

Contemporary forms of slavery in

Brazil

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Anti-Slavery International 2006

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Map of Latin America



Map of Brazil



1. Background

In October 2002, President Luiz Inácio Lula da Silva was elected on a platform that emphasised economic growth, equity and social inclusion. However, the opportunity to address long-standing social and economic issues came at a time when the external economic environment was unusually adverse.

For this reason Lula implemented a stabilisation programme for the economy during his first months in office, surprising some of his critics. He introduced pension reforms in an effort to reduce a huge deficit, and pushed through a modest increase in the minimum wage. But he has had to contend with a surge of land invasions by activists frustrated at what they see as the slow pace of agrarian reform.

In 2005, Lula's popularity was hit by a cash-for-votes corruption scandal in the ruling party. The President made a televised apology and said he had known nothing about the alleged corruption. However, the scandal weakened his political strength in his own party and in the country.

Development indicators¹

Population: 183.9 million

Urban population: 83 per cent of total population

GNI per capita: US\$ 3000

Poverty: 22 per cent of the total population below the national poverty line

Life expectancy: 71 years

Infant mortality: 32 per 1,000 live births

Child malnutrition: Not available

Access to an improved water source: 89 per cent of the population

Illiteracy: 14% per cent of the population aged 15 and over

¹ All indicators from the World Development Indicators database and *Peru: at a glance fact sheet*, World Bank, April 2006, except for poverty indicator.

Brazil's adherence to some of the principal international standards which prohibit contemporary forms of slavery

International standards	Ratified	Signed but not ratified	Not signed or ratified
ILO Convention No. 29 on Forced or Compulsory Labour, 1929.	✓		
UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956.	✓		
UN International Covenant on Civil and Political Rights, 1966.	✓		
UN Convention on the Elimination of All Forms of Discrimination against Women, 1979.	✓		
UN International Convention on the Protection of the Rights of All Migrant Workers and Their Families, 1990.			✓
ILO Convention No. 182 on the Worst Forms of Child Labour, 1999.	✓		
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention on Transnational Organized Crime, 2000.	✓		

2. Forced labour in the Amazon

2.1 The context of forced labour in the Amazon

What Brazilians refer to as modern slave labour began in Brazil in the 1960s and 1970s with the expansion of modern farming techniques into the Amazon, which necessitated the recruitment of more labourers. The men were transported into the region, coming from areas with very few employment and income opportunities, as well as lack of access to land and credit services. The growth in large-scale agribusiness has also put a great deal of pressure on the Amazon's resources leading to accelerated deforestation and increased demand for forced labour.

It is estimated that there are between 25,000 and 40,000 labourers working in slavery conditions in Brazil today. Maranhão, Piauí and Tocantins are the three Brazilian states that supply the largest number of slave labourers, whilst Pará is the state with the greatest demand for slave labour, followed by Mato Grosso, Tocantins and Maranhão. The main activities employing slave labour are ranching (43 per cent), deforestation (28 per cent), agriculture (24 per cent), logging (4 per cent) and charcoal (1 per cent).²

Increasing numbers of slave labourers have been freed

A total of 4,113 people were freed from forced labour in 2005 by the Special Mobile Inspection Group, mainly from the Amazonian agricultural states of Mato Grosso in the central-south (1,411) and Pará in the north (1,128).³ Between 2000 and 2005 the number of workers freed by the Special Mobile Inspection Group increased dramatically, rising from 583 in 2000, to 1,433 in 2001 and reaching 2,306 in 2002. In 2003, a new record was reached when 4,879 workers were freed, according to figures from the Ministry of Labour,

which were more than double the number released in 2002.⁴ However in 2004, the number of workers freed fell to 2,745.⁵ This brings the number of forced labourers released between 1995 and 2005 to over 16,000.

The general increase in the number of people being identified as working in conditions of slave labour does not necessarily mean that the use of slave labour is rising in Brazil. The increase in numbers could also be attributed to more effective government intervention against this problem, successful awareness raising campaigns and greater confidence in the system leading more people to make complaints to the authorities and to organisations like Comissão Pastoral da Terra (CPT or Pastoral Land Commission).

However, the fact that some 7,000 individuals were identified and released in 2004-05, demonstrates that the problem remains grave and that the Government is not on course to will meet its target of eliminating slave labour by 2006.

2.2 Working conditions and abuses

The vast majority of workers in slave labour in Brazil are caught in debt bondage. Workers are given an advance in their home towns and persuaded to come and work in the Amazon during the appropriate season. Once they arrive at the farms they are told that they will have to pay for their transport, food and lodging, as well as pay back any advance they have been given. They are charged a very high rate of interest and find that their salaries rarely cover their costs. In some cases they become more and more indebted as they have to buy everything they need at inflated prices from the estate shop.

² Jan Rochas, *Report on a Supplementary Study of the Magnitude of Slave Labour in Brazil*, (unpublished research conducted by Jan Rochas), October 2003.

³ Agence France-Presse (AFP), Brasília, 7 March 2007.

⁴ While more than half those released in 2003 were in Pará and Bahia, the statistics also recorded slave labour in areas which previously had not been documented (e.g. Rio de Janeiro).

⁵ The fall in releases in 2004 coincided with a fall in numbers of inspections carried out and delays in inspections. One of the reasons for this was that the federal police were on strike intermittently in 2004 and 2005, which meant that many inspections could not be undertaken.



Forced migrant labourers, Brazil.

In some cases, workers are aware of the exploitative situations they may be getting themselves into but due to their extreme poverty and desperation for work they are willing to take the risk. However, even they do not expect the conditions and coercion that are present at the camps. The workers are often watched by armed guards, and threats of violence against them and their families are frequent, making it impossible for them to escape from the farms. Labour rights and safety regulations are routinely ignored. Workers risk their physical and psychological health, with many suffering from tropical diseases and work related injuries operating machinery that not treated. The severity of their situation often leads to alcohol and drug abuse. Many workers, once released, find it extremely difficult to reinsert themselves back into family life and society.

Increasing intimidation and violence

Greater attention to the problem of slave labour in Brazil has been accompanied by a rise in the use of violence and intimidation against those working to stop slave labour, especially in the states of Pará and Tocantins. In 2004, CPT members from the Araguaína office in Tocantins state had to leave the area after receiving repeated threats.

State officials have also been targeted. In October 2003, the labour judge Dr Jorge Antônio Ramos Vieira had to leave Parauapebas after receiving repeated death threats and on 11 February 2004, his deputy was killed in a collision with a lorry while travelling from Marabá to Parauapebas. In Tocantins state, the federal prosecutor Dr Mario Lúcio de Avelar had to leave Palmas after receiving threats. On 28 January 2004, three officials from the labour ministry and their driver were murdered while carrying out investigations of farms in Minas Gerais.

2.3 Legislative framework and reforms proposed

Brazil's Penal Code contains a number of articles that outlaw and punish the crime of slavery. Article 149 of the Penal Code was approved on 12 December 2003, which punishes the offence of "reducing someone to conditions analogous to slavery". This states that those responsible for recruiting or transporting workers into slavery have committed an offence under the modified law. Penalties for offenders are also increased in certain circumstances (for example where the crime is perpetrated against a minor). However, the introduction of generalised terms, such as "imposing an excessive working period" or "degrading conditions of work" into the definition of the offence may have the unintended consequence of making it more difficult to obtain heavier sentences for those who use slave labour. Furthermore, the minimum penalty for this offence remains two years in prison, with a maximum of eight years. It had been expected that the minimum sentence would be increased to five years in prison.

Other amendments to the Penal Code include article 197 that punishes the use of violence or serious threats to constrain someone to work and article 207 which declares that "the enticement of workers with the purpose of taking them from one area of national territory to another" is a federal crime punishable with a one to three year sentence and a fine.⁶

As well as the articles in the Penal Code outlawing the use of forced labour there are a number of legislative proposals being debated by the Brazilian Senate and Congress.

Expropriating property of those who use slavery

In February 2004, Brazil's Congress began to debate a constitutional amendment that would allow the expropriation, without compensation, of land belonging to those who maintain workers in conditions of slavery. If approved this would provide a real sanction against those using slave labour. To date, this amendment has yet to be

⁶ Jan Rochas, *op. cit.*, page 48.

passed, even though it has already been approved by the Senate and modified by deputies. Given the Workers' Party's political troubles in 2005, it seems more and more likely that this amendment will not be passed.

It has also been proposed that expropriated land will be used as part of the Government's agrarian reform programme and thereby benefit the very people that have been exploited.⁷ This is extremely important as statistics from the Department for Labour Inspections show that up to 40 per cent of workers freed from slave labour in the last eight years have been freed more than once.⁸ Access to land and an increased public commitment to social and economic policies which focus on local development and employment would prevent workers from falling back into conditions of slave labour.

The Chamber of Deputies has now approved this amendment but in such a way that it is required to return to the Senate again for approval before passing back to the Chamber. This has not yet happened and there is concern at the apparent lack of government effort to accelerate this procedure. The frustration at the slow pace of progress was demonstrated by the recent violence that took place at the Brazilian Congress in June 2006 by protestors angered by the Government's failure to live up to its election promises to find homes for 400,000 families by 2006.

There are also concerns that senior politicians are attempting to downplay the problem of slave labour, including the former President of the Chamber of Deputies, Severino Cavalcanti,⁹ who has made negative comments about the proposed amendment on expropriation of land. It is vital that senior officials and politicians give their backing to Brazil's attempts to eradicate slavery.

2.4 Institutional and government response

National Plan for the Eradication of Slavery

On 11 March 2003, President Lula da Silva launched the National Plan for the Eradication of Slavery. Although this step and subsequent measures demonstrated a renewed commitment by the Government on the issue of slave labour, there are concerns that this commitment is faltering and that efforts to tackle forced labour remain inadequate (e.g. the failure to make progress on the expropriation issue in the last two and a half years).

The Government has taken an active role in recognising the existence of slavery and promoting discussion of the issue among the general public, the media and within government departments. This included an appeal from the President to all farm owners to co-operate with the State and become allies in combating slavery;¹⁰ recognition at the UN Commission on Human Rights in 2004 that slave labour continues to exist in Brazil; and a commitment by the Government to eliminate slave labour by 2006.

As part of this commitment the human rights minister, Nilmário Miranda, announced that free hotlines would be introduced to report human rights abuses, including slave labour. The hotlines were to be tested in Brasilia and, if successful, extended to the rest of the country.¹¹ However, there is little information available regarding the success of these hotlines and according to CPT, the main organisation working on slave labour in Brazil, the initiative is inappropriate for tackling slave labour and they are not aware that it has been put into practice.

The Government also set up the National Commission for the Eradication of Slave Labour (CONATRAE) which is a permanent council bringing together different government departments, the federal police and NGOs. The National Commission aims to facilitate co-operation between these bodies, discuss practical solutions to the problem of slave labour, as well as enhance and implement the National Plan of Action.

⁷ Stephen Temple, *Brazilian Congress Debates Land Expropriation as Punishment for Slave Labour*, 12 February 2004, WMRC Daily Analysis.

⁸ "De volta ao trabalho escravo", *Correio Brasiliense*, 1 February 2004.

According to CPT the figure is much lower, around 20 per cent.

⁹ He resigned in 2005/09/21, as a result of a corruption scandal.

¹⁰ "Um apelo aos bons fazendeiros", *Correio Brasiliense*, 10 February 2004.

¹¹ Vannildo Mendes and Luciana Vasconcelos, Agência Brasil, 21 February 2004.

Preventing those who use slave labour from accessing public funds

As well as proposals regarding legislative reform and the expropriation of land the National Plan also recommended preventing those who use slave labour from accessing public funds. The so-called “black list” of individuals and companies who have used slave labour and who should therefore be prevented from accessing public grants, credits or other financial supports, is established and is being updated periodically. There is still concern that there is no administration system in place to ensure that individuals and companies that appear on the list do have all public financial assistance withdrawn immediately and are prevented from accessing new agricultural credits or other benefits. However, according to CPT, there is evidence that the black list is working. For example, a significant number of companies, such as Wall Mart and Carrefour, have already signed a National Commitment against Slavery through which they are committed to end all business relations, direct or indirect, that they may have with blacklisted farms.

Special Mobile Inspection Group supported by mobile courts

The mobile courts were set up in 2002 to support the Special Mobile Inspection Group. The Special Group and mobile courts have been effective in releasing individuals from slave labour conditions and negotiating the payment of outstanding wages to workers. The mobile courts can impose immediate fines, freeze bank accounts and seize assets. This means that farm owners can no longer refuse to co-operate and it is easier to get workers paid the money they are owed. However, the work of the Special Group is still hampered by a lack of resources, intimidation and the high level of impunity that continues to exist for those who use forced labour.

According to CPT, the average delay between a case being reported to the Special Group and the inspection being carried out remains lengthy, sometimes up to 40 days, with inspections frequently not being carried out at all. According to CPT, between 2003 and 2005, only 40 per cent of the complaints collected by CPT were investigated. One reason for this is that the federal police have been on strike intermittently in 2004 and 2005 making it impossible for many inspections to be carried out. Delays in carrying

out an inspection give those using forced labour time to move workers, thereby seriously undermining the chances of releasing the workers or securing prosecutions.

The continuing use of forced labour, as evidenced by the numbers freed, indicates that the fines (paid directly to the state) and criminal sanctions are not proving a sufficient deterrent. This may be because many of the fines are not being paid. There do not appear to be any publicly available figures regarding the number of fines levied and paid. Fines below a certain amount are often not followed up because it is considered to be too administratively costly. Clearly where fines are not imposed, or are imposed but not collected, then a situation of impunity exists and the abuses are likely to continue.

However, it should be noted that in the last two years there have been some positive developments in respect to the fines handed down by some courts. For example, in 2005, Lima Araújo Ltd was ordered to pay R\$ 5 million (US\$ 2.2 million), the largest fine imposed on a company for the use of slave labour. The agricultural company, with farms in the north of Pará, was found to have held 180 people (including nine children) in slave labour conditions. Although this is a significant verdict, the penalty imposed is far lower than the compensation the labour prosecutors demanded of some R\$ 85 million (US\$37.9 million), equal to 40 per cent of the total assets of the company.

Furthermore, a senior member of the Brazilian Congress, Inocencio Oliveira, was ordered by a court on 8 February 2006 to pay more than US\$100,000 to 53 forced labourers kept on his ranch in northern Maranhao state. He was ordered to pay US\$60 for every day they worked at his ranch.

In April 2006, 318 workers were freed from forced labour in Maranhao state. An eight day search on just three ranches found 121 workers. As a result the ranch owners were required to pay each worker two monthly minimum salaries (US\$330), plus a fine of US\$46,420. Also in April, 197 workers were released from the state of Tocantins during a routine labour inspection. The workers were found to be living in tents without water, electricity or pay. The ranch owner was required to pay US\$60,345 in compensation to the workers.

In relation to prosecution for the use of slave labour, some 75 people were charged with the offence of putting someone in a situation analogous to slavery in 2003. This is an important step forward as prior to this very few people were indicted for this crime.¹² The Attorney-General of the Republic initiated 633 administrative proceedings to verify allegations of slave labour between February 2003 and May 2004. However, concerns remain about whether the existing legislation will deliver effective punishments for those using slave labour as till now no prison sentence has been handed out to the perpetrators.

Part of the problem is that there is still a lack of clarity as to whether cases analogous to slavery fall under local or federal jurisdiction. While the question of responsibility remains unresolved cases can get lost in the system or end up in local (i.e. state) jurisdiction, where individuals are more likely to be intimidated and/or co-opted by powerful landowners.

Even if successfully prosecuted, the sentences handed down under the existing system are unlikely to act as a deterrent. In Brazil, if someone is convicted and sentenced to a prison term of less than four years, this can then be converted into social services (e.g. making food donations to the poor). Furthermore, first time offenders who are sentenced to more than four years in prison can serve their sentence under house arrest, which in practice allows them to live at home.

It therefore does not appear that the penal sanctions provided for by law are adequate or strictly enforced. This impunity, which individuals who use forced labour enjoy, appears to be a major factor in explaining the continuing high incidence of forced labour in Brazil.

2.5 Conclusions

The Government has made a clear commitment to tackling slave labour, as outlined in the National Plan and its aim of eliminating slave labour in Brazil by 2006. The Special Mobile Inspection Group has improved its effectiveness and identified and released just under 12,000 slave labourers between 2003-05.

Despite these positive steps, thousands of Brazilians continue to work in conditions of forced labour. While some substantial fines have been handed out in 2005-06 to those using slave labour, there is still an urgent need to pass legislative reforms will ensure that punishments are really commensurate with the crime committed. Specifically this means passing the legislative amendment which will allow the expropriation of land without compensation from those using slave labour as well as securing appropriate prison sentences for those responsible.

The Government should also implement proposals that would bring slave labour offences clearly under federal jurisdiction and give labour prosecutors the necessary competence to bring criminal cases against persons who subject others to forced labour practices.

The Government must ensure that the Special Mobile Inspections Group has the necessary human and material resources and institutional support (especially support from the federal police and prosecutors during raids) to allow it to carry out its work effectively. Securing more staff and appropriate transport, for example helicopters, would facilitate faster reaction times and more visits to inaccessible areas. The Special Group must also have adequate funds to cover witness expenses, including accommodation, food and transport. These expenses are currently covered by CPT.

In addition, information should be publicly available regarding the number of prosecutions initiated, convictions secured and punishment given for crimes relating to reducing someone to a condition analogous to slavery, as well as the number of fines imposed and collected for the use of slave labour.

The Government should prioritise land reform and social programmes, to prevent workers being entrapped in slave labour situations in the most affected regions of Maranhao, Piauí, Pará and Tocantins.

¹² Information given by Dr Raquel Dodge, PFDC (Sub-Procuradora Federal dos Direitos do Cidadãos), at CONATRAE meeting, 22 March 2004.

3. Trafficking

3.1 The social context of trafficking

According to the United Nations Human Development Report 2005, Brazil is ranked 63rd on their Human Development Index.¹³ This statistic masks the fact that, despite being the tenth largest economy in the world, Brazil suffers from serious inequalities in wealth. During the 1990s, 50 per cent of the poor and the richest one per cent of the population held approximately the same percentage of the country's wealth (13-14 per cent). In 1999, 31 per cent of the population (52 million people) lived on one dollar a day or less.¹⁴

The unequal distribution of wealth also extends to the regions, with the North and Northeast being much poorer than the South and Southeast. There are close correlations between number of women trafficked and poverty levels. The national study on the trafficking of women, children and adolescents for commercial sexual exploitation¹⁵ found that the highest number of recorded cases came from the poorest regions in Brazil.

There has been increasing formally registered unemployment in Brazil. From 1989 to 1999 the unemployment rate increased from three per cent to 9.5 per cent, which meant an increase of five million unemployed people. The situation is particularly acute for women who have less access to the formal job market and have seen competition in the low-paid informal sector increase. Rising unemployment and lack of economic opportunities has been accompanied by an increase in female headed households, leading to further impoverishment of women and their families.

Region	Poverty proportion %	Number of trafficked women (national & international)
Northeast	45.8	69
North	43.2	76
Central-west	24.8	33
Southeast	23	35
South	20.1	28

The majority of trafficked women have faced some sort of domestic violence (sexual abuse, rape, physical and psychological abuse) or violence in public spaces such as in their neighbourhoods, on the streets and in schools. Such experiences of violence means that they are often desperate to leave their home situation and it also means that they are easier to exploit and less able to resist further abuse given their increased vulnerability and lack of family support.¹⁶

The majority of women trafficked are of African descent. They usually have low paid, low status jobs, often in the informal sector. They have little, if any, job security and suffer from racial discrimination, poverty and inequality. Their precarious social and economic situation in Brazilian society makes them a particular target for traffickers.¹⁷

¹³ The human development index (HDI) is a composite index that measures the average achievements in a country in three basic dimensions of human development: a long and healthy life, as measured by life expectancy at birth; knowledge, as measured by the adult literacy rate and the combined gross enrolment ratio for primary, secondary and tertiary schools; and a decent standard of living, as measured by GDP per capita in purchasing power parity (PPP) in US dollars. Brazil is 63rd out of 177 countries.

¹⁴ Maria Lucia Leal and Maria de Fátima P., *Pesquisa sobre Tráfico de Mulheres, Criança e Adolescentes para Fins de Exploração Sexual Comercial*, Brasília, 2002, page 33.

¹⁵ Data from PESTRAF, 2002. Quoted in Maria Lucia Leal and Maria de Fátima P., *op. cit.*, page 35.

¹⁶ Maria Lucia Leal and Maria de Fátima P., *op. cit.*, page 41. Data published in 1999 recorded 411,216 registered cases of serious assault and rape on women. It is likely that the actual number of assaults is much higher given problems associated with reporting sexual assault and rape.

¹⁷ Maria Lucia Leal and Maria de Fátima P., *op. cit.*, page 45.

3.2 The realities of trafficking for sexual exploitation in Brazil

In 2002, an extensive national study on trafficking of women, children and adolescents for the purpose of commercial sexual exploitation (PESTRAF) was carried out by a number of NGOs, financed by international partners, such as the ILO and USAID. The research covered all five regions of Brazil (North, Northeast, Central-west, South and Southeast) with data collected primarily from NGOs and media reports, but also from federal, state and municipal governments, where possible. In total, 333 government agencies, 127 NGOs, 11 international co-operation agencies and five consulates participated in the research. The study found that women and children are being trafficked primarily for the purposes of prostitution, sex tourism and pornography.

Destinations of trafficked people

Approximately 70,000 Brazilians (mainly women) are involved in prostitution in foreign countries, some of whom are trafficked.¹⁸ According to recent information from United Nations Office on Drugs and Crime (UNODC) and the Federal Police, the main destination countries are now Spain and Portugal. The other key countries in Europe are Italy, Germany, Switzerland and the Netherlands as well as South America (especially Venezuela) and Japan.

PESTRAF identified 32 out of 98 international trafficking routes as leading to Spain. Much of the trafficking into Spain and Portugal is controlled by a crime syndicate known as the “Iberian connection”. According to newspaper reports this criminal network is made up of different criminal organisations, including the Russian mafia.¹⁹

The main source cities and states for trafficking, both international and internal, are the same. According to the Brazilian Federal Police the cities are Goiânia, Recife, Fortaleza, Belém, Rio de

Janeiro and São Paulo, whilst the states are Espírito Santo and Mato Grosso do Sul.

The trafficking system

Case studies included in the national study on trafficking revealed that there are two types of women who are trafficked: the first being naïve and inexperienced women with financial problems who are easily deceived by the traffickers false promises, and the second being women who are more aware of the possible risks they are taking.²⁰

According to the Federal Police women who are trafficked for commercial sexual exploitation are between 18 and 30 years old, with low levels of education, mainly single with a history of domestic violence and sometimes with some previous experience of working as a prostitute.²¹

Women are recruited in a variety of ways, including from entertainment venues (shopping centres, bars, the beach, etc.), tourist locations (hotels, resorts, etc.), newspaper adverts, modelling agencies, samba schools, employment agencies, marriage agencies and the pornography industry. In the majority of cases, women are offered well-paid jobs abroad as domestic workers, nannies, models, dancers, office workers or as prostitutes.²²

They travel to their destinations accompanied by the traffickers, where they have their documents taken from them and are forced to work as prostitutes. The women are told that they have accumulated a debt for their travel, documentation, accommodation, food, clothing and the drugs and alcohol that they are often forced to consume. They are then tied to this debt and obliged to pay it off by prostituting themselves. The girls are guarded and/or psychologically pressured with some even locked up in their accommodation at night. They are subject to verbal, physical and sexual abuse and live under various threats of violence and death to them and/or their family.²³

¹⁸ US State Department, *Trafficking in Persons Report*, 2005, page 16.

¹⁹ Article published by *Correio Braziliense* newspaper, 29 July 2001.

²⁰ Maria Lucia Leal and Maria de Fátima P., *op. cit.*, page 43.

²¹ Eriosvaldo Renovato Dias, Chief of Human Rights Division, Federal Police, *Presentation*, Jaboatão dos Guararapes/PE, 17-19 May 2006.

²² Maria Lucia Leal and Maria de Fátima P., *op. cit.*, page 48.

²³ Maria Lucia Leal and Maria de Fátima P., *op. cit.*, page 43.

According to the Federal Police the majority of recruiters are women, and often ex-prostitutes themselves. Trafficking of women to Brazil is an extremely organised activity, involving a multiplicity of actors, routes and support networks. Alongside the recruiters, employers, transporters and other intermediaries is a network of legal and illegal enterprises (such as travel agents, lawyers, businesses, etc.) that serve to keep trafficking undetected. There are also links to international organised crime networks and mafias, such as the Yakuza, Chinese Triad, Russian, Italian, Israeli and Mexican mafias. They often work in collusion with local officials and police who also profit from the trade in women.²⁴

Case study

Two sisters were invited by their cousin, Raimunda, to work in Suriname, where she lived. Raimunda lent them money to make the travel arrangements and have their passports issued in Belém, Brazil. Upon arrival, they were taken to “Diamond” nightclub where they were made to pay US\$100 a day for lodging. They soon discovered the nightclub was a brothel that held shows with more than 100 women from several countries. The women were beaten and raped in the club. “We were desperate and extremely hungry. Our cousin told us we would have to stay in the club until our debts were paid off, and we should not try to escape because they would hunt us and probably kill us.” The sisters finally managed to escape by asking a Dutch tourist to help them. He took them to the Brazilian Embassy in Suriname where they were able to find help. The two sisters stated that more than 40 women from Pará are working as prostitutes in Suriname, and living in conditions of poverty, tricked by the promise of easy jobs.²⁵

3.3 Trafficking of Bolivians to Sao Paolo for forced labour

The clothing industry is extremely competitive, national and international markets alike, characterised by many companies producing similar products and with a labour force that is cheap and easy to recruit. However, there is constant pressure on prices and costs are mainly cut by reducing wages and other labour costs. Using irregular migrants results in very cheap labour that can be exploited.

With the liberalisation of the economies of Latin America in the 1980s, and the subsequent increase in unemployment, the number of Bolivians immigrating to Brazil increased substantially. Koreans began employing Bolivians in the 1980s, with the numbers increasing in the 1990s and early 2000s following Argentina’s economic crisis and a redirection of the flow of Bolivian immigration from Argentina to Brazil. Bolivians proved to be much easier to exploit than poor Brazilians as they did not have legal status or rights in Brazil, as well as not being able to speak the language, and therefore found themselves totally dependent on their employer for food, accommodation, medical treatment, etc.

There are approximately 100,000 Bolivians in total in Sao Paolo, according to the NGO Pastoral dos Migrantes Latino-Americanos and the Bolivian consulate in Sao Paolo considers that more than half of these are irregular migrants.²⁶

Korean factory bosses employ intermediaries to go to Bolivia to recruit workers. The workers are recruited from Santa Cruz, La Paz and Cochabamba. The three principal cities in Bolivia act as focal points for poor, rural Andean people from the Sierra looking for work. The recruiters employ various methods to recruit the workers, including adverts in newspapers and on the radio. If the recruiter is Bolivian, he will often have some connections to the Andean communities, which he will exploit to gain the trust of the people.²⁷

²⁴ Maria Lucia Leal and Maria de Fátima P., *op. cit.*, page 49.

²⁵ This case was reported in the *Diário do Pará*, on 19 May 2000. Quoted in Maria Lucia Leal and Maria de Fátima P., *op. cit.*, page 44.

²⁶ Flávio Antonio Gomes de Azevedo and Maria Cristina Cacciamali, *Entre o Tráfico Humano e a Opção da Mobilidade Social: a Situação dos Imigrantes Bolivianos na Cidade de São Paulo*, (unpublished research at Universidade de São Paulo), 2005, page 8.

²⁷ Flávio Antonio Gomes de Azevedo and Maria Cristina Cacciamali, *op. cit.*, page 1.

One of the major routes employed by the traffickers is through Paraguay and the “Ponte da Amizade” border crossing. The migrants are guarded in hide-outs near the border crossing until it is possible for the traffickers to take them across the border. The waiting period can last days, during which the migrants are often not given any food or water. Once across the border the rest of the journey is made by bus to Sao Paulo. Other routes include going via Corumba in Brazil (borders with the South-east corner of Bolivia) or the Amazon region.

Once in Sao Paulo they find that they are working and living under extremely harsh conditions, are not allowed to leave the workshop, traffickers retain their documents and they are constantly threatened with being reported to the police or deported, as they are in Brazil illegally. They start working with a debt already established for their transportation and other costs. This debt can steadily mount as rent, food and other fees are added to that debt.²⁸

The workers are wholly dependent on the employer to provide them with everything they need from food and water to medical supplies. The workers do not speak the language and do not know the country’s customs or laws. Again the employer exploits this ignorance to scare the workers into believing that the Brazilian authorities would deport them immediately. In the past this has also made it difficult for the Brazilian authorities to reach the Bolivian workers. When in 1998 the Brazilian Government offered an amnesty to illegal migrants in Brazil, most Bolivian workers remained unaware of this, or were scared to go to the police as they had been told not to trust them.

The contract between the employer and worker is usually verbal. They are paid very little and expected to work between 16 and 18 hours a day. As well as paying for their personal expenses they also have to pay for the machines and tools they use, further increasing their debt. All expenses are deducted before the worker is paid. Another control mechanism used by the employer is to delay payment of wages. The worker is not paid

when the order has been completed but instead has to wait until a second order is finished, so they are always owed at least one order’s worth of wages.²⁹

The living conditions the workers endure are severe. They are often locked in basements or in rooms with no windows and live in very cramped conditions which also serve as their work space. They have their mattresses next to their sewing machines as well as all the material they are using. There is nowhere for them to eat their meals, and there is only one bathroom for everyone. The cramped living conditions leads to the spread of disease such as tuberculosis.³⁰

3.4 Legislative framework

In Brazil the crime of human trafficking is explicitly mentioned in the recently amended articles 231 and 231-A of the Penal Code.³¹ Article 231 of the Penal Code considers international trafficking in persons to be “Promoting, serving as an intermediary, or facilitating the entry, into national territory, of a person who intends to practice prostitution, or the exit of a person who intends to practice prostitution on foreign soil”.

Punishment ranges from three to eight years and a fine for the simplest form of trafficking, and can be increased to between four and ten years if the victim is between the ages of 14 and 18 or if the trafficker is in some way responsible for the minor. When there is “violence, serious threat or fraud” the punishment can be increased from five to 12 years and a fine.³²

The crime of internal trafficking of persons is covered by article 231-A of the Penal Code as “Promoting, serving as an intermediary, or facilitating, within national territory, the recruitment, transport, transfer, shelter or collection of a person who plans to practise prostitution”. It is punishable by three to eight years imprisonment and a fine.

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially

²⁸ Flávio Antonio Gomes de Azevedo and Maria Cristina Cacciamali, *op.cit.*, page 9.

²⁹ Flávio Antonio Gomes de Azevedo and Maria Cristina Cacciamali, *op.cit.*, page 8.

³⁰ Flávio Antonio Gomes de Azevedo and Maria Cristina Cacciamali, *op.cit.*, page 9.

³¹ Within Title VI, On Crimes Against Public Moral; Chapter V, On Pimping and Human Trafficking. Amended by Law No. 11.106, 28 March 2005.

³² Introduced by Law No. 11.106, 28 March 2005.

Women and Children, was ratified by the Brazilian Government on 28 February 2004, but Brazilian legislation does not contain all of the measures in the Protocol and is not in full compliance with the Protocol.

The Protocol acknowledges that exploitation is the key element in the concept of human trafficking, including “the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”. However, Articles 231 or Article 231-A only recognise trafficking for prostitution. Therefore trafficking for other forms of sexual exploitation or any type labour exploitation are not covered by the law.

Furthermore, Article 231 does not identify as traffickers those people who are involved in the recruitment or receipt of people for their exploitation. It only criminalises the movement of people for the purposes of prostitution.

There is also no reference to the use of force, coercion, deception, or the abuse of power as constituent elements of trafficking. In the Brazilian context it is simply the agency of the third party facilitating the prostitution that is criminal - it is not important if the prostitution is taking place voluntarily or forced.

3.5 International and Government response

In 2002, the Ministry of Justice and the United Nations Office on Drugs and Crime (UNODC) initiated a partnership to develop a pilot project to combat international trafficking in women for sexual exploitation, known as the Global Program Against Trafficking in Human Beings. Four Brazilian states were chosen for the initial stage of the project: Rio de Janeiro, São Paulo, Goiás and Ceará.

The Global Programme against Trafficking in Human Beings proposed specific actions in these states, such as capacity-building, campaigns, research and the construction of a database. The Global Programme also proposed that the four regional bureaus would provide assistance to the victims and their families. Training will be initiated for police, judges and diplomats on the issues involved in trafficking. This initiative, which has limited funding, is in its pilot phase and is still looking for NGO partners. In this sense, it is not yet able to provide assistance to trafficked people or implement prevention measures.

The Global Programme aims to construct integrated actions, allowing approximately 288 institutions to work together. During the first nine months of the Global Programme, 28 cases and 245 victims were assisted.³³ The Programme is starting in Mato Grosso do Sul and Pará; being consolidated in and Rio de Janeiro and São Paulo; and will be extended to Pernambuco and Bahia.³⁴

The Government intends to co-ordinate the efforts of various ministries to combat trafficking. The Ministry of Justice, through the directorate committee of Global Programme against Trafficking in Human Beings (GPAT), in co-operation with UNODC, is integrating the actions of the Human Rights Secretary, Public Security and National of Justice, and the Secretary on Women’s Policy.

The Government does not provide specialised assistance and protection to trafficking victims. Those that receive support do so through programmes focused on supporting victims of domestic violence and sexual exploitation. One such programme is the “Sentinela” programme that has over 400 screening centres to monitor children at risk.

However, state level anti-trafficking offices have been established to screen victims and refer cases to the police and NGOs for assistance. There are now seven reference centres throughout the country working with trafficking victims.

³³ Analia Beliza Ribeiro Pinto, Co-ordinator, Global Programme Against Trafficking in Human Beings (Brazil), Expert Group Meeting notes on “Trafficking in Women and Girls”, New York, 18-22 November, 2002, page 3.

³⁴ The state of Pernambuco deals with all the Brazilian northeast, except the state of Bahia, where the reality of trafficking demands a specific state programme. The state of Rio de Janeiro attends the demands of Espírito Santo and Minas Gerais. The state of Mato Grosso do Sul attends to the state of Mato Grosso. The Federal District is responsible for monitoring and fine-tuning the Programme in all the country, and attends to the south region and the state of Goiás.

Few cases are identified or prosecuted

The PESTRAF, which was carried out in 2002, detailed a total of 81 current police investigations by the Federal Police Department and 75 criminal proceedings judged or ongoing in federal courts for the crime of trafficking as set out in Article 231 of the Penal Code. Of these 75 cases, 14 convictions for international human trafficking were handed out.³⁵ However, there is little information available regarding recent cases and prosecutions.

3.6 Conclusions

Despite the recent changes in the Brazilian Penal Code, the legal concept of human trafficking still leaves much to be desired. Although the Palermo Protocol was ratified in 2004, the new definitions of international and internal human trafficking still do not comply with the Protocol as they do not criminalise all types of trafficking (e.g. trafficking for economic exploitation) or all those involved in the trafficking process. One clear priority for the Government should be to amend current legislation so that Brazil prohibits and punishes all forms of trafficking in persons, in line with the UN Protocol on trafficking.

In addition, Brazil's national policy on human trafficking needs lacks adequate measures for the identification, protection, support and reintegration of trafficked people. In terms of protection and rehabilitation of trafficked people the Government needs to invest in support services such as advice and counselling centres, safe houses and access to legal advice, as well as provide some sort of financial support to help victims to recover from the experience of trafficking and rebuild their lives.

The institutions involved in combating trafficking need to be strengthened. For example, there is a clear need for technical training for the judiciary, police and immigration on the law and their responsibilities for identifying and protecting trafficked people as well as prosecuting traffickers. Although there is a training component in the Global Programme Against Trafficking in Human Beings, it is unclear who is responsible for carrying out the training, and what funds have been allocated to the task. The Government needs

to explicitly outline a comprehensive training scheme not only for law enforcement officials but also for local, regional and national government officials, civil society and the media. This training must be combined with awareness raising campaigns and more readily available information on the status of trafficking in Brazil for civil society, academics and officials involved in anti-trafficking work.

The Government also needs to consider how it can meet the basic needs of socially marginalised communities who are living at or below the poverty line. Providing better local education and employment options would help to address the root causes of trafficking. Reducing local populations' vulnerability to traffickers must be a priority for the Government, including protecting vulnerable children and removing them from exploitative situations.

4. Child Domestic Workers

4.1 Social context of child domestic workers

The transport of children to another location for the purposes of exploitation constitutes trafficking under the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000. The UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956 also considers the practise where a child is delivered to another person, whether for reward or not, with a view to the exploitation of that child to be akin to slavery. On the basis of these definitions, it is reasonable to assume that a significant percentage of child domestics who are living and working in other people's homes are in a contemporary form of slavery.

According to the International Labour Organization there are 500,000 child domestic workers employed in the homes of third parties in Brazil. Not every child domestic worker is mistreated or

³⁵ Maria Lucia Leal and Maria de Fátima P., *op. cit.*, page 102.

living in conditions of slavery. However, a significant number are denied their basic rights and are extremely vulnerable to exploitation and forced labour.

In 2004, the ILO carried out a rapid assessment on the situation of child domestic workers in Brazil. They carried out 1029 interviews, with children and their mothers, in order to create a picture of the living and working conditions of child domestic workers in Brazil.³⁶

The ILO found that many child domestic workers are isolated from their families, not allowed to attend school and not given any opportunities to play. Of 1029 children interviewed, most are girls (93 per cent), very poor and of African-descent.³⁷ There is little appreciation for how hard domestic chores can be, especially for young children whose bodies have not fully developed, and it is considered to be a low status job suited to the perceived limited talents of poor, non-white girls.

In Brazil the minimum age for working is 16 years old. However, 88 per cent of child domestic workers begin working long before they are 16, usually at around five or six years of age.

The girls have a very low level of formal education. 28 per cent had had no formal education, 58 per cent had primary education only, and only 10 per cent had secondary education. However, only three per cent were illiterate. The main reasons given for not studying were that they had too much work to do, they had difficulties in concentrating and that there were a lack of education centres for them to attend.³⁸

48 per cent of child domestic workers came from broken homes where the majority lived with their single mothers and had to work to help support the family. 64 per cent of child domestic workers' mothers were themselves child domestic workers; therefore the cycle of poverty is replicated in the next generation.³⁹

4.2 Working conditions and abuses

Child domestic work can be considered forced labour when the children are extremely exploited and unable to leave their work either because they are isolated from their families and support networks or because they are far too young to be able to challenge their employers themselves.

They have to cook, clean, wash clothes, look after employers' children and shop in the market. Many of these chores put the children in hazardous situations. The ILO rapid assessment actually found that children under 14 were treated worse than children over 14, being made to do much more of the arduous chores, such as washing clothes and ironing, because they are less likely to complain. All children were expected to work at least 12 hours a day, whilst being available to their employer 24 hours a day. The average wage for a child domestic worker is US\$35 a month, less than 50 per cent of the minimum wage in Brazil (US\$78.5), but some 13 per cent of children did not receive any payment at all with the number rising to 22 per cent for children under 14 years old.⁴⁰

Only two per cent of children said they had a weekly day off, while 41 per cent said they didn't have a day off and 57 per cent said they didn't know, which implies that at the very least they do not regularly have a day off a week. 56 per cent of children also said that they never had vacations.⁴¹

Without holidays or days off it is very difficult for children to maintain contact with their parents: 23 per cent of mothers said they did not have any contact with their children.⁴² Without any contact or support from parents and no supervision of employers or working conditions, these children become vulnerable to abuse.⁴³

³⁶ International Labour Organization, *Perfil del Trabajo Infantil Doméstico en Brasil, Colombia, Paraguay y Perú: contexto, estudios y resultados*, OIT-IPEC Sudamérica, Lima, 2004.

³⁷ International Labour Organization, *op.cit.*, page 32.

³⁸ International Labour Organization, *op.cit.*, page 50.

³⁹ International Labour Organization, *op.cit.*, 73.

⁴⁰ International Labour Organization, *op.cit.*, page 85.

⁴¹ International Labour Organization, *op.cit.*, page 90.

⁴² International Labour Organization, *op.cit.*, page 87.

⁴³ International Labour Organization, *op.cit.*, page 87.

4.3 Legislative framework and government response

The Brazilian Government has ratified ILO Conventions 182 and 138 and created the *Estatuto da Criança e do Adolescente* (ECA - the Child and Adolescent Statute), in 1990, that commits the state, civil society and families to eradicate child domestic work or restrict it to the requirements of the legislation, and thereby ensure children's and adolescents' rights are respected.

There are legal standards in Brazil that apply to both general child labour and specifically to child domestic labour. The standards concerning child labour are in articles 7 and 227 of the Federal Constitution and, in particular, in articles 60 to 69 and 248 of the ECA.

The legal norms which apply to domestic labour are outlined in article 7 of the Federal Constitution, which guarantees domestic workers the rights of a minimum wage, protection of wage from deductions, 13th month salaries per year, a remunerated day off per week, remunerated vacations added of a third of the regular wage, 120 days maternity leave, paternity leave, prior notice of dismissal of at least 30 days and retirement, as well as the registration in the social security system.⁴⁴

Article 227 states that the family, society and the state ought to provide children and adolescents with, by utmost priority, the rights to life, health, adequate nutrition, education, leisure, professional skills, culture, dignity, respect, freedom, community and family relationship, and to protect them from all forms of negligence, discrimination, violence, cruelty and oppression. The third paragraph of the same article specifies that the right to special protection must extend to include respect for the minimum working age and access to school for adolescent workers and others.

Articles 60 to 69 and article 248 of ECA states the penalties for whoever "neglects to present to the

legal authority of his/her household, within the period of five days, with the objective of legalising the protection, an adolescent brought from another jurisdiction so as to be of domestic assistance, even though parents or responsible guardians have made explicit their approvals".

While this measure should help the authorities to identify where child domestic are, one expert raised concerns that this article has created the "figure of a hybrid guardian, in which there is a guardian who is at the same time an employer".⁴⁵ This situation may make children more vulnerable to forced labour as there is an assumption that their employer is also their guardian. The enforcement against any abuse detected under the realm of this guardian figure created by Article 248 is the responsibility of the Tutelary Council, Public Ministry and Child and Adolescent Court.⁴⁶

The National Programme for Prevention and Eradication of Child Labour is the responsibility of the National Council for Child and Adolescent Rights (CONANDA), and the National Forum for Prevention and Eradication of Child Labour, an organisation composed of governmental and non-governmental organisations, trade unions, and employers associations. The forum created a subgroup dealing with domestic child labour, although, as observed by one expert there are no records of "general or specific initiatives, inside the forum, focusing on child domestic work".⁴⁷

4.4 Conclusions

There is an urgent need for the Government to enforce existing legislation which sets out terms and conditions for the employment of adult domestic workers and the employment of children.

The National Plan of Action for the Eradication of Child Labour needs to have a dedicated budget with specific and realistic goals for the eradication of child domestic labour. This must also include clear roles for various government departments and officials tasked with setting up awareness-

⁴⁴ Francisco Haas, Jerônimo Oliveira Muniz and Joab de Oliveira Lima, *Investigating the Worst Forms of Child Labour No. 40: Brazil: Child and Adolescent Domestic Work in Selected Years from 1992 to 1999: A National Report*, ILO, Geneva, January 2003, page 5.

⁴⁵ Oris de Oliveira, *O Trabalho Infantil Doméstico em Casa de Terceiros no Direito Brasileiro*, ILO, Brasília, 2002, page, 24-25.

⁴⁶ Francisco Haas, Jerônimo Oliveira Muniz and Joab de Oliveira Lima, *Investigating the Worst Forms of Child Labour No. 40: Brazil: Child and Adolescent Domestic Work in Selected Years from 1992 to 1999: A National Report*, ILO, Geneva, January 2003, page 5.

⁴⁷ Oris de Oliveira, *op.cit.*, page, 24-25.

-raising campaign, providing support to child domestic workers in the form of advice, counselling and safe houses, as well as rehabilitation programmes that would include retraining and support for the families to prevent the child domestic worker re-entering a situation of exploitation or forced labour.

The Brazilian Government should supply a list of child labour activities which it considered dangerous to the health, safety or morals of children (as required by ILO Convention No. 182) and include child domestic work on that list.

This would provide a clear legal framework for ending exploitative forms of child domestic work. However, the fact that domestic work takes place in the home, where it is difficult to monitor, means that it is equally important to change public attitudes towards child and domestic work in general.

Much needs to be done to educate and raise awareness with the general Brazilian population to understand the true reality of child domestic work and the levels of exploitation that can occur. Awareness raising and capacity building programmes should be targeted at the general population, as well as at potential employers, local officials, children and their parents. If domestic work is valued by society and adults are paid decent wages to perform these tasks it could also help to alleviate poverty in the households of adult domestic workers and reduce the need for families to send their children to work in the first place.

The Government should consider other preventative measures that would counter some of the pressures which encourage families to send their children to work away from home. These could include providing good quality and accessible education in rural areas, along with incentives to encourage families to send their children to school and keep them out of employment until the legal minimum age. Alternative economic activities must be created to provide parents, especially single mothers with employment options so that they can support their families.

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Anti-Slavery International would like to thank the European Commission for funding this project.

The views herein are those of Anti-Slavery International and in no way reflect the opinion of the funder.



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