**Fair Trade or Equal Trade? Barriers to equality and fairness as imagined by the Fairtrade Foundation**

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*Abstract: This article critically evaluates the impact and contribution of the Fairtrade Foundation to the understanding of equality within criminal justice through a focus on child labour used by multinational corporations under the consideration of Social Contract Theory and Critical Race Theory. Findings evidence an inward-focus and selfish conduct of individual nations and a general prioritisation of western views and lives over non-western ones that the Fairtrade Foundation impacts on through its raising of awareness around sustainability issues, but also that structural issues that affect equality are not met nor addressed through the methods implored by the Fairtrade Foundation, but rather partially reinforced. The Fairtrade Foundation’s main contribution to the understanding of equality is raising awareness that aims to hold multinational corporations accountable through consumer action rather than criminal prosecution.*

**Introduction**

The purpose of this article is to critically evaluate the impact and contribution of the Fairtrade Foundation to the understanding of equality within criminal justice. The Fairtrade Foundation is a registered charity and company in the UK that advocates for fairer global trading practices by encouraging sustainable consumer behaviour and raising awareness about the ethical issues surrounding international market supply (Fairtrade Foundation, 2022d), such as child labour. Child labour is a widespread issue that affects supply chains of the global market, most prevalently in developing countries with largely agriculture-based economies (Luckstead *et al.*, 2022), such as sub-Saharan African nations that produce cocoa for global export (Hays, 2020; International Labour Organisation and UNICEF, 2021).

Due to the broad range of issues covered under the Fairtrade Foundation’s (2022c) approach, this article prioritises the issue of child labour. It outlines the Fairtrade Foundation’s aims and objectives and critically evaluates their methods before this article opens into a discussion of three themes, the existing national and international agreements on global trade and children’s rights, the power and influence of multinational corporations whose supply chains utilise child labour, and the concepts of consumer responsibility versus corporate social responsibility. These themes are considered from the perspective of Social Contract Theory, which outlines how a governing body is held legitimate by its subjects through a contract of agreed terms (Wistow, 2022) – limited in this article to Rousseau’s theory of a general will (Rousseau, 1968 [1762]) contrasting Hobbes’ (Hobbes and Macpherson, 1985 [1651]) conceptualisation of an absolute ruler – and based on an underlying understanding of the structures and systems of society drawn from Critical Race Theory (Price, 2010; Crenshaw, 2011).

**The Case**

The Fairtrade Foundation (FTF), established in 1992 (FTF, 2022a), is the part of the international Fairtrade movement that is active in the UK (FTF, 2022d) and aims to establish greater equality along global economic and social dimensions as well as environmental preservation (FTF, 2022c), which includes the abolition of child labour (FTF, 2021). For an organisation advocating for what gets labelled as alternative trade (Anderson, 2018) and thus with limited influence on mainstream markets (Poelmans and Rousseau, 2016), this broad range of issues seems ambitious, especially when considering that even though the FTF imposes standards onto its certified traders (FTF, [online]b), the choice to partake relies on the individual organisation, for whom the choice to trade fairly is generally understood as opposing economic interests (Aktar and Hingley, 2013) (see Theme 2).

Aside from the imposing of fairtrade standards essentially aimed at empowering producers and workers in developing countries (FTF, [online]a) on companies that volunteer to have their products certified with the fairtrade label, as coordinated and overseen by the FTF in the UK (FTF, 2022d), the FTF aims to increase western consumer awareness (FTF, 2022d) to influence the market through consumer choice and action (Hays, 2020). This threatens to put the Global North and the Global South in a hierarchical relationship that includes the exportation and imposing of practices developed in the North onto the South (Schoultz and Flyghed, 2019) (see Theme 1).

Opposing this point of view, the FTF worked together with producer organisations in developing countries to establish its Theory of Change (FTF, 2022b), which describes the development envisioned by an organisation and their contribution to it. This gives a voice to otherwise marginalised communities (Alcadipani and de Oliveira Medeiros, 2020) and empowers producers to take action themselves rather than being subject to outside influences (FTF, 2022c), as evident in the FTF giving producer organisations the choice of how to use the Fairtrade Premium, the added financial compensation they receive through the production of certified products (FTF, [online]a), and their establishing of community-focussed initiatives to tackle the issue of child labour in concert with the requirements of the individual local setting (FTF, 2021), which counteracts some of the issues around the lack of socio-cultural inclusivity in definitions of child labour (Adonteng-Kissi, 2021).

Nevertheless, the practice of offering a price premium is open to abuse (Luckstead *et al.*, 2019) and thus may further the cycle of exploitation through an insufficient focus on root causes (Perkiss *et al.*, 2021) (see Theme 3). This lack of systemic equality could be addressed through an increase in overall transparency of market supply (Crinis, 2019), while imposing fairtrade certified labels can be seen as absolving multinational companies of responsibility towards sustainability-related issues because it becomes the responsibility of the certifying body, such as the FTF, to ensure the standards are met (Lafargue *et al.*, 2021). Since child labour is a diverse and widespread issue (Hays, 2020) that draws on the opaque and fractured nature of supply chains in the global market (Boersma, 2018), it occurs within fairtrade-certified lines of production (FTF, 2016), which speaks to both the limited success of the FTF’s approach and the importance of socio-structural factors not covered by it, as explored in the following themes.

**Discussion**

*Legislation and Rousseau*

The basis of the FTF’s approach are international treaties (FTF, 2021), which appear to envision a social contract akin to that developed by Rousseau (Rousseau, 1968 [1762]), marked by the absence of a global authority (Inoguchi and Le, 2016) yet advocating equality among all global citizens under human rights (United Nations (UN), 1948). These rights extend to all children (UNICEF, 1989), whose rights to equality in protection, education, leisure and freedom are threatened by trafficking and forced labour practices (UN, 2022). According to the UNCRC, a child means a person below 18 years of age unless otherwise specified by the applicable national laws (UNICEF, 1989). This position prioritises western conceptualisations of childhood as a period of freedom and innocence (Ahmadi, 2018) and puts other approaches, such as the African norm of attributing responsibility to children (Nodoushani, 2013; Snell, 2020) and establishing their entry into adult life through rites of passage (McKay, 2005) into a secondary place.

Out of this discrimination emerges a critique of the UN Sustainable Development Goals that include the abolition of all child labour under Target 8 (UN, 2022). Aufseeser *et al.* (2018) argue that the universal abolition of child labour would prove harmful to children whose economic contribution is necessary for their own or the survival of their families (Hays, 2020). The International Labour Organization (ILO) acknowledges the potential benefits of labour for older children in their definition of child labour as work harmful to the development of children (ILO, 2017a), but advocates for global minimum age requirements (ILO, 2017b), which speaks to the exportation of western judgement and attitudes based on the western way of life.

Under these views, exploitative child labour as observed on African cocoa plantations (Aktar and Hingley, 2013) falls under modern slavery (ILO, 2022), which is usually based on inequalities of power (Luckstead *et al.*, 2019) that would be impossible under a functional social contract as imagined by Rousseau (1968 [1762]; Olsthoorn and Van Apeldoorn, 2022). For children, consent is impossible due to immaturity (Adonteng-Kissi, 2021), thus exposing the parents whose children work to global scrutiny, which suggests that child labour is a voluntary choice made by families and communities who lack awareness.

Contradicting this, Nodoushani (2013) argues that the causes of child labour are broadly similar between developing and developed countries, with Perkiss *et al.* (2021), London (2012), and Luckstead *et al.* (2019) outlining how poverty is a driving factor in maintaining global disadvantage through the adverse effect of child labour on children’s futures. Frempong and Stadelmann (2019) agree that child labour has a negative effect on families who would not resort to it unless forced to through environmental factors (Nodoushani, 2013), which casts doubt over the FTF’s (2021) claim that raising awareness in communities in developing countries is a key way of alleviating the issue. The uneven global spread of child labour, then, is better explained through the unequal distribution of available resources (Weiner, 2012).

As such, the FTF contributes to the understanding of equality that inclusion of all voices is needed to achieve it (Weiner, 2012), but remains limited by underlying assumptions of white western privilege (Weiner, 2012). Equality of children comes to mean equality to the western child and thus emphasises a tolerating, but not accepting (Turnock, 2021), of cultural differences. This leads to the exclusion of children who lack the resources to achieve these ideals (Adonteng-Kissi, 2021; Aufseeser *et al.*, 2018) from the pool of children to whom human rights and protections are applied (FTF, 2016), which can arguably be seen as a furthering of colonial norms and exploitations (Alcadipani and de Oliveira Medeiros, 2020). Establishing the western way as the norm against which other lived realities are measured (Alcadipani and de Oliveira Medeiros, 2020) exemplifies a prioritisation of individual wills (Wistow, 2022) rather than a general will (Inoguchi and Le, 2016). Rousseau’s (1968 [1762]) social contract thus becomes the theoretical ideal, but hardly feasible in practice (Wistow, 2022).

*Hobbes’ Leviathan*

Unlike Rousseau, Hobbes’ (Hobbes and Macpherson, 1985 [1651]) development of a social contract advocated for the need for a sovereign to alleviate the adverse conditions characteristic of the state of nature (Hobbes and Macpherson, 1985 [1651]). Assuming that the state of nature in a global free-market economy (Lawrence and Roberts, 2019) is the profitability of exploitation (Jeßberger, 2016), including that of children (Lafargue *et al.*, 2021), a global authority empowered to prosecute multinational corporations for human rights violations (Chelliah, 2017) seems a viable solution that the FTF circumvents through its voluntary standards (FTF, [online]b).

A violation of the standards imposed by the FTF leads to a report being sent to the government responsible for the offending corporation and a non-governmental mediator (FTF, 2021), an approach that the FTF (2021) admits has little impact since international bodies are unable to enforce the standards suggested in global agreements (Sasson, 2016). This trend can be observed both across national and international scales. The UK enforces its own laws, such as the Modern Slavery Act 2015 (Legislation.gov.uk, [online]), within its borders in addition to having ratified most international agreements on children’s rights (Luckstead *et al.*, 2022), which reflects the status of illegality ascribed to child labour in most nations (Chelliah, 2017). Yet, the practice persists through the outsourcing of both responsibility and exploitation (Crinis, 2019; Hays, 2020) by multinational corporations that go unpunished at the international level (Jeßberger, 2016) and largely unpunished at the national level, as UK legislation focuses on guilty individuals, not corporate bodies (Ryder, 2018).

When taken to court, corporations often receive a DPA, a settlement between the accused and the state (Campbell, 2019) that sets out terms for the corporation to address the issue themselves (Jeßberger, 2016). Bittle and Snider (2015) highlight that this avoids all aspects of criminal punishment and therefore agree with Ryder (2018) that DPAs have limited impact. Bennett *et al.* (2013) argue that this special treatment is necessary because the criminal prosecution of corporations would have adverse effects, such as large-scale unemployment. The state licenses corporations (MacManus, 2016) and therefore has an interest in keeping them from being prosecuted.

Following Alcadipani and de Oliveira Medeiros’s (2020) argument that the extensive power of multinational corporations (Nodoushani, 2013) has led them to take on functions traditionally ascribed to governments, it seems plausible that corporations have become the Leviathan envisioned by Hobbes (Hobbes and Macpherson, 1985 [1651]), thus having established themselves as superior to and exempt from the voluntary international agreements. These agreements, thus become a method of maintaining the support of the public (Perkiss *et al.*, 2021) rather than a commitment to change, which reflects Crinis’s (2019) position that corporations only adopt measures that do not lead to lawsuits (Aktar and Hingley, 2013). While this suggests that the criminal justice system has some influence on the behaviour of corporate bodies, it also seems that any global authority would have to contend with the established global authority of multinational corporations.

Through the lens of critical race theory, this difference in structural power appears to stem from capitalism being based on exploitative practices (Alcadipani and de Oliveira Medeiros, 2020), as a prioritising of the job security of western civilians over a humane living of southern civilians again speaks to the hegemony of white western privilege (Lafargue *et al.*, 2021). Additionally, the entitlement of corporations that are willing to spend large sums of money on defending their public image (Perkiss *et al.*, 2021) but not on the abolition of exploitative practices tied to their lines of production and supply (Aktar and Hingley, 2013) evidences selfishness and a lack of interest in establishing global equality. Through not addressing these structural issues (London, 2012) the FTF can be seen as complicit in maintaining them, which further calls into question whether their goal to establish a fairer world (Anderson, 2018) includes an establishment of equality among its people.

*Consumer and Corporate Social Responsibility*

The FTF’s suggestion of a bottom-up approach (2022d) could, if multinational corporations have established themselves as quasi-authorities whose existence is not covered by but merely overlaps with the reach of criminal justice, be seen as a justified revolt against a sovereign who is no longer upholding his terms of the social contract (Devarajan and Ianchovichina, 2018). Consumer action as advocated by the FTF (2016) can be justified because market norms are influenced by cultural values and behaviours (Anderson, 2018), and has shown positive results (Lafargue *et al.*, 2021). Yet, Sasson (2016) argues that such action did not stem from an awareness of responsibility for structural inequalities, but rather forms part of a contemporary trend of individuals identifying as ethical consumers (Aktar and Hingley, 2013) and expecting corporations to contribute to the welfare of global society (McKinney, 2015).

Consumer responsibility, an acknowledgement of one’s influence on social issues (Aktar and Hingley, 2013), has led to a rise in demand for fairtrade certified products (Poelmans and Rousseau, 2016) but within ignored western consumers’ hypocritical position that considers it morally admirable to pay for fairtrade products but normalises the expenditure of large sums on brand-name objects (Nodoushani, 2013). In this light, Anderson’s (2018) observation of an attitude-behaviour gap that becomes harder to bridge across larger geographical distances aligns with Sasson’s (2016) critique that consumer action is too small a response to the issue of corporate social irresponsibility.

More may be achieved through ensuring transparency in supply chains (Crinis, 2019), as this would prevent problems encountered by the FTF, such as the selling of not-fair-trade cocoa in fairtrade labelled bags (Lafargue *et al.*, 2021) or the shifting of children from production for export to another sector (Luckstead *et al.*, 2019) to meet imposed standards that only cover exported goods. The label given by the FTF (2022d) is thus a limited incentive for corporations to change their practices (Anderson, 2018), even though its spread was driven by consumer action.

On the other hand, Anderson (2018) highlights that corporate social responsibility, the practice of ensuring ethical conduct within and minimising the harmful impact of a company (Crinis, 2019), is not beneficial for a corporation without consumer responsibility. Considering that factors such as taste of the product and familiarity with the fairtrade label (Poelmans and Rousseau, 2016) outweigh the moral aspects of consumer choices, a significant proportion of the understanding of equality and the issues in the way of achieving it would be lost without the FTF’s (2022d) spreading of awareness, and consumers as political subjects (Sasson, 2016) would not know of their power and be absolved of responsibility for the damage they can do with it.

Nevertheless, the FTF’s ([online]a) dividing of the Global North and the Global South into the identities of consumers and producers appears to establish a northern hold on the fairtrade movement (Anderson, 2018) when evaluated through a critical lens. The implied hierarchy of the West served by the South again reveals underlying constructs from a history of colonisation (London, 2012). The differing level of agency ascribed to these groups, with producers a largely homogeneous group considered in collectives while consumers are each ascribed individual impact (Joseph, 2021) makes it seem as though attempts to abolish the issues that include child labour are not doing much to acknowledge or eradicate the lasting impact of this history (London, 2012), especially when considering that the FTF (2021) encourages producers to take responsibility for child labour – an issue historically and contemporary rooted in the exclusion of the Global South from the power monopolised by the Global North (Joseph, 2021).

**Conclusion**

A critical evaluation of the Fairtrade Foundation’s contribution to the understanding of equality in criminal justice on the example of child labour in global supply chains of multinational organisations highlighted the differences in value attributed to citizens of the Global South and the Global North. These differences appear to have roots in colonial exploitation that continue to underly contemporary understandings and practices, which in turn leads to a prioritisation of the needs, rights, and lives of western consumers.

Multinational corporations as entities of nations of the Global North attain partial exemption from prosecution under national criminal law and circumvent international agreements through outsourcing responsibility. The immense power of multinational corporations partially trumps that of their home nations’ governments, hinders the effectiveness of consumer responsibility and prevents the establishment of a social contract based on a global sovereign or global equality. These structural inequalities and systematic exclusions of non-western nations from the equality-based guidelines and provisions of international and national treaties are partially acknowledged by the FTF, but not rectified through their methods, and even partially reinforced. Nevertheless, the biggest impact of the FTF on the understanding of equality in criminal justice is the raising of awareness of the issues surrounding it so that they come to be understood and reveal deeper-reaching roots. As such, the FTF encourages a step towards understanding equality in criminal justice as inclusive of all voices, attitudes, and ways of life, but does not go as far as to equate this idea with the goals the fairtrade movement aims to realise. Equality in criminal justice for children exploited for labour is, then, hoping that western nations make enough sustainable consumer choices for multinational corporations to accept fair trade in mainstream markets.

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