



May 2005

Information on Brazil

Compliance with ILO Convention No.29 on Forced Labour (ratified in 1957)

RE: Forced labour in Brazil

Since 2003 the Brazilian Government has shown a renewed commitment to tackling the issue of forced labour, generally referred to as slave labour in Brazil. However there are concerns in the last year that this commitment is faltering and that efforts to tackle forced labour remain inadequate.

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;¹ a 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, then extended to the rest of the country.² Anti-Slavery International is not aware of any publicity given to the establishment of these hotlines and would be interested to know how well they have been used and what measures have been taken to raise awareness of them.

The Government also set up the National Commission for the Eradication of Slave Labour (CONATRAE) which is a permanent forum bringing together different government departments, the federal police and NGOs to facilitate co-operation between these bodies and to discuss practical solutions to the problem of slave labour. On 11 March 2003, President Lula da Silva launched the *National Plan for the Eradication of Slavery*. The National Plan has many positive proposals, including:

1. Improving the definition of slavery in Article 149 of the penal code

On 12 December 2003, legislative amendments to the offence of reducing someone to conditions analogous to slavery were approved, as proposed in the National Plan. These amendments ensure 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

¹ *Um apelo aos bons fazendeiros*, Correio Braziliense 10 February 2004

² Vannildo Mendes and Luciana Vasconcelos, Agência Brasil, 21 February 2004.

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. It had been expected that the minimum sentence would be increased to five years in prison.

2. 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.

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.³ 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.⁴ Providing 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. As similar proposals for changes to the law to allow expropriation have been discussed in Congress since 1995 there is great concern that this initiative may also become stalled. There are also concerns that senior politicians are attempting to downplay the problem of slave labour, including the new President of the Chamber of Deputies, Severino Cavalcanti, 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.

3. 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.

Increasing numbers of slave labourers have been freed

Between 2000 and 2003 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, more

³ Stephen Temple, Brazilian Congress Debates Land Expropriation as Punishment for Slave Labour, 12 February 2004, WMRC Daily Analysis.

⁴ *De volta ao trabalho escravo*, Correio Brasiliense, 1 February 2004.

than double the number released in 2002.⁵ However in 2004, the number of workers freed fell to 2,745.

The figures up to 2003 clearly show that the Special Mobile Inspection Group had increased its effectiveness. This has been assisted by the co-operation of several regional labour departments, which carried out approximately 20 per cent of all inspections.

The use of mobile courts to accompany the Special Mobile Inspection Group has given the Group more authority in the regions as 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.

The 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 the Pastoral Land Commission (CPT).

However, the fact that some 5,000 individuals were identified and released in 2003, and nearly 3,000 in 2004, demonstrates that the problem remains grave and more will have to be done if the Government is to meet its target of eliminating slave labour by 2006.

Providing appropriate resources

The Committee of Experts (2005) notes that 16 four-wheel drive vehicles and extra personnel have been provided to the Special Group. This is very welcome but despite this, the number of workers rescued from slavery in 2004 fell to 2,745. The number of workers rescued in the period from January to April fell from 1,467 in 2003 (37 inspections) to some 500 in 2004 (23 inspections) and was down even further to 271 workers in 2005 (15 inspections). The decrease in the numbers released needs to be explained. It is clear that this decrease coincides with a fall in numbers of inspections carried out. And during 2004, CPT received 236 reports of slave labour in Brazil, indicating that some 6,075 workers had been enslaved, so it would not appear that the decrease is due to significantly fewer people being in slavery. There is therefore concern that 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.

It is also of concern that, 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. 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.

⁵ 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).

Securing more staff and appropriate transport, for example helicopters, would facilitate faster reaction times and more visits to inaccessible areas, such as the Iriri region. The Special Group must also have adequate funds to cover witness expenses, including accommodation, food and transport. These expenses are currently covered by CPT.

It is very important that federal police officers accompany the Special Group on its operations. This helps to ensure the security of the labour inspectors, who may not be able to enter an estate without police support, and should also facilitate charges being brought against those using slave labour as labour inspectors cannot bring criminal charges. The federal police may require additional resources in order to participate in Special Group operations.

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. CPT members from the Araguaina 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 Maraba to Parauapebas. In Tocantins state, the 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.

Clearly, all those working to combat slave labour must receive adequate protection to allow them to carry out their work and those using violence and intimidation must be prosecuted and face appropriate penalties.

Ending impunity and imposing appropriate sanctions

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. Successful claims for compensation rose from R\$1.9 million (US\$654,270) in 2002 to R\$5.7 million (US\$1,962,810) in 2003.⁶ The Committee of Experts (2005) reported that the Office of the Labour Attorney was currently undertaking 439 investigations into the use of slave labour.

However, 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

⁶ *Dobra número de pessoas tiradas da escravidão*, Geralda Doca, O Globo, 23 January 2004. In the case of the firm Lima Araújo Ltda., which is still pending in the Marabá Labour Court, labour prosecutors have demanded compensation equal to 40 per cent of the total assets of the farm.

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.

In 2003, some 75 people were charged with the offence of putting someone in a situation analogous to slavery. This is an important step forward as prior to this very few people were indicted for this crime.⁷ This year's Committee of Experts' report notes that 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.

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 really adequate and are strictly enforced" as required under Article 25 of Convention No.29. 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.

Conclusions and recommendations

The Special Group has improved its effectiveness and identified and released just under 10,000 slave labourers in the last three years. The Government made a clear commitment to tackle slave labour, as outlined in the National Plan and its stated aim of eliminating slave labour in Brazil by 2006.

Despite these positive steps, thousands of Brazilians continue to work in conditions of forced labour. And in the last year efforts to tackle slave labour appear to have weakened, with fewer inspections, fewer slaves released and little legal progress. In view of the above, Anti-Slavery International urges the Brazilian Government to prioritise action to:

1. Provide the Special Group with the necessary material resources (particularly in terms of appropriate transport such as helicopters) and institutional support (especially support from the federal police and prosecutors during raids) to allow it to carry out its work effectively.
2. Give priority to implementing proposals that would:

⁷ Information given by Dra Raquel Dodge, sub-procuradora federal dos direitos do cidadãos – PFDC at CONATRAE meeting, 22 March 2004.

- (a) 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.
 - (b) Expropriate properties from those who use slave labour and use the land for agrarian reform.
 - (c) Ensure that individuals and enterprises using slave labour are immediately prohibited from accessing all government financial incentives. Existing credits or incentives should be immediately withdrawn and/or repaid.
3. Make information 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. Also make available the number of fines imposed and collected for the use of slave labour.
4. Implement plans, particularly focusing on land reform and social programmes, to prevent workers being entrapped in slave labour situations in the most affected regions, such as Maranhao, Piauí, Pará and Tocantins.