact that he lost all his money when he was ordered by a judge to pay $2.87 billion in damages because he "knew of and actively participated in the fraud" that nearly destroyed HealthSouth.

HealthSouth was founded by Richard Scrushy and Aaron Beam. Although Scrushy was the company's main founder and leader, much of what became known as the "HealthSouth fraud" was organized and carried out by Aaron Beam.

Aaron Beam was born in November 1943 and grew up ir Shreveport, Louisiana. In 1967, he graduated from Louisian State University with a degree in business. After serving in th Navy, he took accounting courses at the University of Housto and passed the Certified Public Accountant (CPA) exam in 197 With his CPA in hand, he took a job at Lifemark Corporation, company that owned and managed several hospitals. There l met Richard Scrushy, whom he described as a "charismati