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Modern slavery and the supply chain: the limits of corporate social responsibility?

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Abstract

Purpose – This conceptual paper aims to examine modern slavery in the supply chain, showing how the issue challenges conventional thinking and practice in corporate social responsibility (CSR).

Design/methodology/approach – The paper considers the differences between modern slavery and other concerns within CSR. It examines legal attempts to encourage supply chain transparency and the use of corporate CSR methods. An example of forced labour in UK agriculture is used to develop a critique of these approaches. The paper examines the challenges facing research in this important area.

Findings – The paper shows that the distinctive characteristics of modern slavery may make conventional supply chain CSR practices relatively ineffective. A holistic perspective may be needed in future research.

Research limitations/implications – Researchers need to focus less on the espoused policies of corporations, and more on the enacted practice.

Social implications – Modern slavery is universally accepted as a shameful blight on society; firms' supply chain practices may be part of the problem.

Originality/value – The paper's contribution is to point to the potential differences between modern slavery and other CSR-related issues and to highlight the paradox that firms' approaches to the issue may run in parallel with actions that foster the problem in the first place.

Keywords Research, Regulations, Supply chain ethics, SCM practices

Paper type Conceptual paper

Introduction

Supply chain research has blossomed in the past 20 years, and a part of this has been a growing awareness of the need for research to deal with the broader social and ethical implications of business practice (Gereffi and Lee, 2012). New (1997) argued that researchers have an obligation to take the wider view, and also to draw on a wide range of research traditions. As supply chain management – in its broader sense – has such wide ramifications, it is imperative that researchers' perspectives are not narrowed by artificial academic silos. This paper provides an exploration of an issue that brings that argument into sharp focus; it examines how the particular case of modern slavery presents some serious challenges to some conventional understandings of corporate social responsibility (CSR). The central research questions are: what is distinctive about modern slavery as an issue, and to what extent does it provide a “limiting case” to mainstream CSR? The argument will be developed that modern slavery should be seen not merely as an exogenous problem which firms have a responsibility to address, but as an endemic feature of the socio-economic systems which is, in part, constituted by firms themselves. As this argument is made, the paper raises wider

questions about the intellectual and social obligations of academic research.

This conceptual paper is structured as follows. The discussion begins with an overview of the phenomenon of modern slavery in the supply chain, and then proceeds to examine the literature on what makes the issue different from, and potentially more problematic than, other aspects of CSR. Two of the main responses to modern slavery in the chain are then examined. A particular illustration (from UK agriculture) is used to develop a critique of these approaches. Finally, conclusions are drawn about the future of research in this domain.

Modern slavery in the chain

The question of forced labour in the supply chain has been the subject of much recent concern; examples include the Thai seafood industry (Hodal *et al.*, 2014; Sylwester, 2014) and the Malaysian electronics sector (Verité, 2014). Estimates of the scale of the problem vary, but there is a consensus that it is a significant challenge for buying firms, presenting both ethical and reputational challenges (Noble, 2014; Economist, 2015). Many firms have well-established procedures and mechanisms for applying a range of methods to seek to maintain ethical and environmental standards in the chain (Green *et al.*, 1996; New, 2004a), but how well do these methods match up to the challenges of modern slavery? and Does the extant theory of forced labour provide a sound basis for further research?

Modern slavery is the term used to describe a range of exploitative practices, and there is widespread agreement on

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the general definition, if not on the precise boundaries, of the term (Allain, 2012; Crane, 2013; RNLPS, 2012). Modern slavery is often taken to include, for example, victims of sex trafficking and domestic servitude, but, in this article, I will concentrate on the elements of modern slavery associated with forced labour within a supply chain. The ILO (2005) has identified six indicators of forced labour:

- 1 threats or actual physical harm to the worker;
- 2 restriction of movement and confinement (to the workplace or to a limited area);
- 3 debt bondage, where the worker works to pay off a debt or loan, and is not paid for his or her services;
- 4 withholding of wages or excessive wage reductions that violate previously made agreements;
- 5 retention of passports and identity documents so that the worker cannot leave or prove his/her identity and status; and
- 6 threat of denunciation to the authorities, where the worker is in an irregular immigration status.

This definition differentiates modern slavery from previous models of servitude, such as possessive (chattel) slavery in ante-bellum North America or in the ancient world, which included legally sanctioned ownership of people. Nowadays, there are no countries in the world in which such old-style slavery is legal; slavery is prohibited by Article Four of the Universal Declaration of Human Rights (UN, 1948), and it is always a criminal activity. The scale of modern slavery is extremely difficult to verify, but, although estimates vary, there is a broad consensus that such exploitation is widespread. Press coverage of the issue is sometimes confused by confounding of the issue with other related problems, such as people trafficking, organised sexual exploitation, child labour and prison labour, and discussion is also complicated by rolling forced labour together with general concerns about working conditions, or indeed with the idea of all workers in industrial capitalism as being “wage slaves”. An example of this last point is illustrated by arguments (particularly in the Marxist literature) about conceptual and empirical distinctions between “free” and “unfree” labour (Banaji, 2003 and Brass, 2003; see also Craven and Hay, 1994; Steinfeld, 2001).

The research literature addressing modern slavery from a supply chain perspective is relatively limited (Quarshie and Salmi, 2014), but Gold *et al.* (2015) provide an extensive overview. They discuss the sectors in which the problem is particularly apparent, and present an overview of the challenges facing firms who may detect forced labour in their chain.

The issue of working practices in the extended supply chain is frequently seen as part of the broad sustainability agenda (Gladwin *et al.*, 1995; McGoldrick, 1996; Pagell and Wu, 2009; Beske and Seuring, 2014), and, in practice, the operationalisation of supply chain ethics is often conducted in parallel with the application of environmental supply chain policies; indeed, in some firms, it is the same people who cover both sets of responsibilities (Rasche *et al.*, 2013; Epstein and Rejc Buhovac, 2014). Both agendas entail understanding the operations of supplying firms, typically beyond the first tier, and often involve processes of certification and audit. There are many similarities in how firms deal with suppliers’

environmental compliance and, for example, compliance with workplace health and safety. But the question of forced labour may be different in important ways: indeed, the tools which may be appropriate for thinking about general working conditions or other parts of the sustainability agenda may be entirely inappropriate. In this paper, I develop a conceptual framework for highlighting the possible differences and – drawing on several recent developments – present a series of challenges for both practice and research.

For firms dealing with their supply base, the prohibition of forced labour is a standard element in codes of conduct and statements of ethical practice (Bartley, 2007). The issue sits alongside a range of other criteria (for example, compliance with local labour laws, freedom of association, systems for health and safety and environmental compliance). In general, firms declare that they are against forced labour and forbid their suppliers from using it and, in many cases, assert that this prohibition be cascaded down the chain of production. But what makes this particular issue different from other aspects of supply chain ethics?

Modern slavery and “normal” CSR

The connection between CSR (and the overlapping issue of sustainability) and supply chain management has received extensive attention in the literature, and there is a substantial body of accumulated theory (Miemczyk *et al.*, 2012). For example, Beske and Seuring (2014) examine how firms’ approaches can be understood at the levels of strategic values, structure and processes. Pagell and Wu (2009) emphasise the importance of the former of these. Gimenez and Tachizawa (2012) comment on the way in which firms’ tend to divide their efforts between two main approaches: “assessment” (seeking information from suppliers and setting standards) and “collaboration” and direct engagement (for example, through supplier development). Both these approaches have limitations (Lund-Thomsen and Lindgreen, 2014). Sancha *et al.* (2015) observe that, although supplier development activities in regard to social issues may have positive effects on suppliers’ social performance, there may not be a corresponding financial payoff for the buying firm.

Although there is an enormous body of literature on modern slavery from a variety of historical, philosophical and social scientific perspectives, management scholarship has broadly neglected the issue of forced labour, with the notable exception of the work of Crane (2013). He presents a detailed and insightful model which shows how modern slavery’s continued existence presents a theoretical challenge to institutional theory, illustrating how “[...] illegitimate practices can persist over time in the interstices of prevailing regulative, normative, and cultural-cognitive systems” (p. 63). He argues that that to understand the phenomenon, it is necessary to make sense of both the cultural and socio-economic contexts, and the capabilities within the system for “exploiting and insulating” and “sustaining and shaping” the activity. In other words, his model sets out to explain why modern slavery – being counter to the main institutional forces at play in contemporary societies – is possible. Crane identifies a variety of conditions in which modern slavery is likely to emerge: smaller businesses with limited ability to capture value, a disadvantaged population,

geographic isolation and so on. Crane's observations about the liminality of forced labour provide the conceptual backdrop for the observations that follow, examining some of the ways in which modern slavery contrasts with other concerns in CSR and sustainability.

Contract employment as part of the chain

Supply chain management is often concerned with the flow of physical materials that move from one place – or one party – to another. When considering a firm's supply base, it is often the case that some suppliers are not considered important because that which they provide does not enter as a principal component in a product. For example, in discussions of the automotive industry, it is often the case that suppliers of electricity, or Enterprise Resource Planning Software, or office consumables, would be considered in a different (and less significant) category than the suppliers of components that become part of the vehicle. Much supply chain literature – and CSR and supply chain literature – assumes that firms should concentrate on “strategic suppliers” (Kraljic, 1983), although recent work by Pagell *et al.* (2010) and Haake and Seuring (2009) has shown this is not what does or should happen in practice.

When considering modern slavery and forced labour, the key elements of the chain are ones that superficially could be omitted from the “supply chain”, as they are often suppliers of *workers* – contract employment agencies, gangmasters – rather than suppliers of products (Plant, 2008; Barrientos, 2008). These third parties provide workers who may work for a firm without being direct employees, although to a casual observer, they may be indistinguishable. As Barrientos (2008) points out, contract workers are sometimes not directly covered by corporate codes of practice, which may take advantage of the potential ambiguity of the terms “supplier” and “employee”. So, for example, forced labour may have a relatively lower visibility than other CSR issues that arise in the conventional material “chain”.

Illegality

For many issues in supply chain ethics and sustainability, firms' codes of practice specify standards of conduct which constitute a type of private regulation – what those codes say represent a private rule which the firm is at liberty to specify, and police as it sees fit. Such codes generally specify that supplying firms should follow local laws, but may also go beyond local legal standards (Bartley, 2005, 2007; Vogel, 2008). When supplying firms fail to meet the standards, the buying firms have the choice to cease trading with the supplier or – more commonly – work on a plan to bring non-compliance up to standard. So, for example, if a supplying firm is in breach of local regulations on the administration of overtime pay or factory ventilation standards, a typical response is one of Voice rather than Exit (Goebel *et al.*, 2012). Indeed, for many other issues – including complex challenges such as child labour – buying firms can make an ethically grounded argument that continued engagement and gradual improvement is preferable for all concerned. Rather than simply automatically delisting suppliers when some breach is found, the idea is to pursue progressive upgrading.

Although forced labour shares some features with other forms of malpractice, its unambiguous criminality and severity mean that, in many cases, issuing an “improvement notice” is not a realistic option. If a buying firm uncovers forced labour in its supply chain, it is the discovery of serious criminality, and firms have unequivocal moral obligations (and, in some cases, potential legal obligations – see Phillips and Lin, 2009) to bring the situation to the attention of the authorities. In nearly all such situations, firms face the need to cease the commercial relationship with the guilty party with great urgency, even if at great cost to the business. Forced labour is an issue of such legal gravity that continued, knowing engagement could constitute direct complicity in criminal behaviour, a much more serious situation for the firm than “mere” reputational damage (although this is also a significant factor). Individuals within a buying firm could find themselves in legal jeopardy: questions of “who knew what, when” become important. In this way, the issue of forced labour requires a type of alertness and engagement that is somewhat at odds with the routine, bureaucratised administration of conventional supply chain assurance and certification schemes.

Criminals

Another distinctive feature of forced labour is that it involves not only criminal acts but also people who are prepared to perpetrate crime deliberately. In other words, no one uses forced labour accidentally, or through negligence or ignorance. Forced labour is the result of deliberate actions by people prepared to do bad things, normally including violence. This raises serious dangers for those who wish to investigate work situations in which forced labour may be present; because such criminals face potentially long custodial sentences if successfully prosecuted, the stakes are high, as are the risks to everyone involved. Put bluntly, staff from a buying organisation who poke about in potentially dubious situations face the risk of putting themselves – and, potentially, their families, say – in harm's way. If they take action, they risk recrimination. This sounds rather melodramatic, but it should be remembered that the criminal gangs involved with people trafficking and forced labour often operate internationally and may be expected to already be engaged in violence, bribery and – if threatened – to act to protect their own interests.

Opacity

One of the key issues in regard to forced labour is its potential invisibility and the difficulty of detection. The firm is likely to encounter very significant levels of active deceit and denial from anyone involved in forced labour, and so normal use of auditing and certification mechanisms is likely to be problematic. Additionally, Simas *et al.* (2014) point out that forced labour often occurs in a transient, episodic way; it may not reflect the stability of the conventional employment relationship and so identification is harder. In Datta and Bales' (2013) terms, forced labour is more of a process than an event. Furthermore, the victims of forced labour generally have considerable incentives to avoid contact with authorities (for example, because of fears about deportation or fear of retribution) and may even be bound to their situation by more complex psychological and social ties (Bales, 2002).

This dimension may suggest that the types of approach used for some areas of supply chain monitoring (questionnaires, pre-notified audit visits) may not be suitable – or, indeed, pointless – for the investigation of forced labour.

Responses

I now move on to a discussion of two responses to this issue, and consider some issues that arise from them.

Legislating for transparency

This legislation (California Transparency in Supply Chains Act [S.B. 657], [State of California, 2010](#)), enacted in 2011 and in effect from 2012, requires large firms in retail and manufacturing (i.e. those with annual worldwide gross receipts larger than \$100 million and annual Californian sales larger than \$500,000) to make public declaration of their efforts towards eradicating human trafficking and slavery from its supply chain, and to publish the information on their websites. Specifically, the disclosure must indicate the extent to which the retailer does the following: verifying product supply chains to evaluate risks; conduct supplier audits; requires direct suppliers to certify that materials are produced in accordance with antislavery legislation in relevant countries; maintains internal accountability procedures in respect of employees or contractors who fail to meet company standards; and provide training for employees and management ([Pickles and Zhu, 2013](#)).

This legislation followed extensive debate about problems of human trafficking in the State, and was supported by a coalition of campaigning groups. It was opposed by an alliance of business groups (including the California Chamber of Commerce, California Grocers Association, California Manufacturers and Technology Association, and the California Retailers Association) who argued that it would place costly and unrealistic burdens on commerce. However, the proponents of the bill pointed out that the legislation did not require firms to make policies, but simply to report what, if anything, they had voluntarily done. The purpose of the legislation was to increase the ability of consumers to (in the words of the State Governor, Arnold Schwarzenegger) “[. . .] make better, more informed choices and motivate businesses to ensure humane practices throughout the supply chain” ([McGreevy, 2010](#)). The logic is that consumers can use the information to exercise ethical shopping – preferring those with better policies – and the NGOs and politicians can use “shame” to steer organisations to better practice. This general approach partially resonates with arguments made by academics and consultants (including the current author) about the value of transparency ([New, 2009, 2010](#)), and is embodied in proposals in the USA to extend the policy nationwide (under the proposed Business Supply Chain Transparency on Trafficking and Slavery Act 2014; see USA Congress, 2014; [Eckert, 2013](#)). In the UK, similar provisions have been included in the 2015 Modern Slavery Act ([UK Government, 2015](#)). The general approach is also found in respect of conflict minerals in the relevant sections of the US Dodd–Frank Financial Reform Act ([US SEC, 2014](#)).

Four main criticisms can be made in regard to the California Act. The first is a general disquiet at the possibility that the passing of responsibility to corporate actors for such

significant issues in fact represents a retreat of the state from its proper role. For example, [Sarfaty \(2014, p. 16\)](#) comments:

What is unique here is that the state is deploying multinational companies to regulate themselves and indirectly regulate other firms in their supply chain. Compliance by companies is thus linked to compliance by their suppliers. As a result, companies are responsible for implementing and enforcing regulatory standards on firms abroad, on behalf of the state.

Second, the notion of exactly which suppliers should be covered by firms policies and actions is not at all clear; what counts as a “supply chain” is not at all obvious, and the reification of the concept in practice may serve a number of competing agendas ([New, 2004b](#)). Further, as [Sarfaty \(2014\)](#) points out, drawing on the work of [Gereffi et al. \(2005\)](#), global value chains are fluid and may change at a rate which makes some types of policy inoperable.

The third criticism is that firms’ policies may be both highly uniform and very weak – in the sense that they rely on certification and audit systems that are unlikely to have much substantive value in the face of modern slavery. A good example of this is the SB 657 statement by Dunkin’ Donuts, which is broadly representative of firms’ stated policies:

We screen suppliers on many business related criteria as well as their compliance with matters of law. We seek partners that comply with government regulations, including those concerning human ethics. Our suppliers are required to acknowledge, and agree to, our Supplier Code of Conduct.

We conduct periodic on-site, announced and unannounced, visits to our manufacturing and distribution facilities around the globe, during which our employees, third party auditors and other designated associates inspect facilities and observe conditions, workers and practices as well as the suppliers compliance with our supplier Quality management systems, supplier Code of Conduct or contract terms, as applicable.

We maintain accountability standards, including a Code of Conduct for our employees and a supplier Code of Conduct for our suppliers. If we determine that our employees or suppliers are engaged in slavery or human trafficking, our employees will be disciplined, up to and including termination, and our supplier relationships terminated.

All of our employees who are involved in supplier management are trained annually on administering our supplier Code of Conduct. In addition, all employees participate in an annual employee Code of Conduct training. ([Dunkin Donuts IP Holder, 2014](#))

It is transparency of a sort, but a transparency that actually reveals very little information, matching what [Coombs and Holladay \(2013\)](#) describe as a “pseudo-panopticon”. Furthermore, given what is known about the success of supply chain auditing, these policy statements seem unlikely to be particularly effective. Even in regard to less challenging supply chain CSR and environmental issues, it is common for the conventional policy and monitoring regime to be considered “broken” ([Sethi, 2010; Donaldson, 2014](#)), providing extensive scope for manipulation and game-playing ([Locke et al., 2007; Parella, 2014](#)). [Locke \(2013\)](#) goes on to elaborate on the idea that such approaches may even displace other activities (for example, mundane process improvements) which might have a greater effect on working conditions.

Fourth, the idea of informing consumer choice or using “shame” to drive firms’ behaviour does not always work. Consumers may be too indifferent to the issue to respond to firms’ statements. However, flimsy Dunkin’ Donuts’ measures may appear, it is interesting to note the comparison with the equivalent SB 657 statement by the Krispy Kreme Doughnuts, Inc:

We do not engage in verification of product supply chains to evaluate and address risks of human trafficking and slavery, nor conduct audits of

suppliers to evaluate supplier compliance with company standards against trafficking and slavery in supply chains.

We do not require direct suppliers to certify that materials incorporated into the product comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business.

We do not maintain internal accountability standards and procedures for employees or contractors failing to meet company standards regarding slavery and trafficking nor do we provide company employees and management, who have direct responsibility for supply chain management, training on human trafficking and slavery, particularly with respect to mitigating risks within the supply chains of products. (Krispy Kreme, 2014, emphasis added).

The contrast between these statements is clear, but there is no evidence that Krispy Kreme approach has had any negative effect for the firm; one activist website (www.knowthechain.org/) has mentioned it, but otherwise there appears to be no negative response whatsoever in social media or news reports. Krispy Kreme has neither experienced any measurable impact on sales nor suffered on any measure of corporate reputation. It is not clear why Krispy Kreme has adopted this particular stance, but the fact it can do so with (up to this point) impunity undermines some of the assumptions which have driven the push to legislation. In a recent move, a consumer has filed a class action suit against the US retailer Costco Wholesale Corporation (and several of its suppliers), claiming that the presence of forced labour in its seafood supply chain contravenes the statements made on under the provisions of the Supply Chain Transparency Act (Rathke, 2015); it is too soon to say if the action is likely to make any legal headway (it seems unlikely), but it is interesting to note that Costco would have been less vulnerable to such a claim had it adopted a Krispy Kreme-style statement.

At the time of writing, the UK Government is considering exactly how to implement its version of the Californian Act's "transparency" statement: New (2015) warns of the risk of poorly specified requirements fostering a norm of empty, airy statements that mean nothing.

CSR "Best practice": the walk free approach

In parallel with developments in legislation and regulation, recent years have seen considerable growth in non-governmental organisations (NGOs) related to modern slavery and human trafficking: there are many groups tackling this problem, and there is a degree of visible competition between groups in making claims (Coyne, 2013; O'Connell Davidson, 2014). Perhaps the most striking new initiative has been the launch of the Walk Free Foundation (www.walkfree.org/), founded by Andrew Forrest, the Chairman of Fortescue Metals Group. The organisation has achieved an extraordinary degree of press coverage with the publication of the Global Slavery Index (www.globalslaveryindex.org/), providing country-level estimates for the number of slaves around the world. Furthermore, it has managed to secure public endorsements from, among others, Pope Francis, the Archbishop of Canterbury, the Grand Imam of al-Azhar, to Richard Branson (Milman, 2014).

In late 2014, the initiative published an extensive handbook entitled *Tackling modern slavery in Supply Chains: A Guide 1.0*, in conjunction with the UK's Chartered Institute of Purchasing and Supply and the ethical sourcing campaigning group Vertité. The 63-page "toolkit" document describes itself as "a comprehensive system of meaningful action" and

presents a well-written and intelligent collection of best practice suggestions for firms seeking to avoid modern slavery in their supply chains. These include guidance on formulating policy statements, communicating strategy, conducting risk assessments for supplier selection, managing audits and on-site assessments, taking corrective action and building continuous improvement with suppliers. The document draws on material produced by other groups and government agencies, making excellent use of (sometimes disguised) examples. Although much of the material is similar to that published by others, the document serves as an illustration *par excellence* of a corporate approach to modern slavery that is based around routinised CSR best practice. It is difficult to find fault with any particular element, and difficult not to imagine that if firms were to follow the guidance presented, the world would be a much better place. The thrust of the work is certainly in line with the idea of "best practice" which could be transmitted throughout the extended chain (Andersen and Skjoett-Larsen, 2009; Ayuso *et al.*, 2013).

However, the document is also interesting in terms of what it does not say. For example, it does not ask questions about the social or political conditions that give rise to vulnerable, precarious labour in the first place: the advice presented frames modern slavery as an evil which is exogenous to the corporations, and not as something that might be connected with the underpinning economic systems which support the "good" firms. The report does not consider how the actions of the buying firms – for example, relentless cost cutting and the exercise of brutal commercial power – might stimulate supplying firms to feel the need to engage in, or turn a blind eye to, exploitative labour practices in the first place. There is also no discussion of how the people who are the victims of forced labour and modern slavery might be empowered to move beyond passive victimhood.

Interesting parallels can be drawn here with other criticisms of the "modern slavery" activism, in particular feminist critiques of anti-sex trafficking campaigns. For example, Bernstein (2014) describes the way in which some – perhaps well-meaning – campaigns about sex-trafficking tend to focus more on the melodrama of victimhood than rectifying the economic conditions which deprive women of choices; furthermore, concerns about slaves and trafficking can be a convenient mask for other agendas such as border control, the application of particular kinds of sexual morality and "policing the domestic underclass". Similar thoughts arise in relation to the "rescue rhetoric" which appears to play a role in some religiously motivated anti-trafficking activity (Choi-Fitzpatrick, 2014), and in the way in which public concern about the issue leads to a "heroic" position: because slavery is such an evil, my highly publicised stand against it is assurance of my moral value (Haynes, 2014; Steele and Shores, 2014). On the other hand, my public concern about these people might be inconsistent with my disdain for those same people, if they happen not to fit neatly with my model of "victim". Writing about the UK's Modern Slavery Act, O'Connell Davidson (2014, p. 31) comments on the inconsistency between apparent concern for migrants caught up in forced labour, with the often harsh treatments of immigrants in general. Simmons (2014) develops some similar arguments in respect of the "marginalised other" in human rights law.

The parallels with forced labour in the supply chain as constructed with the Walk Free Foundation approach are clear. Efforts to emphasise the gravity of the suffering can end up presenting a model of victimhood that diverts attention from the possible causes; the concern extends to those that can be heroically rescued, but not those that are merely exploited. The “hero” rhetoric, means that firms taking (even ineffectual) action can bask in a moral superiority. Indeed, it could be cynically suggested that the “walking away” going on is firms walking away from a serious engagement with the social consequences of their own practices.

UK vegetable production

Developing this last point, I now consider the role of major firms in the supply chain, taking as an example the way in which major UK supermarkets source vegetables from UK suppliers. The setting is interesting because, unlike many of the examples from developing economies, it is impossible to interpret the story as reflecting some transitional, emergent stage towards “proper” capitalism, or as resulting from some lack of sophisticated institutional and legal infrastructure.

Grocery retailing in the UK is highly concentrated, and the power of supermarkets over the supply base has been an issue of continued concern for many years; there have been several attempts at codes of practice to contain supermarkets’ behaviour, and various inquiries have been undertaken. The findings have been universally consistent: despite a rhetoric of partnership and collaboration, suppliers have consistently reported “a culture of fear” (Economist, 2007), with suppliers being faced with relentless pressure for price cuts and “bullying” (Fearne *et al.*, 2005; Blythman, 2010; Simms, 2007). There is little evidence in practice of the harmonious relationships proposed by some normative models and seen in some other settings (Fischer, 2013). The UK’s Competition Commission (2008, p. 6) found “[...] the transfer of excessive risk and unexpected costs by grocery retailers to their suppliers through various supply chain practices [...]”. In 2013, Tesco’s CEO made a public commitment to a new deal for its British agricultural suppliers (Rayner, 2013). In 2014, Tesco’s continuing malpractice towards suppliers formed the basis of a financial scandal which led to the resignation of the same CEO. UK farmers have complained about being crushed to the point of desperation by the behaviour of the supermarkets; extra charges may be levied, prior contracts swept away and payments delayed – and even after the long sequence of bad publicity during 2014, in early 2015, the firm was reported as continuing with its aggressive mode of supplier relations (Williams, 2015). However, although Tesco has received particular opprobrium in the media, all the main supermarket chains have received similar criticism (Butler, 2015). The central issue here is that supply chains are channels of power (Cox, 1999), in many cases, characterised by extraordinary degrees of asymmetry (Holmlund and Kock, 1996; Johnsen and Ford, 2008). In consequence, food suppliers – and here the focus is particularly on UK vegetable production – have found the commercial environment increasingly challenging. One response to this has been the progressive substitution of UK domestic agricultural labour with cheaper and more compliant migrant labour.

This sets the context for briefly reviewing the facts about a recent case in Cambridgeshire in the UK, one of the main regions for vegetable production. The area has become the home to a very large number of migrants from Eastern Europe, particularly those from the “A8” states (Poland, The Czech Republic, Latvia, Lithuania, Slovakia, Slovenia, Hungary and Estonia; McCollum and Findlay, 2015). One town, Wisbech, has, for example, a population of 30,000, of whom 10,000 are new migrants from Eastern Europe (Gentlemen, 2014). A local multi-agency investigation called Operation Pheasant identified 19 cases involving allegations of human trafficking and over 200 involving alleged cases of illegal gangmaster activity. By the end of the year this resulted in the “rescue” of over 80 people from exploitative labour arrangements, the revocation of five gangmasters licences, with two illegal gangmasters being jailed and one of the revoked licence holders receiving a suspended prison sentence (Fisher 2014). The extensive press coverage of the operation and its outcome revealed the distressing and intimidating conditions in which the workers were operating. Most were involved in leek production, and after a series of arrests one of the local suppliers, reverted to directly employing labour rather than via labour agencies (Sturdy and Fox, 2014). The leeks being harvested were destined for sale in UK supermarkets, but from the available reports, it is not possible to determine which chains (although Taylor and Sturdy, 2014 suggest a shortlist of possible customers: Marks & Spencer, Waitrose, Asda and the East of England Co-Op).

To put the story into perspective, it should be remembered that the large UK supermarkets have very well-developed CSR programmes, and indeed have publicly worked with many initiatives designed to eliminate bad practice, including collaborations with the UK’s regulatory and enforcement agency for forced labour in agriculture, the Gangmasters Licensing Authority (www.gla.gov.uk). Additionally, stories of this type of exploitation within the UK agriculture are not new (Kosviner, 2003 provides an account with many parallels from eleven years earlier). It appears that the police action in Operation Pheasant was stimulated by general concerns raised by the local council and a general investigation by a government agency into the conditions of migrant workers in the region, rather than being prompted by information from supermarkets (Migration Advisory Committee, 2014). This suggests that the supply chain auditing and inspection regime and the normal CSR machinery of supplier questionnaires and policy statements were – at least in this case – ineffective.

The inclusion of Waitrose as one of the potential customers is interesting here, particularly in the light of Spence and Bourlakis’s (2009) discussion of Waitrose’s system of supply chain monitoring and control, a system in which higher-risk organisations are required to be subject to independent ethical audit, but *at their own cost*. Even here, the commercial power of the supermarkets means a transfer of value to them, away from the supplier. Furthermore, all of the supermarkets to whom the produce would have been directed have well-established and well-articulated anti-forced labour policies; all would have no trouble in complying with the requirements of US or UK transparency legislation. Overall, the case provides a compelling illustration of the logic of Crane’s model; at least, in part, it is the supermarkets’ conduct

which gives rise to the desperate economic conditions that, in turn, provide a context of increased likelihood of modern slavery. Whereas Gold *et al.* (2015) suggest that oligopolistic industry structures appear to have advantages in tackling modern slavery (because large, sophisticated customers can exercise power to get suppliers to improve behaviour), this case suggests that the opposite may be the case. Large oligopolistic customers can drive suppliers to the point at which terrible labour practices become an operating necessity.

Discussion

From a theoretical perspective, this analysis presents an interesting twist to Crane's model, which, in part, is an attempt to show how the "dysfunctional" institutional form of modern slavery exists/persists in the interstices of the dominant modes of "proper" organisations. In contrast, this analysis suggests that the phenomenon of forced labour, rather than being some kind of aberration, is something that is naturally generated by the normal system, a point that resonates with older arguments about the place of historical slavery in industrial capitalism. Indeed, it could be that the standard initiatives of anti-modern slavery CSR are themselves, in some sense, part of the enabling mechanisms for modern slavery to persist:

- the right hand (the CSR activity, the policy statements) gives the appearance of working to reduce the problem; and
- the left hand (the brutal exercise of commercial power, hard negotiation on prices and trading terms) generates the conditions in which forced labour emerges.

This applies (slightly against the thrust of Crane's model) not only to distant suppliers in remote geographies with specific cultural conditions but also with local suppliers in a developed economy.

For practice and policy, the implications are sobering. Slightly improving on legislation (such as the California Act or The UK Modern Slavery Act) or developing an even slicker "Tackling modern slavery 2.0", are – sadly – unlikely to lead to much progress. This is not to say that there is no virtue in these efforts; there is, however, a need for realism about what such approaches are likely to achieve. This adds weight to the arguments of Beske and Seuring (2014) about the need for corporate values; however, what this may mean more than simple "proactivity", but a profound reappraisal of fundamental business models. Furthermore, issues raised here mean that firms strategic choices go beyond simply seeking to pursue either assessment or collaboration (Gimenez and Tachizawa, 2012) in respect of conventional CSR. In the case of the UK supermarkets, either strategy is unlikely to deal with the fundamental problem of the imbalance of power between the parties in the chain.

Despite this gloomy conclusion, two possibilities present themselves as ways forward, and these have relevance for firms, states and researchers.

The first could be to take "transparency" more literally, to force firms to provide greater levels of detail about the exact provenance of their products and to make specific data available as a public good. Some firms have taken modest steps in this direction (New, 2009, 2010), although practice is

highly variable between industries and firms (Marshall *et al.*, 2015). Some writers have been vocal in arguing that movement in this direction is vital Henriques (2007), Tapscott and Ticoll (2012); Jeff Swartz, former CEO of Timberland commented on the transparency of Apple:

Apple [...] remains tight-lipped about its supply chain – presumably prescribing to the belief that that supply chain secrecy is key to competitiveness. It's an argument that sounds vaguely familiar: in the last decade, some in the fashion industry pleaded the same argument with activists. The outcome? These days everyone knows where Nike and Timberland and Adidas manufacture – names, addresses – and the "competitive secret" argument is debunked. Period. (Ratcliffe, 2011).

This approach to transparency means that firms throughout the chain might be required to place in the public domain data which hitherto has been largely been understood to be commercially confidential. However, this shift has to be seen in the context of a broader democratisation of knowledge brought made possible by the Internet (Goldman, 1999; Sanger, 2007; Fuchs and Sandoval, 2013). Duff (2011) presents an argument which classifies information into three categories:

- 1 "A", to which every citizen has an equal right;
- 2 "B", in which inequalities in social distribution are permissible if particular conditions are met; and
- 3 "C", information for which distribution can be left to market forces (in other words, treated as private property).

In the historical development of modern business, successive changes in regulation have shifted categories of information from "C" to "B" and from "B" to "A"; companies financial reporting has become progressively more comprehensive. In parallel, institutional developments and technological ability have meant that firms now reveal (relatively) large amounts of data on their operations (Cousins and Sikka, 1993). It is possible to imagine that information about supply chain provenance could similarly shift towards the public domain.

For this new openness to have any consequence, however, there needs to be a commensurate effort from citizens, academics and activists to actually engage with the data that is made available. The idea of "shaming" companies into better practice is a fairly weak instrument for improving practices, but it is possibly the best available (Jacquet, 2015). However, this means work and courage; challenging firms on their practices is not straightforward, as the odds are stacked in favour of powerful organisations (Crouch, 2013; Corporate Reform Collective, 2014). However, as per Donaghey *et al.* (2014), there is (at least theoretical) hope that a developing interaction between consumer power and labour rights might work towards substantive change.

The second possibility is that states act to control the power of corporations directly through regulation and intervention. Although substantial action in this vein may appear unlikely in the current political climate in most parts of the world, there are historical precedents (for example, in the USA, actions to diminish the power of oil and steel industries in the early twentieth century; Wells, 2002); in nearly all prior cases, however, the logic of reducing the power of companies has been to protect consumers rather than workers.

For researchers, the consequences of the preceding arguments are profound. New (1997) argued the need for researchers to take a broader perspective than that of the company when considering supply chain issues, considering the wider "system of provision" (Fine and Leopold, 1993). This means that

researchers must engage with the broader social and ethical context of the phenomena under investigation. This is not at all straightforward, as it means that substantive research requires more and different data than that typically collected by “supply chain management” research. In particular, it means that empirical work may need more sources of information than the corporations themselves can provide. It also implies that the interaction between the scholar and the firms with whom they work acquires a grittier, more complex character; in too many cases, supply chain research can be seen to be uncritical and passive, and – especially in regards to supply chain CSR – insufficiently sceptical.

In many cases, it suits firms to promote a story about modern slavery in which it is seen as minor aberration generated by a criminal fringe at the edges of the industrial system. Such a story provides an opportunity for firms to show off their CSR credentials, and academics can be complicit (for example, in case studies) in a process in which firms engage in a mild form of competition for perceived ethical merit. If, however, the bad practices in the chain are, in fact, consequences of firms’ policies and structures and power, then the challenge for research is more substantial (the data are harder to collect, the questions are harder to frame) and firms are less likely to be enthusiastic to collaborate with or fund the work. Researchers need to focus less on the espoused policies of corporations, and more on the enacted practice. Furthermore, standard methodologies – and even the standard format of academic papers – may not be up to the task of taking the wider view. It could even be necessary for researchers to adopt some of the approaches of investigative journalism.

Conclusion

In this paper, I have set out a series of issues relating to forced labour in the chain, and identified several reasons why conventional CSR approaches may not be capable of addressing the problem. Although laudable in intent, the California Act has demonstrable weaknesses. The Walk Free approach – despite its merits – may be guilty of providing a set of tools which give the appearance of firms taking coherent action, but which may play into a narrative in which firms deploy largely ineffectual policies in a way which deflects attention from the underlying causes which leads to the problems in the first place. In the last part of the discussion, I use an example which might suggest that, in the case of UK supermarkets, it is the exercise of their own commercial policies that foster a situation which their anti-slavery policies fail.

Supply chains which produce great results for companies and consumers may be dazzling in their levels of technical sophistication, but fundamentally corrupt: **we, as beneficiaries of such systems, are complicit in the corruption.** Those with an understanding of the industrial system, and presume to teach others about it, have a special obligation to raise uncomfortable questions. The sociologist Keith Grint (2005, p. 383) writes:

Slavery, the worst form of all work, is not perpetuated by acts of individual deviants who promote it, but by the passivity of those who could collectively stop it [...] Enslavement is essentially dependent on enthrallment; ridding others of the former requires us to escape the latter[1].

Notes

- 1 All Internet links valid as at 2 June 2015.

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