



Companies, People, Ideas

Slave Chocolate?

Deborah Orr 04.24.06

Anticorporate protesters went after Nestlé for its infant formula. Now they're at it again-- this time accusing the company of using cocoa harvested by forced labor.

With their bright pink wigs, colorful placards and painted smiles, the crowd in front of San Francisco's Metreon movie theater last July looked like extreme fans come to celebrate the opening of the latest Willie Wonka film. But these merrymakers had a downbeat message for Nestlé, maker of Wonka chocolate candy. A typical sign read, "Make my Wonka bar slave-free."

This protest was organized by Global Exchange, a California pressure group that has organized letter-writing campaigns, appealed to lovers to make Valentine's Day "slave-free" and told parents to mail their children's Halloween treats back to Nestlé and other chocolate makers who buy cocoa from plantations in West Africa. The International Labour Organization, part of the UN, estimates 284,000 child laborers work on cocoa farms, most of them in one tiny country, Ivory Coast, source of almost half the world's cocoa. "These are either involved in hazardous work, unprotected or unfree, or have been trafficked," says the ILO.

Global Exchange and another nonprofit, the International Labor Rights Fund, founded by a Methodist minister and funded in part by George Soros' Open Society Institute, are taking their case to court. They are suing Nestlé's U.S. subsidiary, together with commodity traders Archer Daniels Midland and Cargill, in California. The action was brought under two federal statutes, the Torture Victim Protection Act and the Alien Tort Claims Act, which allow victims of human rights abuses who live outside America to sue U.S. companies for violations of international law.

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The suit also charges Nestlé, Cargill and ADM with violating the expansive California Business & Professions Code by making false claims to the public that the problem of child slave labor on cocoa farms was being resolved.

"Nestlé is not the owner of any plantation," says Peter Brabeck-Letmathe, chief executive, exasperated after seven years of protests connecting the Swiss multinational with forced child labor in Ivory Coast. In what he calls "basically a civil war situation," he says, "there might be a lot of other human rights abuses than just the ones that have been picked up." He says it would be even worse for Ivory Coast if Nestlé bought nothing.

This is a country where an estimated 215,000 children live on the streets, where teachers give children good grades in return for sexual favors and where there is no law against human trafficking, according to U.S. State Department reports.

A chocolate trade group in Washington blames putting kids to work on farmer attitudes in West Africa.

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The Western protest groups have videotaped conditions on some of the slave farms, with wrenching narratives from children who were as young as 12 when they were enticed by traffickers with promises of good wages and easy work. One plaintiff, a young boy from neighboring Mali who says he was lured to a cocoa farm in Ivory Coast, describes his plight on tape: "I tried to run away but I was caught ... as punishment they cut my feet and I

had to work for weeks while my wounds healed. I stayed in a large room with other Malian children from a neighboring plantation." He was finally freed when another boy enslaved on the farm found his way to the Malian embassy, according to several boys' testimony. A Malian diplomat intervened to help return the boys to their families, according to plaintiff transcripts.

Five years ago Senator Thomas Harkin (D--Iowa) led an investigation into allegations of child slavery in the African cocoa trade. The senator introduced legislation that would have required chocolate sold in the U.S. to be labeled "slave-free." The bill was not enacted, but Nestlé got the message. The company, other big chocolate producers, the ILO and several nonprofit groups signed an agreement promising that by July 2005 they would find a way to certify chocolate as not having been produced by any underage, indentured, trafficked or coerced labor.

The deadline passed with little accomplished. Chocolate makers started a foundation to work with nonprofits that rehabilitate and educate child laborers. But the industry's own assessment of its "progress to eliminate the worst forms of child labor and forced labor from the cocoa fields" was "discouraging," reads a statement from Harkin's office.

Nestlé and others say they need more time--three years to certify half the cocoa-growing areas of Ivory Coast and Ghana.

"They say they can't do anything--the civil war is escalating," says Terrence Collingsworth, executive director of the International Labor Rights Fund. "But we can send our researchers in. And they don't seem to have any trouble sending their buyers in." Other nonprofits have also broken through, including the Fair Trade Labeling Organization. That's a group from Bonn, Germany that certifies, among other things, that farms are free from labor abuses. In the last two years Fair Trade has organized two cooperatives in Ivory Coast, covering 1.3% of chocolate exports, that are ostensibly free from child or slave labor.

Why pick on Nestlé when Mars and Hershey buy even more chocolate from Africa? "We have evidence against Nestlé," says Collingsworth, referring to a former Nestlé buyer who claims that at least one farm that supplied Nestlé used forced child labor. "If we find evidence that Mars or Hershey were complicit, we will add them to the suit." All three buy chocolate from middlemen, such as co-defendants ADM and Cargill. (Nestlé says it has no direct cocoa procurement in Ivory Coast.) The three targets of the California suit seek a dismissal, arguing a lack of legal basis and, "If any purchaser of a good ... is liable for any wrongful act allegedly committed in the production of the good ... such a theory would have breathtaking implications for the global economy."

One reason that Nestlé makes a great target for Western do-gooders is that it's big. With revenue of \$76 billion a year it's the world's biggest food producer (brands include Perrier, Nescafé and Purina). A campaign to boycott it for selling infant formula in the Third World went on for seven years. Protesters said the formula was being bought by impoverished mothers whose children would have been better off breast-fed. "Nestlé kills babies!" screamed one report by the Berne Third World Action Group.

Nestlé sued the Berne group. "We said, 'Show us one documented case of a baby who has died because of Nestlé,'" says François-Xavier Perroud, head of media relations, who was hired to help deal with the crisis. "No one could come up with anything." Nestlé won the lawsuit in 1976 but lost the p.r. war. Protesters got even more publicity.

The company ultimately reached out to foes and changed some marketing: No more ads were run and no more samples given to hospitals in poor areas. In any case, says Perroud, "Most of our infant formula sales in the developing world are in the big cities, to working women and families who can afford it." The boycott didn't hurt long-term, he insists, though many longtime employees were shocked by the vitriol.

The company plays defense with do-goodism of its own. It helps one- and two-cow dairy farmers in Latin America improve their milk yields, has made changes to reduce waste from all its factories and passes out HIV medication to employees in Africa who need it. "We try to have a constructive dialogue with everybody who has an interest in Nestlé, including NGOs. I have a full staff that is dedicated only to this question," says Brabeck-Letmathe.

Now Nestlé, facing the cocoa-farm reformers, must decide again whether to fight. For now, the answer is yes. If U.S. District Court Judge Stephen Wilson of California's Central District denies the defense motion --he may rule as early as this month--the ILRF intends to ask for class certification in which they would represent the interests of

all West African child laborers. The unpredictable nature of American law could make such a class action into a bottomless pit of potential damages.

"We gave them more than five years," says Collingsworth, who is making a career of such foreign rights cases. "Nestlé crossed a very bright line and proceeded in bad faith. It's clear the only way they are going to change is if they get smacked."

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