

Can Ethical Certification Prevent Food Fraud?

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Abstract

Ethical, sustainable, social and environmental certification organisations exist as a means to ensure various trade standards are met; protect and empower small-scale producers in developing countries; and enable consumers to use their purchasing power to effect positive change. Consumers who trust in these labels accordingly pay a premium for it, though as is the case with all food, crime may infiltrate the supply chain and undermine the value of the certification label. Research shows that crimes such as modern slavery and child labour, use of banned pesticides, corruption, and food mislabelling have all been linked to certified foods – and regulation and traditional enforcement over these crimes may be limited or absent. The existence of these crimes undermines the certification process, purpose, validity and legitimacy and may render the label fraudulent. However, standards set by certification organisations operate as a form of regulation, despite being universally inconsistent and voluntary. Implicit or explicit tolerance for these crimes also denies injury committed against the consumer. As such, from the perspective of food fraud, this research suggests that through their standards setting, certification organisations may provide a layer of regulation and enforcement, contributing to the prevention of food fraud for certified ethically labelled food.

Keywords: food fraud; ethical trade; regulation; techniques of neutralisation

Introduction

Background and Scope

Countless ethical, sustainable, social and environmental (herein collectively referred to as ethical) certification organisations exist to endorse a vast range of primary industries and their specific products. Commonly, these certifications are sought for industries in developing nations where standards may not exist or be lower than developed nations, for a range of reasons. The purpose of such certification organisations is to raise the responsible practices and standards and ensure they are consistently met, relating to, among other things, fair pricing, and social and working conditions (Lui, Andersen & Pazderka, 2004). As global trading increased so too did pressure on companies to develop initiatives to embrace fair and ethical sourcing from primary industries (Robinson, 2009). These standards establish a minimum price payable and, as such, the concept is that through ethical consumerism, primary industry can rely on that guaranteed profit to build their business, generated by a premium paid by consumers.

Certification of ethical production is entirely dependent on consumer participation. Without the consumer's willingness to pay a premium for products that meet the certification standards, adopting responsible practices and standards to enable certification may be financially unviable for primary industry. While consumers may share an ethical concern improved through certification, they may not always opt to pay a premium for an ethically labelled product (Chatzidakis, Hibbert & Smith, 2007; Valkila, Haaparanta & Niemi, 2010). As such, consumer trust in the certification label on products they purchase implies, and indeed requires, that standards are consistently met, to ensure consumers continue to satisfy their sense of ethical decency by purchasing suitably labelled products. Should the efficacy of the ethical label be questioned, and the potential for mislabelling amounting to food fraud result, it would damage the reputation of the ethical label.

Unlike organic produce, for example, formal regulatory oversight of ethical certification appears to be limited, and instead relies on the organisations themselves to maintain adherence to their set goals, through self-regulation. Research shows that self-regulation within private and non-government organisations is more likely to be effective than that regulated by government (Armstrong & Green, 2013). Self-regulated organisations rely on their reputation and consumer trust to guide their business ethics. Incentive to manage business operations without the binds of government red tape may encourage adherence and improvement against set corporate goals. This should include effective crime prevention management, extending to proper food labelling to avoid food fraud. However, arguably due to the lack of oversight, opportunity for crime exists whereby small scale or organised criminals can infiltrate the food industry.

Fraudulent Ethically Certified Foods

Food fraud is collectively defined to include activities to intentionally deceive, such as food mislabelling, adulterating, misrepresenting and repackaging (Spink & Moyer, 2011). Overwhelmingly, profit drives food fraud rather than motivation to cause intentional human harm (Manning & Soon, 2016). Given the already low profit margin for producers in developing countries, the potential for food fraud, particularly through mislabelling, increases. As such, greater criminological exploration of the potential for, and prevention of food fraud within ethically labelled industries is warranted.

Food fraud occurs when products are *mislabelled* as ethically certified despite existence of non-compliance with ethical labelling standards. These inconsistencies encompass criminal activities: for example, human and labour rights violations, corruption, and substandard industry practices (such as use of illegal pesticides) that misrepresent the standards of the ethically certified label. Implicit or explicit tolerance for crime differs between geographical locations and may be rationalised as reasonable in certain situations. However, consumers purchase ethically certified food at a premium believing these standards are met.

If crimes occur in ethically certified primary industry, either due to a lack of awareness or normalisation of the crime, are they justifiable? Sykes and Matza (1957) developed the five *techniques of neutralisation* to help explain how illegal behaviours can be justified. Whilst ordinarily crimes committed against primary industry victims are unacceptable, the harm is exacerbated when it also amounts to food fraud, as it defies the certification standards set, victimising its consumers. The regulatory response when a consumer purchases a product mislabelled as ethical is complex.

This research suggests that as ethically certified primary industry receives greater oversight, albeit informal and voluntary, it should deter criminal offending within the industry amounting to food fraud. Crime control is the responsibility of governments; however, the exporting and importing country's border control agencies are neither responsible nor likely hold the expertise to determine whether a food adheres to privately set certification standards. Given that many certification standards oppose crime such as mislabelling, modern slavery and child labour, corruption and use of banned pesticides, the certifier has a unique and important role to oversight certified primary industry and ensure food fraud is quelled. As such, these crimes common to the industry were at the centre of our analyses.

After the methodology and theoretical explanation, the body of this article is organised as follows. First, it provides an overview of the rise and role of certification bodies. Acknowledging that food fraud can occur at any point in the supply chain, secondly it undertakes an extensive review of literature on crimes linked to ethical certification underpinned by Sykes and Matza's techniques of neutralisation, specifically *denial of injury* to examine why these crimes occur. Over and above government regulators, third it suggests that the unique opportunity for certifiers to provide oversight, albeit informal and voluntary, increases opportunity for detection and prevention of food fraud.

Method

This research relies on analyses of academic and grey literature that reveal crime within ethically certified industries. The scope of the literature search was limitless in jurisdiction and time period, though only English language literature were analysed. Results from keyword searches generated through Google Scholar confirmed that limited research has considered the role of ethical certifiers in food fraud oversight and control, however we found specific crimes, namely those opposed by certifiers, including mislabelling, human and labour rights violations, corruption, and substandard industry practices (such as use of illegal pesticides) were commonly linked to ethically certified industries, hence justified our enquiry. It is beyond the scope of this article to systematically analyse all crimes and regulations relating to each certification program. Rather, this research focuses on how crimes in certified primary industry amount to food fraud experienced by the consumer who purchases the (mis)labelled product.

Techniques to Neutralise Food Fraud Against Consumers

Ethical certification that seeks to improve working standards, such as *Fairtrade International*, rather than that focused solely on sustainability, such as the *Marine Stewardship Council*, is available only to farmers and producers operating in developing countries. However, often developing countries have lax regulatory and enforcement responses to control crime. Further, pressure to pay corrupt officials cuts into (any) profit margins, potentially exposing workers to human rights abuses and unfair pay standards. Consequently, it may be possible to understand how and why crime infiltrates ethical production, conducted by farmers, distributors, and government overseers, among others, and how it continues uninterrupted.

Sykes and Matza's techniques of neutralisation offer a framework to explain the justification of criminal behaviour. These five techniques are: (i) denial of responsibility (*I couldn't help it*); (ii) denial of injury (*I didn't really hurt anybody*); (iii) denial of the victim (*they had it coming to them*); (iv) condemnation of the condemners (*everybody's picking on me*); and (v) appeal to higher loyalties (*I didn't do it for myself*). Delving into the psychology of the criminal behaviour, the techniques provide useful insight into why offending occurs that may otherwise be challenging to understand or relate to. The techniques have been applied successfully across many and varied crime types (see for example Alexander & Opsal, 2020; Brewer, Fox & Miller, 2020; Padayachee, 2020; Siponena, Puhakainen & Vancec, 2020; Wilhelm, Joeckel & Ziegler, 2019). As with the application of any theoretical model, caution must be taken as to its validity and suitability to the relevant research. While there have been many extensions on the original five techniques, they have not been contested (Kaptein & van Helvoort, 2018). Through the various extensions of the theory, it broadens understanding of how offenders remove victims and consequences from their decision-making to rationalise committing, enabling or overlooking crime, useful to this research. As an example, research suggests soldiers neutralise the consequences of their

actions during war as their victims may be geographically distanced and also are likely to be socially or personally unknown to them (Kooistra & Mahoney, 2016). Similarly, failure to foresee consequences in instances of food fraud are easier to accept as victims are distant, rather than immediate.

This research positions the consumer as the food fraud victim, and as such those engaging in crimes in production and supply of certified foods motivated to increase low profits may employ the neutralisation technique, *denial of injury* and its modernised extensions. In this context, denying the injury implies crimes committed in primary industry fail to foresee the potential consequences, whether threatened human safety at the extreme, or more likely, noncompliance with certification standards, amounting to food fraud, against the consumer. Notwithstanding there are countless potential victims along the supply chain, consumers should be able to trust a product's legitimacy when labelled with the certification mark indicating it conforms to set standards. However, the difficult reality is that regulating conformity to the certification standards may be a challenge as they are inconsistent, voluntary and therefore, depending on the agreement in place, likely lacks any legal avenues to respond.

The Rise of Ethical Labelling

The industry-led movement towards fair and ethical trade commenced in the late 1980s and gained prominence in the 1990s with many standards and certifiers emerging for various industries. Their emergence aimed to ‘put people and the planet over profits’ and address systemic harm and injustice committed against vulnerable people involved in global supply chains (Gray & Hinch, 2015; Low & Davenport, 2019; United Nations Conference on Trade and Development, 2020). While the term ‘ethical trade’ is not formally defined, it collectively refers to production that is free from child labour, with equal wages, and fair working conditions in place (Browne et al., 2000). The increase in certification organisations aligned with the rapid growth in sales of certified products (Lui et al., 2004), though in 2020, for example, ethically operating coffee farmers only earn approximately 0.4 percent of the price consumers pay for a cappuccino (United Nations Conference on Trade and Development, 2020).

Internationally there is a strong movement towards maintaining a sustainable future. Building on the United Nations (UN) Millennium Development Goals of 2000, the Sustainable Development Goals (SDGs) advanced the conversation acknowledging the important role in balancing environmental health and human security (United Nations, 2015). Across several UN SDGs, there is a push towards ethical trade. The United Nations Food and Agriculture Organization (FAO), International Labour Organization (ILO) and the United Nations Conference on Trade and Development (UNCTAD), in particular, lead many of the international standards and sustainability goals that ethical certification organisations operate within (Lui et al., 2004). For example, responsible consumption and production, gender equality, decent work and economic growth, and quality education are among the SDGs that directly relate to ethical production (United Nations, 2012). The SDGs are directed at the government level, though relevant throughout community and business and the role of certification organisations is to support primary industry to meet and maintain these goals within their operations.

Established and led by private industry, the ethical trade movement seeks to help the most impoverished primary industry workers. It does this by addressing human, social, economic and environmental issues that result from unfair trade prices paid to primary industry farmers, producers and their workers. The movement led to the establishment of certification organisations that sought to ensure production and related operations adhere to ethical standards, eliminating abuses of human rights, and international trade and labour inequalities. While standards between organisations are similar, there exists no legal definition or requirement for global consistency. Despite that, primary industries may volunteer to be certified that they comply with the standards, and consumers who purchase products marked with the ethical label, expect to pay a premium to support that primary industry’s business growth.

Countless certification organisations exist to provide ethical oversight over various industries. Certain fresh produce and other food products lend themselves to certification,

such as, among others, bananas, sugar, coffee, cocoa, tea and seafood (Fairtrade International, 2019b; Seafood Certification & Ratings Collaboration, 2019). In 2020, the value of the food certification market alone is approximately US\$4.7 billion with over 2.5 million producers and workers from 73 countries; as such consumer trust in value for money is necessary (Fairtrade International, 2019a; Markets and Markets, 2020; United Nations Conference on Trade and Development, 2020). These figures are expected to climb, especially since it appears ethical trading is increasingly becoming mainstream trading (Browne et al., 2000).

Among the most internationally recognised certifying organisations and labels are *Fairtrade International*, *Rainforest Alliance*, and the *Marine Stewardship Council*. Each operate globally to certify businesses and products to ensure they meet the overarching ethical principles set by the organisation, often aligned with international standards addressing the most pressing social and environmental issues. These may include price floors, fair trade premiums, working conditions, institutional structure and environmental protection. Voluntarily and for a fee, producers and businesses may opt to be certified by a particular organisation, agreeing to comply with the standards they set.

The certification process varies depending on the organisation; however, there appears to be some consistency in the approach. The process to certification typically involves: application; initial (onsite) audit; follow up (including unannounced) audits; and certification. The certification is valid for a defined period of time, such as three years upon which time the process towards recertification commences (Fairtrade International, 2020; Marine Stewardship Council, 2020). During the early audits, the certifier provides non-conformities against the standard to enable the producer to correct issues before certification can be confirmed.

Certification costs vary depending on the location and the product. While benefit from certification is anticipated, higher certification costs may limit participation. Indeed, it may be the most marginalised, disadvantaged, and those most in need of the benefits realised by certification who may be unable to access it. Across various studies research shows that the administrative cost of certification may mean the net premium received by producers is significantly reduced, amounts to the same as non-certified industry (Booth & Whetstone, 2007; Cole & Brown, 2014; Ruben, Fort & Zuniga-Arias, 2009). Concern that the high annual cost of certification may be disproportionate to monthly minimum wages. For example, in Vanuatu certification can cost up to US\$10,000 while the monthly minimum wage is US\$290 (United Nations Conference on Trade and Development, 2020). Even if certification is achieved, unbalanced cost and return equations will no doubt impact on the ability to adhere to standards set.

While certifying organisations are self-regulated and lack global standards, oversight into their operations and standards may be sought. Providing another layer of oversight, certifying organisations may opt to be members of an umbrella accrediting organisations legitimising their function. For example, the *ISEAL Alliance*, the peak stakeholder group on sustainability standards and accreditation bodies bridging the gap between community

business, government, and certifiers. Additionally, against global standards, a series of transnational organisations govern various standards and norms on social accountability (SA8000) (Social Accountability Accreditation Services, 2018) and conformity required for certifying organisations (ISO, 2017) to ensure compliance with international conventions such as the Universal Declaration on Human Rights and the United Nations Convention on the Rights of the Child as well as non-binding instruments (Renard, 2005). The UN's SDGs also provide useful guidance upon which their standards are often set.

The UN SDGs are the most important, globally agreed benchmarks that transcend a variety of sectors. However, the SDGs are not legally binding. Governments of UN member states are expected to progress the agenda, collaborating with international partners, business and the community. Several of the goals align with the standards set by certifying organisations, whether explicitly identified or not. While fundamental ethical labour goals – such as responsible consumption and production (SDG 12), gender equality (SDG 5), decent work and economic growth (SDG 8) and quality education (SDG 4) are critical – SDG 16 that focuses on access to justice and, with specific focus on substantially reducing corruption and bribery which may be absent from focus or priority, enabling crime within the industry (United Nations, 2015). As such, these goals create a useful platform upon which certification standards can be set.

Denial of Injury: Fraud Involving Ethically Certified Food

Opportunity for crime linked to products that have undergone some variety of ethical certification should be reduced. Rather, in some situations, normalisation of crimes such as human and labour violations (including modern slavery and child labour), corruption and substandard industry practices (such as use of illegal pesticides) allow, and indeed justify its continuation, when coupled with the motivation for increased profits given, they are already low.

Reviewing relevant literature unlimited by geographical jurisdiction and time period, this section overviews crimes commonly linked to certified primary industry in developing countries that defy certification standards, amounting to food fraud. Without intending to tarnish all primary industry as food fraud offenders, Sykes and Matza's (1957) *denial of injury* technique of neutralisation is applied to understand justifications for committing, enabling and overlooking crime in the industry.

Without consumers purchasing products at a premium to support ethical production, primary industries and certification labels may fail. As such *denial of injury* to consumers should not be overlooked and consumer expectations should be considered, if not prioritised. The following section is organised according to the key criminal themes that emerged from the literature relating to ethically labelled food, namely food mislabelling, labour violations, and use of banned pesticides.

Food Mislabelling

Within any food supply chain, there exists a multitude of opportunities for crime. Among others, this includes corruption, tax and/or document fraud, mislabelling, food adulteration, and smuggling across borders. Fraud of certified food may involve mislabelling or adulterating bulk food such as coffee, or specific ingredients such as cocoa and sugar used in the production of chocolate, usually for economic gain (Arévalo-Gardini, Arévalo-Hernández, Baligar & He, 2017; Nieburg, 2017; The Telegraph, 2018). Mislabelling food as certified when it fails to meet the standards equates to food fraud, and *denies injury* of the consumer who pays a premium unknowingly for the mislabelled product.

It is somewhat routine that all imported foods are checked for human safety. While food labelled as ethically certified are checked for safety, they are not subjected to checks for compliance to certification standards set by the private certification organisation on import arrival. This would be unfeasible for the importing destination, despite potentially amounting to food fraud. Products that do not adhere with the certification are also unlikely to be checked at their point of departure or any transit points. As such, the certifier has full regulatory control over whether a product complies with its standards and to determine whether to label a product as certified. Products that fail to comply with certification standards should not be labelled as such. Breaches of labelling or mislabelling amount to food fraud.

Adulteration is common among bulk supply of powder or particulate form (Food Fraud Advisors, 2020). Among ethically certified foods, the examples provided previously, namely bananas, sugar, coffee, cocoa, tea and seafood, are all supplied in bulk and may be in particulate form. As such, mixing of similar products can easily occur for financial gain, for example by diluting the yield with inferior quality but with like products, or with non-certified products.

The concept of *mass balance* is of concern within certified food. For example, can a package of diluted certified and uncertified tea leaves be labelled as certified? This process of adulteration by way of lack of clarity of provenance and truth in labelling undermines the certification (Booth & Whetstone, 2007; Spindel, 2010; Weitzman, 2006). Thus, the price premium collected from the consumer is delivered elsewhere along the supply chain and may indicate existence of and encourage corruption (Booth & Whetstone, 2007). This form of food fraud occurs within certified and uncertified supply chains as well. To correct this, in 2020, Rainforest Alliance introduced a new policy to ensure transparency in labelling whereby products must be 100 percent certified to carry the label, where previously, quantities of 80 to 90 percent would qualify for certification (Rainforest Alliance, 2020). This method to prevent adulteration is even more challenging to police and likely to result in mislabelling.

While interested consumers share ethical concerns over the origin and manufacturing of ethically produced products, they are unable to promote change largely due to lack of available information regarding unethical food production. Further, there is little public

awareness regarding the possible illegitimacy of certification labels, given that importing countries are more so regulating products to ensure compliance with human safety. Inferior substitutions are common within ethically produced food as well as many other foods, whether exotic or staples (Lindley, 2021; The Telegraph, 2018). Indeed, determining the difference between the more expensive *Arabica* coffee bean compared to the hardy and thus cheaper *Robusta* coffee bean can be scientifically tested to verify the presence of the chemical *16-OMC* (Arévalo-Gardini et al., 2017). However, the likelihood of this test being conducted either by the certifier or anywhere along the supply chain, is low. As such, the cost benefit analysis for food fraudsters engaging in mislabelling *Robusta* beans as *Arabica* is highly likely. Again, form of fraud *denies injury* to the consumer who pays for the more expensive bean, and if unsatisfied may reduce trust in the brand or, the certification label.

Consumers may trust in a brand to use certified produce, however the brand may not always opt for use of ethical products, for various reasons such as increased cost and lack of availability. For example, the large international coffee chain Starbucks, among others, use both certified and non-certified beans (Doward, 2020). Marketing the use of ethically certified coffee beans may encourage more customers due to alignment in ethical consciousness, however consumers may incorrectly assume that all coffee options are indeed ethically produced. While this does not amount to fraud unless it is specifically mislabelled and marketed as certified when it is not, though it is misleading for the consumer. These examples of mislabelling are blatant and implicit or explicit tolerance within society along all points of the supply chain must be reduced through improved consumer education. Continued denial of injury fails the consumer, and will ultimately fail all points of the supply chain; a highly undesirable outcome.

Labour Violations

Across certification organisations, fair and ethical working and pay conditions are chief among the standards certified primary industry must achieve. The agricultural sector is known to be a harsh workplace, where workers may be exposed to long days and hard physical labour, in all weather conditions with no requirement of minimum education levels. As such, the potential for human rights abuses increases. Depending on the country and its regulatory controls, availability of alternate work, support for child (especially girl child) education, and tolerances, or normalisation for certain harms, these human rights abuses may be more common. When failures to meet these standards exist, certification should not be provided and if certification is provided, the label amounts to fraud.

Primary industry workers are among the most vulnerable to face slave-like conditions. Workers may be exposed to several forms of mistreatment, including but not limited to physical harm and unfair (and potentially illegal) pay. Despite certification, some producers may be unable to meet minimum pay requirements (Weitzman, 2006). Similarly, working conditions may not be better than non-certified farms in the same region (Cole & Brown, 2014: 53; Valkila & Nygren, 2010). This is problematic for adults and children alike and defy important certification standards on working and pay conditions.

Global standards for working conditions are set within a series of international instruments. The ILO oversees the minimum conditions of fair and ethical treatment of workers across all sectors. These instruments include obligations over, for example, forced and child labour which have been ratified almost universally (International Labour Organization, 1930, 1957, 1999; United Nations, 1989b, 2000). Over and above individual criminal sanctions, failure to comply with obligations set out in these instruments may lead to ramifications such as fractured international trading relationships. Child labour and those trafficked into labour, in particular, are of concern.

Despite almost universal ratification of the UN Convention on the Rights of the Child (United Nations, 1989b) and the ILO's Worst Forms of Child Labour Convention (International Labour Organization, 1999), the practice of child labour is culturally entrenched and therefore tolerated in many countries of the developing world (International Labour Organization, 2020). Economic pressure is often cited as a rationale for enabling and even driving the use of child labour (International Labour Organization, 2020). This is evident for example in Cote d'Ivoire, Peru and Brazil, among others, where farmers seek cheap labour to ensure their industry is economically viable, despite ethical certification (Kruger, 2007; Robson, 2010; Weitzman, 2006) – without which the farmers may be unable to afford the farm, justifying their actions of using child labour. Conversely, rich landowners take advantage of the desperation of others by trafficking children into child labour to work long hours, in harsh and dangerous conditions for little or no pay (Warria, 2016; Whoriskey & Siegel, 2019). Indignance and normalisation within some cultures and societies that child labour is tolerated, if not acceptable and potentially, encouraged contribute to the community's prosperity. Certification organisations should be aware of the potential for forced and child labour in certain locations and as such, additional unannounced audits should be conducted in prone locations to interrupt its continuation.

Tolerance for child labour is complex as it entails both economic and social dimensions. Ethical trade certification seeks to address both dimensions. Economically, it aims to increase the profit for farmers, by guaranteeing a price premium, which contribute to reducing the root cause of poverty (Le Mare, 2008). Socially, it aims to improve the conditions of workers and remove human rights violations. Therefore, in theory, certification should reduce child labour: however, purchasing products that promote aversion to using child labour may result in unintended consequence whereby children are forced into more dangerous forms of employment due to the expense associated with certification assessment (Brenton, 2018). While the sentiment is changing, abolition of all child labour has been met with indifference and apathy by those currently gaining from it (International Labour Organization, 2020), particularly in remote locations where access to schooling is limited (Kruger, 2007). This acceptance of child labour reflects the poor integrity of some primary industry, believing that the quality of life of working children and denial of their education is not in fact harmful. Ethics in certified primary industry must align with consumers in developed countries, rather than *deny injury* to them, otherwise trust in certified labelling is lost.

The intergenerational cycle of poverty normalises engagement in child labour and enables its continuation. While obtaining an education is preferred, children may need to work to contribute to the family income. Some children may attend school during growing seasons, but work during harvest when money for work is available (Kruger, 2007). When parents and caregivers send their children to work, children are denied their international legal right to education, reaffirmed through SDG 4 (United Nations, 1989b, 2015). While defying international law, child labour is often a reflection of the social and cultural attitudes regarding child labour in developing countries. The extent of harm caused by child labour on their education and future employment may be unclear to parents and caregivers (Galli, 2001; Haile & Haile, 2008; Whoriskey & Siegel, 2019). Profits ahead of people fail the ethics of certification. When making ethically certified purchases, consumers expect that these kinds of injustices are not enveloped within the relevant primary industry.

Use of Banned Pesticides

International environmental laws exist that ban the use of certain pesticides (United Nations, 1989a, 1998, 2001). These laws underpin the standards that certifying organisations adhere to. The use of banned pesticides has been linked to soil and water contamination, and harms to bird, fish and animal health – including humans – caused from both pesticide application and consumption of contaminated water, plants or foods (Food and Agriculture Organization of the United Nations, 2016). While the use of certain pesticides is banned, their use continues in many parts of the world, by both developed and developing countries, including for commonly certified foods such as cocoa, bananas and coffee beans (Whoriskey & Siegel, 2019). Despite the ban, some developing countries demand exemptions for certain hazardous pesticides be allowed as less toxic products are often more expensive (Food and Agriculture Organization of the United Nations, 2020b). Continued use of these banned pesticides defies the standards of the certification organisations and therefore produce sprayed with these substances should not be certified. Certification in such instances would amount to mislabelling, and therefore food fraud. Ongoing use of banned pesticides to enable consistent crop production aligns with the *denial of injury* technique of neutralisation by failing to acknowledge the effect of use on the workers, the immediate and surrounding environment, and the end consumers. Blatant disregard for certifier prohibitions that are in many countries are *mala in se* (wrong) as well as *mala prohibita* (illegal) under binding international law.

Given that bananas are one of the most commonly farmed ethically certified foods, the use of banned pesticides must be closely controlled. Oversight provided by certifying organisations, particularly organic certifiers, should lead to nil or reduced use of banned pesticides (Torgerson, 2010). Banana crops are particularly susceptible to pests due to warmer growing locations, favouring year-round crops and thus pests, and hence pesticides use is common (Food and Agriculture Organization of the United Nations, 2020a). The application of pesticides occurs at certain points in the growing cycle and therefore it may not always be practical for certifying organisations to monitor use of banned pesticides.

However, given the use of banned pesticides defies international law, not only the certifying organisation but formal law enforcement should be keenly monitor and control their use.

Research indicates that coffee crops can be viable without harmful pesticides, despite some coffee farmers showing resistance due to increased labour required instead (Food and Agriculture Organization of the United Nations, 2015; Torgerson, 2010). In contrast to banana crops, Cote d'Ivoire coffee farmers are less likely to comply with certification standards on banned pesticides (Sellare, Meemken, & Qaim, 2020) due to lack of enforcement of standards and availability of banned pesticides to protect human and environmental health (Raynolds, 2012). Without ongoing enforcement of standards on banned pesticides, there is unlikely to be incentive to change. Farmers are enabled to justify their *denial of injury* to the crop worker exposed to the harmful pesticides as well as the end consumer by ensuring the crop quantity and quality is met, despite misrepresenting their use of banned pesticides on products labelled as ethically produced.

Regulatory Control Over Food Fraud

Challenges in Enforcing Certification Standards

Consumers may opt for ethically certified products believing they are making positive change or *voting with the dollar*. However, in the absence of effective monitoring mechanisms, it cannot be guaranteed that primary industry abides by the ethical certification standards when auditors are not onsite. Year-round audits to enforce standards would be unviable, though aligning audits with critical points within the growing cycle, such as application of pesticides to ensure banned pesticides are not used; and during harvest to ensure children and/forced labour standards are not employed, are important steps in the enforcing standards. Without the guarantee that ethically certified products are indeed ethically produced, it may amount to a form of food fraud, effectively deceiving consumers (Weitzman, 2006).

The success of meeting standards set by ethical certifiers is directly reliant upon its ability to monitor and enforce the standards it imposes. Ensuring that products are being produced under fair conditions would require a commitment to monitoring. If monitored and enforced adequately, ethically certified products may have the potential to reduce or eliminate crimes within primary industry. Several studies have considered the role of certification organisations and their ability to monitor activities year-round against their standards (see for example Baland & Duprez, 2009; Jaffee, 2012; Raynolds, Murray & Heller, 2007; Renard, 2005); collectively there is consensus that the resources are too limited for a job too great.

International laws provide guidance as to acceptable standards of working conditions, however most of these are voluntary and therefore not legally binding. Further, depending on the country of certification, accepted standards for labour and environmental abuses may differ, allowing goods to be produced more cheaply. As such, the role of certifiers to intercept

and report on the varying extents to which standards have been defied can be challenging – but even more critical. Additionally, it may create friction between those states with higher labour standards typically expressing concerns for human rights, and the trade impact linked to products they are importing, to prevent their consumers from food fraud (Charnovitz, 1994).

For ethical production, there exists no universal standards, but rather voluntary codes of conduct that commonly align with international laws and the SDGs. Ethical product certifiers define the standards in which they operate within and are self-regulated, as opposed to state regulated. By globally defining ethical trade and agreeing on consistent standards, would greatly assist certification organisations gain legal status to regulate and enforce the standards it certifies. Browne et al. (2000) suggest that merging certification of organic produce with ethically traded produce may enable opportunity for greater regulation. No doubt, organic producers could be certified as ethical, though it would be much more challenging for ethical farms to meet organic requirements.

A Formal and Informal Partnership

Overlapping formal and informal regulation to oversight primary industry in some of the least developed countries can ensure the reputation, integrity and accountability of certifying organisations is maintained. Research indicates that consumers envisage a role for government in oversighting certification organisations, despite their trend towards self-regulation (Brenton, 2018; Browne et al., 2000). There is also a role for large companies such as Starbucks and Nestlé to ensure there is incentive for farmers to comply with certification requirements. Collectively, these layers of oversight have the opportunity to reduce crime through increased monitoring and consumer engagement to change social attitudes about food fraud, from being disregarded as tolerated, to being collectively understood as harmful and unacceptable (Childs, 2014).

Certifier self-regulation coupled with legally binding supply contracts and provenance traceability has potential to provide adequate product regulatory control. However, there is no guarantee as, for example, there is no consistent requirements for labelling (Browne et al., 2000; Robinson, 2009). Indeed, to a certain extent, end of supply chain merchants such as supermarkets and consumers provide regulatory control by way of purchasing power, whereby demand slows ending or reducing supply contracts. Consumer trust in the certification label provides incentive for certifiers to increase their regulatory control over primary industry, without which their certification becomes meaningless.

Regulating ethically certified products can be complicated. Indeed, regulatory control over crimes occurring within primary industry should be the responsibility of the local law enforcement. However, there are several reasons why the occurrence of these crimes may be undetected. For example, as noted in previous sections, human rights abuses against workers defies international law as well as the standards of the ethical certification organisation, however it may be normalised and tolerated at the local level. Corruption involving bribing

public officials; geographic isolation of farms rendering them inaccessible; lack of law enforcement resources – both human and physical; and normalisation of crimes common to primary industry, such as child labour may be neutralised (Kruger, 2007; Spindel, 2010). Indeed, there is a strong relationship between developing countries and existence of corruption (Transparency International, 2019) and, as such, crimes occurring in the primary industry may not be prioritised. Certification is only available in developing countries and as such the potential overshadow of corruption must be addressed. These complex crimes exist in the absence of ethically produced food but are magnified when linked to ethical food certification as consumers are knowingly becoming victims of food fraud.

Despite enforcing consumer food safety and labelling laws, importing countries would be unlikely to check compliance with certification. While testing can be conducted on products to determine, for example, adulteration involving certified and non-certified product dilution, it is unfeasible. Geographical distance, inconsistent and obstructive domestic laws, and the need for cooperative law enforcement between the relevant countries, makes effectively examining the certification standards from afar problematic. As such, the importance of effective, overlapping, and formal and informal regulation, comes sharply into focus.

A challenge the industry and importing countries may face relates to truth in labelling. For example, once certified, adequateness of regulatory controls to maintain the certification is essential to ensure that certification remains worthwhile for primary industry, and products are labelled truthfully. While certification is voluntary, monitoring and enforcement, free from corruption and fraud, must form an important element of the continued arrangement. Conversely, ethical certification may have a role in preventing corruption. For example, Dragusanu et al. (2014) suggest that the price premium provided to the producer may assist in building the business more so than direct aid that may be (even more) diluted due to ineffective public funds management by the central government. Aid funds may support agriculture so instead profits paid by consumers has greater potential for reinvestment into the economy.

Preventing Food Fraud Through Certification

Ethical certification organisations have a unique transnational regulatory role. Its capabilities and responsibilities transcend borders and may overlap existing weak central governance, providing a necessary additional layer of control. It must, however, be agile and continue to innovate to ensure it can regulate, even if scaled up (United Nations Conference on Trade and Development, 2020). Developing universally accepted definitions is essential to formalise standards, as has been established with organic products, which may also be fair and ethically produced (Browne et al., 2000).

Given that certification is entered into voluntarily, consequences for organisations for failing to adequately oversee and quell criminal activity is largely morally driven. While certification organisations have zero tolerance for child labour and other crimes, if such

crimes are not visible during onsite audits, arguably they cannot be held in any way responsible. Particularly as these crimes are the responsibility of government to intercept and prevent, rather than the certifiers. Rather, consumer-driven incentive to conduct onsite audits at points in time when potential violations increase is more likely to be effective.

Ethical certification organisations have an opportunity to mitigate crime. These responsibilities rest on certifying organisations to ensure fair, sustainable and ethical produce is delivered by ensuring the highest standards are maintained. However, given that the certification process itself may be influenced by factors such as high internal levels of corruption and tolerance for crime, controls should be in place, such as continuously rotating the individual certifiers who conduct audits as a means of increasing transparency and ensuring opportunity for corruption is minimised.

Transparency between the farmers and the certifying organisations is crucial to reduce crimes in primary industry. Establishing direct trade between the retailers or consumers trading directly with the farm that grow the product may reduce opportunity for food fraud, such as adulteration through product mixing or mislabelling, but also ensure the premium price is paid directly to the primary industry ensuring profits are realised immediately.

Conclusion

Regulation is essential to ensure all food supply chains are transparent and free from food fraud. This need for transparency extends to ethical trade. Ethical certification organisations operate largely self-regulated: however, they have a unique role to play in regulating primary industry. There is an unfortunate parallel that primary farmers and producers within developing countries seek certification to support their business, but normalisation of crimes such as modern slavery and child labour, corruption and use of banned pesticides exist within the country that overshadow and undermine certification. Implicit support for these crimes, or failure to intercept these crimes that defy standards set by the certification organisations, may amount to food fraud by being mislabelled as certified, when they fail to meet the standards set.

Through Sykes and Matza's techniques of neutralisation it has been possible to understand justifications for committing, enabling and overlooking crimes in certified primary industry through *denial of injury* to the consumer, by failing to foresee the potential consequences, such as threatened human safety at the extreme, but more likely the production is inconsistent with the ethics underpinning the certification organisation. Such organisations are uniquely placed to provide potentially absent regulatory control over the production end and quell crimes that do not comply with their standards in place. While it is possible that crimes occur when certification audits are not taking place and year-round inspections and monitoring is impossible to enforce standards, certifiers add an additional and necessary regulatory layer to an underregulated industry. Coupling formal and informal regulation to prevent food fraud, reduces the likelihood of food being produced that defies the certification standards, and ultimately reducing consumer trust in ethical certification labelling.

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