

SLAVE LABOR IN THE FASHION INDUSTRY IN BRAZIL

Editora **RTM**®

SINAIT

Labor Auditors
National Union

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SLAVE LABOR IN THE FASHION INDUSTRY IN BRAZIL

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Labor Auditors
National Union



Nilza on the opening night of the 37th Enafit, one of the moments she most enjoyed being

In this revised edition, we pay tribute to journalist NilzaMurari (*in memoriam*) who contributed a lot to the original edition of this work.

Original from Rio Piracicaba, MG, Nilza coordinated the Communication Advisory of Sinait and worked in the entity for over 23 years (she previously worked at AAFIT / MG). She had an in-depth knowledge on the Labor Auditors' needs and a great deal of sensitivity to social causes. Slave labor has always been something that has moved her a lot and throughout her professional journey, she has helped us to fight it, through her always blunt texts regarding the need to eradicate this wound. She has also contributed with relevant suggestions for several Sinait publications, such as the first publication of this work that reports slave labor in the fashion industry.

Nilza passed away at the age of 55, on April 23, 2021, victim of Covid-19. Thank you Nilza!

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From historical research carried out in the archives of the State Program for Combating Slave
Labor of the Regional Superintendence of Labor in São Paulo

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PREFACE

I write about the work that reports the slave labor inspection actions in the fashion industry with enormous joy. Not that the topic reminds us of any reason for joy, but because Sinait is publishing a book that tells this story and, in this sense, we now have documented what the Labor Audit Body has faced to combat this wound, which many do not believe to exist.

The book stresses that urban slave labor is there and increasingly needs to be fought. And if the fashion industry has this strong inhuman component in São Paulo, the rest of the country is no different. The work carried out in the largest Brazilian state has been successful and is an important reference for colleagues from all over Brazil.

Along with the reports of what happens in the sewing workshops, where the majority of workers are foreign migrants, we realized how difficult it is to establish a relationship of trust, so that the workers accept to be rescued. Often the situation in their country of origin is so precarious, that they accept a degrading condition here and, overcome by the fear of deportation that the employer imposes on them, they carry on working exhaustively, without fair wages and, still, believing that rights are benefits given by the employer.

It is a situation that we would not like to face in the 21st Century, but it is there, and the role of our category is to join forces with all the actors involved in the process, to guarantee the dignity of these workers, although in some cases, having to face their own resistance.

The book also presents us with the annals of the event that celebrated the 10th anniversary of the Pact Against Precariousness and for Decent Employment and Work in São Paulo - Clothing Manufacturing Chain. I was at the front in the beginning of the creation of the Pact, as head of Inspection of the Regional Labor Office in São Paulo, today the Regional Superintendence. I was frightened by the volume of calls we received, mainly from journalists, interested in knowing about the performance of inspection in sewing workshops, where foreign immigrants predominated at that time. There was no answer, because there was no effective action. We knew it was urgent to start taking action.

And we started it. In January 2008, with the support of the delegate, Lucíola Rodrigues Jaime, we held the first meeting, which gave us immense motivation, due to the number of people, from various sectors, who came to collaborate. So many, that they didn't fit in the small room reserved for the conversation. I saw that as a positive sign, so I moved on to gather auditors interested in a good cause. The rest of the story is told on the next pages.

I give my regards to the colleagues from São Paulo Luis Alexandre de Faria and Renato Bignami, who had recently returned from his studies in Spain. Both had already worked together and met the challenge, as well as Sueko Cecília Uski, who had returned from the Head of Detrae and worked in the Rural State Group.

I would like to recall the support of colleague Rodrigo Iquegami, who preceded me at the Sinait Union Police Station, in São Paulo, to register this work. His contribution was fundamental for the ten years of the Pact to be celebrated with due merit.

Finally, I hope that the book will serve as a warning so that we never forget that we still have a long work to do if we really want to eradicate slavery in Brazil. The challenge remains.

Ana Palmira Arruda Camargo

Delegate of Sinait in São Paulo

Head of Inspection in São Paulo at the beginning of activities to combat slave labor in the fashion industry.

PRESENTATION

It would be good if in 2021 we were discussing the valorization of workers, the guarantee of their rights, in short, their full citizenship, but on the contrary, in Brazil, we are still talking about slavery. Not the one type known from the books and our ancestors' memories, but the current type, often disguised as work. We cannot be wrong. Contemporary slavery is cruel. It takes place in the rural environment and this work shows us that it is also present in cities. As difficult as it may be for some to believe, that's right! We have fast-growing urban slave labor.

The reports described here in *Slave Labor in the Fashion Industry in Brazil* shame us as a country and give us the courage to act, as a category that has the mission of ensuring the protection of workers on Brazilian soil. The reader will understand how inspection work began in the sewing workshops in São Paulo, where foreign, undocumented workers predominate, many of them victims of human trafficking, living and working in degrading conditions and exploited in their dignity.

How to live with that? How not to do something? The work that started in São Paulo, and today serves as a reference for inspection in the fashion industry in several regions, was participatory, designed to serve especially that mass of people who believed that they would live and work in a better situation than they were offered. It was born little by little, from various conversations, among many sectors of society, the result of which was the Pact Against Precariousness and for Decent Employment and Work in São Paulo - Clothing Manufacturing Chain.

The Pact completed ten years. Much progress has been made since then and much remains to be done. After all, foreign immigrants continue to be subjected to debt bondage, passport retention and threats of deportation by their employers. The inspection arrived and pointed the finger at the wound. The existence of slave labor in the glamorous world of fashion is no longer new. But it remains difficult to rescue workers amid so many ways to circumvent the rules. Many of them conform to the situation. They believe in the good faith of the employer who occasionally lets them cut their hair, do their nails, buy a piece of clothing. Many do not receive wages and find it fair to exchange an exhausting day for a treat or another.

Sinait intends, with this publication, to make the situation even more visible so that more people can get to know about this perverse reality. The work was planned under the management of ex-president Carlos Silva, who currently holds the position of vice president of Sinait, who fights alongside me and alongside many Labor Auditors for decent work. I thank him for having started what I am now finishing, by giving you a text to be read and reread whenever indignation and revolt show you that Brazil needs a lot of progress.

Let's go on, without forgetting to look back and remember that for each walk there is always a first step. The step taken ten years ago with the Pact has brought very positive results. That by the end of the next ten years we may have eradicated slave labor from Brazil, that the Pact fulfills its role and is simply no longer needed, because the country has evolved. Dreams are born that way. This is the dream of Sinait and also of all defenders of decent work.

Enjoy the reading!

Bob Everson Carvalho Machado
President of Sinait

HISTORICAL REPORT OF THE ACTIONS CARRIED OUT IN SÃO PAULO

Slave-like work constitutes a serious violation of human rights that must be vigorously suppressed by State institutions. In addition to the numerous instruments of international law, to which Brazil has adhered, contemporary slave labor also demeans the Federal Constitution and several provisions of the legislation in force.

The concept of human trafficking and slave-like work in the Brazilian legal system is among the most modern and appropriate, amid the international community's member countries' current laws. Brazil is often cited in numerous documents by institutions such as the United Nations, the International Labor Organization, the Organization of American States, the World Trade Organization, among others of great importance and international relevance, as an example to be followed by the robustness, accuracy and adequacy of its entire system for combating human trafficking and slave labor.

Furthermore, it is important to emphasize that the confrontation to these violations of fundamental rights of the worker, in our country, has been carried out in a model way for over 25 years by the Federal Labor Inspection System. Daily, the Labor Auditors conduct and coordinate hundreds of operations of a multidisciplinary nature, together with other entities and partners such as the Judiciary, the Public Prosecution Office, the Federal Police, the Public Defender's Office and other institutions, both in rural and in urban areas.

Such operations aim to verify situations of submission of workers to human trafficking and slave-like conditions and to ensure the application of labor protection legislation in an indistinct manner to all those who are suffering violations of their fundamental rights within the national territory. Once the illicit activities are found in the workplace, a series of procedures are initiated, under the responsibility of the Labor Tax Auditor who is in charge of the operation.

Thus, it is observed that since 1995, when the Brazilian State officially recognized the existence of slave-like work and began to take measures to eradicate it, public policies related to this topic have moved towards the promotion of decent work, the improvement of the working and living conditions of millions of workers and the social pacification, so essential for the progress of our nation.

As an immediate result of the improvement of these public policies, it appears that, since

the beginning of the operations aimed at combating slave labor, labor inspection has proven to be an essential mechanism for the immediate rescue of the worker's fundamental rights, for the application of administrative sanctions, for the quick and easy restoration of workers' assets, through the payment of severance pay and unemployment insurance for the rescued worker, and by providing evidence for the actions of the Federal Public Prosecution Office, the Ministry of Public Labor Prosecution, the Federal Attorney's Office and of the Public Defender's Office before the Judiciary.

Thus, it is important to remember that the Regional Superintendence of Labor in São Paulo has received, at least since the 1980s and increasingly, several reports of violence in work environments related to the South American migratory flow to the metropolitan region of São Paulo. These complaints related to illicit acts such as debt bondage, forced labor, ill-treatment, precarious health and safety conditions, moral and sexual harassment, beatings, 12-hour plus shifts and other serious human rights violations carried out as a result of work.

Workers of different nationalities entered the country irregularly, often victims of different mistakes that reflected the human trafficking they had been through, and remained so, suffering silently, fearing deportation and forced return. In addition to that, it is important to remember that the work provided in most of the sewing workshops in São Paulo is inserted in a context of productive reorganization through which the large textile retailers and garments subcontract a significant part of their products to be manufactured in different productive nuclei that form an endless succession of service provision contracts. Many of these workplaces operate irregularly and constitute financially unreliable pseudo-companies.

This explosive combination of social, economic, migratory and productive factors has long facilitated the proliferation of contemporary forms of slavery in São Paulo. This situation was very well depicted in the course of the slave labor CPI (Congressional Investigative Commission) at the Municipality of São Paulo, carried out between 2005 and 2006, which was the great inspiration for the work carried out at the Labor Superintendence by the Labor Auditors.

Thus, with the purpose of eradicating all forms of precarious work in the textile productive sector, provided in conditions of bondage or degradation of the work environment, the Regional Superintendence of Labor Inspection in São Paulo led the broadest process of social dialogue on the topic from 2007. In the course of this process, several social agents related to this theme had the opportunity to express their points of view, influencing the decision-making by the authorities and also committing to eradicating precarious and slave-like work, in a large network of social dialogue.

The broad process of social dialogue culminated, in July 2009, with the ratification of the Pact against Precariousness and for Decent Employment and Work in São Paulo - Clothing Production Chain. Through the Pact, eleven of the entities participating in the social dialogue process committed themselves, within their respective areas of activity, to intensify actions to increase protection for migrant workers, within the principle of equality embodied in the Fede-

ral Constitution of 1988.

With the Pact, the Regional Superintendence of Labor in São Paulo assumed the commitment to intensify inspections with the objective of identifying situations of violation of fundamental rights at work and guaranteeing the application of the worker protection legislation. In this way, the Labor Inspection of São Paulo exercised its role of social articulator and guarantor of the fundamental rights of the worker, without neglecting its guiding and educating role, through the intensification of inspection in these work environments. Thus, we sought to apply the principles of Decent Work to an environment traditionally exposed to the most rigid and unfair conditions imposed by the market, in which informality is the main characteristic and disinformation, the main threat to workers' rights.

Since SRT/SP (São Paulo's Regional Superintendence of Labor) intensified inspections in sewing workshops where undocumented non-national migrants work since 2010, hundreds of operations to combat slave labor have been carried out in which several establishments were inspected, in which 1,421 workers were found subjected to slave-like conditions, resulting in the effective payment guaranteed by the labor inspectors of amounts that go back to R \$ 8,808,851.25, values that had been withheld during the course of the employment relationship¹. Of this total of workers, 405 were citizens of other countries, the vast majority in irregular migratory situations in Brazil, and 23 were children or teenagers, demonstrating the peculiarities of contemporary slave labor found in São Paulo².

In addition to these important data, it should be recorded that, according to the Sub-Secretariat of Labor Inspection (SIT), since 2006, 880 non-national migrant workers in Brazil have been rescued from conditions similar to those of slavery, with the Regional Superintendence of Labor in São Paulo being responsible for 43% of these redemptions. Also according to the same source, the largest proportion by nationality is Bolivian citizens (46%), followed by Paraguayans (21%) and Haitians (16%). At this point, it is essential to emphasize the importance of the work carried out in São Paulo, both for the representativeness of the migrant's work in that city, and for the innovations and good practices inserted by the Labor Auditors of the Regional Superintendence of Labor in São Paulo.

Thus, despite the data reported by SIT (Sub-secretariat of Labor Inspection), appointing 2006 as the beginning of the records of non-national migrant workers rescued from slave-like conditions, we must clarify that this data is partially correct for two reasons. The first concerns the very nature of rescue operations, many of which were carried out informally by the Labor Inspection, a fact that was commonplace, especially at the beginning of operations, due to the absolute lack of standardized criteria for inspection activities.

There are several other cases of submission of non-national migrant workers to equally precarious conditions, reported orally by Labor Auditors, even before 2006, which, however,

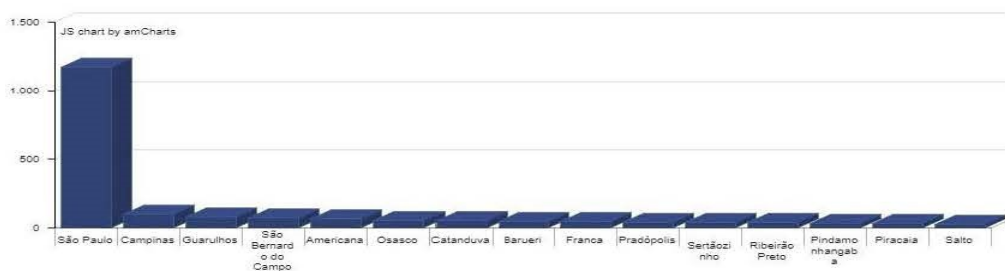
¹ Source: <https://sit.trabalho.gov.br/radar/>

² Source: <https://sit.trabalho.gov.br/radar/>

were not registered for administrative purposes and, therefore, they are not in the SIT files. On the other hand, even in those rescues carried out before 2006 and 2010, when the activities to combat slave labor began in São Paulo, the Labor Auditors only removed the worker from the activity and in all cases the migrants were accompanied to the border of your country, equally, for absolute lack of administrative norms that would guide the labor authorities on how to proceed in these cases.

Therefore, only with the initial rescue carried out in São Paulo of 2 Bolivian workers, in 2010, when for the first time in Brazil, migrant workers were rescued under the exact terms of Law No. 7,998, of January 11, 1990, with the issuance of the unemployment insurance guide for the rescued worker, referral for migratory regularization and complete monitoring by the Labor Inspection of all procedures related to this type of administrative activity, is that the activity of the administrative police was carried out completely, in the form in which it currently presents itself. This *modus operandi*, introduced by the Labor Auditors of the Slave Labor Eradication Program of São Paulo, inspired several procedural and normative changes in Brazil since then and, for this reason, represents a good practice of the Brazilian Labor Inspection, internationally recognized.

Furthermore, in total of these operations, 1,913 infraction notices were issued which, taken as a whole, prove the slave-like situation that these workers went through, as well as the legal responsibility of each of the companies involved, case by case, in each economic sectors as diverse as in the food industry, retail trade, construction, clothing manufacturing, agriculture, waste collection, distribution of dairy products and charcoal production.



Source: Radar da SIT. Available at <https://sit.trabalho.gov.br/radar/>

All companies caught in a situation of exploitation of their workers through slave labor were duly held responsible and continue to be monitored by the São Paulo Labor Inspection. The commitment to the precepts of decent work, as recommended by the International Labor Organization and fully applied by the Federal Labor Inspection System, directs all inspection activity in favor of the continuous improvement of relations and work environments.

In this vein, and in accordance with the best tradition in defense of human rights, the Labor Inspection seeks to protect workers, regardless of their nationality. This is the context of the work carried out by the inspection, in cases involving work carried out in slave-like conditions, whether national or non-national worker.

The performance of the Regional Superintendence of Labor in São Paulo in addressing the issue has inspired several academic studies, the creation of state and municipal commissions, with the participation of various public and private entities around the eradication of this wound, the establishment of CPIs, both at the federal and state levels, with the subsequent introduction of

mechanisms in the national legal system for the protection of non-national workers victimized by human trafficking and slave labor, the ratification of inter-institutional protocols for action, with the involvement of the Labor Court, the Federal Public Defender's Office, the Federal Attorney General's Office, the Federal Revenue Service of Brazil and the Public Labor Prosecution Office, thus consolidating a new model for tackling human trafficking and slave labor by the Federal Labor Inspection System.

The Labor Inspection activity also revealed to society a production method previously unknown to the authorities that dealt with the issue: the Sweating System as a prevalent characteristic of all operations in which slave-like work was found in the fashion industry. Thus, the tireless work of the Labor Auditors in tackling slave labor in the fashion industry first detected, then described³, cataloged and abundantly proved a pattern of work organization and production directly related to slave-like conditions in the fashion industry. Thus, the São Paulo Labor Inspection added the sweating system, for the first time in Brazil, to the myriad of situations that translate contemporary Brazilian slave labor into its various expressions, such as the truck system, the servitude of the farmland and other archaic forms of worker exploitation.

Initially, an activity considered only masculine - due to the hardness and roughness of the factory floor on which the inspection work would take place, according to the arguments of the time - the Labor Inspection received the first female inspectors as early as the end of the 19th century, both in England and in France, birthplaces of national inspection systems, as well as in the United States, as a result of the feminist movements that were already forming in these countries. Not coincidentally, they were the first inspectors to ascertain the gravity of the sweat system in England, France and the USA, helping to define it as intrinsically related to the fashion industry. Thus, in these three countries, traditionally recognized as the fashion capitals of the world, inspectors such as Irene Whitworth⁴, Florence Kelley⁵ and Aline Robert-Getting⁶ fought with tenacity, intelligence, sensitivity and dedication to the sweat system in its various forms, collaborating to build the anti-slavery and anti-sweatshop movement that took shape in the 20th century.

In Brazil, also not by coincidence, were the female Labor Auditors who inaugurated the fight against contemporary slave labor, without prejudice to the brave work carried out by several male Labor Auditors in the course of these 25 years of combat to slave labor in our country. In this way, auditors such as Vera Jatobá, Rachel Cunha, Ruth Vilela, Valderéz Monte, Claudia Ribeiro Brito, Marinalva Dantas and Paula Mazullo have come to inspire generations of pro-

³ V., in this vein, the papers by the Labor Auditor Renato Bignami :BIGNAMI, Renato. Trabalho escravo na indústria da moda: o sistema do suor como expressão do tráfico de pessoas. Revista de direito do trabalho, São Paulo, SP, v. 40, n. 158, p. 35-59, jul./ago. 2014; and Sweating system, trabalho escravo contemporâneo no setor têxtil, published at: <https://reporterbrasil.org.br/2011/12/sweating-system-trabalho-escravo-contemporaneo-no-setor-textil/>

⁴ One of England's first factory inspectors. Available at: <https://www.historytoday.com/archive/lady-inspectors-women-work-1893-1921>.

⁵ One of the first US factory inspectors and a passionate fighter of the sweat system in Chicago. Available at: <https://www.historytoday.com/archive/lady-inspectors-women-work-1893-1921>.

⁶ One of France's first labor inspectors. Available at: <https://www.historytoday.com/archive/lady-inspectors-women-work-1893-1921>.

professionals working in the fight against slave labor. It was no different in the fashion industry, which counted on the wisdom and experience of Regina Haddad, a precursor in coping with the adverse working conditions that affected migrant workers, and Sueko Uski, who translated into the urban and hostile sewing environment in sweatshops, all knowledge accumulated at the head of the Mobile Group to Combat Slave Labor, to inaugurate the systematic confrontation in this economic sector in São Paulo.

Regarding the female presence at work in precarious and degrading conditions, there is a huge lack of proportionality between the national percentages of men and women rescued from slave labor over the 25 years of existence of public policy: 95% against 5%. This demonstrates the lack of consideration of gender issues in the execution of this task by the Brazilian State. However, the entry of Labor Inspection in the sweatshops of the capital of São Paulo reduced this disproportion considerably. According to a survey carried out by the NGO *Repórter Brasil*, entitled “Slave Labor and Gender - Who are the enslaved workers in Brazil?”⁷, of the total number of workers rescued in the city of São Paulo to date, 30.4% are women, most of them immigrants, which represents the highest percentage of women in the history of combating slave labor in Brazil, demonstrating that the work undertaken by the Labor Auditors, of the Regional Superintendence of Labor of the State of São Paulo, has always been pervaded by gender issues.

The combat to the violations suffered by women found in slave-like conditions was necessary for the Labor Auditors of São Paulo. The first rescue in this sector involved a situation of recurrent sexual harassment and rape of a sexual nature to two migrant women, which occurred inside the sweatshop. In addition to these very serious occurrences, other forms of gender-based violence related to women’s work are also commonly found, such as the imposition of difficulties to allow women to leave the workplace to monitor reproductive health and perform prenatal care when pregnant; the impossibility of taking maternity leave, being obliged to return to the job, even in the puerperal state, as soon as it is possible for them to sit at the sewing machine; the payment of the low remuneration carried out in a complementary manner to the couple (husband and wife together), which makes it impossible for the woman to have access to the salary, as it is provided in full to the male head of the couple, as well as imposing various discounts and indebtedness to the workshop manager for not being able to maintain the same work productivity as their companion due to the overload of looking after the children and the household activities; varied difficulties in providing children with age-compatible care, abundantly documented by audits carried out by the São Paulo Labor Inspectorate.

It is worth noting that the transfer of the sewing activity, which was previously carried out in the industrial establishment, to the sweatshops, which operate as a place of work and residence, caused a greater physical proximity of the seamstresses with the domestic work necessary for the reproduction of the workers force and maintaining family’s life. If before, when working at

⁷ http://escravonempensar.org.br/wp-content/uploads/2020/09/GENERO_EscravoNemPensar_WEB.pdf

the factory, it was necessary to use the structure public services of nurseries and schools for children, gender policies to be undertaken by companies in order to provide women with the time necessary to carry out the work in the factory and greater investments in the worker and in social assistance claimed by the union of the category, now the sweatshop allows a smaller business investment to improve the quality of life of its worker. As a direct consequence, there is a greater permeability between the two jobs (housework and sewing), which imposes the practically simultaneous execution of the two activities to be carried out, almost exclusively, by the woman.

The last rescue from slave-like conditions in the fashion industry carried out in October 2020, was emblematic in relation to the violations suffered and worsened by gender issues. Two families with 4 children, two of them very young (8 months and 1 year and 7 months) were rescued from a sweatshop located in the north of São Paulo. In one of the family nuclei there were three children and an 8-month-old pregnant woman. As a result of her advanced state of pregnancy, and without being able to spend many hours on the sewing machine, this woman and her children suffered food restrictions imposed by the sewing workshop manager as a punishment for being absent from work. One of the daughters of this worker, 12 years old, without school due to the pandemic, was given the task of taking care of the other two younger sisters. This transfer of reproductive work, necessary for the sewing work to be undertaken, as well as the mobility restrictions imposed on these children, who live a good part of the day locked inside the family room in the sweatshops, in addition to causing violations to childhood cause serious psychological problems, as mentioned in one of the event panels to be presented in this publication⁸. Therefore, as noted, the work of the Labor Auditors in combating slave labor in the fashion industry has always faced gender issues, generating a significant impact on the lives of women and children found in this context, and enabled them, from the rescue, to conquer of a new social level in life and work.

The fashion industry is traditionally female for a number of reasons, not all related to the glamor that is shown in shop windows, catwalks, magazine covers and blogs. The sewing activity, fundamental for the fashion industry, is, paradoxically, one of its least valued stages for making intensive use of frequently outsourced labor. In this sense, it is still considered one of the great gateways for the low-skilled woman in the labor market, alongside domestic work. Thus, it is no coincidence that a large part of the population of workers rescued from slave-like conditions in the São Paulo fashion industry is female, migrant and indigenous. The sexual division of labor plays a fundamental and perverse role in this equation of the fashion world and reflects in a very relevant way on the gender division implicit in the global number of rescues already carried out in Brazil since 1995, in the most diverse economic activities. This is the scenario faced by all the Labor Auditors who inspected the fashion industry in São Paulo. This is the work environment observed by the first Labor Auditors who started tackling the sweat system in 2010.

It is also important to remember that, until then, the fight against human trafficking was

⁸ The degrading condition of the migrant individual victim of slave labor - Labor Auditor Livia dos Santos Ferreira - Page 368

seen mostly by criminal bias and the fight against slave labor was coordinated, by the Labor Inspection and in a systemic way, only within the scope of the central authority, through the performance of the Mobile Inspection Special Group, which operated primarily in rural areas. From the founding of the State Program for Combating Slave Labor, of the Regional Superintendence of Labor in São Paulo, in 2010, as a result of the commitment expressed in the Pact, Labor Auditors based in SRT / SP, with expertise in the subject, have started operating mainly in the urban scope and in a decentralized manner by the Mobile Group. This way, a new paradigm was established in the fight against slave labor in Brazil, which eventually inspired other regions to operate along the same lines. Currently, we find groups to combat slave labor in most of the 27 decentralized federative units of the Federal Labor Inspection System and there are more rescues of workers in urban areas than in rural ones.

The Pact against Precariousness and for Decent Employment and Work in São Paulo - Clothing Production Chain, adopted in 2009 by 11 public, private and third sector entities, represented everyone's commitment to improving work environments. Thus, after 10 years of its ratification, we observe as its main legacies for the Brazilian system to combat human trafficking and slave labor, the following achievements:

- 1) The approximation of the elements of human trafficking for purposes of labor exploitation and slave-like conditions as intrinsically connected phenomena;
- 2) The inauguration of the combat to slave labor also in the urban scope, in a systematic way, focused on the fashion industry and decentralized from the central authority, with independent performance from the Mobile Group;
- 3) The reaffirmation of the existence of contemporary slave labor, which involves different forms of slavery from those found in rural areas, with special attention to the recognition of a pattern of productive organization and the work called 'sweating system' as the main and prevalent characteristic of the exploitation situations found;
- 4) Collaboration for the construction of the view that non-national migrant workers are subject to fundamental rights, regardless of their origin and their migratory situation, and they must be assured the same procedures for national workers in the recovery of their citizenship;
- 5) Sharing responsibility for working conditions throughout supply chains;
- 6) The introduction of a substantial gender perspective in the Brazilian system to combat slave labor, with numerous cases described and verified of all types of violence against women committed due to work; and,
- 7) Recognition of the Federal Labor Inspection System as a point of convergence for public policies to promote decent work, to protect the workers' fundamental rights and to combat human trafficking and slave labor in Brazil.

The Pact has broadened the horizons for combating slave labor in Brazil and strengthened the agendas for combating human trafficking and slave labor, with a focus on promoting decent work. The Labor Inspection's best practices thus consolidate a vision of respect for human beings, workers and sustainable growth.

However, there are currently several challenges in the face of tackling human trafficking for labor purposes and in combating slave labor, with many setbacks and attacks on public policies developed over the years. Vulnerable populations, such as national or foreign migrant workers, suffer from the removal of several rights that rob them of the citizenship necessary to move forward. Public bodies, which should expand efforts to ensure the dignity of these workers, suffer from a growing disruption that makes it almost insurmountable to perform their daily tasks, while labor law faces attacks from various fronts and the right to decent work becomes scarcer every day.

In this context, the Pact proves to be, more than a fundamental historical landmark in the fight against human trafficking and slave labor in São Paulo, an inspiration for the new alliances to be established, the old ones, remade and reinforced. Only by joining different efforts, in a collaborative environment, in which the authority of each public agent is respected and the sum of everyone's efforts multiplies in order to expand the scope of public policies for the protection of fundamental rights, it will be possible to face the challenges imposed by the current context.

This publication shows in a crystalline way all this history of struggles of the Labor Auditors, together with other partners, in the consolidation of a public policy to confront human trafficking and slave labor in the State of São Paulo. Their comings and goings, their overcoming and their setbacks, topics derived from this pioneering spirit, in public agencies, in the academy, in the productive sector, in the union sector and within organized civil society in several other environments.

The 10 years of the Pact were intensely celebrated in 2 days of high quality events. Accurate analysis of keynote speakers has demonstrated, during these days of December 2019, the main advances achieved since the Pact, as well as the challenges that remain.

It is necessary to give thanks for all the support in the organization of the event offered by the Federal Public Defender's Office - DPU, the National Pact Institute for the Eradication of Slave Labor - InPACTO, the NGO *Repórter Brasil*, the Union of Seamstresses of São Paulo and Osasco and, in particular, for the support provided by the Regional Superintendence of Labor in São Paulo, the Superintendence of Federal Revenue of Brazil - 8th Fiscal Region, *Missão Paz* - São Paulo, the Brazilian Association for Textile Retail - ABVTEX and the Brazilian Association of the Textile Industry - ABIT, without which the event would not have been held with the observed brilliance.

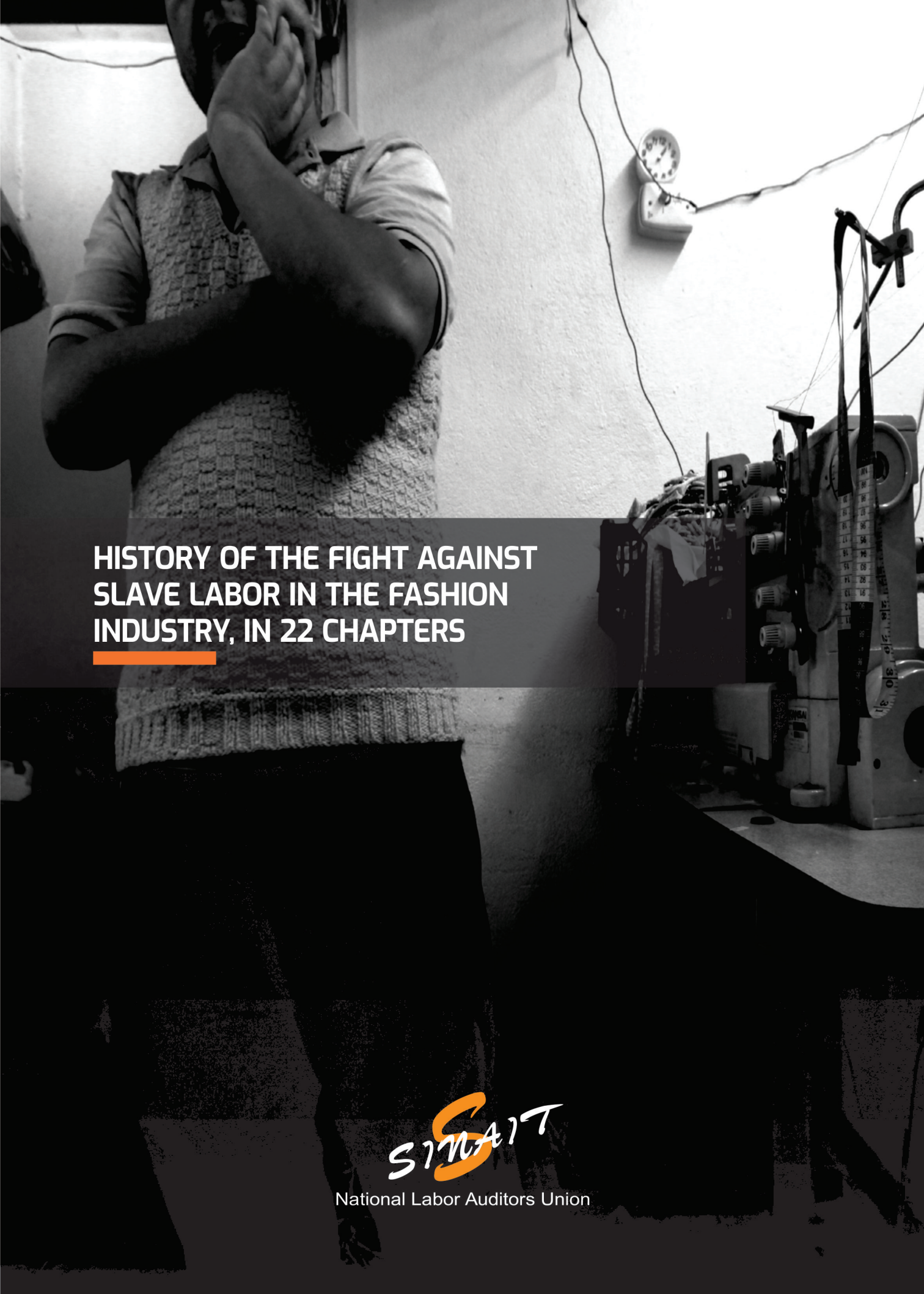
The publication is inaugurated by an exordium of historical importance, in which we offer a compilation of the main documents, journalistic articles and images that helped to erect the fight against human trafficking for purposes of labor exploitation and the fight against slave la-

bor in São Paulo. Certainly, these records will assist research that needs access to information of recognized historical interest, based on the experience of good practices developed by the Labor Audit Office of São Paulo. Then, a transcript of the annals of the event celebrating 10 years of the Pact against Precariousness and for Decent Employment and Work in São Paulo - Clothing Production Chain is published, reflecting the commitment of the covenant institutions with this history and the progress conquered in the course of that decade, as well as the current challenges for strengthening the network to face trafficking in persons and combating slave labor in São Paulo.

Finally, we invite everyone to read the publication that follows. Long live the guiding principles of the Pact, long live the network to fight human trafficking and slave labor in Brazil.

The organizers

PART 1



**HISTORY OF THE FIGHT AGAINST
SLAVE LABOR IN THE FASHION
INDUSTRY, IN 22 CHAPTERS**

SINAIT

National Labor Auditors Union

1

BACKGROUND

The 1990s: Complaints of mistreatment to migrant workers in the workplaces, contamination by tuberculosis and retained abortions, complicated by the lack of access by immigrants to SUS (National Health Care System) inspired the search for universal medical care and the investigation of working conditions, the environment and food by the Military Police of São Paulo, PMSP, indicating the existence of several problems involving immigrants working in sewing with the performance by the Federal Police, due to the fines and involuntary deportations applied to migrants, as well as the Civil Police, due to the arrests of sewing workshops owners. Organized civil society (Pastoral do Migrante and Missão Paz) denounces the precarious situation that migrant workers were going through, in order to inform the public authorities about the need for a CPI (Congressional Investigative Commission) to investigate this reality and understand how the Municipality of São Paulo could respond to the various problems raised:



<https://www1.folha.uol.com.br/fsp/cotidian/ff3006200404.htm>

VIEW DOCUMENT

“This text aroused the media (That is, Fantástico, Folha, Estadão ... radio stations) that started doing interviews with us from the Pastoral do Migrante, in the Nossa Senhora da Paz Church, now named Missão Paz, which drew the attention of the Legislative power. On the occasion of the celebrations of Our Lady of Copacabana and Urkupiña, in 2004, with the presence of Councilman Gilberto Natalini, we met for a moment with Secretary Adriano Diogo to talk a little about the party and the reality these immigrants lived in. There were over 12,000 Bolivians on this date taking all the streets around the church. They heard some immigrants talking a bit about working conditions and left with the idea of doing something as a receiving city for the benefit of all of them. Some time later Councilman Gilberto Natalini informed us that a CPI for slave labor had been approved in the Chamber and that they would invite us to talk about this reality. We gave some names as references to be interviewed by the CPI team. This is the path taken until the establishment of the CPI. Gilberto Dimenstein was invited to spend a day with us at the Pastoral do Migrante to see the reality and hear some life stories. He did not last more than a few hours and was moved to write this first text. From it, arises the search for information about what was happening, through various media and also linking to the topic of tuberculosis, which came out in several articles before the CPI.”

Statement by Roque Patussi—Coordinator at the Support Center and Pastoral do Migrante - CAMI

Brief diagnosis prepared by the Regional Superintendence of Labor at the time of the CPI on Slave Labor by the City Council Chamber in São Paulo:

BOLIVIANS

Information:

- 1) Workshop owners are illegal or legalized Bolivians, Brazilians or Koreans.
- 2) The workshops are installed in houses or commercial properties that are also used as homes.
- 3) There is no external indication of the existence of the workshops (signs, etc.). Sometimes Labor Auditors detect the existence of the workshop by the following indications: power input (light) by industrial cables incompatible with residential use; the garbage (poorly packed fabric remains).
- 4) Interested parties do not report to the Ministry of Labor and Employment MTE for fear of deportation. The last denunciation processes that appeared in São Paulo were requested by the Ministry of Public Labor Prosecution or by the (Civil) Police.
- 5) NGOs do not denounce slave, degrading or unhealthy work, as they are not “whistleblowers” and because the denunciation could harm all illegal workers.
- 6) The workshops are installed in several neighborhoods of São Paulo, with a greater incidence in the following: Brás, Bom Retiro, Pari, Casa Verde and Imirim. They are also spread across the East Zone: Belenzinho, Tatuapé, Penha, etc. There is news of workshops in Greater São Paulo: city of Guarulhos and sites in the region of Jundiaí. On several occasions, when I was asked about the existence of slave labor, I asked for addresses, emphasizing that I would preserve the confidentiality of the source. They never sent me an address.
- 7) That is, there is no report. And without reports, it is impossible to locate.
- 8) People have enormous expectation in relation to the supervision of the MTE. As work is often enslaved (the person is prevented from coming and going, works exhaustively, has documents seized, does not receive a salary, receives poor quality food, etc.), they expect the Ministry of Labor to resolve the issue. Unfortunately it is not so simple. The Labor Auditor is bound by law. If you see the situation described, you are limited to assessing and requesting the presence of the police authority (Federal, Civil or Military Police).
- 9) “Article 141 of Decree No. 86.715, of December 10, 1981. Ascertained by the Ministry of Labor provides that employers who keep at their service a foreign migrant in an irregular situation, prevented from exercising remunerated activity, will be reported to the Federal Police Department of the Ministry of Justice, for the appropriate measures.”
- 10) The Ministry of Labor’s assessments are negligible and often uncollectible (if up to RS 1,000.00 do not even leave the original DRT; if up to RS 5,000.00 they are not recorded in active debt). There is enormous difficulty in drawing up the Infraction Notice. If the workshop owners are also undocumented immigrant, that is, if they do not have a CPF (Individual Taxpayer Registration), there is no way to draw up an infraction notice, due to the lack of an essential requirement for the drawing up of the notice.
- 11) Possible assessments are the lack of registration and the lack of documents. The SIT’s commentary, with regard to foreigners (Chapter III - Nationalization of Labor - menus 001116-9; 001117-7; 001118-5 and 001119-3) is the object of challenge in the Judiciary due to the understanding that the 1988 Constitution did not receive the chapter on nationalization of work (“All are equal before the law, ensuring the same treatment for Brazilians and foreigners”)

- 12) I have also come across the myth that Bolivian tailors are much more productive than Brazilian tailors. I consider it a myth, because there has never been any study in this direction. Evidently Bolivians produce more: 1) they only leave the workplace on Sundays; 2) the working shift is from 05:00 am or 06:00 am until 10pm; 3) they don't get exhausted in traffic when commuting home / work, nor do they waste hours on the way; 4) they have no form of leisure; 5) they receive per piece produced.
- 13) Any serious study should include: a properly registered Bolivian tailor's job with salary + charges versus a properly registered Brazilian tailor's job with salary + charges. Without such a study, any conclusion is a guessing exercise.
- 14) The work of illegal Bolivians is not restricted to sewing workshops. There are workers in civil construction, metallurgy, domestic and street commerce. Preferably they go to the sewing workshops, because they find work there quickly and easily through relatives and friends. If legalized, they would work in a variety of other activities.
- 15) Many immigrants don't have documents. They come from very poor places, where there is no work, and as a result, they lack food. I heard several reports from Bolivians that the first time they took a hot shower was in São Paulo. In their places of origin, there were not even toilets.
- 16) Cultural habits are different. The family unit is much broader. It includes cousins, uncles, nephews, grandparents, etc. in daily life. Friends, friends of friends, acquaintances from the same region, etc are treated as family. All perhaps because of their illegal immigrant's situation. They do not even imagine themselves living in a traditional Brazilian family unit, that is: daily coexistence of parents and children living in a single residence.
- 17) Their first acquisition, when they have some money, is usually a radio. They pay in cash and listen to pirate radio stations that give news about the community, parties and football (there are several illegal Bolivian soccer teams in SP).
- 18) There is a CPI at the SP Council Chamber to investigate the work of Bolivians. The companies (C&A, Marisa and Riachuelo) were summoned for being supposed to be the beneficiaries of illegal labor. The president of the CPI was councilor Claudinho (PSDB) and one of the members was councilor Soninha (PT).
- 19) Linked to the topic: Sérgio Suiama, Regional Attorney for Citizens' Rights at the Federal Public Prosecution Office; the Union of Seamstresses of São Paulo and Osasco and Pastoral of Migrants 20.
- 20) The Migration Regularization Agreement signed between Brazil and Bolivia allows all illegal immigrants who entered the country until August 15, 2005 to be regularized. The Ministry of Justice estimated that there were 60 thousand Bolivians in São Paulo in irregular situation. The problem with the agreement each immigrant would have to pay a R \$ 828.00 fine plus taxes to settle, which would come up to R \$ 1,000.00 per person. About seven thousand Bolivians filed for regularization based on the agreement.

Suggestions:

- 1) Make it clear that the issue, before being a labor problem, is also of immigration and social, due to people's need to look for a better future.
- 2) Emphasize that the work of the Ministry of Labor and Employment is limited by Law, and that the solution to the problem of slave labor requires the participation of other bodies, especially the Federal Police Department, whose contingent in São Paulo is insufficient to

- serve any kind of demand.
- 3) Emphasize the need for legalization (since the agreement has been extended until 09/15/2007).

2

CITY HALL'S PARLIAMENTARY COMMISSION OF INQUIRY

São Paulo City Hall's Congressional Investigative Commission of Slave Labor
 Start Date: 03/16/2005 / End Date: 12/11/2005
 Final Report Publishing :February, 2006
 Final Report



https://www.saopaulo.sp.leg.br/wpcontent/uploads/spotlegado/comissoes_encerradas/arquivos/CPITrabalhoEscravo.pdf

[VIEW DOCUMENT](#)

3

DIGNITY FOR MIGRANT WORKERS

Establishment of the Working Group “Dignity for Migrant Workers”, at the Regional Superintendence of Labor in São Paulo - January 2008.

Minutes of the WG installation, prepared by the Regional Superintendence on January 29, 2008

On January 29, 2008, they met at the headquarters of the Regional Superintendence of Labor and Employment in the State of São Paulo, (nominate those present by the Superintendence) and the guests (according to the attached list) to participate in the debate DIGNITY FOR MIGRANT WORKERS with the aim to BUILDING A PROGRAM ABLE

TO START THE REGULARIZATION PROCESS OF MIGRANT WORKERS IN THE CITY OF SÃO PAULO.

Initially, there was a greeting from the Superintendent, who thanked the guests for their presence and stated the objectives of the superintendence's performance, both from the point of view of a social transformation agency and of the need to transform this reality in the city of São Paulo as the importance of a joint action of the partners present. There was an introduction of those present and a brief presentation of how they got involved with the issue that was the object of the meeting. The Superintendent was informed of the CPTS emission figures for the years 2005 to 2007 for Latin American workers and that for Bolivian nationals there would be about 1 thousand emission licenses, a small number given the information on the number of workers in activity in São Paulo and other cities in the state. The General Consul of Bolivia, (Jaime ...) informs that he has statistics that since the Brazil-Bolivia agreement has been in existence there are about 42 thousand legal Bolivians, he cannot explain why only 1 thousand CPTS issued, but adds that all who entered, in the Federal Police with legalization process received only one stamp, numberless document that are not valid as a document for issuing CNPJ or other documents necessary for regularization of companies and opening bank accounts and that about 95% of those who regularized they have not even received the provisional RNE, valid for two years, and that those who are expiring are being extended by means of publication in an official diary; he also clarified that a team is being relocated from Bolivia to help with the regularization and that they will remain here for about 90 days. The representative of the Federal Police reported that, since 2005, he has legalized about 18 thousand Bolivians by the agreement signed and another 12 thousand by family ties; that there was a printing problem for the issuance of RNE during the year 2007, due to bureaucratic obstacles considering the difficulties that public agencies have with expenses, but that this would already be overcome and as of February this year, regularization begins and in short time the problem will be solved. The lady (Bolivian lawyer) said that her compatriots are unaware of the documents necessary for their regularization and do not even know that the number behind the license is a valid document; their greatest concern is about the visa being only provisional, even when renewed; that Brazilian institutions do not recognize the Bolivian identity and the license as documents; are unaware of the procedures for opening a sewing workshop and do not even know what constitutes a sewing workshop, they propose making a model for guidance; Dr. Lucíola talked about the need for all these partners, then, to get involved in a wide campaign of dissemination and orientation of information, and Dr. Vilma spoke about the need for a technical accessory for the issue. The Public Labor Prosecution Office (MPT) stated that the social contracts of commercial clothing establishments regularly include an

activity clause such as industry and commerce, and for that reason sewing services cannot be outsourced, and that hiding illegal foreigners is a crime; clarified that the outsourcing process is supervised by the big stores that have already signed an agreement with the MPT, but that the salary must be at least 30% in cash, and that it cannot allow minimum rules in labor relations to be violated, that everyone should seek to regularize themselves and that the clothing companies have an obligation to know to whom they deliver the jobs; Dr. Vilma clarified on outsourcing. It was presented by Ms. Denise from SRTE / SP which documents are necessary for the issuance of CTPS and what are the problems that workers face in relation to the requirements. The Federal Police clarifies that SINGRE (?) is issued in the act of regularization; and that the agreement does not provide for the possibility of opening a company on a provisional visa; that the visa extension is being made for 2 years, also, with a provisional visa, due to the reciprocity clause of the agreement and that Brazilian workers in Bolivia are not having the treatment provided for in the agreement, mentions art. 99 of the foreigner's Law. The Consul of Bolivia informed that the employees of the institution are unaware of what is necessary for the issuing of documents or authorizations that belong to their organs, and that he personally sought to know the necessary procedures, but that he encountered everyone's ignorance; he mentioned that to prove lawful occupation his countrymen have to spend about R\$ 1,500.00; considers that lack of information from all parties is one of the biggest problems, that there are contradictions in the information and that he has even worked on the legalization of a community radio, that the information should be concentrated in one body and disseminated to all and that the bureaucratization process Immediate is what can solve the problem.

He suggests a committee to be formed with the objective of knowing the requirements of each body; The Consul of Korea said that the Koreans are concerned about the situation, including the situation of migrants and that they are concerned with providing a final solution to the situation; he suggests that if there is illegal work it has to be verified, and that from the consulate's point of view arbitrary arrests have occurred that may have undesirable side effects and that the legality and development of activities are expected to be attained. Dr. Vilma clarifies that the SRTE has no interest in achieving economic development. Advisor to the Korean Consulate says that the employment relationship is social, and that the union and the Public Prosecution Office are essential for social harmony; that businesspeople also have a social role and that she understands the need for disclosure through a guide of conduct that guides both sides (workers and employers) until a definitive solution to the situation is found; Dr. Vilma clarifies that goodwill is needed by all. A representative of the Korean community (who signed the list first) spoke of the need to divide the discussion by sectors; that the social segment suffers internal and external com-

petition, due to globalization and economic issues and that they do not agree with the presumption of solidarity (from the labor point of view) “ad aeternum”. Mr. Juan Villegas of the Bolivian community considers that in the next meeting he should have more partners involved and asks that the shop owners do not give service to “undocumented people”; that the main factor of the difficulties is that the authorities are not delivering the documents within 180 days according to the law and that their compatriots for not having documents are mistreated, and that eventually when there is loss of document (for theft or loss) is charged the amount of R\$ 300.00 for the reissuance and which, in addition, takes about 3 to 4 years to obtain the new one; that in all actions it must have the educational aspect; that large department stores have a facade inspection body; Mr. Paulo Illes of CAMI - Center for Support to Migrants considers it important to elaborate a work agenda to deepen the discussion, that there is a lot of ignorance on the reality that the issue has to be dealt with bilaterally; that Peruvian and Uruguayan migrants have no way of regularizing themselves; that dignity must be guaranteed and permanent agreement made possible; that the agreement allowed 18,000 to be regularized, but that about 30% are not regular because they arrived later and did not falsify a document; that many did not regularize because when they arrived they did not have the money to buy a cell phone, (for example, as proof of arrival) and that this discussion is lacking in migrants; a Korean lawyer comes forward and says that micro entrepreneurs are like employees, and that they are also victims of the system; whereas, it recommends that Koreans do not hire illegal work, but the claim is that Bolivians are excellent workers; The Ministry of Justice has said that it is an exaggeration to say that there are arbitrary arrests; that as there were many foreigners without documents, the system collapsed, but that this will soon be resolved, that the Ministry wants to work on a booklet, and that a new draft statute will be forwarded next week; A Korean businessman, who considers himself a victim of arbitrary arrest, spoke up, saying that there was a problem in the workshop he worked with before his activity, but that he was unaware and that he was arrested for that, was later acquitted, but that it left marks that no longer works with Bolivians and that there was a loss in their production; that he is unaware of the reasons for immigration but that Bolivians are good and highly specialized and that Koreans want a solution to compete in the market; Dr. Vilma affirms that there is an obligation to know the partners to whom the work is delivered; the seamstress union through its President Ms. EUNICE CABRAL informs that in the 90s there were about 180,000 seamstresses in formal work, that today there are about 80,000 (São Paulo and Osasco); that about 50% of the equipment is obsolete and that more and more formal companies are closed; that there are agencies that hire workers in Bolivia; that today companies discriminate against women and especially older ones: that it has news that there are about 7500 informal workshops

and that it cannot accept the argument that Bolivians are better professionals than Brazilians. The Federal Public Prosecution Office comments on the existence of a provisional and then definitive document;

the Ministry of Justice is manifested by the need for counterpart by the Bolivian authorities in relation to the Brazilians; that the Ministry of Foreign Affairs should be called to another meeting The Federal Public Ministry considered that it should be part of a committee with reference to the agreement; Mr. Consul said that perhaps the low number of CTPS issuance is due to the fact that the CCM issuance explosion, perhaps that the issuing institution better understood the terms of the agreement and stated that item 7 will be deleted ; Mr. MARCOS, from BOLBRA, stated that Bolivians need to organize; who asks Koreans to give work only to legalized workshops; asks for help for Bolivians to organize; he informed that the Paraguayan workers who come here have a problem with the Bolivians; that the price paid by Koreans for work is very low; that he is abused by both parties; asks for help for BOLBRA; and makes it more expensive to provide work only to those legalized; SUPERINTEND makes the Superintendence available for this orientation work, proposing to organize meetings with groups of workers weekly and that this can occur in an itinerant way in the other bodies and institutions that make up this meeting; three (or 04 commissions) were formed that will begin to work towards resolving everything that was raised at the meeting and everything that arises from the information collected:

NON BUREAUCRACY COMMITTEE (MPT / MTE / PF / MJ / CONSULATES / PASTORAL / CAMI / UNION);

COMMISSION FOR DISSEMINATION AND ORIENTATION (TRADE UNION / AA-TSP / ASSOCIATION OF KOREANS / BOLBRA)

COMMITTEE ON OUTSOURCING AND RESPONSIBILITY (ASSOCIATION OF KOREANS / MTE / MPT / PJ ECONOMIC AND SOCIAL AFFAIRS (objective of bringing together shopkeepers and workshop owners) CHAMBER OF STORES / ASSOCIATION OF KOREANS / BOLBRA

Shortly thereafter, the Working Group established within the scope of the National Immigration Council - CNIg, with a view to studying measures to protect non-national migrant workers who may be subjected to slave labor, presented its recommendations, considering the dialogue with the WG "Dignity for Migrant Workers", from the Regional Superintendence of Labor in São Paulo:



MINISTRY OF LABOR AND EMPLOYMENT

Working Group created by Ministerial Ordinance No. 605, of 12/10/2007

REPORT CONTAINING RECOMMENDATIONS BY THE WORKING GROUP STUDYING MEASURES IN RELATION TO FOREIGNERS WHO MAY BE SUBJECT TO SLAVE LABOR

ACTIVITIES DEVELOPED BY THE WORKING GROUP:

After the edition of Ordinance «605, of December 10, 2007, which created the present Working Group - GT (DOU of 12/11/2007, section I, page 54), Ordinance n° 67 was edited, of January 31, 2008 (DOU of February 1, 2008, section 2, page 48), which appointed representatives of the bodies and entities that made up the aforementioned WG.

The deadline for the completion of the works initially foreseen was April 3, 2008, which, due to the time spent for the designation of the members of the WG, could not be met. In this vein, Ordinance no. 178, of April 3, 2008 (DOU of April 4, 2008, section I, page 84) extended the deadline for completion of the works until June 6, 2008.

From January 31, 2008 to May 20, 2008, the working group held five meetings, namely: February 21, 2008, March 6, 2008, March 28, 2008, April 11, 2008 and 05/20/2008. Copies of the memoirs of these meetings are attached to this report.

Highlight for the meeting held on March 28, 2008 in São Paulo / SP, at the headquarters of the Pastoral Service for Migrants - SPM, when the members of the WG had contact with representatives of entities that work with immigrants and were able to interact with the migrants themselves. In addition, SPM produced a parallel report of the meeting, which we also attach to this report.

Also note the work that has also been done by the Regional Superintendence of Labor and Employment in São Paulo in relation to Bolivian immigrants in that state. This fact motivated that superintendence to be invited to designate a representative to participate in the meetings of the WG. In this sense, SRTE / SP was present at the meetings of 03/28 (SP), 04/11 (Brasília) and 05/20 (Brasília).

Another important fact was the participation, as an observer, of a representative of the International Labor Organization (ILO) in all meetings of the WG.

Mention should also be made of the participation of the National Coordinator for Combating Slave Labor of the Public Labor Prosecution Office in two meetings of the WG, alongside the representative of that body that was part of the aforementioned WG.

The contributions of representatives of the Federal Police, the Ministry of Foreign Affairs and the Ministry of Justice were also fundamental to the progress of the work.

At the meeting of 5/20 last year, the text with proposed measures to be adopted by this Ministry was approved by consensus by all members of the WG. In this sense, it is worth mentioning that these measures represent a firm position in this portfolio, since they have been validated by the Minister's Office, by the National Se-

cretariat of Solidarity Economy by the Secretariat of Labor Relations, by the Secretariat of Labor Inspection and by the Secretariat of Public Policies of Job. In addition, the text was validated by SRTE / SP and by the Public Labor Prosecution Office.

The approved text contains recommendations that are proposed to be forwarded to the Hon. Mr. Minister of Labor and Employment for final approval.

It was also recommended that these recommendations be forwarded to the National Immigration Council, a collegiate body linked to this portfolio and responsible for formulating the immigration policy.

MEASURES PROPOSED BY THE WORKING GROUP:

GROUP 1 - MIOIOA AIMING AT THE DIAGNOSIS OF THE SITUATION:

JUSTIFICATION: The occurrence of slave-like work situations in relation to foreign citizens in Brazil have been denounced without, however, having the proper understanding and dimensioning of the problem. Discussions are often promoted by individual cases, without having a broad view of the situation. In the meetings and interviews carried out by the Working Group, a revealing picture of the problems faced by foreign workers in Brazil was produced, without, however, being able to have a more complete understanding of the situation. Essential information, such as the number of immigrants, their social and professional profile is unavailable, or at least they are inferred without much precision. In this sense, there is an urgent need to map the real dimension of the work of these professionals in Brazil, especially the situation of Bolivians, Paraguayans, Peruvians and other foreigners who work in small garment factories.

1) Recommendation for the Ministry of Labor and Employment (MTE) to carry out a diagnosis »on irregular migration, especially considering the municipalities where there is a greater concentration of foreigners, and the association with slave-like work and human trafficking in Brazil:

In order for there to be greater understanding of the roots of slave-like work carried out by foreigners in Brazil, a broad diagnosis is necessary that involves research on the flows of foreigners who enter Brazil in an irregular way, their motivations, their socioeconomic profile, their professional skills, the existence of recruitment and transportation to Brazil, the reception networks, employers, the type and nature of the work carried out in Brazil, the occurrence of exploitation and the interfaces with the existing human trafficking networks.

GROUP 2 - MEASURES REGARDING THE MIGRATORY SITUATION:

JUSTIFICATION: The occurrence of slave-like work situations of foreign citizens in Brazil has been verified in relation to nationals of countries that border us, especially Bolivia, Paraguay and Peru. Due to the extent of our dry border with these countries, orderly management of these flows is difficult. On the other hand, they are countries that are part of MERCOSUR or that are associated with this bloc. In the MERCOSUR integration process, the free movement of workers is one of the main objectives. The residency agreement for nationals of MERCOSUR, Bolivia and Chile was a major step in this direction, as it assured the citizens of those countries the possibility of obtaining residence in any country signatory to the Agreement. Although it is not yet in force, due to the lack of ratification of a single country, this

Agreement was implemented bilaterally between Brazil and Argentina and between Brazil and Uruguay. Mention should also be made of the Migration Regularization Agreement signed between Brazil and Bolivia in August 2005, which, however, applies only to nationals of that country who entered Brazilian territory before that date. The migrant situation of foreigners is a fundamental element in the process of exploiting work force. « When Undocumented, the migrants becomes more vulnerable to being exploited by employers since they often fear that they will be reported by the boss to the immigration authorities. Thus, one of the main measures to reduce the risk of exploitation of migrant workers is the existence of legal forms of access to the country's labor market. In the case of MERCOSUR member countries or their associates, there is a commitment to the movement of workers between the countries of the bloc, justifying the need for measures to legalize the entry of workers from those countries. On the other hand, there is a need for measures so that exploited foreigners, even if undocumented, have access to the rights inherent in the employment relationship, emphasizing that access to these rights does not allow their stay in Brazil.

2) Recommendation for the Ministries of Foreign Affairs and Justice to “bilateralism” the Residence Agreement for MERCOSUR nationals between Brazil and Bolivia:

For the Residency Agreement signed between MERCOSUR member countries (Argentina, Brazil, Paraguay and Uruguay) plus Bolivia and Chile to enter into force, all countries must have ratified this Agreement, which is only possible after Parliament's ordeal by each country. In this case, as Paraguay has not yet ratified the Agreement, it has not yet entered into force for all signatory countries, which has not prevented Argentina and Brazil; and Brazil and Uruguay “bilateralism” the Agreement so that it will be applied bilaterally between these countries, since their Parliaments had already approved it. Based on these two bilateral initiatives, we recommend that the same be done between Bolivia and Brazil, making the Agreement in force for these countries. The effect would be the possibility for Bolivian nationals to apply for residence in Brazil, with the right to work, simply because they are nationals of that country. The same would apply to Brazilians wishing to reside in Bolivia. This measure would make it possible for there to be an alternative to regular residence and work in Brazil.

3) Request to the National Immigration Council to establish a specific Normative Resolution regulating the call of nationals from MERCOSUR and associated countries for work and as investors in Brazil:

A resolution that creates a specific mechanism for the entry of nationals from MERCOSUR countries and associated countries would enable citizens of these countries to come regularly, reversing the current situation that leads to situations of migratory irregularity due to the absence of a more facilitated entry mode. The entry would be made through the existence of an employment contract with a calling employer in Brazil. In the case of investors, a specific type of entry to MERCOSUR member or associate countries would allow these citizens to be owners of formalized small businesses in Brazil. Currently, because they do not have a permanent residence in Brazil, many small businesses managed by foreigners from MERCOSUR

countries or associates, who have temporary or provisional residence are informal, since Article 99 of Law No. 6.815 / 80 increases permanent residence in Brazil so that foreigners can be “business owners”.

4) Recommendation for the Ministry of Foreign Affairs that it forward the ratification of the UN Convention on the Rights of Migrant Workers and Members of their families in 1990:

This convention states that countries must recognize fundamental rights for migrant workers regardless of their migratory status. Even workers in irregular migratory situations must have recognized the right to funds of a labor nature due to the employment relationship contracted in the receiving country. In this situation, there is no right to stay in the country, but the right to receive for what you have produced, preventing bad businessmen from using undocumented migrant labor for exploitation purposes and, many vetoes, for the purpose of non-payment of what they are entitled to because of the employment relationship, they report it to the migratory authorities for the purpose of deportation. This is just one of the points foreseen in this Convention. It also contemplates a whole series of rights, equating foreign workers, who are legally resident with nationals.

GROUP 3 – AIMING AT PROVIDING INFORMATION TO IMMIGRANTS AND ENLIGHTENMENT TO THE POPULATION

JUSTIFICATION: Part of the problem in relation to the irregular work of foreigners is caused by the lack of knowledge on Brazilian legislation, especially on labor legislation, the opening of companies, the creation of production cooperatives, as well as access to Brazilian public services and the rights and duties that it entails the situation of migrant worker in Brazil. In addition, there is the need to raise awareness and alert the population, especially employers and those who benefit from the work of immigrants about the correct compliance with Brazilian labor legislation and the punishments they may suffer if the Inspection authorities find immigrant workers working irregularly, or possibly subjected to slave-like work.

5) Recommendation to the MTE that an Information Campaign be carried out with a view to providing “Decent Work for all”:

It aims to inform the population, foreigners and their employers, as well as those who benefit from the work of migrants about the need for the work to be carried out in a dignified manner and respecting Brazilian labor law. It could be coupled with the campaign to implement the decent work agenda in Brazil.

6) Recommendation to the MTE to update the booklet “Decent Work for Immigrants”:

In addition to the informative booklet in Portuguese / Spanish on Brazilian law, as well as on the rights and duties of immigrants in Brazil, access to public services was launched by the MTE in 2005. This booklet needs to be updated with information on Brazilian labor law, about notary and public record procedures (birth registration, for example), on opening a bank account, as well as on the procedures for opening companies, duties of entrepreneurs and other relevant information.

7) Recommendation to the MTE for the creation of a webpage in Portuguese/ Spanish with complete information on Brazilian legislation specific for foreign immigrants:

In addition to the Portuguese / Spanish booklet, which should contain summarized and accessible information, access to information in the most complete possible manner is essential for immigration of foreigners resident in Brazilian society. Thus, the ideal is the creation of a “portal” on the internet for immigrants, containing all the necessary information so that they can access the services available in Brazil, as well as learn about the essential rules for social interaction.

GROUP 4 -MEASURES REGARDING THE INSPECTION OF WORKING CONDITIONS AND THE PUNISHMENT OF EMPLOYERS AND / OR BENEFICIARIES OF THE EXPLOITATION:

JUSTIFICATION: The existence of adequate migratory channels through both the XXXXXXX of the MERCOSUR Residency Agreement between Bolivia and Brazil, as well as the National Immigration Council regulations specific to citizens of MERCOSUR member countries or associates, creates the conditions for the formalization of workers in these countries that come to live in the national territory and of small entrepreneurs, owners of in Brazil. This scenario, together with information campaigns, is better for efficient mechanisms to be established to inspect the working conditions of these foreigners in Brazil, especially the occurrence of slave-like work. In this sense, the experience accumulated in the fight against slave labor should be used in the elaboration of an inspection program for employers that use this practice in relation to foreign labor, such as the mechanisms of the “dirty list” and preventive notification”.

8) Recommendation for the TEM Secretariat of Labor Inspection to develop an inspection program specific for inspecting foreigners’ work conditions, identifying the occurrence of slave-like work, and enabling punishment to employers or exploiters, who benefit from this practice:

The fight against slave-like work must be intensified since there is a large number of reports on the existence of foreign workers subjected to this situation by Brazilian and foreign employers. On the other hand, it is necessary to map the network of beneficiaries of degrading or slave-like work, since there is often outsourcing of economic activity, where the beneficiary is a large company, but which subcontracts part of the production to third parties, who in turn, they subcontract other suppliers to the point where enslaved workers are found. In case of finding the existence of work analogous to slavery, as long as they are identified, all beneficiaries should be punished, in particular, the company that most benefits from exploitation.

9) Recommendation for the Ministry of Justice to establish a legal mechanism that enables the permanence of foreigners in irregular migratory situation, who are considered victims of human trafficking (for work exploitation purposes). in Brazil

This measure aims to protect the victim of human trafficking from deportation, in the event of helping to identify traffickers and exploiters.

GROUP 5 –MEASURES TO STIMULATE THE FORMALIZATION OF MICRO AND SMALL COMPANIES CREATED BY IMMIGRANTS AND POSSIBILITY OF ACCESS TO PUBLIC AND PRIVATE SERVICES OF PUBLIC UTILITY BY IMMIGRANTS IN BRAZIL:

JUSTIFICATION: The existence of adequate migratory channels through both the MERCOSUR Residency Agreement between Bolivia and Brazil, and the Normative Resolution of the National Immigration Council specific to citizens of MERCOSUR member countries or associates, creates adequate conditions, but which need to be complemented by measures to encourage the formalization of small entrepreneurs and access to public service policies.

10) Recommendation to the National Secretariat of Solidary Economy for enabling foreign residents to access the programs and policies related to Solidary Economy:

Foreigners are often small entrepreneurs, who lack support and information about the mechanisms for formalizing their businesses or the possibility of associativism, cooperatives or self-management so that they can work and access the existing social protection mechanisms.

11) Recommendation for the Coordination of the National Oriented Productive Micro-Credit Program (PNMPO) for enabling foreign residents to access the programs and policies inherent to the granting of micro-credit:

Foreigners are often small entrepreneurs, who lack support and information about the mechanisms of access to popular credit in order to formalize their business.

12) Recommendation for MTE Secretariat of Public Employment Policies that the CTPS issued by foreigners have validity equal to the term provided for in the Registration and Registration of Foreigners System (SINCRE) of the Federal Police or of the Foreigners Identity Card (CIE), foreigners who own it.

Currently, the deadline for issuing the CIE by the Federal Police is too long, impairing the access of foreigners to various public services in Brazil and even certifying employment, since the CTPS have been issued for the term of the CIE application protocol that is a maximum of six months. Thus, the foreigner is often registered with the Federal Police valid for two years, but carries only the protocol for issuing the CIE valid for only six months. In this case, we propose that the CTPS be issued for two years and not just for six months.

GROUP 6 -MEASURES TO SIMPLIFY ACCESS TO PUBLIC AND PRIVATE SERVICES OF PUBLIC UTILITY BY IMMIGRANTS IN BRAZIL:

JUSTIFICATION: For the affective Integration of immigrants and formaliza-

tion of access to civil rights, it is necessary that the bodies that receive requests from foreigners for access to public services have knowledge on the rights and duties of Immigrants, as well as have uniform procedures and that do not generate divergences in relation to the formulated referrals.

13) Recommendation for the Ministry of Justice to clarify to the notorious public responsible for the registration of natural persons about the requirements for the practice of acts with these bodies by foreign citizens living in Brazil (ex: acceptance of safe-conduct “issued by foreign authority” or “consular statement” for birth registration or “opening and recognition of signature in documents“):

The reports of foreigners indicate that there is a lack of knowledge by public notaries and holders of natural persons records and different criteria adopted by these Bodies about the documents necessary for the practice of acts by foreigners, making it difficult to exercise civil rights such as recognition of firms and records of births.

14) Recommendation for the Ministry of Development, Industry and Commerce (MDIC) to regulate the procedures of the Commercial Boards for the opening of companies by foreigners in Brazil (for example: it does not accept the opening of companies by foreigners with a temporary visa):

Foreigners’ reports indicate that there is a lack of conformity in the procedures adopted by the Commercial Boards on the documents necessary for the opening of companies and other constitutive commercial acts practiced by foreigners with these bodies, making it difficult to formalize small companies.

15) Recommendation for the Federal Revenue Department of Brazil to regulate the procedures for the Enrollment in the National Register of Legal Persons (CNPJ) of companies by foreigners in Brazil (foreigners with a temporary visa or temporary residence could not enroll in the CNPJ):

The foreigners’ reports indicate that there are difficulties in registering companies constituted by foreigners in Brazil in the National Register of Legal Entities (CNPJ), as well as lack of knowledge about the documents necessary for the acquisition of numbers in the CNPJ, making it difficult to formalize small companies.

16) Recommendation for SENAI, SENAC, SENAT and SEÑAR to admit the Work and Social Security Card (CTPS) as a valid document for admission of foreigners residing in the courses by these managed institutions. Also recommend to these entities that access to the courses be on the same conditions as the Brazilians:

Currently, access of resident foreigners to courses administered by the entities that are part of the so-called “system s” is made through the presentation of the Foreigners Identity Card, a document that takes a very long time to be issued, depriving foreigners, even those with registration issued by the Federal Police and with issued CTPS, to participate in the courses offered by these entities.

17) Recommendation to the Central Bank of Brazil to allow CTPS to be accepted as an identification document for the purpose of opening a bank ac-

count by foreigners in Brazil:

The possibility of opening a bank account is a condition of great importance for foreigners to have autonomy in relation to their employers. Many live in locations close to workplaces and, if they do not have access to banks, in some cases they may be forced to leave their earnings “in the custody” of their employer for fear of theft. This can generate a subservience relationship and enable “economic enslavement”. Some banks require the presentation of the CIE as the only valid identification document for opening a checking account by foreigners. It so happens that the CIE has taken an excessively long time to be issued, generating the inaccessibility of foreigners to open a bank account. In this sense, the use of CTPS would allow quick access to opening bank accounts.

RECOMMENDATION FOR SUBMITTING THESE PROPOSALS TO THE NATIONAL IMMIGRATION COUNCIL (CNIg):

Considering that the National Immigration Council has the competence, under Decree n 840, of June 22, 1993: “to formulate the immigration policy” and “to coordinate and guide immigration activities”; considering also that its internal regulations provide that the CNIg may issue “Recommended Resolutions”, which “constitute guidelines for public administration bodies”; and considering, finally, that in its composition the CNIg has representation of almost all the bodies and entities, public and private, to whom the recommendations made by the WG are directed; we recommend that the WG’s proposals be sent to the CNIg so that it can analyze and issue recommended resolutions containing the WG’s proposals.

Marcos Ribeiro de Ribeiro
WG President

The National Immigration Council (CNIg) issued an information note on demand from the Regional Superintendence of Labor in São Paulo, shortly after the amnesty granted to undocumented migrants in 2009, in order to clarify the scope of the mentioned amnesty regarding its constitutional effects related to the principle of equality between Brazilians and non-Brazilian, contained in art. 5th, caput, of the 1988 Federal Constitution:



MINISTER OFFICE

General Coordination of Immigration

Reference: MEMO/SRTE/SP/GAB/Nº.138/2009

Interested parties: Regional Superintendence of Labor and Employment in the State of São Paulo

Topic: Technical consultation: Applicability of the constitutional principle of equality and non-discrimination between businessmen, Brazilians and foreigners, awarded by the amnesty provided for in Law no. 11,961 / 2009. Registration and deposit of the constitutive business acts with the Commercial Registry of the State of São Paulo. Corporate tax registration with the Federal Revenue Department of Brazil.

INFORMATIVE NOTE Nº 2009/001/CNIg/GM/TEM

¹ This Information Note is the result of a Technical Consultation, sent by the Regional Superintendent of Labor and Employment in the State of São Paulo, requesting a statement from the Presidency of the National Immigration Council on the applicability of the constitutional principle of equality and non-discrimination between entrepreneurs, Brazilians and foreigners, granted the amnesty provided for in Law no. 11,961 / 2009, with regard to the registration and filing of the corporate acts of incorporation with the Commercial Registry of the State of São Paulo, with the respective registration of the Corporate Tax Number within the Secretariat of the Federal Revenue Department of Brazil.

² In view of the difficulties in formalizing companies opened and managed by undocumented foreigners, achieved by the amnesty provided for in Law no. V.961 / 2009, with regard to registration with the Commercial Registry or its registration with the CNPJ, the Consultant brings constitutional considerations, observing an apparent antinomy between the aforementioned Amnesty Law and art. 99 of Law No. 6,815 / 80, which provides for the legal status of foreigners in Brazil.

³ Law no. 11,961, of July 2, 2009, now provides for provisional residence for foreigners in irregular situation in the national territory and gives other measures, allowing in its art. 1, who may apply for tempo-

rary residence to a foreigner who, having entered the national territory until February 1, 2009, remains in irregular migratory situation there.

⁴ Art. 3 of the same legal provision (Law No. 11,961 / 2009), establishes that the foreigner benefiting from this Law is guaranteed the rights and duties provided for in the Federal Constitution.

⁵ In turn, the 1988 Federal Constitution, in Title I, art. 1st. declares as fundamentals of the Federative Republic of Brazil, among others, the dignity of the human person, the social values of work and the free Initiative.

⁶ As stated by José Afonso da Silva, “The dignity of a human individual is a supreme value that attracts the content of all fundamental human rights” and, quoting Gomes Canotilho, Vital Moreira points out that “the sense of human dignity cannot be reduced to the defense of traditional personal rights, forgetting it in cases of social rights, or invoking it to construct the theory of the nucleus of the ‘individual personality, ignoring it when it comes to guaranteeing the bases of human existence’”.

⁷ The same Constitution, in Title II, “Of Fundamental Rights and Guarantees”, in Article 5, established that “all are equal before the law, without distinction of any nature, assuring Brazilians and residents in the country the inviolability of the right to life, freedom, equality, security and property, ...” ensuring, in item XIII, the free exercise of any work, trade or profession, having regard to the professional qualifications established by law.

⁸ The background issue that arises, is very close to the previous manifestation made by the General Coordination of Immigration of this Ministry when examining a document authored by Mrs VANESSA GRAZZIOTIN, suggesting measures to this Portfolio in relation to denunciations of slave-like work of illegal Bolivian immigrants by clandestine clothing companies in São Paulo, which resulted in the issuance of TECHNICAL NOTE No. 006/2008 / CGIg / GM / MTE.

⁹ José Joaquim Gomes Canotilho’s timely observation to guide us in this analysis about the principle of maximum effectiveness of constitutional rules, which “today is mainly invoked within the scope of fundamental rights - in case of doubts, the interpretation that recognizes greater effectiveness of fundamental rights should be preferred” ¹⁰.

¹⁰ The Letter of 1988, when establishing fundamental rights and guarantees in an unprecedented way, announces, in art. 5, § 2, that such rights do not exclude others arising from the regime and principles adopted by it, or from international treaties to which the Federative Republic of Brazil is a party.

¹¹ In this scenario, and without entering into the lasting doctrinal discussion, as to the hierarchy of human rights treaties ratified by the Brazilian State, if equivalent to the constitutional amendment or, as our Supreme Court understands, to federal law, we have the international

⁹ Curso de Direito Constitucional Positivo, Malheiros Editores, 2007, p. 105

¹⁰ [unreadable]

human rights diplomas incorporated to our common legal system, and which are subsidiary sources addressed to the judicial and administrative authorities, here included the ministerial bodies that make up the Federal Government.

¹² Regarding the international treaties, Flávia Piovesan, in brief consideration, draws our attention to the obligations that the State contracts by giving full observance to the treaty, in accordance with the Vienna Convention, in its art. 27, which: “A party cannot invoke provisions of its domestic law as a justification for non-compliance with the treaty”¹¹.

¹³ Within the scope of international Law, Brazil, when ratifying the 1966 International Covenant on Economic, Social and Cultural Rights, of the United Nations - UN, incorporated it into the national legal system, whose art. 6th - 1. determines that: the States parties to the present Covenant recognize the right of everyone to have the possibility of earning a living through freely chosen or accepted work and will take appropriate measures to safeguard that right ”

¹⁴ Among the relevant international diplomas adopted by the Brazilian State, the American Convention on Human Rights (Pact of San José de Costa Rica), of 1969, which was incorporated into the Brazilian legal system on September 25, 1992, also stands out.

¹⁵ In turn, the Inter-American Court of Human Rights, with attributions of an advisory and jurisdictional nature, is an autonomous judicial institution whose objective is the application and interpretation of the American Convention on Human Rights, whose competence has been recognized by the Brazilian State, of Legislative Decree no. 89 of December 3, 1998.

¹⁶ In this tuning fork, we have Advisory Opinion no 18/03 of September 17, 2003, presented by the United Mexican States, on “the deprivation of the enjoyment and exercise of certain labor rights (that of migrant workers), and their compatibility with the obligation of the American States to guarantee the principles of legal equality, non-discrimination and equal and effective protection of the law, enshrined in international instruments for the protection of human rights ”¹².

¹⁷ The respectable response formulated by the Inter-American Court of Human Rights was that “a person’s migratory situation cannot in any way constitute a justification for depriving them of the enjoyment and exercise of their human rights, including those of labor character.”¹³

¹⁸ It should also be highlighted that the aforementioned Inter-American Court, from the first contentious cases it has resolved, has outlined the “erga omnes’ effects of the American Convention on Human Rights, as well as, pointing out the international responsibility of the State when due due diligence in preventing the breach.

¹¹ Direitos Humanos e o Direito Constitucional Internacional. Max Limonad. 2004. p. 69.

¹² Free Translation “(...) deprivation of the enjoyment and exercise of certain labor rights (to migrant workers.) And their compatibility with the obligation of the American States to guarantee the principles of legal equality, nc discrimination and equal and effective protection of the law enshrined in international instruments for the protection of human rights”. Advisory Opinion OC-1803

¹³ [unreadable]

¹⁹ Such responsibility is based on the fact that, when determining their legal order, which regulates relations between the public and the private, they are also responsible for ensuring respect for the fulfillment of human rights.

²⁰ In a special way, in the case of migrant workers, the Inter-American Court asserts that certain rights are of fundamental importance and that they are often violated, including the prohibition of forced or compulsory labor and judicial and administrative guarantees, inalienable rights, belonging to all workers, regardless of their migratory status. (emphasis added)¹⁴.

²¹ It is emphasized that the States, when establishing the objectives of their immigration policies, must establish distinctions that must be objective, proportional and reasonable, always focusing on respecting the guarantee of two fundamental labor directives, for all and any worker, national, resident or irregular migrant.

²² In this vein, it is worth mentioning that the recognition of civil and labor treatment, equal to legal or illegal immigrants, is in accordance with the condition of holder of fundamental directives, founded on the dignity of a human individual, not having condition to regularize their migratory situation, but, subject, to guarantee and respect and to the civil and labor rights that all workers detain.

²³ Notwithstanding the necessary adequacy of the internal or international legal order, the Inter-American Court assumes that such adequacy is not enough, provided that the bodies or officials of any state power - executive, legislative or judicial, exercise their functions and carry out their duties, resolutions and sentences in an effective harmonic manner as an international directive.¹⁵

²⁴ The pertinent words of Paulo Bonavides, when providing comments on the need to make effective the fundamental statements regarding the insufficiency of traditional Hermeneutics, that “the fundamental rights, strictly speaking, are not interpreted; but accomplished.”¹⁶

²⁵ In this tuning fork, and in the current distinction of competences, falls to the National Department of Trade Registry - DNRC, belonging to the Ministry of Development, Industry and Foreign Trade, to launch an understanding on the situations presented by the Regional Superintendence of Labor and Employment in the State of São Paulo, especially regarding the possibility of registering companies together with the commercial board, of undocumented foreigners, graced by the amnesty provided for in Law No. 11.961 / 2009.

²⁶ This time, considering national constitutional provisions, in comparison with ratified international treaties and incorporated into the national legal system, in particular, the 1966 International Covenant on Economic, Social and Cultural Rights, of the United Nations - UN, and

¹⁴ Ibidem, item 157, p. 130.

¹⁵ Ibidem, itcir. 171. p. 133.

¹⁶ [unreadable]

the American Convention for Human Rights (Pact of San José of Costa Rica), 1969, and infra-constitutional provisions, Laws 6,815 / 80 and Federative Republic of Brazil, due to the migratory condition of foreigners, here seen and understood in its civil and labor aspects, assuring the undocumented migrant, achieved by the amnesty provided for in Law No. 11,961 / 2009, the same rights that are guaranteed to Brazilians or residents.

To superior consideration

Brasília, November 19, 2009.

[*Signature*]

LUIZ ALBERTO MATOS DOS SANTOS

Labor Auditor

In agreement.

Sends this Informative Note to the National Department of Trade Registry - DNRC, belonging to the Ministry of Development, Industry and Foreign Trade

Brasília, November 19, 2009.

[*Signature*]

PAULO SERGIO DE ALMEIDA

President of the National Immigration Council

The Korean community in São Paulo express themselves in favor of the Pact, suggesting some points and disseminating them among the community:

Regarding improvement in the relationship and sewing work environment, an initiative of the Superintendence of Labor in São Paulo

The Superintendence of Labor in São Paulo promoted debates in early 2008 with unions, business bodies and entities with the objective of finding a solution, by consensus, to the problems found in the production chain of clothing-workshop-seamstress, a topic disclosed by media since 2007 with the approach: “enslavement in sewing”.

A. Facts treated

1. Government’s Position

- a) As a measure for improving the work environment and combating fraud against workers’ rights, adopting dialogue and awareness as a priority method;
 - b) Agreement with the idea of the need for time and the realization in stages for awareness-dissemination-adaptation, necessary for the full compliance with legal norms;
 - c) Normative basis for outsourcing is Statement No. 331, of the TST, from which the possibility of subsidiary or joint liability of labor obligations is extracted according to the activities and objects of the social contract of the clothing company.

2. Position of the Korean Community – clothing manufacture

While the legal entity of the Korean community’s clothing manufacture is absent in São Paulo, the Brazilian Association of Koreans and the Brazil-Korea Chamber of Commerce and Industry, together with some Korean businessmen and lawyers, have indirectly represented it, with the following opinions: “agreement with the Government’s initiative and participation in it. However, one cannot lose sight of the fact that the vast majority of garments, in our community, are made by small and micro companies. In view of the reality of the globalized economy and the consequent entry into Brazil of ready-made clothes made abroad, sewing outsourcing has become a form of production process necessary for survival and the huge amount of labor laws and regulations overburden businessmen for their immediate full compliance. This is the reason for the adoption of a mechanism of steps for awareness-dissemination-adaptation and the need for time.

They also demanded the participation of more clothing segments and representative entities, for instance: jeans, underwear, sports clothes, children’s clothes

and chain stores etc).

3. **Union of the Seamstresses' Position**

Compliance with the law is the basic obligation, so that any form of work in the tailoring sector that undermines workers' rights cannot be allowed. Furthermore, the reality of a sewing workshop is the elimination of formal work positions for Brazilian seamstresses.

4. **Workshops' Position (Bolivians, Paraguayans, etc)**

There is no exploitation of slave-like work in the Bolivian or Paraguayan sewing workshops. And, furthermore, the workers do not consider themselves enslaved. The long journey is a voluntary attitude towards achieving economic stability and the work environment, considered inadequate, has more to do with the difference in culture, so this issue cannot be considered illegal, much less it is a matter for the Police.

They agree with the Government's initiative and participate in it, but believe to be necessary the administrative reform of the Brazilian government in order to meet the reality, for instance: the amnesty protocol to Bolivians, issued by the Federal Police, does not allow obtaining the CTPS, nor the opening of a sewing workshop company.

5. **Position of the Support Entities for Illegal Immigrants**

The matter must be treated as a social problem rather than a supervisory or police procedure and must be treated in the light of human dignity. By the same criterion, it is necessary the concrete procedure of the Government towards illegal foreigners with a view to their legal regularization, that is, for instance: amnesty and the realistic measure for the protection and exercise of basic rights.

6. **Position of the Public Labor Prosecution Office (MPT)**

Giving the examples of TAC (Conduct Adjustment Term), signed with the retail chain companies (such as C&A, Marisa etc.) the MPT presented a pragmatic measure to solve problems instead of technical-legal debate about the legality or illegality of outsourcing.

They participated in the meeting with businessmen of clothing manufacturers in the Korean community, where it was reiterated the illegality of sewing outsourcing and the applicability as legal basis of Statement No. 331, of the TST, for specific cases and also gave examples of some clothing companies that changed the objects of their social contracts in order to avoid the illegality of sewing outsourcing, by changing the sewing step from target activity to support activity.

B. What will happen?

A draft agreement was presented at the meeting held in December 2008 and a proposal for divergence or additions could be submitted, in writing, at the meeting on February 15, 2009 (later corrected to February 16, 2009), with a view to subscribing to the agreement.

This agreement aims to find solutions to the problems of: precarious work, illegal work exploitation, inadequate work environment, etc., and, from the general point of view, it means the adoption of a democratic measure of dialogue rather than legal repression.

Furthermore, it can be said that this discussion may reflect on the Federal Government's policy with regard to illegal foreigners in Brazil, notably the amnesty for illegal immigrants.

Summary of the draft of the Government's agreement proposal (from Dec / 2008)

1. Promotion: Regional Superintendence of Labor and Employment in São Paulo; Section of Labor Inspection in São Paulo; Occupational Health and Safety Section; and Group to Combat Fraud in Labor Relations and Irregular Outsourcing.
2. Title: "Tripartite Municipal Pact against Fraud and Precariousness and for Decent Employment and Work in São Paulo"
3. Content:
 - a) Compliance with labor laws and regulations, regarding the relationship and safety and work environment;
 - b) proposal for joint liability of labor obligations between suppliers (clothing manufacture) and policyholders (sewing workshop) towards the rights of workers (seamstresses) based on article 265 of the Civil Code, which deals with free agreement between the parties);
 - c) It is observed that in this proposal there is no mention of the topic already discussed and decided on "need for time for the implementation in stages of awareness-dissemination-adaptation".
4. **The position of the Brazilian Association of Koreans and the Brazil-Korea Chamber of Commerce and Industry**
 - a) They agree on the thesis and participate in it and will strive for its effectiveness (awareness-dissemination-adaptation)
 - b) submission of complementary proposals on items B-3, letters "b" and "c" above, which are:
 - i. suppression of the expression "joint liability for labor ob-

ligations” and insertion of an item that foresees the need for time and implementation in stages for the factual and realistic feasibility of the program now proposed.

C. CONCLUSION AND APPEAL

Dear patricians!!

We look forward to your feedback, especially from the Korean community’s clothing manufacturers. Our participation is the crystallization of dialogues for over 1 year and will serve to show the Federal Government our proactive participation towards solving the problem. And you can even contribute to federal policy on the possible “amnesty” to illegal foreigners in Brazil.

We have knowledge, information and advice from all of you.

São Paulo, February 02, 2009

Dong Soo Park (signed)

President of the Brazilian Association of Koreans

Do Chan Lee (signed)

President of the Brazilian-Korean Trade and Industry Chamber

BRIEF JUSTIFICATION FOR THE KOREAN COMMUNITY PROPOSAL

The parties' agreement on joint liability for labor obligations in the specific case of the proposal finds the following obstacles:

- a) violation of the legislative competence granted by the Federal Constitution to the national congress on the norms of national effect, as is the matter in question;
- b) constitutional prohibition of a pact between the private parties on the legal matter of a cogent norm of national scope;
- c) breach of autonomy and independence of private companies;
- d) induction to the evasion of labor rights by the subcontracted company (or rather, the outsourced, that is, the sewing workshop), in view of the determination of the responsible person
- e) Within the scope of the agreement, removal of the actors from the agreement due to the imbalance of relations, in view of the greater burden to those who adhere to the pact
- f) current practice of the courts to analyze and apply accountability measures according to each case, that is, individualization of obligation in the light of real employment relationship practices and not in general, even in the form of an agreement.

This is the reason and ground for suppressing the expression of "joint liability for labor obligations", defended by the Korean community in Brazil.

ALTERNATIVE SUGGESTION

A space for discussion could be adopted within the scope of the "OBSERVATORY", mentioned in the draft of the pact, so that this, composed of parts of this working relationship and granted with specific attribution, comes to discuss the specific controversial issues with the aim of consolidating the "basic framework" of the pact without abandoning discussion.

This Observatory could be used for observation, data collection, determination of the mechanism for reaching a pact, etc.

Yours Sincerely,

São Paulo, February 16, 2009

[Signature]

Augusto Myung Ho Kwon

Lawyer and Legal Director of the Brazilian Association of Koreans

브라질 연방 노동국에서 추진하는 봉제업노동환경개선에 대하여

이미 2007년초부터 메스컴에서 "노예와 흡사한 노동착취"라는 제목으로 취재의 핵심이 되고 있는 의류 제조업-봉제업-봉제사들 간의 문제를 해소하는 일환으로 브라질 연방노동국에서는 2008년 초에 공관 기업 단체들을 불러 대화와 논의를 통한 해결방안을 모색하기위해접촉을 시작하였다.

A. 전제까지 있었던 일들

1. 공관의 입장

가) 노동환경개선과 권리침해방지의 일환으로 대화와 계몽의 우선적인 해결방안으로 채택.
나) 법의 준수를 위해 필요한 계몽과 홍보 및 적용을 위해서 단행적인 추진과 시간이 필요하다는 제안에 동의.
다) 봉제업의 하청(도급)에 법적근거는 노동대법원판례 제 331호 (ENUNCIADO TST No. 331)이며, 따라서 봉제사중임원에 대한 노동계약은 의류제조회사가 회사정관과 업무에 따라 공동 책임, 즉 연내책임을 부여 받는다는 주장.

2. 안인의류업체 입장

안인의류업체의 합법적태도단계가 없는 상태에서 브라질한 인의와 합조상공회 및 여러 한인사업가와 변호사들이 간헐적인 대법원위탁하였으며 그 주 내용은 다음과 같다.
"원칙적으로 의류제조업과 의류판매업의 노동에 동의하며 동일한다. 하지만 의류제조업의 대부분이 영세회사이다. 클리 법정해에 의류제조업이 자유롭게 수입되는 현실에서 도급(혹 하청)은 회사의 생존을 위한 필수적인 생산과정이며 수많은 법과 규정은 영세업체에게 무리가 된다 따라서 홍보,계몽및 적용을 위한 단계적인 추진방식과 그에 따르는 시간의 필요성을 주장했다. 또한, 더 많은 기업과 대표단체들의 참여를 요구했다. (예로, 청바지업체 내의 및 운동복업체, 아동복업체, 전국에 소매망을 소유하고 있는 소매업체 등)"

3. 노조의 입장

법을 지키는 것은 원칙적인 의무이며 따라서 노동자의 권리를 침해하는 어떤 봉제업은 허용할 수 없다. 그렇 아니라 현재 의 봉제업계는 브라질한 봉제사의 정규직을 빼앗는 결과를 초래하고 있다.

4. 봉제업계의 입장(브라질안인, 파리아과이인 등)

브라비아 봉제업계에서 노예와 비슷한 노동착취는 시행되고 있지 않으며 또한, 브라비아인 스스로도 노예라고 인정하지 않는다는 경제적인 것을 위해 장시간의 자발적노동이 순화적라이에서 발생하는 노동환경의 문제를 봉제업으로 취급할 수 없으며 경찰문제는 더더욱 아니다. 반면 정부의 현 추진사항에 공감 및

동참하고 있으나 브라질정부측의 현실적인 행정개선이 시급하다. 예를 들면 브라비아-브라질협정에 의해 발급받은 사면절수증으로 봉제업권은 물론 노동수첩을 발행 받을 수도 없고 또한 봉제 회사설립도 불가능 하다.

5. 여러 이민자포도업체

이 문제에 대한 형사적인 혹은 노동법적인 감시보다는 사회적 그리고 인간존엄의 입장에서 취급해야 할 문제라고 제시했음. 또한 이민 이념에서 봉제업체의죽인에 대한 더욱 더 확정한 정부 의 조치, 즉 봉제업체주에 대한 사면과 그들의 법적지위와 권리 불실체적으로 누릴 수 있는 정부의 조치가 시급하다고 역설했 다.

6. 연방노동경찰

연방노동경찰은 대령의류수매상 (C&A, MARISA 등)을 상대로 세집한 기업의 "행위조정명령서" TAC(Termo de Ajustamento de Conduta) "의 예를 들어 도급(혹 하청)의 법적정 의에 대한 경고보다 현실적인 해결방법에 대해 역설했다. 또한 안인의류업체를 위해 설명회를 가졌고 봉제도급(혹 하청)의 불법 하청 노동대법원판례 제 331의 법적근거를 주장했으며, 봉제업과 봉제사에 대한 공동책임불 회하기 위해 회사정관내의 업종에서 봉제정장을 제거하는 몇몇 기업의 예를 들었다.(참고: 봉제사 회사의 기본업무 (atividade fim)가 아닌 보조업무 (atividade meio)로 바뀔때, 봉제도급 (혹 하청)의 정당성을 인정받지 못한다)

B. 앞으로 진행 될 일

작년 2008년 12월 1일에 합의초안이 제시되었고 그 이의나 수정안등에 대해서는 2009년 2월 15일로 예정된 회의에서 제시될 는의하기로 되어 있고 곧 이어 합의서팀이 시행될 것이다. 따라서 이 합의는 불안정-비정규노동, 노동착취, 분절하고 위험한 노동환경등의 문제해결을 위한 노력의 성과를 뜻하며 또한 거시적으로는 통합대신 대화를 통한 성숙한 민주주의적 해결책의 선택을 뜻한다.
그 뿐만 아니라 이미 거론이 되고 있는 불법의국인채류주들에 대한 연방정부의 사면정책에도 직접적인 반영이 된다고 말할 수 있다.

1.주최: 상파울로노동국(노동환경감시서,노동착취위치및 불법

상파울로 2월 13일

최도급(하청)조사와

2. 제목: "진정한 노동과 취업을 위하고, 불안정한 노동과 노동환경의 유인행위를 방지 및 회피하기 위한 삼자사약서"

3. 내용

가. 노동법과 노동환경과 안전에 대한 노동규칙 준수
나. 하청자의류제조회사와 수청자(봉제 공장) 및 노동자(봉제사) 간의 노동법적의무를 합의에 의한 공동책임화 하자'는 제안 (민법 제 265조에 의거하여 합의가 이루어질 경우의 무-책임에 대한 책임공동화가 가능 하다)

다. 주의할 점은 이 합의초안에서는 이미 논의의 끝은 "홍보,계몽및 적용의 단계적인 시행을 위한 시간이 필요하다." 라는 내용이 없다.

4. 브라질안인외와 안-브상공회의 입장

가. 원칙적으로 동의하고 참여하며 계몽과 홍보를 위해 노력한다.
나. 위 B-3, '나' 와 '가' " 합해서 언급된 점등에 대한 이의와 수정안을 제시한다. (즉,공동책임제를 합의서에서 삭제할 것 과 현실적인 적용과 시행을 위해 시간이 부여 되는 시행프로그램을 삽입한다.)

C. 결론과 부록

동포여러분, 특히 한인의류업체의 의견을 기다립니다. 우리의 동향은 지난 1년이상 진행된 협상의 결정체이던 연방정부에게 우리 한인사회에 대한 긍정적인 인식을 심는 기회가 된 것이며 또한 불법채류주에 대한 연방정부의 사면정책에 도움을 줄 것입니다. 이 행사에 동포여러분들의 지지,정보와 조건을 부탁드립니다

브라질연방노동국에서 추진하는 봉제업노동환경개선에 대하여

이미 2007년초 부터 메스컴에 노예와 흡사한 노동착취라는 제목으로 취재의 핵심이 되고 있는 의류제조업-봉제업-봉제사들 간의 문제를 해소하는 일환으로 브라질연방노동국은 2008년 초에 공관 기업 단체들을 불러 대화와 논의를 통한 해결방안을 모색하기 위해 접촉을 시작하였다.

A. 현재까지 있었던 일들

1. 공관의 입장

가) 노동환경개선과 권리침해방지의 일환으로 대화와 계몽의 우선적인 해결방안으로 채택.

나) 법의 준수를 위해 필요한 계몽과 홍보및 적응을 위해서는 단계적인 추진과 시간이 필요하다는 제안에 동의.

다) 봉제업의 하청(도급)에 법적근거는 노동대법원판례 제 331호 (ENUNCIADO -TST No. 331)이며, 따라서 봉제사종업원에 대한 노동책임은 의류제조회사가 회사정관과 업종에 따라 공동책임, 혹은 연대책임을 부여 받는다는 주장.

2. 한인의류업계 입장

한인의류업계의 합법적대표단체가 없는 상태에서 브라질한인회와 한브상공회및 여러 한인사업가와 변호사들이 간접적인 대표행위를 하였으며 그 주 내용은 다음과 같다.

“ 원칙적으로 연방노동국상파울로지국의 노력에 동의하며 동참한다. 하지만 의류제품회사의 대부분이 영세회사이다. 글러벌경제하에 의류완제품이 자유롭게 수입되는 현실에서 도급(혹 하청)은 회사의 생존을 위한 필수적인 생산과정이며 수많은 법과 규칙은 영세업자에게 무리가 된다 따라서 홍보,계몽및 적응을 위한 단계적인 추진방식과 그에 따르는 시간의 필요성을 주장했다. 또한, 더 많은 기업과 대표단체들의 참여를 요구했다. (예로, 청바지업계, 내의및 운동복업계, 아동복업계, 전국에 소매망을 소유하고 있는 소매업계 등)”

3. 노조의 입장

법을 지키는 것은 원칙적인 의무이며 따라서 노동자의 권리를 침해하는 어떤 봉제업은 허용할 수 없다. 그뿐 아니라 현재의 봉제업계는 브라질인 봉제사의 정규직을 빼앗는 결과를 초래하고 있다.

4. 봉제업계측의 입장(볼리비아인, 파라과이인 등)

볼리비아인 봉제업계에서 노예와 비슷한 노동착취는 시행되고 있지 않으며 또한 볼리비아인 스스로도 노예라고 인정하지 않는다. 경제적인 안정을 위해 장시간의 자발적노동이고 문화적차이에서 발생하는 노동환경의 문제를 불법으로 취급할 수 없으며 경찰문제는 더더욱 아니다. 반면 정부의 현 추진사항에 동감및 동참하고 있으나 브라질정부측의 현실적인 행정개선이 시급하다. 예를 들면 볼리비아-브라질협정에 의해 발급받은 사면접수증으로는 영주권은 물론 노동수첩을 발행 받을 수도 없고 또한 봉제회사설립도 불가능 하다.

5. 여러 이민자보호단체

이 문제에 대한 형사적인 혹 노동법적인 감시보다는 사회적 그리고 인간존엄의 입장에서 취급해야 할 문제라고 제시했음. 또한 이런 이념에서 불법체류외국인에 대한 더욱 더 확실한 정부의 조취, 즉 불법체류자에 대한 사면과 그들의 법적지위와 권리를 실제적으로 누릴 수 있는 정부의 조취가 시급하다고 역설했다.

6. 연방노동검찰

연방노동검찰은 대형의류소매상 (C&A, MARISA 등)을 상대로 체결한 기업의 “ 행위조정협약서 - TAC(Termo de Ajustamento de Conduta)”의 예를 들어 도급(혹 하청)의 법적정의에 대한 논쟁보다 현실적인 해결방법에 대해 역설했다. 또한 한인의류업계를 위해 설명회를 가졌고 봉제도급(혹 하청)의 불법성과 노동대법원판례제 331의 법적근거를 주장했고, 불법취급과 봉제사에 대한 공동책임을 피하기 위해 회사정관내의 업종에서 봉제과정을 제거하는 몇몇 기업의 예를 들었다.(참고: 봉제가 회사의 기본업무 (atividade fim)가 아닌 보조업무(atividade meio)로 바뀔 때, 봉제도급 (혹 하청)의 정당성을 인정받게 된다)

B. 앞으로 진행 될 일

작년 2008년 12월 1일에 합의초안이 제시되었고 그 이어나 수정안등에 대해서는 2009년 2월 15일로 예정된 회의에서 제시및 논의하기로 되어 있고 곧 이어 합의서명이 시행될 것이다. 따라서 이 합의는 불안정-비정규노동, 노동착취, 불결하고 위험한 노동환경등의 문제해결을 위한 노력의 서약을 뜻하며 또한 거시적으로는 탄압대신 대화를 통한 성숙하고 민주주의적 해결책의 선택을 뜻한다.

The Korean Community adds some thoughts to seek the full effectiveness of any agreement to be carried out in the fashion industry, of which they are part, with large participation of clothing companies and brands, in the Metropolitan Region of São Paulo:

The particular thought

I believe there might be the following premises:

- legality predominance
- acknowledgment of the market economy and the capitalist system
- social reality of the illegal and irregular immigrants
- reality of international competition in the open market
- preferential option for the social solution through dialogue

Possibility for the government to act as a regulator, indicating expected guidelines such as:

- Legal regularization of immigrants
- Legal regularization of the relationship and work environment, involving policyholders and service providers, as well as their employees

On the other hand, several topics arose throughout the discussion:

- Unfair competition in sewing prices
- Unfair competition in the clothing market
- Need for improvement of work environment
- Need for awareness-raising of the agents involved

In view of the apparent complexity of the theme now presented, it can be grouped as follows:

- A. to the government agent
- B. to agents of civil society stakeholders

A. the public agent exercises the supervisory role, which verifies compliance with the law and with the agreement eventually formed by civil society, with consequent sanction for its infringer.

B. the civil society agent, composed of actors involved in the theme, is responsible for: guidelines, standardization, self-regulation - "OBSERVATORY", etc.

The performance could be done based on: definition of guidelines, formation of the self-regulating executive body, disclosure, implementation-monitoring and inspection and eventual sanction to the violators, in that order

Final note: The idea of a self-regulatory body is based on the idea that many topics are specific to the economic segment (seamstresses, policyholder and service provider, sewing prices, etc.) outside the scope of formal authority, however covered by its own importance, since its exacerbation can reach the border of illegality.

It also offers the opportunity to actors, who want to participate in the regularization movement in favor of legality and fair competition, in contrast to those who insist on the opposite movement, which will be more easily detectable by inspection.

São Paulo, March 31 2009

Augusto M.H. Kwon [Signature]

The “Dignity for Migrant Workers” Working Group’s final meeting indicated the main points that should be considered by the Pact to be ratified by the participating entities:

Minutes of the meeting of May 12th, 2008, on the theme of outsourcing and responsibilities in the clothing sector:

Presence list attached.

In order to finalize thematic meetings on outsourcing and responsibilities in the clothing sector, the following proposals were deliberated, taking into account the suggested and necessary deadlines for carrying out the listed regularizations and bearing in mind the ultimate objective of ensuring the dignity of employees:

As initial definitions, it is established that the service taker will be considered the industrialist who takes the sewing service from the sewing service provider. As a principle, to avoid stigmas, there shall be no indication of the nationalities of foreigners who explore the economic activities analyzed.

In order to enable the social agents who develop the economic activity of clothing, with the use of labor from foreigners, to implement the proposed changes, it was decided that three adaptation periods should be fixed, the duration of which each will vary, depending on the number and complexity of the measures to be taken by the agents involved. It was agreed that it will be proposed that the state inspection activity should respect those who adhere to the intentions protocol and implement it within the established deadlines.

FIRST: SHORT-TERM PROPOSAL

Considering that it is necessary to prepare the dissemination material for the communities; and considering that there is a seasonal cycle of clothing production (summer and winter collections), it was decided that the following short-term proposals should be effective within 1 (one) year, starting from the implementation of the policies:

A) setting of a clothing piece price reference for commercial negotiation between policyholder and service provider, considering the cost to service providers (which includes the payment of the category floor to employees, the maintenance of adequate working conditions, limitation of working hours with overtime pay);

B) improvement of the working environment, observing the parameters of the regulatory standards of the Ministry of Labor and Employment, giving initial emphasis to the following parameters:

- Electrical Installations - do not leave wires exposed, or poorly made joints that can cause life-threatening according to ABNT;
- Ventilation - the workplace must have ventilation that allows not only the circulation of air, but the exchange between external and internal air;
- Lightning - the workplace must have adequate lighting for the work needs;
- Hygiene - before starting the workday, it would be advisable to mop the floor, this procedure being repeated in the afternoon and at night to reduce the dust released from the fabrics. It is essential to keep the workplace, the temporary housing and related areas properly sanitized, paying attention to standing water (risk of dengue);
- Bathrooms - separate one for women and one for men, keeping, at the employer's expense, hygiene materials (toilet paper, paper towels, soap) for use by all workers;
- Division between the work space and the house premises: set on different floors;
- Diet: as Brazil is a tropical country with a climate that may be different from the country of origin of many immigrants, it is proposed that there be guidance for employees to drink a lot of liquid daily (do not forget to also offer to children); avoid consuming fried foods and sweets daily; substitution for roasts, grilled; consume more vegetables and fruits; provide balanced food

- at established times¹⁷;
- Drinking water: Provide a drinking fountain or filter in a place that is easily accessible to all workers;
 - Eating place: delimit space for meals and snacks; make meals away from the machines, preferably in the kitchens;
 - Overall hygiene: adoption of self-care practices, environmental and personal hygiene (washing clothes, cleaning common environments and utensils, daily baths and tooth brushing). Do not mix food with chemicals and stocks of fabrics or clothing. Keep the workplace and housing free of garbage, carrying out daily collection.
 - Work shift: normal working hours of 8 hours a day / 44 hours a week, plus one hour for meal and rest. Ensure paid weekly rest. Possibility of 2-hour overtime daily, with payment of at least an additional 50% (fifty percent) over normal hours. Establishment of two intermediate paid hours for snacks and / or rest (15 minutes each), during the morning, afternoon and evening, according to collective norm. Pregnant women have the right assured by law to do monthly prenatal care, without any discount or reprimand;
 - Workers health: employees cannot suffer a discount on their salary due to illness, as evidenced by a medical certificate. Guide employees and their children to keep the vaccination card up to date. Guide the employees, who have a persistent cough for three weeks (tuberculosis symptom), to urgently seek the nearest Basic Health Unit (UBS), in order to undergo medical treatment.

C) Wages

- all persons who are carrying out a subordinate job (under the orders of the employer), regardless of the degree of kinship and, regardless of the function to be exercised (seamstress or cook), are employed, including the right to receive their wages until the fifth working day of the month following the due date;
- work cannot be linked to the payment of debt with the employer or with a third party. This can be considered slave-like work;

- A) bilingual guidance project, involving awareness and information to policyholders, service providers and employees, about the legislation in force in the country. In addition, make the disclosure through the means of communication, through the service stations of *Poupatempo* (maintained by the Government of the State of São Paulo), through community health agents (who have access to service providers, who usually carry out their work contiguously with the houses visited), as well as, in the countries of origin of immigrants, through consulates and non-governmental organizations;
- B) establishment of a standardized protocol of intentions to which the policyholder and the service provider may adhere, in order to regularize the activities in the clothing sector within the established deadlines, observing the parameters set out in this proposal. It is suggested that the protocols can be offered and signed at SRTE and GRTEs, being certain that the state inspection activity will respect the deadlines specified for the regularizations. Another proposal was to use the *Poupatempo* Service Stations, maintained by the São Paulo State Government.
- C) Except for the personal opinion of the representative of the Brazilian Association of Koreans, it was agreed that outsourcing in the clothing sector shall be considered regular, only when it involves the middle activity of the policyholder and provided that there is no subordination or personality in the provision of services.

It was established that all activities that do not coincide with the specific purposes of the policyholder (explained as the company's social purpose in the social contract) are considered as support activity, and policyholders are aware that they can respond in the alternative for labor and social security credits not paid by the service provider. It was also established that

¹⁷ Suggestion of menu:

Breakfast – coffee, milk, bread and butter; snack –tea and bread

Lunch - rice, vegetables, chicken with potatoes, green leaves salad and fruit juice; snack –tea and biscuits

Dinner – Vegetable soup with potatoes, meat and bread; dessert - fruit.

the Brazilian State officially understands that the target activity (coinciding with the company's social purpose stated in the social contract) cannot, under any circumstances, be passed on to third parties, under penalty of the policyholder responding jointly for labor and social security credits not paid by the service provider).

Finally, the representatives of the Korean community raised the need for legislation to be passed that regulates outsourcing, with a view to ensuring greater legal certainty for policyholders.

- D) registration in CTPS of Brazilian employees and foreigners who already have a work / permanent visa;
- E) prohibition of night shifts, dangerous or unhealthy work for children under eighteen years old, and of any work for children under sixteen years old, except as an apprentice, from the age of fourteen; and
- F) proposition for the Brazilian government to create barriers, observing the rules of the WTO, for clothing from China, which compete unfairly with the same product manufactured in Brazil;

SECOND: MID-TERM PROPOSAL

Considering that the following proposals are conditioned to the action of the Brazilian Government (especially the granting of a permanent visa), a period of up to two years has been established for implementation, starting from the beginning of the policies.

- A) granting permanent visas to foreigners in Brazil, upon clear rules that are consistent with the current reality of MERCOSUR member countries and associates, with the provision of an official document within a reasonable time so that workers can receive the full protection ensured by labor legislation and social security;
- B) registration with CTPS and registration forms for foreign employees who acquire a permanent / work visa, with the worker being registered as a mandatory Social Security contributor;
- C) formalization of companies belonging to foreigners;
- D) provision of facilities for the inclusion of foreigners in housing programs and provision of real and personal guarantees that allow foreigners to rent suitable properties;
- E) creation of a quality stamp for garments that have been proven to be produced by companies that maintained decent working conditions for their employees. Optionally, it can also be added to the stamp that the good produced still respects ecologically responsible methods;
- F) commitment by policyholders to only use the services of regularly constituted providers, who keep the employees duly registered. Policyholders may, for their safety, provide in the commercial contract with the service provider that they periodically prove compliance with the labor rights requirements, and policyholders may even visit the service provider's establishment.

THIRD: LONG-TERM PROPOSAL

As a final proposal, with the possibility of long-term implementation, there is the development of a policy, between the founding states of MERCOSUR and associates that allows the free movement of people in this region.

Once the proposals are finalized, they shall be presented at the plenary meeting to be held at SRTE / SP next week.

Nothing more, the meeting closed at 12:30.

PACT MEETING ATTENDANCE LIST - FEDERAL DEFENDER'S OFFICE

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4

PACT AGAINST PRECARIOUSNESS AND FOR DECENT WORK IN SÃO PAULO - CLOTHING PRODUCTION CHAIN

Signature of the Pact Against Precariousness and For Decent Work in São Paulo - Production Chain
of the Clothing Industry - July 2009

SRT-SP's commitment: intensify inspection actions to combat slave labor:



<https://reporterbrasil.org.br/2010/03/pacto-contr-a-precarizacao-e-pelo-emprego-e-trabalhodecentes-em-sao-paulo-cadeia-productiva-das-confeccoes/>

VIEW DOCUMENT

Original document of the Pact Against Precariousness and For Decent Work in São Paulo
- Production Chain of the Clothing Industry, ratified on July 24, 2009:



REGIONAL SUPERINTENDENCE OF LABOR AND EMPLOYMENT IN SÃO PAULO

Labor Inspection Section

Occupational Health and Safety Section

Group to Combat Fraud in Labor Relations and Irregular Outsourcing

PACT AGAINST PRECARIOUSNESS AND FOR DECENT EMPLOYMENT AND WORK
IN SÃO PAULO - CLOTHING PRODUCTION CHAIN

São Paulo, July 24, 2009

Premises

Given that:

1. Since June 2007, the group called “Dignity for the migrant worker” has been meeting often with the aim of improving the working conditions of immigrants working in the clothing industry in São Paulo in any function of its productive chain, integrated at any time during the social dialogue process by:

- Ministry of Labor and Employment, through the Regional Superintendence of Labor and Employment in São Paulo;
- Public Labor Prosecution Office, through the Regional Labor Attorney of the 2nd and 15th Regions;
- Ministry of Justice, through the National Secretariat of Justice;
- São Paulo City Hall, through the Secretariat of Participation and Partnership; - Cibernarium
- Federal Public’s Defender’s Office;
- Union of the Clothing Industry for Women and Children and Youth of São Paulo and Region - Sindinvest;
- Union of Seamstresses of São Paulo and Osasco;
- General Central of Workers of Brazil - CGTB;
- Union Force;
- Union of shopkeepers in the commerce of São Paulo - Sindilojas;
- Fecomercio;
- Association of Labor Lawyers of São Paulo;

- Migrant Support Center - CAMI - SPM;
- Migrant Pastoral Center - CPM;
- Association of Bolivians - Bolbra;
- Community of Paraguayan nationals;
- Brazilian Association of Koreans;
- Brazil-Korea Commerce and Industry Chamber;
- Association of Bom Retiro Shopkeepers;
- NGO Repórter Brasil;
- Observatório Social Institute;

2. The Regional Superintendence of Labor and Employment in São Paulo started its Program to Combat Fraud in the Work Relationship and Irregular Outsourcing from October 2007;

And considering that:

There is a large number of undocumented foreign workers in the production chain of clothing companies in São Paulo;

This contingent of undocumented workers is, due to the fact that they do not have national documents, in a state of extreme vulnerability that causes the emergence of outbreaks of degrading and forced labor;

Despite being extremely widespread and used, outsourcing is not fully pacified and regulated, thus implying a series of problems typical of the modernization of business relations without the Labor Law being able to keep up with this current flow and causing, in most cases, in irregular outsourcing and precarious labor, especially in cases of undocumen-

ted foreign labor;

Irregular outsourcing is the one that violates the exact terms of Statement 331, of the E. TST, as well as the workers' fundamental and the principles of decent work proclaimed by the International Labor Organization and is, currently, one of the biggest focuses and sources of increase in accidents at work, insecurity, stress in the social environment, personal and family insecurity, unfair competition between companies, concentration of income, tax evasion and legal litigation, bringing enormous losses to workers, to the public purse and the whole society;

5. Brazilian and international legislation and praxis contain relevant provisions that refer to social consultation as a means of promoting and leveraging the well-being and continuous progress of workers;

ENTER INTO THE CURRENT AGREEMENT

Hereby, the entities listed below, hereinafter referred to as PARTIES, undertake, resolve and agree to make every effort, within the scope of their powers and attributions, for the ERADICATION OF DEGRADING AND / OR FORCED, PRECARIOUS, IRREGULAR AND / OR INFORMAL WORK OF immigrants in the provision of sewing services in the clothing industry, at any point of their production chain, in São Paulo, in the following terms:

I. The Auditing Department of the Ministry of Labor and Employment, through the Regional Superintendence of Labor in the State of São Paulo shall be responsible for the intensification of inspection actions aimed at identifying frauds in the employment contract, situations of degrading

and / or forced work and caused by insecurity through unlawful intermediation of foreign labor, within the scope of clothing manufacturing in São Paulo, and remedying them, with due regularization, along the lines of the national social legal system;

II. The Union Council of the Regional Superintendence of Labor and Employment in São Paulo shall be responsible for collaborating in the preparation and monitoring of inspection actions, in addition to evaluating the results, participating in the planning of guidance and clarification actions for the workers involved and acting as a link between the union entities and the other actors involved in this pact;

III. The Public Labor Prosecution Office, through the Regional Labor Public Attorney's Office of the 151 Region, shall be responsible for monitoring inspection activities with a view to detecting possible injuries to the diffuse and collective rights of workers throughout the clothing production chain and adopting applicable extrajudicial and judicial measures;

IV. The National Secretariat of Justice of the Ministry of Justice shall be responsible for participating in and promoting, in the city of São Paulo, lectures and courses related to the legal situation and the regularization of immigrants in Brazil, and training on the topic of human trafficking and human rights, as well as making its Call Center available, to provide guidance on the aforementioned subjects;

V. The Federal Public Defender's Office shall be responsible for promoting actions to monitor the administrative procedure at the Federal Police Station for the purpose of applying the effects of the Amnesty Law (Law No. 11,961 / 2009), with potential legalization of individual tutelage of foreigners, who do not ratify their rights administratively; channel individualized demands with the same object to procedures of the DPU

Human Rights Office and Collective Guardianships, for the purpose of collective actions and public civil actions; issue letters requesting or requiring information, documents, certificates, diligences and measures taken by the federal police authority, including recommending related conduct; enter social security actions for documented workers;

VI. The Municipality of São Paulo, through the Secretariat for Participation and Partnership, shall be responsible for cooperating in educational activities related to the work environment, rights and duties of immigrants, learning Portuguese and computing based on the Digital Inclusion Coordination – Telecenters.

VII. The Brazilian Association of Koreans shall be responsible for:

1. Disclose the purpose of the pact in the media of the Korean community in São Paulo / SP
2. Guide the Korean community's clothing manufacturing industries in the neighborhoods of Bom Retiro and Brás so that they can only relate to the legally constituted sewing workshops, through invoices.
3. Form a committee of clothing making representatives from the Korean community, with the aim of participating and discussing matters regarding the relationship with the sewing workshops, in the appropriate spaces such as: Observatory or Commission, to be created together with the Covenant. Examples of subjects to be discussed:
 - i. lawfulness and work environment
 - ii. comparative relation between the difficulty level of a sewing job and its respective payment
 - iii. quality control
 - iv. amicable resolution for pending payments for services provided by the sewing workshop
 - v. harmonious coexistence between parties: clothing manufacturer,

sewing workshop and seamstresses.

VIII. The Center for the Support of Migrants, an institution created and maintained by the Pastoral Service for Migrants, with the objective of working for the social insertion of immigrants, through training activities, legal and psychosocial guidance shall be in accordance with its mission to ensure fundamental human rights to immigrant workers, making themselves available to collaborate in the dissemination of informational materials, campaigns, mobilization of the community for awareness events, as well as observing the fulfillment of the pact based on the concrete demands of and of immigrants;

IX. The Scalabrinian Mission Nossa Senhora da Paz, which comprises the Pastoral Center for Migrants (CPM), the Casa do Migrante and the Center for Migratory Studies (CEM), based on its specific mission to fully defend the lives of migrants, aware of the complexity of social relations in a society based on inequality, undertakes, through its daily activities to accompany migrants, either individually or through its organizations, to disclose the terms of the pact, assist in its compliance and mediate conflict situations aiming to ensure that migrant workers and their families have all their rights and their moral and cultural integrity preserved;

X. The NGO RepórterBrasil, a member of the National Commission for the Eradication of Slave Labor and the Coordination Committee of the National Pact for the Eradication of Slave Labor, shall collaborate in the process of monitoring the pact, verifying compliance with the agreement by the signatories and tracking production chains in the textile and retail sector in São Paulo in order to verify the persistence of problems and the adoption of socially responsible policies by companies;

XI. FECOMERCIO, through the partnership with APCER - Portuguese Certification Association, an entity accredited for the task within the scope of the European Union, shall be certifying companies with the Fecomercio Quality Seal. The purpose of this certification is to disseminate the principles of Sustainability and Social Inclusion, ensuring the quality of the product and service, improving the image of commercial establishments, increasing business management and developing professionals;

XII. The creation of the IMMIGRANT AND LEGAL THIRD PARTY OBSERVATORY is agreed, which aims to observe the constant improvement of the work environment in the clothing industry in São Paulo, under the terms and conditions of operation to be defined by means of a statute to be established.

XIII. It is agreed to create the SECTORIAL CHAMBER FOR THE CLOTHING PRODUCTIVE CHAIN IN SÃO PAULO, whose objective will be to study the production chain and negotiate agreements aimed at assuring the correct, legitimate and legal labor accountability in cases where there is fractionation of the production chain through subcontracting (outsourcing), as well as serving as a negotiating environment between participating entities in the sense of the constant search for improvement in the work environment of this economic sector, under the terms of the statute to be prepared;

XIV. The signatories to this pact agree to make all efforts, within their competencies and proposals set out in that pact, necessary to keep the sewing workshops and other work environments operating within the minimum conditions provided for in Appendix I to this agreement;

XV. Those entities that participated in some way in the social dialogue process and that perhaps do not have the possibility of signing the pact

at this time, adhering through some specific work proposal or action, may do so at any future time, becoming part of the pact in the condition of covenants;

XVI. Any other entities related to the object of the present pact may also adhere to the terms of the present pact in the future, under the same conditions and provided that they also present proposals for work or specific action.

APPENDIX I - MINIMUM WORKING CONDITIONS TO BE OBSERVED IN THE CLOTHING MANUFACTURING PRODUCTIVE CHAIN:

In view of the creation of the Immigrant and Legal Third Party Observatory and the Sectorial Chamber for the Clothing Industry Production in São Paulo, we have listed below the minimum and non-degrading items, hereinafter referred to as DECENT MIGRANT WORK PLATFORM, which should be observed throughout the clothing industry production chain in São Paulo and monitored by the signatories:

DECENT MIGRANT WORK PLATFORM:

ALL employees must be duly registered with CTPS;

PROHIBITION of any form of forced labor, as well as the retention of assets, rights or wages for debt contracted due to foreign labor hiring;

PROHIBITION to the work of any person under the age of 16, except as an apprentice;

PAYMENT of wages by the 5th business day of the month following the due date;

DEPOSIT of FGTS (Government Severance Indemnity Fund for Employees) until the 7th of each month and INSS (National Social Security) until the 15th of each month following the expired one;

RESPECT the 8-hour day, or 44 hours a week shifts;

Full COMPLIANCE with the Collective Category Convention

COMPLIANCE WITH the Regulatory Norms for Safety and Occupational Medicine in all situations where they are applicable, and in parti-

cular the following:

Inform workers of occupational hazards that may arise in their workplace or of the means to prevent and limit occupational hazards or the results of their medical examinations and supplementary diagnostic examinations to which the workers themselves have been subjected or the results of environmental assessment actions carried out in their workplace;

Allow workers' representatives to monitor the inspection of legal and regulatory precepts on Occupational Safety and Medicine;

Provide employees, free of charge, with appropriate and in perfect condition and functioning Personal Protective Equipment - PPE;

Maintain workplace with floor-to-ceiling height (ceiling height), according to municipal postures and meeting the conditions of comfort and safety. Workplace floors should not have bumps and depressions. Above-ground floors such as balconies and terraces must be equipped with a guardrail. Workplaces must be protected against rain. Maintain workplaces with good sunstroke (without excessive sunlight or lack of sunlight);

Preventing by electric means the dangers of electric shock and all other types of accidents in the electrical installations, grounding them, not allowing simultaneous connection of more than one device to the same outlet, with the use of an accessory that increases the number of exits;

Provide sufficient space for safe work in those parts of electrical installations that must be operated, adjusted or examined. Signaling calling attention to the risk in the parts of the electrical installations under tension. Allow only qualified or competent or skilled professionals to work in electrical installations;

Protect power transmissions (pulleys, belts, etc.) at a height equal to or less than 2.50m (two meters and fifty centimeters) or on a work platform or circulation areas;

Provide seats for continuous work where the worker can work seated;

Not allow the manual transport of loads whose weight is likely to compromise the health or safety of the worker;

Plan or adapt the work station to a sitting position, whenever work can be performed in that position;

Seats used in work stations must meet the following minimum comfort requirements:

- a. height adjustable to the height of the worker and the nature of the function performed;
- b. characteristics of little or no conformation at the base of the seat;
- c. rounded front edge;
- d. seat-back shape slightly adapted to the body for protection of the lower back;

Observe the minimum lighting levels established in NBR 5413;

Keep enough emergency exits in workplaces.

Keep the emergency exit openings with a minimum width of 1.20 m (one meter and twenty centimeters);

Provide the establishment with portable fire extinguishers at the beginning and appropriate to the class of fire to be extinguished;

Maintain sanitary facilities separated by gender;

Submitting the sanitary facilities to permanent hygiene process;

Provide the establishment with appropriate changing rooms with individual lockers, observing the separation by gender;

Ensure comfort conditions during meals;

ALL foreign workers must be hired by the companies interested in taking on this labor in accordance with Resolution no. 80 of the National Immigration Council - CNIg, of the Ministry of Labor and Employment.

Thus, in order to declare the firm purpose of maintaining this work group, as well as its legitimacy in the social partnership, with a view to seeking solutions for the correct adequacy of the employment contract of the employees covered by this pact, they initial and sign this document:

[Signature]

José Roberto de Melo

REGIONAL LABOR AND EMPLOYMENT SUPERINTENDENT IN
SÃO PAULO

[Signature]

Ana Palmira Arruda Camargo

HEAD OF THE WORK INSPECTION SECTION OF THE REGIONAL
SUPERINTENDENCE OF LABOR AND EMPLOYMENT IN
SÃO PAULO

[Signature]

Viviane de Jesus Forte

HEAD OF THE WORKER'S SAFETY AND HEALTH SECTION OF
THE REGIONAL SUPERINTENDENCE OF LABOR AND EMPLOY-

MENT IN SÃO PAULO SUBSTITUTE

[Signature]

João Baptista Domingues Neto

COORDINATOR OF THE UNION COUNCIL FOR THE REGIONAL
SUPERINTENDENCE OF LABOR AND EMPLOYMENT IN SÃO
PAULO

[Signature]

Eleonora Pardini Coca

CHIEF ATTORNEY OF THE REGIONAL LABOR ATTORNEY'S OF-
FICE OF THE 15th REGION

[Signature]

Luciano Pestana Barbosa

NATIONAL SECRETARIAT OF JUSTICE

[Signature]

Janio Urbano Marinho Junior

HEAD FEDERAL PUBLIC DEFENDER IN SÃO PAULO

[Signature]

Rosana Gaeta

CIBERNARIUM- SECRETARIAT FOR PARTICIPATION AND PART-
NERSHIP OF THE MUNICIPALITY OF SÃO PAULO

Dong Soo Part

[Signature]

PRESIDENT OF THE BRAZILIAN ASSOCIATION OF KOREANS

[Signature]

Paulo files

COORDINATOR OF THE MIGRANT SUPPORT CENTER - SPM

[Signature]

Padre Mario Geremia

COORDINATOR OF THE MIGRANT PASTORAL CENTER - COM

[Signature]

Leonardo Sakamoto

GENERAL COORDINATOR OF THE NGO REPORTER BRASIL

[Signature]

Euclides Carli

1st PRESIDENT IN THE EXERCISE OF THE PRESIDENCY OF THE
FEDERATION OF TRADE IN SÃO PAULO – FECOMERCIO

The Regional Labor Prosecutor's Office subsequently ratified the Pact



PUBLIC LABOR PROSECUTION OFFICE
REGIONAL LABOR ATTORNEY'S OFFICE DO OF THE 2ND REGION
1ST DEGREE COORDINATING BODY
RuaCubatão n°322 – 2nd floor – Paraíso – São Paulo/SP – ZIP CODE 04013-001 –
Phone: (11) 3246-7000-Fax: 3246-7078

São Paulo, July 14, 2010.

OFFICIAL LETTER 2ª/CODIN/Nº 21545/2010

Ref PACT AGAINST PRECARIOUSNESS AND FOR DECENT EMPLOYMENT AND WORK IN SÃO Paulo –CLOTHING MANUFACTURING CHAIN(Please use this reference)

Ref. ProcessesSRTF 46219.025181/2009-79 e 4li2l9.025182/2009-13

Illustrious Sir.

We have come to greet and inform you that the Public Labor Prosecution Office of the Regional Labor Attorney's Office of the 2nd. Region, agrees with the statement of the PACT AGAINST PRECARIOUSNESS AND DECENT EMPLOYMENT AND WORK IN SAO PAULO – CLOTHING MANUFACTURING CHAIN, awaiting the designation of the day and time for this.

Being what was presented for the moment, we took the opportunity to present the protests of high esteem and distinguished consideration.

[Signature]

Elisa Maria Brant Carvalho Malta
LABOR PROSECUTOR

[Signature]

Vera Lucia Carlos
LABOR PROSECUTOR

Illustrious, Sir.

Dr. RENATO BIGNAMI

RegionalSuperintendence of Labor and Employment in São Paulo

Rua Martins Fontes, 109 - Centro

São Paulo - SP

01050-000

The CNIg recognizes the Pact's "maximum relevance" character in catalyzing initiatives that involve the various issues related to migrants' work:



MINISTER OFFICE
National Immigration Council

MEMO/GM/CGIg/N° 183/09

Brasília, October 30, 2009.

To the Regional Superintendent of Labor and Employment in the State of São Paulo,

Topic: Reply to MEMO/GAB/N°130/2009, which forwards technical consultation, requesting a statement by the National Immigration Council.

Due to the question asked by you regarding the performance of this Regional Superintendence of Labor and Employment, in the specific case of social consultation, involving the Pact Against Precariousness and for Decent Employment and Work in São Paulo - Clothing Manufacturing Chain, we emphasize that this Council understands that the role of this Regional Agency is of the utmost importance in catalyzing different efforts in addressing, among other issues, those involving the work of immigrants.

Thus, we register the full support of this National Immigration Council, in the instruments and procedures that are within its competence, in matters related to the work of foreigners, as well as in issues related to Brazilian migrants.

Yours Faithfully,

[Signature]

PAULO SERGIO DE ALMEIDA
President of the National Immigration Council

5

SÃO PAULO'S REGIONAL SUPERINTENDENCE OF LABOR'S PROGRAM TO FIGHT SLAVE LABOR

February 2010 - In strict compliance with the obligations contracted by ratifying the Pact, the Regional Superintendence of Labor in São Paulo initiates the work of the State Program for Combating Slave Labor. Thus, after information received from the Union of Seamstress in São Paulo, Lojas Marisa is responsible for the finding of degrading working conditions in an out-sourced sewing workshop without, however, applying all the procedures already practiced for national workers, in view of guidance by the Secretariat of Labor Inspection in the sense that a formal positioning of the portfolio on the matter should be sought:



<https://reporterbrasil.org.br/2010/03/escravidao-e-flagrada-em-oficina-de-costura-ligada-a-marisa/>

VIEW DOCUMENT





Labor Auditors Teresinha Aparecida Dias Ramos, Renato Bignami and Luís Alexandre de Faria at the entrance to the sweatshop that produced garments for Lojas Marisa

Sweatshop's General overview
All lots found are from the brand and owned by Marisa, indicating exclusivity in the provision of sewing services.



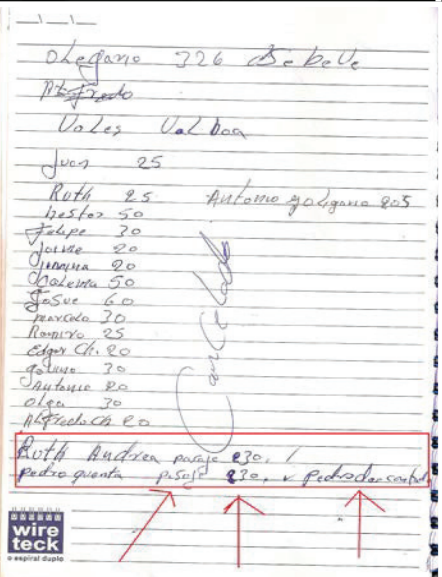
Labor Auditors Renato Bignami and Teresinha Aparecida Dias Ramos, and journalist Maurício Hashizum, from the NGO Repórter Brasil, interviewing a worker - sweatshop that produced garments for Lojas Marisa.

Labor Auditors Luís Alexandre de Faria and Joaquim Gomes Pereira, and journalist Maurício Hashizume, from the NGO Repórter Brasil, interview a worker in the sweatshop that produced garments for Lojas Marisa.

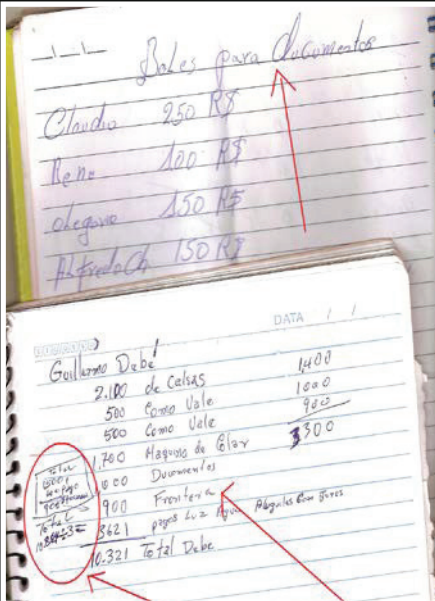


Labor Auditor Suêko Uski inspects accommodation in action in the production process of Lojas Marisa

Detail of the notebook seized in the sweatshop that produced garments for Lojas Marisa, with discounts of R \$ 230.00 on tickets to Brazil.



wire
teck
reptil duplo



Detail of the notebook seized in the sweatshop that produced garments for Lojas Marisa: vouchers for documents; highlighted, in the circle, “900.00 (without specifying the currency) paid for three people at the Border, showing strong signs of human trafficking. Below, 200.00 discount paid border stamp”.

Detail of the notebook seized in the sweatshop that produced garments for Lojas Marisa: “payroll wages”, per one month of work, wages below the minimum.

15 de mayo a 15 de junio

	Renda Zulu	Santidades	total salida	Exch. noio
Edgar	76	295	x 466.83	Qualif
Carlos	89	923	86.120	547.964 1072
Gala	108	44	x 202.16	pagº Simon p.B.
Rene	101	320	559.93	Alf
Olegario	93	304	528.01	Alf
Marcela	41	145	247.38	Alf
Reynaldo	136	150	x 380.38	pagado
Juan R.	94	211	x 329.05	-50 Edgar
Alfredo	178	520	994.84	Alf
Antonia	111	556	850.46	3850 Alf
Felipe	112	28	x 320.29	bazero
Ruth	56	242	762.03	Qualif



Shower available to workers - plumbing for cold baths.

In the sweatshop a mother, seamstress, takes care of her daughter while she works.



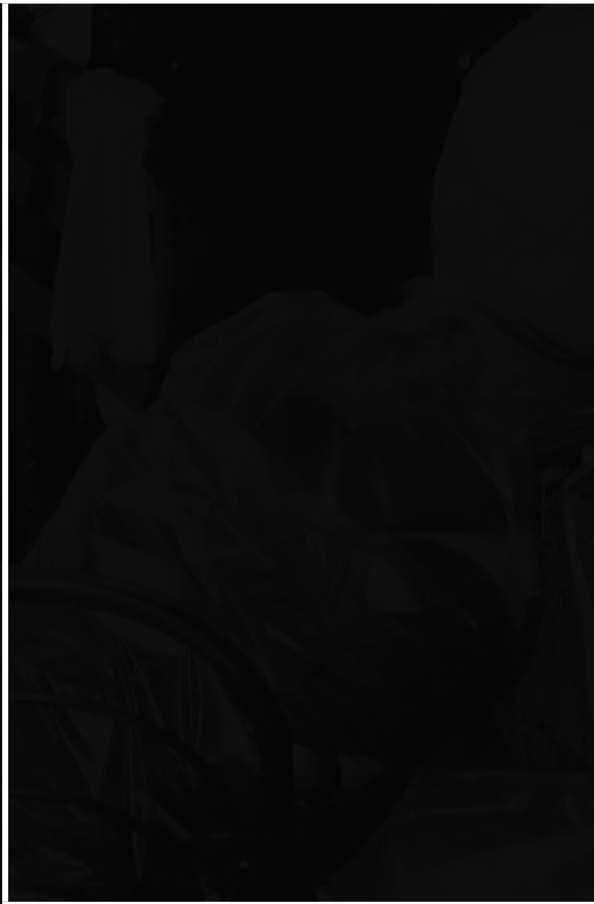
Bed placed in the kitchen, indicating home overcrowding and degrading conditions of work and housing.

Inadequate health and safety conditions, presenting different risks for workers.






There are many situations involving inadequate health and safety conditions, presenting different risks for workers.



6

ADMINISTRATIVE DIVERGENCES IN THE IMPLEMENTATION OF PUBLIC POLICY

July 2010 - After the Marisa case, the Regional Superintendence of Labor in São Paulo decides to carry out a technical consultation with the Secretariat of Labor Inspection, in order to obtain a favorable position for equal treatment between Brazilian and non-national workers, when in irregular migration situation in the country, for the purpose of slave-like conditions rescue, indicating, for this purpose, the legal reasons that supported this positioning.

SERVIÇO PÚBLICO FEDERAL							
				SFISCDRT-SP 4755A.000475/2010-93 05/08/2010			
SERVIÇO PÚBLICO FEDERAL							
INTERESSADO:							
<i>Seção de Fiscalização do Trabalho / SRTE - SP</i>							
ASSUNTO:							
<i>Consulta Técnica</i>							
OUTROS DADOS:							
<i>- Procedimentos de resgate de trabalhadores imigrantes submetidos à trabalhos análogos aos de escravidão no meio urbano e ao tráfico transnacional de pessoas.</i>							
MOVIMENTAÇÕES							
Seq.	SIGLA	CÓDIGO	DATA	Seq.	SIGLA	CÓDIGO	DATA
01	<i>SIT</i>		<i>05/06/10</i>	15			<i>/ /</i>
02			<i>/ /</i>	16			<i>/ /</i>
03			<i>/ /</i>	17			<i>/ /</i>
04			<i>/ /</i>	18			<i>/ /</i>
05			<i>/ /</i>	19			<i>/ /</i>
06			<i>/ /</i>	20			<i>/ /</i>
07			<i>/ /</i>	21			<i>/ /</i>
08			<i>/ /</i>	22			<i>/ /</i>
09			<i>/ /</i>	23			<i>/ /</i>
10			<i>/ /</i>	24			<i>/ /</i>
11			<i>/ /</i>	25			<i>/ /</i>
12			<i>/ /</i>	26			<i>/ /</i>
13			<i>/ /</i>	27			<i>/ /</i>
14			<i>/ /</i>	28			<i>/ /</i>
AS MOVIMENTAÇÕES DEVERÃO SER COMUNICADAS AO PROTOCOLO							
ANEXOS:							



**Regional Superintendence of Labor and Employment in the State of São Paulo's
Labor Inspection Section**

Memo 088/2010/SRTE/SFISC/SPSão Paulo, July 5, 2010.

To the Secretary of Labor Inspection - Dra Ruth Beatriz V. Vilela

Subject: Technical Consultation

1. I forward attached Technical Consultation on the procedures for the rescue of immigrant workers submitted to slave-like work in the urban environment and to transnational human trafficking.

Yours Faithfully,

[Signature]

MARCO ANTONIO MELCHIOR

Head of the Labor Inspection Section



**Ministry of Labor and Employment
Regional Superintendence of Labor and Employment in São Paulo
Labor Inspection Sector**

To the Secretary of Labor Inspection of the Ministry of Labor and Employment

Illustrious Dr. Ruth Beatriz Vasconcelos Vilela

Ref.: Technical consultation on the procedures for rescuing immigrant workers submitted to slave-like work in the urban environment and to transnational human trafficking.

São Paulo, July 05, 2010.

Dear Dr. Ruth,

Considering that:

- 1) The Regional Superintendence of Labor and Employment in São Paulo, through the Labor Inspection Section - SEFISC, leads the group named "Dignity for Migrant Workers" since January 2007 in the sense of, within the framework of social dialogue, diagnose, prevent and eradicate slave-like work, notably provided by undocumented South American workers in the sewing industries of the metropolitan region of São Paulo;
- 2) That this group, made up of various entities of the government, workers, employers and organized civil society, reached consensus on the minimum conditions related to decent work that ideally should be respected throughout the textile productive chain, configured in the Pact Against Precariousness and for Decent Employment and

Work in São Paulo - clothing sector, ratified in July 2009;

3) That the aforementioned Pact determined, regarding the obligations assumed by the Regional Superintendence of Labor and Employment in São Paulo, the increase and intensification of inspection actions in the clothing production chain in order to adapt the use of foreign labor to the Brazilian legal system, eradicating slave-like labor in this branch of the economy;

4) That there are several international norms for the protection of migrant workers, especially with regards to transnational human trafficking and the consequent exploitation of this labor under the various forms of forced or slave-like work, constituting the largest cultural collection of humanity in terms of fundamental rights, such as:

A) The 1948 Universal Declaration of Human Rights states in Article IV that:

No one shall be kept in bondage or servitude; slavery and the slave trade shall be banned in all its forms.

B) The Supplementary Convention on slave-like Practices of the United Nations, promulgated by Decree No. 58,563 of June 1, 1966, which determines, in its article 1:

Each Member State to this Convention shall take all legislative measures and otherwise, that are feasible and necessary, to progressively achieve and as soon as possible the complete abolition or abandonment of the following institutions and practices, wherever they still exist, whether or not in the definition of slavery signed in Geneva on September 25, 1926:

§ 1. Debt bondage, that is, the state or condition resulting from the fact that a debtor has committed to provide, in guarantee of a debt, their personal services or those

of someone over whom they have authority, if the value of those services it is not equitably assessed at the time of debt settlement or if the duration of these services is not limited or defined in nature;

§ 2. Servitude, that is, the condition of anyone who is bound by law, custom or an agreement, to live and work on another person's land and to provide that other person, against remuneration or free of charge, certain services, without being able to change their condition;

C) The Additional Protocol to the United Nations Convention against Transnational Organized Crime Relating to the Prevention, Repression and Punishment of Human trafficking, Especially Women and Children - Palermo Protocol, ratified by Brazil through Decree No. 5,017, of 12 March 2004, which states, in Articles 6 and 7 concerning assistance and protection for victims of human trafficking:

3. Each State Party shall take into account the application of measures that allow the physical, psychological and social recovery of victims of human trafficking, ..., in particular, the provision of:

d) Employment, education and training opportunities.

Article 7

Statute of victims of human trafficking in host States

1. In addition to taking measures in accordance with Article 6 of the present Protocol, each State Party shall consider the possibility of adopting legislative measures or other appropriate measures that enable victims of human trafficking to remain in their territory on a temporary or permanent basis, if applicable.

2. When implementing the provisions of paragraph 1 of this Article, each State Party shall take due account

of humanitarian and personal factors.

D) Convention No. 29 of the International Labor Organization ratified by Brazil on April 25, 1954, and approved by Legislative Decree No. 24, of May 29, 1956, which states, in its article 1:

1. Every member country of the International Labor Organization that ratifies this Convention undertakes to abolish the use of forced or compulsory labor, in all its forms, in the shortest possible time.

E) The International Convention for the Protection of the Rights of All Migrant Workers and Their Family Members of the United Nations, approved by the General Assembly in 1990, even though it has not yet been ratified by Brazil, offers important subsidies, in addition to the already classic declaratory content of respect the principle of equality and non-discrimination and protection against any type of forced labor, in the sense of understanding the scale of migrations for economic reasons and the importance of maximum protection for this extremely vulnerable type of worker by reaffirming that:

Article 25 1. Migrant workers must enjoy treatment no less favorable than that received by nationals of the State where they are employed, with regard to remuneration and:

a) other working conditions, ie overtime, working hours, weekly rest, paid holidays, safety, health, termination of employment and any other working conditions which, according to national laws and practice, are included in this term;

b) other working conditions, ie minimum age for

working, restriction of work at home and any other issues that, according to national laws and practice, are considered to be working conditions.

2. It is not lawful to question the principle of equal treatment referred to in art. 1 of this article in private employment contracts.

3. States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any of the rights resulting from this principle due to irregularities in their stay or employment. In particular, employers shall not be exempt from any legal or contractual obligations, nor will their obligations be limited in any way because of any of these irregularities.

Article 27 1. Migrant workers and members of their families enjoy, in the State where they are employed, with regard to social security, the same treatment as nationals insofar as they comply with the requirements provided for in the applicable legislation of that State or in applicable bilateral and multilateral treaties. The competent authorities of the State of origin and of the State of employment may, at any time, take the necessary steps to determine the modalities of application of this rule.

2. When the applicable legislation does not allow migrant workers or their families to enjoy any benefit, the State in question, based on the treatment accorded to nationals who are in a similar situation, will consider the possibility of reimbursing them the amount of contributions they have done in relation to these benefits;

5) That, within the framework of the progressive South American regional integration, there are several devices that indicate the full application of the principle of free movement of workers, mainly within the scope of Mercosur, plus the associated countries Bolivia and Chile, deter-

mining respect for the principle of equality treatment and non-discrimination and the harmonization of procedures, especially those related to the fight against human trafficking and the eradication of slave-like work;

6) That these provisions are positive in the set of constitutive treaties of Mercosur, plus Bolivia and Chile and, in particular, in the following documents:

A) Mercosur Social and Labor Declaration:

Considering that MERCOSUR's Ministers of Labor have expressed, in their meetings, that regional integration cannot be confined to the commercial and economic sphere, but must cover the social issue, both with regard to the adequacy of labor regulatory frameworks to the new configured realities for this same integration and for the process of globalization of the economy, regarding the recognition of a minimum level of workers' rights within the scope of MERCOSUR, corresponding to the fundamental conventions of the ILO;

Article 1 Non-discrimination:

1.- Every worker is guaranteed effective equality of rights, treatment and opportunities in employment and occupation, without distinction or exclusion on the basis of race, national origin, color, gender or sexual orientation, age, creed, political or union opinion, ideology, economic position or any other social or family condition, in accordance with the legal provisions in force.

2.- The States Parties undertake to guarantee the application of this principle of non-discrimination. In particular, they undertake to take actions aimed at eliminating discrimination with regard to groups at a disadvantage in the labor market.

ARTICLE 4. Migrant and Frontier Workers.

1.- Every migrant worker, regardless of their nationality, have the right to help, information, protection and equal rights and working conditions granted to nationals of the country in which they are carrying out their activities, in accordance with the law.

ARTICLE 5 Elimination of forced labor.

1- Everyone has the right to work freely and to exercise any trade or profession, in accordance with the national provisions in force.

2-States Parties undertake to eliminate any form of work or service required of an individual under the threat of any penalty and for which that individual is not offered voluntarily.

3.- In addition, they undertake to adopt measures to guarantee the abolition of all use of labor that provides, authorizes or tolerates professional forced or compulsory labor in each country.

ARTICLE 15 Protection to the unemployed. 1.- States Parties undertake to establish, maintain and improve mechanisms to protect against unemployment, compatible with the laws and internal conditions of each country, in order to guarantee the livelihood of workers affected by involuntary unemployment and, at the same time, facilitate access to outplacement services and professional retraining programs that facilitate your return to a productive activity.

ARTICLE 18 Labor Inspection.

1.- Every worker has the right to adequate protection with regard to working conditions and the working envi-

ronment.

2.- The States Parties undertake to establish and maintain labor inspection services, with the purpose of monitoring throughout their territory the compliance with the normative provisions regarding the protection of workers and the conditions of safety and health at work.

B) Residency Agreement for Nationals of the States Parties to the Southern Common Market - Mercosur, Bolivia and Chile, approved by Decree No. 6,975 of October 7, 2009:

REAFFIRMING the desire of the MERCOSUR States Parties and Associated Countries to strengthen and deepen the integration process, as well as the fraternal ties that exist between them.

BEARING IN MIND that the implementation of a policy of free movement of persons in the Region is essential for the achievement of these objectives;

AIMING to resolve the migratory situation of nationals of States Parties and Associated Countries in the region, in order to strengthen the ties that unite the regional community;

CONVINCED of the importance of combating trafficking in persons for the purpose of exploiting labor and those situations that imply degradation of human dignity, seeking joint and conciliatory solutions to the serious problems that plague States Parties, Associated Countries and the community as a whole. all, according to the commitment signed in the General Plan for Cooperation and Coordination of Regional Security;

Article 1 OBJECT

Nationals of a State Party who wish to reside in the territory of another State Party may obtain legal residence in the latter, in accordance with the terms of this Agree-

ment, upon proof of their nationality and presentation of the requirements provided for in article 4 of the present.

Article 8 GENERAL RULES ON ENTRY AND STAY

1. Persons who have obtained their residence in accordance with the provisions of Articles 4 and 5 of this Agreement are entitled to enter, leave, circulate and remain freely in the territory of the receiving country, subject to prior completion of the formalities provided for herein, and without prejudice exceptional restrictions imposed for reasons of public order and public security.

2. They are also entitled to exercise any activity, either on their own account or on behalf of third parties, under the same conditions as the nationals of the receiving country, in accordance with the legal rules of each country.

Article 9 IMMIGRANTS AND MEMBERS AND THEIR FAMILIES' RIGHTS

1. EQUALITY OF CIVIL RIGHTS:

Nationals of the Parties and their families who have taken up residence under the terms of this Agreement shall be entitled to the same civil, social, cultural and economic rights and freedoms as nationals of the receiving country, in particular the right to work and exercise any lawful activity, under the conditions provided by the laws; petition the authorities; enter, remain, transit and leave the territory of the Parties; associate for lawful purposes and freely profess their worship, according to the laws that regulate their exercise.

3. EQUAL TREATMENT TO NATIONALS:

Immigrants shall be entitled, in the territory of the

Parties, to treatment no less favorable than that received by nationals of the receiving country, with regard to the application of labor legislation, especially with regard to remuneration, working conditions and social insurance.

Article 10 PROMOTION OF MEASURES RELATING TO LEGAL MIGRATION AND EMPLOYMENT CONDITIONS IN THE PARTIES

The parties shall establish permanent cooperation mechanisms to prevent the illegal employment of immigrants in the territory of the other, to this end, they shall adopt, among others, the following measures:

a) Cooperation mechanisms between migration and labor inspection bodies, aimed at detecting and punishing illegal employment of immigrants;

b) Effective sanctions against individuals or legal entities that employ nationals of the Parties under illegal conditions. Such measures shall not affect the rights that correspond to immigrant workers, as a consequence of the work carried out under these conditions;

c) Mechanisms for the detection and punishment of individuals or organizations that profit from the illegal or clandestine movements of immigrant workers, whose objective is the entry, stay and work in abusive conditions of these people or their families;

7) That the Brazilian legal system contains several labor protection devices, whether provided by Brazilians or foreigners, in accordance with the principle of maximum protection of human rights, such as:

A) Federal Constitution of 1988, which, in its Article 5, establishes:

Art. 5 All are equal before the Law, without distinction of any kind, guaranteeing to Brazilians and foreigners

residing in the Country the inviolability of the right to life, freedom, equality, security and property, in the following term:

XIII - the exercise of any work, trade or profession is free, subject to the professional qualifications established by law;

Art. 7 The rights of urban and rural workers, in addition to others that aim to improve their social condition:

II - unemployment insurance in case of involuntary unemployment;

X - wages protection wages in accordance with the law, constituting a felony withholding;

B) The Consolidation of Labor Laws determines:

Art. 13 - The Work and Social Security Card is mandatory for the exercise of any job, including those of a rural nature, even if on a temporary basis, and for the exercise of paid professional activity on their own account.

Art. 17 - when impossible for the interested party to present a suitable qualifying document, the Work and Social Security Card shall be provided based on verbal statements confirmed by 2 (two) witnesses, drawing up, on the first sheet of general notes in the portfolio, term signed by the same witnesses.

C) Law No. 7,998 of January 11, 1990, which instituted the Unemployment Insurance Program, with the reform

provided for in Law No. 10,608, of December 20, 2002, states that:

Art. 2 The Unemployment Insurance Program aims to:

I-provide temporary financial assistance to the unemployed worker due to unfair dismissal, including indirect dismissal, and to the worker who is provenly rescued from forced labor or from slave-like conditions.

Art. 2a-C The worker who is identified as being subjected to forced labor or reduced to a slave-like condition, as a result of inspection action by the Ministry of Labor and Employment, will be rescued from this situation and will be entitled to the perception of three insurance installments - unemployment in the amount of a minimum wage each, according to the provisions of § 2 of this article.

§ 2~ It will be up to CODEFAT, at the proposal of the State Minister for Labor and Employment, to establish the necessary procedures for receiving the benefit provided for in the caput of this article, observing the respective commitment limits of FAT resources, being forbidden to the same worker to receive the benefit, in similar circumstances, in the twelve months following the perception of the last installment.

8) That among the various and important missions of this portfolio and, in particular, of the Labor Inspection Secretariat, to which all labor tax auditors are technically subordinate, is perhaps the most relevant of all: preservation, guarantee and control of the fundamental ri-

ghts of male and female workers, regardless of their nationality, throughout the national territory;

9) That the assurance of the full effectiveness of the fundamental rights of male and female workers in national territory is provided in a transversal way in the public policies embodied in the National Plan to Combat Human trafficking, the National Plan for the Eradication of Slave Labor, the National Plan for the Decent Work and in the Proposed National Policy on Immigration and Protection of Migrant Workers, which brings, in particular, the following statement: the issuance of migrants' documents must be quick in order to guarantee the regular exercise of rights and duties;

10) Finally, that from the legal analysis of all this previously presented collection, it appears that there can be no room for impunity for transnational human trafficking and the consequent slave-like work, within the mission that this portfolio has in assuring fundamental rights to workers.

Thus, after this previous and fundamental contextualization, we came to consult with you, through this technical consultation, and if you understand it convenient and timely, with due and prior consultation with the National Immigration Council - CNIg, of this portfolio, in the sense of adopting, in the audits and inspections in which the effective occurrence of slave-like work of foreign workers in the urban environment is verified, the exceptional procedures contained in Ordinance MTE No. 1,153 of October 13, 2003, in Ordinance MTE No. 1 of January 28, 1997, in Normative Instruction No. 76 of May 15, 2009 and in Reso-

lution Condefat No. 306 of November 6, 2002, as applicable, without prejudice to other measures that may be applied with the same purpose and, notably:

1) The rescue of foreign workers submitted to slave-like labor, with or without evidence of transnational human trafficking, with the subsequent release of three monthly installments of unemployment insurance, upon completion and issuance, by the labor inspector responsible for the rescue operation, the form for payment of unemployment insurance for workers rescued from slave-like conditions;

2) The immediate issuance of CTPS, by the auditor responsible for the rescue operation, regardless of the presentation of other identification documents of the foreign worker, and subsequent registration with the PIS;

3) The determination, by the auditor responsible for the rescue operation, of the registration and annotation at CTPS, by his employer, with the consequent indirect termination of the employment contract, under the terms of art. 483, of the CLT, and payment of the appropriate severance fees.

The exceptionality and speed of such procedures is justified, in the case of foreign migrant workers subjected to slave-like work, so that it is possible to:

- 1) Immediate documentation for that worker;
- 2) Rescue of the dignity of the human person;
- 3) Guarantee and regularization of the fundamental rights to the rescued worker;
- 4) Guarantee of food supply to the work;
- 5) Ensure the integrity of the safety and health of that

worker.

6) Promote greater effectiveness in punishing those responsible for transnational human trafficking and for slave-like work in the urban environment, with the punishment of the final beneficiaries of that work;

7) Realize the common good and contribute to the maintenance of social peace;

8) Contribute to normalize the transnational flow of workers;

All of these legal assets must be immediately guaranteed by the auditor responsible for the rescue operation, otherwise the fundamental rights of these workers shall be further degraded. It should be noted that the ordinary procedure for documentation of immigrant workers provided for in the Agreement on Residence for Nationals of the States Parties to the Southern Common Market - Mercosur, Bolivia and Chile, first with the Federal Police Department, follows its own rite that does not provide for the adequate speed for the purpose of rescuing the worker found in slave-like conditions, causing an unjustified delay in the measures provided for in the labor legal system, under the responsibility of the inspection of the Ministry of Labor and Employment, and which have contributed so effectively to returning the dignity of the Brazilian rescued worker. Such a procedure, in addition to guaranteeing the full application of the constitutional principle of equality and non-discrimination between Brazilians and foreigners residing in our country, would enable the instrumentalization of labor tax auditing in order to effectively combat work analogous to that of urban slaves, which has its own characteristics, but that can be tackled with the existing tools.

We also ask, as soon as possible, as fast as possible in the processing of this consultation, considering that there are several pressing complaints and some ongoing audits in which there are serious indications of the occurrence of slave-like work within the textile production chain, which certainly shall demand a positive, effective and efficient response from Labor Inspection in São Paulo.

Kind regards

[Signature]

MAKOTO SATO

Regional Superintendent of Labor and Employment
in São Paulo Substitute

[Signature]

MARCO ANTONIO MELCHIOR

Head of the Labor Inspection Section

[Signature]

RENATO BIGNAMI

Labor Auditor

The answer, however, was, at first, negative:

MINISTÉRIO
DO **TRABALHO**
E **EMPREGO**

Secretariat of Labor Inspection - SIT

TECHNICAL NOTE N.º 238/2010/MGC/SIT

Process number: 47553.000475/2010-93

Reference Document: Technical Consultation

Interested: Labor Inspection section - SRTE/SP

*Information in response
to the Technical Consultation
on immigrant slave labor.*

1 – Initial Considerations.

This is a demand originating from the Labor Inspection Section - SRTE / SP, where consultations are made about the possibility of adopting “in audits and inspections in which the actual occurrence of slave-like work of foreigners in the urban environment is found, the procedures exceptions contained in Ordinance MTE No 1153 of October 13, 2003, in Ordinance MTE No 76 of May 15, 2009 and in Codefat Resolution No 306 of November 6, 2002, as applicable, without prejudice to other measures that may be applied”.

The consultation preliminarily highlights the following points:

- a) participation of the Regional Superintendence of Labor and Employment in São Paulo in a Working Group named “Dignity for the Migrant Worker” which, by consensus of its participants, produced the so-called “Pact Against Precariousness and for Decent Employment and Work in São Paulo - Clothing Sector”, ratified in July 2009;

b) quotes of international and national regulations that regulate the protection of migrant workers, namely: 1) Universal Declaration of Human Rights, 1948; Supplementary Convention on Slave-like Practices of the United Nations, promulgated by Decree no. 58,563 of June 1, 1966; Additional Protocol to the United Nations Convention against Transnational Organized Crime Relating to the Prevention, Repression and Punishment of Human trafficking, Especially Women and Children - Palermo Protocol, ratified by Brazil through Decree n°. 5,017 of March 12, 2004; Convention 29 of the International Labor Organization, ratified by Brazil on April 25, 1954 and approved by Legislative Decree n°. 24 of May 29, 1956; Mercosur Partner Labor Declaration; Residence Agreement for Nationals of the States Parties to the Southern Common Market - Mercosur, Bolivia and Chile, approved by Decree n°. 6,975 of October 7, 2009; 1988 Federal Constitution; Consolidation of labor laws; and, finally, Law no. 7,998 of January 11, 1990. All of the aforementioned legislation constitutes the basic normative set of defense for immigrant workers, especially when victims of slave-like labor.

After the presentation of these introductory grounds, it is asked about the possibility of having, based on the mentioned normative, especially in the Residence Agreement for Nationals of the States Parties of the Common Market of the Southern Mercosur. Bolivia and Chile, approved by Decree n°. 6,975 of October 7, 2009:

1) Rescue of foreign workers submitted to slave-like labor, with or without evidence of international human trafficking, with the subsequent release of three monthly installments of unemployment insurance, upon completion and issue, by the Labor Auditor responsible rescue operation, of the unemployment insurance form of the worker rescued from slave-like conditions;

2) The immediate issuance of the Work and Social Security Card - CTPS, by the Labor Auditor responsible for the rescue operation, regardless of the presentation of other identification documents of the foreign worker, and subsequent registration with the PIS;

3) The determination, by the Labor Auditor responsible for the rescue operation, of the registration of the CTPS annotation, by the employer, with the consequent indirect termination of the employment contract, under the terms of art. 483 of the CLT, and payment of severance payments.

2 - Information.

Preliminarily, it should be pointed out that although the phenomenon of the existence of contemporary slave labor is more prevalent in rural areas, it is not whatsoever, its exclusivity. The Special Mobile Inspection Group has already encountered, especially in the south of the country, cases of slave-like labor involving immigrant workers.

The national norms related to combating contemporary slave labor do not exclude its application to immigrant workers, whether they are victims of slave-like work in rural or urban areas.

The issue of contemporary slave labor of an urban nature, especially involving Bolivian workers, has always been a storm for Law enforcement officials. Identifying the victims of slave labor (usually illegal immigrants) meant the immediate expulsion of the victims from the national territory for being here illegally.

There were countless efforts to overcome this condition, which constituted a real impediment to the application of coercive measures that would effectively combat cases of slave-like labor that may exist.

It is, therefore, in this context that the Residence Agreement falls into place for Nationals from the States Parties of Mercosul, Bolivia and Chile, promulgated by Decree no. 6,975 of October 7, 2009.

As of its application (October 2009), especially in relation to Bolivian workers, the main object of this consultation, there has been the possibility to legalize their situation in the country by granting temporary or permanent residence, as the case may be.

For a better understanding of the approach to the questions formulated in the consultation, we consider it important to mention, with our highlights, some of the provisions of the aforementioned Agreement:

“Article 3

APPLICATION SCOPE

The present agreement applies to:

- 1) *Nationals of a Party, who wish to settle in the territory of another and who present their application for entry into the country and the documentation*

determined in the following article to the respective consulate;

2) Nationals of a Party, who are in the territory of another Party, wishing to settle there and present their request for regularization and the documentation determined in the following article to the migration services.

The procedure provided for in paragraph 2 shall apply regardless of the migratory condition in which the petitioner has entered the territory of the receiving country and will imply exemption from fines and other severe administrative sanctions.

Article 4

TYPE OF RESIDENCE TO BE GRANTED AND REQUIREMENTS

1. To the petitioners included in paragraphs 1 and 2 of Article 3, the consular representation or the corresponding migration services, as the case may be, may grant temporary residence of up to two years upon submission of the following documentation:

a) Valid and in effect passport or identity card or nationality certificate issued by the consular agent of the country of origin, accredited in the country of reception, so that the identity and nationality of the petitioner is proven;

b) Birth certificate and proof of the person's marital status and nationalization or naturalization certificate, when applicable;

c) Negative certificate of judicial or criminal record and / or police in the country of origin or in which the petitioner has resided in the five years prior to his arrival in the country of reception or his request to the consulate, as the case may be;

d) Declaration, under the penalties of the Law, of the absence of an international criminal or police record;

e) Certificate of judicial and / or criminal and / or police background of the petitioner in the country of reception, in the case of nationals included in paragraph 2 of Article 3s of this Agreement;

f) *If required by the domestic legislation of the State Party of entry, a medical certificate issued by a migratory medical authority or other official health authority in the country of origin or reception, according to the equivalent, stating the petitioner's psychophysical aptitude, in accordance with the rules internal to the receiving country;*

g) *Payment of a service fee, as provided in the respective internal legislation.*

2. *For the purposes of legalizing the documents, when the application is processed at the consulate, it shall suffice to notify its authenticity, according to the procedures established in the country from which the document comes. When the request is processed by the migratory services, such documents must only be certified by the consular agent in the country of origin of the petitioner, accredited in the country of reception, without other care.*

Article 6

NON-PRESENTATION WITHIN THE ESTABLISHED PERIOD

Immigrants who, after expiring their temporary residence for up to two years, granted by virtue of article 4 of the present, do not present themselves to the migratory authority of the receiving country, are subject to the internal migration legislation of each State Party.

Article 9

RIGHTS OF IMMIGRANTS AND THEIR FAMILY MEMBERS

1. *EQUALITY OF CIVIL RIGHTS: Nationals of the Parties and their families who have taken up residence under the terms of this Agreement shall enjoy the same civil, social, cultural and economic rights and freedoms as nationals of the receiving country, in particular the right to work and exercise any lawful activity. , under the conditions provided by the laws; petition the authorities; enter, remain, transit and leave the territory of the Parties; associate for lawful purposes and freely profess their worship, according to the laws that regulate their exercise.*

2. *FAMILY UNITY: Family members who are not nationals of one of the States Parties shall be granted a residence permit of the same duration as the person on whom*

they depend, provided that they present the documentation establishing Article 3C and are not impeded. If, due to their nationality, family members need visas to enter the country, they must apply for residency before the consular authority, except when, under the internal rules of the receiving country, the latter requirement is not necessary.

3. *EQUAL TREATMENT WITH NATIONALS: Immigrants shall enjoy, in the territory of the Parties, treatment no less favorable than that received by nationals of the receiving country, with regard to the application of labor legislation, especially with regard to remuneration, working conditions and social insurance.*

4. *COMMITMENT TO SOCIAL SECURITY: The parties shall analyze the feasibility of entering into reciprocity agreements in social security matters.*

5. *RIGHT TO TRANSFER RESOURCES: Immigrants from the Parties shall have the right to freely transfer their income and personal savings to their country of origin, in particular the amounts necessary to support their family members, in accordance with national laws and regulations.*

6. *RIGHT OF THE IMMIGRANTS' CHILDREN: The children of immigrants, who were born in the territory of one of the Parties, shall be entitled to have a name, to register their birth and to read a nationality, in accordance with the respective domestic laws.*

The children of immigrants shall enjoy, in the territory of the Parties, the fundamental right of access to education on an equal basis with nationals of the receiving country. Access to pre-school institutions or public schools cannot be denied or limited to the circumstantial irregular situation of the parents' permanence.

Article 10

PROMOTION OF MEASURES RELATING TO LEGAL MIGRATION AND EMPLOYMENT CONDITIONS IN THE PARTIES

The parties shall establish permanent cooperation mechanisms aimed at preventing the illegal employment of immigrants in the territory of the other, for this purpose, they shall adopt, among others, the following measures:

a) Cooperation mechanisms between migration inspection and labor bodies aimed at detecting and sanctioning the illegal employment of immigrants;

b) Effective sanctions against individuals or legal entities that employ

nationals of the Parties under illegal conditions. Such measures shall not affect the rights that correspond to immigrant workers, as a consequence of the work carried out under these conditions;

c) *Mechanisms for detecting and punishing individuals or organizations that profit from the illegal or clandestine movements of immigrant workers, the purpose of which is to enter, stay and work in abusive conditions for these people or their families;*

d) *The Parties shall intensify the dissemination and public information campaigns, so that potential migrants know their rights.*

Thus, based on the articles mentioned and, especially in those highlighted excerpts, we now answer the questions formulated in the consultation:

1) The rescue of a foreign worker submitted to slave-like work, with or without evidence of international human trafficking, with the subsequent release of three monthly installments of unemployment insurance, upon completion and issuance, by the Labor Auditor responsible for the rescue operation, the unemployment insurance form of the worker rescued from slave-like conditions.

Being an immigrant worker in an irregular situation in the country, negotiations must be carried out with the identified employer in order to ensure the payment of their severance pay. As is in an irregular situation, there will be no CITs signature or issuance of an unemployment insurance form. The payment of severance must be pursued through negotiation or by filing with the Labor Court, through an initiative by a member of the Public Labor Prosecution Office, of specific action for this purpose. Please note that in the last fiscal operation of the Special Mobile Inspection Group, this was the procedure adopted.

It is clear that in an irregular situation, the worker shall be expelled from the country, not preventing this fact that they may receive his severance pay.

On the other hand, being in a regular situation in the country, the immigrant worker shall be the object of all procedures applicable to national workers, namely: issuing and signing CTPS: calculation and attempted payment of severance payments: filling out the unemployment insurance application.

2) **The immediate issuance of the Work and Social Security Card - CTPS, by the Labor Auditor responsible for the rescue operation, regardless of the presentation of other identification documents of the foreign worker, and subsequent registration with PIS.**

As pointed out in the previous item, only those workers who have obtained their regularization in the country shall be entitled to the issuance of CTPS. Certainly, in the case of obtaining this regularization, the worker shall have documents that will be sufficient for the issuance of the CTPS.

3) **The determination, by the Labor Auditor responsible for the rescue operation, of the registration of the CTPS annotation, by the employer, with the consequent indirect termination of the employment contract, under the terms of art. 483 of the CLT, and payment of severance payments.**

Having verified the situation of the immigrant worker submitted to the condition of slave-like work, two situations may occur:

- a) Workers in an irregular situation in the country: the labor inspectorate must notify the employer for the payment of severance payments. In cases the employers do not do this, one must seek from the Labor Court, through an initiative action by the member of the Public Labor Prosecution Office, the guarantee of said payment. Pursuant to the legislation in force, the worker shall be expelled from the country.
- b) Worker in a regular situation in the country: all the procedures foreseen in the fight against slave labor currently applicable to national workers must be adopted, in particular: issuing CTPS, seeking payment of severance payments and filling out the application for unemployment insurance forms.

It is never enough to remember that actions to combat slave labor must be made up by teams that necessarily involve: Labor Auditors, members of the Federal Police and the Public Labor Prosecution Office. We believe that in the case under analysis, slave labor by immigrants, it is essential that the presence of a Public Prosecutor be made possible due to the criminal aspects of the matter.

It should also be noted that each inspection operation must comply with all legal provisions related to the regulations governing actions to combat slave-like work, especially the production of a competent inspection report that must be sent in a timely manner to this Secretary.

A copy of the report shall be forwarded to the Public Labor Prosecution Office, the Attorney General's Office and the Federal Police for measures in their areas of competence.

To superior consideration.

Brasília, June 7, 2010.

[Signature]

Marcelo Gonçalves Campos

Labor Auditor

Brasília, June 7, 2010.

I approve the Technical Note. Refer to SRTE São Paulo for information about the interested party.

[Signature]

Ruth Beatriz V. Vilela

Labor Inspection Secretary

7

FIRST TECHNICAL RESCUE OF MIGRANTS IN AN IRREGULAR SITUATION: URBAN SLAVE LABOR SHOWS ITS FACETS

November 2010 - Despite the contrary opinions, the SRT/SP Labor Auditors carry out the first rescue of migrants in an irregular migratory situation, who worked in a sewing workshop, for the brand 775, in conditions of extreme violence and precariousness, since the urgent need to remove workers in situations of vulnerability and the factual reality of these workplaces were different from the public policies suggested by the central authority:



<https://reporterbrasil.org.br/2010/11/costureiras-sao-resgatadasde-escravidao-em-acao-inedita/>

VIEW DOCUMENT



Labor Auditors, Federal Public Defenders, Attorneys for the Republic and Labor Office, Magistrates and Servants of the State Secretariat for Justice and Citizenship meet before the operation to combat human trafficking and combat slave labor



Sweatshop that produced garments for the brand 775 Brazil - completely closed environment, with freedom restriction.

The workplace is completely closed by sidings.



In addition to the sidings, there is exposed wiring causing fire risk.

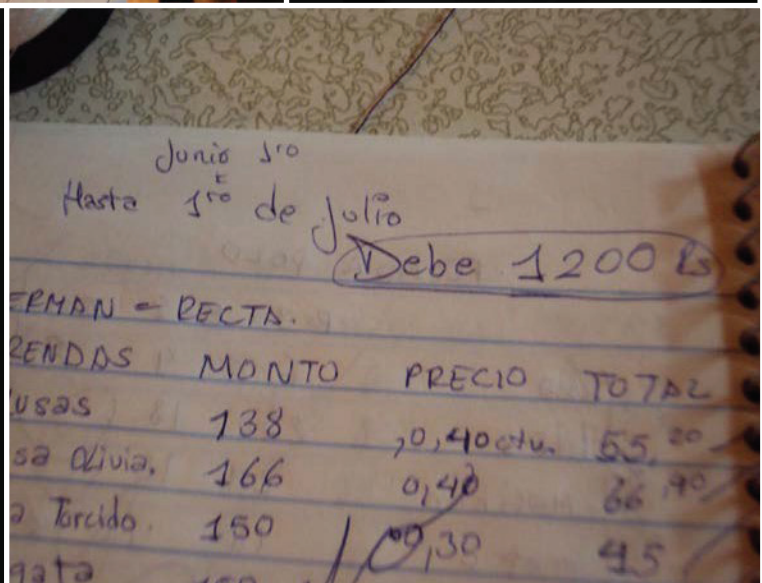


In the same sweatshop, Court of Appeal Judge Ivani Contini Bramante hears migrant worker in an irregular situation.



Labor Auditor Renato Bignami investigates evidence of the occurrence of human trafficking.

Debts are written down on a notebook seized at the workplace - the employee owes a balance higher than the amount received, indicating debt bondage.





Undocumented migrant workers worked in fear, under the productive system of the sweat system, through debts contracted during the trip, exorbitant hours, wages below the minimum, with limited access to warm bathing, inadequate food and, some of them, suffering moral and sexual harassment.

American writer and investigative journalist Benjamin Skinner interviews undocumented migrant worker.



Labor Auditor Luciana Veloso Baruki delivers a newly issued work card to the worker - the first national document of this migrant worker, previously undocumented.



Undocumented migrant workers who had suffered moral and sexual harassment in the workplace testify to Labor Auditors Luis Alexandre de Faria and Renato Bignami at the headquarters of the Regional Labor Superintendence in São Paulo - these workers, despite their irregular migratory situation, received unemployment insurance for workers rescued for the first time in the history of fighting human trafficking and combating slave labor in the country.



MINISTRY OF LABOR AND EMPLOYMENT
 REGIONAL SUPERINTENDENCE OF LABOR AND EMPLOYMENT IN SÃO PAULO
 WORK INSPECTION SECTION WORKER HEALTH AND SAFETY SECTION
 PROGRAM FOR COMBATING FRAUD AND IRREGULAR OUTSOURCING

APPENDIX II - LETTER

Mira señora sueko gracias por el interés q, tiene por las personas q Diosito la ayude mucho solo q, con respecto al Mario el en el trabajo el nos prestaba mucho q, cuando ~~le~~ me fui de ahí el me dijo q, yo le he perjudicada q, se le arruinado su maquina de ober q, la voy a dejar plantado con las maquinas p q, si yo no puedo deja de hacer las cosas q, si yo tengo ganas o no ganas de trabajar q, tengo q, hacer todo rapido para mi bien como a la fany y q, lo hace por mi bien q, cada vez q, venia a la maquina de ober si rompia mucho decia q, no tiene q, romper mucho y todo eso va disculpar por todo solo le puedo agradecer de corazón por todo q, si precisa de ayuda para limpiar o hacer algo solo me llame q, voy a estar ahí y q, Diosito se encarga de lo demás. solo eso.

Va disculpar por todo de nuevo por todas las molestias q, ~~to grande~~ nosotras las estamos haciendo pasar solo eso y de nuevo gracias mil y mil gracias q, Diosito la ayude y la bendiga mucho y a toda su familia.

Ojala no se moleste conmigo ~~talvez~~ perdón por todo y gracias por su amistad.

Ojala no se olvide de otras personas bolivianas q, tambien necesiten su ayuda.

gracias.

No es por q, no le tenga confianza si es por mi y de nuevo gracias por todo. y perdón.

Solo soy alguien q, quiere cumplir sus objetos, sueños, metas. sin perjudicar a nadie q, Diosito se va encargar de todo.

solo eso gracias de nuevo y perdón

Sweatshop that produced garments for the brand 775 Brazil - environment completely closed by siding - letter from undocumented migrant worker directed to the Labor Auditor SuekoCecíliaUski, who took her testimony regarding the violations of fundamental rights suffered in the workplace.

8

CONTINUITY OF THE PACT IN THE STATE SCOPE

At the end of 2010, the parties of the Pact understood that they should provide a more continuous solution to what had been firmed, and agreed to demand the government of the State of São Paulo to establish a State Commission for the Eradication of Slave Labor - COETRAE / SP. Thus, by means of Decree 57.368 of 2011, the Government of the State of São Paulo instituted, together with the Secretariat of Justice and Defense of Citizenship, the State Commission for the Eradication of Slave Labor - COETRAE / SP

DECREE N° 57.368,
OF SEPTEMBER 26, 2011

Establishes, together with the Secretariat of Justice and Defense of Citizenship, the State Commission for the Eradication of Slave Labor - COETRAE / SP and provides related measures.

GERALDO ALCKMIN, Governor of the State of São Paulo, in the use of his legal attributions,

Considering the ratification of the letter of commitment against slave labor, made public before the National Front for the Eradication of Slave Labor by the alliance “Unidos por São Paulo”, currently representing the Government of the State of São Paulo;

Considering that the eradication of slave labor is one of the priority axes of the National Decent Work Program, created from the National Decent Work Agenda;

Considering the provisions of the National Plan for the Eradication of Slave Labor, which indicates a series of measures to be implemented within a holistic conception that facing this challenge requires political will, articulation, action planning and definition of objective targets;

Considering the National Plan to Combat Human trafficking, whose paradigm represented by the emphasis on prevention, in the protection of victims and in the pursuit and accountability of the beneficiaries of this type of labor exploitation, signals a systemic and regionalized approach to the issue integrated with the guidelines issued by the central authorities;

Considering that the fight against slave labor is among the main strategic objectives of the National Human Rights Plan;

Considering the conclusions expressed in the CPI General Report on Slave Labor, prepared by the City Council of the Municipality of São Paulo, indicating the existence of work

carried out under slave-like conditions in the Metropolitan Region of São Paulo;

Considering the social consultation process initiated in 2007 within the scope of the Regional Superintendence of Labor and Employment of São Paulo named “Dignity Group for Migrant Workers”, which gave rise to the “Pact Against Precariousness and for Decent Employment and Work in São Paulo – Clothing Manufacturing Chain” which, at its last meeting in 2010, had the unanimous decision to evolve into a state commission for the eradication of slave labor;

Considering the various situations of precarious work that configure work carried out under slave-like conditions, both in urban and rural areas, involving both Brazilian and foreign workers, in the State of São Paulo;

Considering the importance, relevance and opportunity of consolidating a state policy to prevent and combat slave labor, integrated with the other policies related to the protection of human rights; and

Considering the possibilities of articulation and coordinated actions between State and civil society bodies and entities, aiming at the eradication of slave labor,

Declares:

Article 1 - The State Commission for the Eradication of Slave Labor - COETRAE / SP is hereby established with the Secretariat of Justice and Defense of Citizenship, with the purpose of proposing mechanisms for the prevention and confrontation of slave labor in the State of São Paulo, in articulation with the National Decent Work Program, the National Plan for the Eradication of Slave Labor and the National Plan to Combat Human trafficking.

Article 2 - The State Commission for the Eradication of Slave Labor - COETRAE / SP is responsible for:

I - evaluate and monitor the actions, programs, projects and plans related to the prevention and confrontation of slave labor in the State of São Paulo, proposing the necessary adaptations;

II - elaborate and monitor the fulfillment of the actions contained in the State Plan for the Eradication of Slave Labor, proposing the necessary adaptations;

III - prepare and approve its internal regulations;

IV - monitor the processing of draft bills related to the prevention and confrontation of slave labor;

V - evaluate and monitor the technical cooperation projects signed between the State of São Paulo and international organizations that deal with the prevention and confrontation of slave labor;

VI - recommend the development of studies and research and encourage campaigns related to combating slave labor;

VII - support the creation of similar committees or commissions at the regional and municipal levels to monitor and evaluate local actions;

VIII - maintain contact with sectors of international organizations, within the framework of the Inter-American System and United Nations Organizations, which are active in combating slave labor;

IX - prepare and approve its internal regulations.

Article 3 - The State Commission for the Eradication of Slave Labor - COETRAE / SP, will be composed of 1 (one) full member and respective alternate representing:

- I - the Secretariat of Justice and Defense of Citizenship;
- II - the Secretariat for Employment and Labor Relations;
- III - the Secretariat for Agriculture and Supply;
- IV - the Secretariat of the Environment;
- V - the Finance Secretariat;
- VI - the Public Security Secretariat;
- VII - the Secretariat of Education.

§ 1 - The coordination of COETRAE / SP will be the responsibility of the representative of the Secretariat of Justice and Defense of Citizenship, who will be replaced in their absences and impediments by his alternate.

§ 2 - COETRAE / SP will also integrate, by invitation, 1 (one) member and respective alternate, indicated by the following bodies:

1. Regional Labor Court – Labor Court of the 15th Region and Regional Labor Court of the 2nd Region;
2. Ministry of Labor and Employment, through representatives:
 - a) of the Regional Superintendence of Labor and Employment of São Paulo - SRTE / SP;
 - b) of the Labor Inspection Secretariat - SIT;
 - c) of the National Immigration Council - CNIg;
3. Public Labor Prosecution Office – PLPO of the 2nd Region and PLPO of the 15th Region;
4. Attorney General's Office in São Paulo;
5. International Labor Organization - ILO;
6. Public Defender of the State of São Paulo;
7. Public Prosecution Office of the State of São Paulo;
8. Federal Public Defender's Office in the State of São Paulo;
9. Regional Superintendence of the Federal Police of São Paulo;
10. Regional Superintendence of the Federal Highway Police;
11. Federal Regional Court of the 3rd Region;
12. Court of Justice of the State of São Paulo;
13. Superintendence of the Brazilian Federal Revenue in São Paulo;
14. National Institute of Colonization and Agrarian Reform - INCRA.

§ 3 - They may, at any time, integrate COETRAE / SP, through the appointment of 1 (one) representative and respective alternate, up to 23 (twenty-three) private non-governmental entities, recognized at the state level and that have relevant activities related to combating slavery.

§ 4 - The Holder of the Secretariat of Justice and Defense of Citizenship will designate,

by resolution, the members of COETRAE / SP, and the nominations must be forwarded to that Portfolio within a maximum period of 20 (twenty) days, counting from the date of publication of this decree.

§ 5 - They may be invited to join COETRAE / SP, as observers, representatives of public or private institutions, who have notable activities in combating slave labor.

§ 6 - COETRAE / SP may invite, when appropriate, to participate in its meetings, in an advisory capacity, representatives of agencies of the Federal and State Public Administration, of the Public Defender's Office, of the Legislative Power and of class entities and union representation and non-governmental organizations.

§ 7 - They can also participate in COETRAE / SP meetings, at the invitation of their Coordinator, specialists and representatives of public or private institutions, who exercise relevant activities in the prevention and confrontation of slave labor, as observers with participation in an advisory nature.

§ 8 - The functions of a member of COETRAE / SP will not be remunerated, but will be considered as a relevant public service.

§ 9 - COETRAE / SP's deliberations will be recorded in the minutes and published in the Official Gazette of the State.

Artigo 4 - The Secretariat of Justice and Defense of Citizenship will provide the necessary technical, administrative and financial support for the functioning of the State Commission for the Eradication of Slave Labor - COETRAE / SP.

Artigo 5 - This decree takes effect on the date of its publication.

BandeirantesPalace, September 26, 2011

GERALDO ALCKMIN

Eloísa de Sousa Arruda

Secretary for Justice and Citizenship Defense

David Zaia

Secretary for Employment and Labor Relations

Mônika Carneiro Meira Bergamaschi

Secretary of Agriculture and Supply

Bruno Coras

Secretary of the Environment

Andrea Sandra Calabi

Secretary of Finance

Antônio Ferreira Pinto

Secretary of Public Security

Herman Jacobus Cornelis Voorwald

Secretary of Education

Sidney Estanislau Beraldo
Chief Secretary of the Civil House

Published in the Civil House on September 26, 2011.

Founding decree of the State Commission for the Eradication of Slave Labor No. 57,368 of September 26, 2011, which expressly recognizes, in its seventh “considering”, the centrality of the social consultation process initiated in 2007 within the scope of the Superintendence Regional Labor, which culminated with the ratification of the Pact Against Precariousness and For Decent Work in São Paulo - Production Chain of the Clothing Industry, in July 2009, as a basis for the creation of the aforementioned commission.

9

FIRST STANDARD OF PERMANENCE TO MIGRANT VULNERABLE WORKERS IN THEIR FUNDAMENTAL RIGHTS

On December 21, 2010, incited by cases of undocumented migrant workers being subjected to human trafficking and slave-like conditions in São Paulo, the National Immigration Council publishes, for the first time, an administrative rule that stipulates the granting of permanence to workers victims of human trafficking, even if in an irregular migratory situation. Normative Resolution no. 93 is published on that date.

NORMATIVE RESOLUTION N° 93 OF DECEMBER 21, 2010.

Provides for the granting of a permanent visa or permanence in Brazil to foreigners considered victims of human trafficking.

NORMATIVE RESOLUTION N° 93 OF DECEMBER 21, 2010.

Provides for the granting of a permanent visa or permanence in Brazil to foreigners considered victims of human trafficking.

THE NATIONAL IMMIGRATION COUNCIL, established by Law no. 6,815 of August 19, 1980 and organized by Law no. 10,683 of May 28, 2003, in the use of the powers conferred by Decree no. 840 of June 22, 1993, states:

Art. 1 Foreigners who are in Brazil in a vulnerable situation, victim of the crime of human trafficking, may be granted permanence or permanent visas, under the terms of art. 16 of Law No. 6,815 of August 19, 1980, which will be conditioned to the one year term.

§ 1. From the granting of the visa referred to in the caput, the foreigners will be authorized to remain in Brazil and will be able to de-

cide whether they will voluntarily collaborate with any investigation or criminal proceeding in progress.

§ 2. The granting of a permanent visa or permanence may be extended to the spouse or partner, ascendants, descendants and dependents who have proven habitual coexistence with the victim.

Art. 2 For the purposes of this Resolution, human trafficking, as defined in the Additional Protocol to the United Nations Convention against Transnational Organized Crime Relating to the Prevention, Repression and Punishment of Human trafficking, in particular Women and Children, will be considered: "Recruitment, transportation, the transfer, accommodation or reception of persons, using the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of authority or the situation of vulnerability or the delivery or acceptance of payments or benefits to obtain the consent of a person who has authority over another for the purpose of exploitation".

Sole Paragraph. For the purposes of the caput, the term "exploitation" shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or slave-like practices, servitude or the removal of organs.

Art. 3 The request, which is the object of this Resolution, originating from the police or judicial authorities or the Public Prosecutor's Office who are in charge of criminal prosecution in which the foreigner is a victim, will be forwarded to the Ministry of Justice, which may immediately authorize the permanence of those who are in a regular migratory situation in the country.

Sole Paragraph. In the event that the foreigner is in an irregular migratory situation, the Ministry of Justice will work with the Ministry of Foreign Affairs to grant the respective visa in Brazil, under the terms of Normative Resolution No. 09 of November 10, 1997.

Art. 4 Up to thirty days before the end of the authorized permanence period in the form of art. 1, the foreigners must express to one of the public authorities involved in the criminal prosecution the intention to remain in Brazil and whether they are willing to collaborate voluntarily and effectively with any ongoing criminal investigation or prosecution.

Sole Paragraph. In the event provided for in the caput of this article, the respective authority shall inform the foreigner's manifested will to the Ministry of Justice, which shall decide on the extension, within the limit of art. 18 of Law No. 6,815 of 1980.

Art. 5 Public bodies involved in assisting victims of human trafficking may send a technical opinion to the Ministry of Justice recommending the granting of permanence or a permanent visa under the terms of this Resolution.

§ 1. For the purposes of the caput, technical opinions sent through the bodies listed below shall be accepted, according to their competence:

I - National Secretariat of Justice of the Ministry of Justice;

- II - Centers for Confronting Human trafficking;
 - III - Advanced reception service stations for Brazilians deported and not admitted to the main points of entry and exit in the country;
 - IV - Human Rights Secretariat of the Presidency of the Republic;
- and
- V - Services that provide assistance to victims of violence and human trafficking.

§ 2. The technical opinion referred to in the caput of this article must be based on the light of the National Policy to Combat Human trafficking, approved by Decree no. 5.948 of October 26, 2006, specifying the evidence that the foreigner is a victim of human trafficking.

Art. 6 The request referred to in art. 5 will be forwarded shortly to the National Immigration Council, which will decide on the granting of permanence or a permanent visa in the form of art. 1 of this Resolution.

Sole Paragraph. The request referred to in the caput will be analyzed in the light of the following requirements:

- I - that foreigners in situation of social, economic or psychological vulnerability, among others, that, in their country of origin, allow for a re-victimization, regardless of collaborating with the criminal investigation or prosecution; or

- II - that foreigners, as victims of the crime of human trafficking, are coerced or exposed to serious threats due to collaborating with the criminal investigation or prosecution in Brazil or in another country; or

- III - that, due to the violence suffered, need assistance from one of the services provided in Brazil, regardless of collaborating with the criminal investigation or prosecution.

Art. 7 For the instruction of the request in the form of this Resolution, the following documents must be attached, in addition to others that may be necessary for the analysis of the request:

- I - a valid passport or other travel document, which can be replaced by a document contained in CMC Decision 08/18, if nationals of any of the MERCOSUR States Parties or Associates;

- II - a declaration under the penalties of the law that they do not respond to a lawsuit or have a criminal conviction in Brazil or abroad;

and

- III - description of dependents

Art. 8 This Normative Resolution takes effect on the date of its publication.

PAULO SÉRGIO DE ALMEIDA

President of the National Immigration Council

Published on DOU (Official Gazette of the Union) n° 245 of December 23, 2010, Section I, Page 160.

10

INTERNATIONAL IMPACT

July 2011 - Zara, one of the largest fashion retail companies in the world, was held responsible by the Labor Auditors for subjecting workers to slave-like conditions in action that reverberated around the world:



<https://reporterbrasil.org.br/2011/08/roupas-da-zara-sao-fabricadas-com-mao-de-obra-escrava/>

[VIEW DOCUMENT](#)

<https://veja.abril.com.br/economia/marca-zara-esta-envolvida-em-denuncia-de-trabalho-escravo/>

[VIEW DOCUMENT](#)



<https://www.forbes.com/sites/andersonantunes/2011/08/17/zara-accused-of-alleged-slave-labor-in-brazil/#559934e51a51>

[VIEW DOCUMENT](#)

<https://www.reuters.com/article/zara-brazil/zara-supplier-accused-of-slave-labor-in-brazil-idUSN1E77G18N20110817>

[VIEW DOCUMENT](#)



<https://www.theguardian.com/world/2011/aug/18/zara-brazil-sweatshop-accusation>

[VIEW DOCUMENT](#)

<https://cleanclothes.org/issues/migrants-in-depth/stories/slave-like-conditions-at-zara-supplier>

VIEW DOCUMENT



https://www.bbc.com/mundo/ultimas_noticias/2011/08/110817_ultnot_brasil_zara_inditex_ropa_escandalo_esclavitud_jrg

VIEW DOCUMENT

https://elpais.com/diario/2011/08/19/sociedad/1313704804_850215.html

VIEW DOCUMENT



https://elpais.com/sociedad/2011/08/18/actualidad/1313618409_850215.html

VIEW DOCUMENT

<https://www.lefigaro.fr/societes/2011/08/18/04015-20110818ARTFIG00527-zara-accuse-de-travail-force-au-bresil.php>

VIEW DOCUMENT



https://www.lexpress.fr/styles/mode/zara-accuse-de-travail-force-au-bresil_1021774.html

VIEW DOCUMENT

<https://www.lastampa.it/esteri/2011/08/18/news/zara-sotto-inchiesta-per-lavori-forzati-1.36937870>

VIEW DOCUMENT





Thaíde, presenter of the program “A liga”, broadcast by Rede Bandeirantes, interviewing a worker victim of human trafficking and slave-like conditions in a sweatshop that produced garments for Zara.

A worker victim of human trafficking and slave-like conditions in a sweatshop that produced garments for the brand Zara.



A worker victim of human trafficking and slave-like conditions in a sweatshop that produced garments for Zara.

A mattress on which a worker victim of human trafficking and slave-like conditions slept in a sweatshop that produced garments for Zara.



A worker victim of human trafficking and slave-like conditions in a sweatshop that produced garments for Zara.

Labor Auditor
GiulianaOrlandiCassiano investigates
material found and interviews victims
of human trafficking and slave-like
conditions in sweatshop that produced
garments for Zara.





Another worker victim of human trafficking and slave-like conditions in a sweatshop that produced garments for Zara.

Thaíde, presenter of the program “A liga”, broadcast by Rede Bandeirantes interviewing a worker victim of human trafficking and slave-like conditions in a sweatshop that produced garments for Zara.



Stolen childhood: improvised room, with PVC partitions, without ventilation, where the children were kept in confinement in a sweatshop that produced garments for Zara.

Representatives of the Secretary of Justice and Citizenship Defense in the State of São Paulo and of the Seamstresses Union of São Paulo and Osasco assist workers who are victims of human trafficking and slave-like conditions in sweatshop that produced garments for Zara.



Labor Auditor Luís Alexandre de Faria and Social Educator Wilbert Rivas assist workers who are victims of human trafficking and slave-like conditions in sweatshop that produced garments for the brand Zara.

11

LABOR INSPECTION, MIGRATION AND FUNDAMENTAL RIGHTS

On October 5, 2011, the Labor Inspection Secretariat, inspired by the multiple cases that are handled by the Labor Auditors of the Regional Superintendence of Labor in São Paulo, reviews its previous position when adopting Normative Instruction no. 91 which indicates, for the first time, the procedures that the Labor Auditors must perform in order to rescue workers from slave-like conditions. Also for the first time, the Labor Inspection Secretariat expands the procedures for the urban area and equates human trafficking to slave labor, for the purposes of the applicable procedures, stating that all these procedures should also be applied to non-national workers, even when they are in an irregular migratory situation, referring the situation to RN 93 from CNIg. On the same date, the Secretariat publishes the first Manual to Combat Slave Labor:



<http://www.mpf.mp.br/atuacao-tematica/ccr2/coordenacao/comissoes-e-grupos-de-trabalho/escravidao-contemporanea-migrado-1/notas-tecnicas-planos-e-oficinas/combate%20trabalho%20escravo%20WEB%20MTE.pdf>

VIEW DOCUMENT

NORMATIVE INSTRUCTION OF THE LABOR INSPECTION
SECRETARIAT - SIT N ° 91 OF 10/05/2011

D.O.U.(Official Gazette of the Union): 10/06/2011

Provides for the inspection for the eradication of slave-like labor
and provides other measures

The Secretary of Labor Inspection, exercising the competence
provided for in item XIII of art. 14 of Annex I of Decree No. 5,063 of
May 3, 2004

Resolves:

Edit this Normative Instruction on procedures to be adopted with
regards to the inspection for the eradication of slave-like labor.

Art. 1. Slave-likework, in all forms, constitutes an attack on fun-
damental human rights and violates human dignity, and it is the duty of
the Labor Auditor to collaborate in its eradication.

SCOPE OF THIS NORMATIVE INSTRUCTION

Art. 2. The Labor Auditors shall observe the inspection for the
eradication of slave-like labor, in any urban, rural or maritime econo-
mic activity, and for any worker, national or foreign, the procedures pro-

vided for in this Normative Instruction.

Art. 3. For the purposes provided for in this Normative Instruction, slave-like work is considered to result from the following situations, either together or in isolation:

I - The submission of workers to forced labor;

II - The submission of workers to an exhaustive journey;

III - The subjection of workers to degrading working conditions;

IV - The restriction of the workers' locomotion, either due to contracted debt, or by restricting the workers' use of any means of transport, or by any other means with the aim of retaining them in the workplace;

V - Ostensible surveillance in the workplace by the employers or their agent, in order to retain the workers in the workplace;

VI - The possession of workers' documents or personal objects, on the part of the employers or their agents, in order to retain the workers in the workplace.

§ 1 The expressions referred to in items I to VI must be understood as follows:

a) "Forced labor" - all forms of work or service required of a person under the threat of sanction and for which they have not offered themselves spontaneously, as well as that required as a measure of coercion, of political education, of punishment for having or expressing political opinions or points of view ideologically opposed to the current political, social and economic system, as a method of mobilizing and using labor for economic development purposes, as a means of disciplining labor, as punishment for participating in strikes or as a measure of racial, social, national or religious discrimination;

b) "exhaustive workshift" - any workshift of a physical or mental nature that, due to its extension or intensity, causes the overexertion of the worker's bodily and productive capacities, even if transiently and temporally, thus resulting in risks to their safety and/or health;

c) "degrading working conditions" - all forms of disrespect for human dignity due to non-compliance with the fundamental rights of the worker, especially in matters of health and safety and which, as a result of work, happens to be treated by the employer, their agents, or even by third parties, as a thing and not as a person;

d) "Restriction of workers' locomotion" - all kinds of limitations imposed on workers to their fundamental right to come and go or to dispose of their workforce, including that of terminating the provision of work, due to debt, by direct or indirect means, by means of physical or moral coercion, fraud or other illicit means of submission;

e) "Restraining the use of any means of transport with the objective of retaining the worker" - any form of limiting the use of private or public transport used by the worker to move from work to other pla-

ces outside the employers' domains, including their residence, and vice versa;

f) "ostensible surveillance in the workplace" - any type or measure of corporate control exercised over the workers, with the objective of retaining them in the workplace;

g) "possession of the workers' documents or personal objects" - any form of unlawful seizure of the workers' documents or personal objects, with the objective of retaining them in the workplace;

§ 2 When identifying any infraction that may characterize one or more of the hypotheses provided for in items I to VI of the caput, the Labor Auditor must draw up the respective infraction notices, explicitly indicating in the body of each auto that the infraction, seen in together with the others, characterizes slave-like work.

§ 3 The Labor Auditor shall also list, in the body of each infraction notice drawn up, the number of Unemployment Insurance Claims issued.

Art. 4. The administrative finding of slave-like work made by the Labor Auditor, as well as the administrative acts resulting from it, do not depend on recognition in the criminal sphere.

Art. 5. The Labor Auditor, when concluding by the existence of slave-like work, shall take all the measures indicated in arts. 13 and 14, of this Normative Instruction.

Art. 6. The provisions of this Normative Instruction are applicable to cases in which the Labor Auditor identifies human trafficking for the purpose of exploiting slave-like labor, once any of the cases provided for in items I to VI of Art. 3 of this Normative Instruction are present.

§ 1 Human trafficking for the purpose of exploiting slave-like labor is considered, as defined in the Additional Protocol to the United Nations Convention against Transnational Organized Crime Concerning the Prevention, Repression and Punishment of Human trafficking, in particular Women and Children, promulgated by Decree No. 5,017 of 12 March 2004, "the recruitment, transportation, transfer, accommodation or reception of persons, resorting to the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of authority or situation of vulnerability or the delivery or acceptance of payments or benefits to obtain the consent of a person who has authority over another for the purpose of exploitation that will include, at a minimum, exploitation of forced labor or services, slavery or slave-like practices".

§ 2 The cases of trafficking of foreign workers in an irregular migratory situation for the purpose of exploiting slave-like labor that may be identified by the Labor Auditors must be referred for the granting of a permanent visa or stay in Brazil, according which determines the Normative Resolution no. 93 of December 21, 2010, of the National Immi-

gration Council - CNIg, in addition to all the other procedures foreseen in arts. 13 and 14, of this Normative Instruction.

§ 3 The referral mentioned in the previous paragraph will be carried out by means of a letter from the superior leadership, pursuant to art. 18, II, of Ordinance No. 546 of March 11, 2010, with the indication of irregular foreign workers, addressed to the Ministry of Justice and duly instructed with technical advice from one of the following bodies, according to their competence:

- I- National Secretariat of Justice of the Ministry of Justice;
- II - Centers for Confronting Human trafficking;
- III - Advanced reception service stations for Brazilians deported and not admitted to the main points of entry and exit in the country;
- IV - Federal Human Rights Secretariat; and
- V - Services that provide assistance to victims of violence and human trafficking.

INSPECTION ACTIONS FOR THE ERADICATION OF SLAVE-LIKE LABOR

Art. 7. Inspection actions for the eradication of slave-like labor shall be coordinated by the Secretariat of Labor Inspection, which may carry them out directly, through the teams of the special mobile inspection group, or through organized inspection groups / teams within the scope of the Regional Labor and Employment Superintendence - SRTE through the superior leadership, under the terms of art. 18, II, of Ordinance No. 546 of March 11, 2010.

Art. 8. Whenever the Regional Superintendence of Labor and Employment, through the superior leadership, under the terms of art. 18, II, of Ordinance No. 546 of March 11, 2010, receive a complaint that reports the existence of workers reduced to slave-like conditions and decide to take a local action to ascertain the facts, must before beginning the inspection communicates to the Labor Inspection Secretariat.

Art. 9. The Labor Inspection Secretariat and the Regional Superintendence of Labor and Employment, through the superior leadership, under the terms of art. 18, II, of Ordinance No. 546 of March 11, 2010 shall carry out diagnoses of economic activities with incidence of slave-like work, which will serve as a basis for the preparation of the planning and development of inspection actions.

Sole Paragraph. Meetings shall be held annually for a critical analysis of the execution and monitoring of the planned actions during the year.

Art. 10. The Regional Superintendence of Labor and Employment, through the superior leadership, under the terms of art. 18, II, of Ordinance No. 546 of March 11, 2010, shall seek to articulate and integrate

with the bodies and / or entities that make up the State Commissions for the Eradication of Slave Labor - COETRAEs, and the State Committees for Combating Human trafficking, within the scope of each state of the federation and the Federal District.

Sole Paragraph. The articulation foreseen in the caput of this article shall aim at the elaboration of diagnoses and the election of priorities that will compose the planning referred to in Art. 9 of this instruction and, in particular, the feasibility of other measures that are outside the administrative scope of the Labor Auditor's responsibility.

Art. 11. The election of priorities that shall compose the planning provided for in Art. 9 of this instruction must contain the indication of sectors of economic activity to be inspected and the programming of the human and material resources necessary to carry out the inspections, in addition to the identification of actions to be developed together with the partners referred to in the previous article.

Art. 12. Inspection actions must count on the participation of representatives of the Federal Police, or Federal Road Police, or Military Police, or Civil Police, or other police authority.

§ 1 The superior leadership, under the terms of art. 18, II, of Ordinance No. 546 of March II, 2010, shall officiate, aiming at the participation of members of one of the bodies mentioned in the caput, as well as sending to the Attorney General's Office (AGU), to the Federal Prosecution Office (MPF), the Public Labor Prosecution Office (MPT) and the Public Defender's Office (DPU) prior communication on the operation, so that these institutions evaluate the convenience of integrating it.

§ 2 If the operation coordinator considers the assistance of the police force to be unnecessary, the participation of the authorities mentioned in the caput of this article may be waived, provided that the superior leadership agrees.

Art. 13. The finding of slave-like work shall give rise to the adoption of the procedures provided for in art. 2 C, §§ 1 and 2, of Law No. 7,998 of January 11, 1990, and the Labor Auditor must rescue the worker who is subject to this condition and issue the Unemployment Insurance Claim.

Art. 14. The Labor Auditor, when concluding by finding slave-like work, shall determine that the employer or agent takes the following measures:

- I - The immediate stoppage of the activities of the employees found in a slave-like condition;
- II - The regularization of employment contracts;
- III - The payment of labor credits through the Terms of Employment Contract Terminations;

IV - The (no registry)

V - The fulfillment of the ancillary obligations to the employment contract, as well as making arrangements for the return of workers to their places of origin or to the hotels, public shelter or similar, when applicable.

§ 1: The infraction notices drawn up as a result of this action shall describe the facts in detail and shall be conclusive regarding the existence of work in slave-like conditions, in accordance with the provisions of §§ 2 and 3 of Art. 3 of this Normative Instruction.

§ 2 In case of non-payment of the Government Severance Indemnity Fund and Social Contribution for Employees, the relevant Notification for Collection (NFGC and NRFC) must be drawn up.

§ 3 In case of non-compliance with the determinations contained in items I, II, III or V, the Labor Auditor shall report the fact immediately to the Head of Inspection to inform the Federal Attorney's General (AGU), the Public Labor Prosecution Office (MPT) or the Federal Public Defender's Office (DPU), in order to take the appropriate legal measures.

§ 4 In case of a situation of serious and imminent risk to the safety and / or health of the worker is found, the measures provided for by law will be taken.

Art. 15. Due to its nature and severity, according to art. 1 of this Normative Instruction, in cases where work is found in slave-like conditions, the drawing up of infraction notices overrides any inspection audit criteria used in other actions.

Art. 16. The infraction notices and fiscal Notices for the collection of the Government Severance Indemnity Fund and Social Contribution resulting from inspection actions in which the existence of slave-like work is found, shall be assessed and identified through different covers and shall have priority in processing.

Art. 17. It shall be the responsibility of the Labor Auditor, duly accredited by the Public Policies and Employment Secretariat, to complete the Notice of Dismissal of the Rescued Worker - CDTR, handing over the proper copy to the interested party and another to the immediate boss to be forwarded to the Secretary of Labor Inspection.

§1A copy of the rescued worker's Unemployment Insurance Application must be kept attached to the report sent to the Labor Inspection Secretariat.

Art. 18. Within five working days after the end of the inspection action, the group coordinator and / or team must prepare the competent inspection report and deliver it to the Chief Inspection Officer, who must verify the adequacy of all data and information therein inserted, for later forwarding to S1T, within a maximum period of five working

days from the date of their receipt.

TECHNICAL CRITERIA FOR THE INCLUSION OF THE OFFENDER IN THE REGISTRATION OF EMPLOYERS WHO HAVE KEPT WORKERS IN SLAVE-LIKE CONDITIONS

Art. 19. The criteria for the inclusion of an offender in the Registration of Employers who have kept workers in slave-like conditions are of a technical-administrative nature and linked to the fulfillment of the requirements contained in Inter-ministerial Ordinance No. 2 of 12 May 2011.

Art. 20. The inclusion of the offender's name in the Registration shall occur after a final administrative decision regarding the infraction notice drawn up as a result of an inspection action in which there was the identification of workers subjected to slave-like conditions.

Art. 21. The Labor Inspection shall monitor for a period of two years after including the offender's name in the Registration to verify the regularity of working conditions, and after that period, if there is no recurrence, proceed with their exclusion from the Register.

§ 1 The exclusion of the offender's name from the Registration shall be conditioned to the payment of the fines resulting from the inspection action, as well as proof of the settlement of any labor and social security debts, without prejudice to the period of time referred to in the caput of this article.

Art. 22. This normative instruction comes into effect on the date of its publication.

VERA LÚCIA RIBEIRO DE ALBUQUERQUE

On the same occasion, the Labor Inspection Secretariat, when reviewing a past position that operated against the principle of equal treatment between rescued nationals and non-nationals, was urged to manifest itself before the advisory body of the Federal Attorney's General in the sense of confirm its conviction, as the central authority in the field of labor inspection, on the need to assure all the rights and procedures already practiced for rescued national workers, including access to the unemployment insurance also to non-nationals, even though in an irregular migratory situation in the country, in view of the position initially opposed to that advisory body:

Positioning of the advisory body, after being urged by the sector of processing of the unemployment insurance benefits for rescued workers, of the defunct Ministry of Labor:



SERVIÇO PÚBLICO FEDERAL

MINISTÉRIO DO TRABALHO E EMPREGO
CPROD WEB – Controle de Processos e Documentos

DOCUMENTOS

Ministério do Trabalho e Emprego - MTE
Controle de Processos e Documentos - CPRODWEB



Nº. DOCUMENTO: 47625.000152/2011-90 DATA/HORA Abertura: 07/10/2011 16:44:04
INTERESSADO: COORDENAÇÃO GERAL DE SEGURO-DESEMPREGO DO ABONO SALARIAL E INDENTIFICAÇÃO
PROFISSIONAL - DEPARTAMENTO DE EMPREGO E SALARIO SECRETARIA DE POLITICVAS PUBLICAS DE EMPREGO -
MINISTERIO DO TRABALHO E EMPREGO / DF
PROCEDÊNCIA: ASSESSORIA JURÍDICA DA CGSAI/DES-SPPE/MTE / DF
ASSUNTO: Políticas Públicas de Emprego e Renda/ Seguro Desemprego/
Assunto Complemento: Pedido de pagamento de Seguro-Desemprego de trabalhadores resgatado



**Ministry of Labor and Employment
Secretariat of Public Employment Policies
Department of Employment and Salary
General Coordination of Unemployment Insurance, Salary Allowance and
Professional Identification.**

INFORMATIVE NOTICE N.º 1436/2011/CGSAP/DES/SPPE/MTE

Process number: **no**
Reference document: **Requirements submitted by MTE Auditors, as per the attached list.**
Interested: **General Coordination of Unemployment Insurance - CGSAP.**
Subject: **Request for payment of unemployment insurance for rescued workers.**

This is a consultation made by this General Coordination, based on Article 22, of Ordinance No. 483, of September 15, 2004 (Internal Regulations of the Ministry of Labor and Employment), to resolve doubts about the insurance discipline -Unemployment, with respect to the right to Unemployment Insurance for Rescued Workers, by foreign workers, not covered by the MERCOSUR residency agreement, as per requirements in the attached list, sent by SIT / DETRAE, resulting from tax action carried out by Tax Auditors of the Ministry of Labor in the State of São Paulo.

2. It is noted that the payment of the benefit to rescued Bolivian workers has been considered that currently the MERCOSUR Residence Agreements are in force, which determine that all Brazilian, Argentine, Paraguayan, Uruguayan, Bolivian and Chilean nationals may apply for residency in any signatory States regardless of whether they are in a regular or irregular migratory situation. What's more, foreigners of the aforementioned nationalities who are irregular in one of the Parties are exempt from fines or other administrative sanctions related to their migratory situation.

3. Decree No. 6,975, of October 7, 2009, put into effect the Agreement on residence for Nationals of the MERCOSUR States Parties, Bolivia and Chile signed on December 5 and 6, 2002. Paragraph 2 of Art. 3 of that agreement establishes:

“2) Nationals of a Party, who are in the territory of another Party, wishing to settle there and present their request for regularization and the documentation determined in the following article to the migration services.

The procedure provided for in paragraph 2 shall apply regardless of the migratory condi-

tion in which the petitioner has entered the territory of the receiving country and shall imply exemption from fines and other administrative sanctions.”

4. Paragraph 3 of Article 9 of the said document guarantees immigrants equal treatment with nationals under the terms below:

“Immigrants will enjoy, in the territory of the Parties, treatment no less favorable than that received by nationals of the receiving country, with regard to the application of labor legislation, especially with regard to pay, working conditions and social insurance.”

5. Article 10 of the Residence Agreement deals with the promotion of measures related to legal conditions of migration and employment in the parties, in the following terms:

“The parties will establish permanent cooperation mechanisms aimed at preventing the illegal employment of immigrants in the territory of the other, for this purpose, they will adopt, among others, the following measures:

- a) Cooperation mechanisms between migration and labor inspection bodies, aimed at detecting and sanctioning illegal employment of immigrants.
- b) Effective sanctions against individuals and legal entities that employ nationals of the Parties under illegal conditions. Such measures will not affect the rights that correspond to immigrant workers, as a result of the work carried out under these conditions.
- c) Mechanisms for the detection and punishment of individuals or organizations that profit from the illegal or clandestine movements of immigrant workers, whose objective is the entry, permanence and work in abusive conditions of these people or their families.”

6. That said, it is registered that Law No. 10,608, of 12/20/2002, which instituted the benefit to the worker proven rescued from the forced labor regime or from the condition analogous to slavery, as a result of the inspection action of the Ministry of Labor and Employment does not refer to the nationality of the worker.

7. Thus, considering the provisions of the Decree on the MERCOSUR Residency Agreement transcribed above, it has been considered, except for better judgment, that the treatment to be given to requests must be the same as that given to cases of rescued Brazilian workers. In this way, applications have been processed normally.

8. It so happens that in recent fiscal actions the condition analogous to that of slaves of workers from other countries in Latin America and other continents has been recovered, as in the present case of workers of Chinese origin (attached list).

9. Considering the above, this General Coordination wishes to know whether the right to unemployment insurance extended to workers who are proven rescued from forced labor or from conditions similar to slavery by Law No. 10,608, of 12/20 / 2002, which gave new wording to Art. 2, I, of Law No. 7,998 / 1990, extends to workers rescued from these conditions, regardless of their nationality.

To superior consideration.

Brasília, October 4, 2011

[Signature]
JOSIRLAVTERTWALENDORFF
CGSAP Analyst

Agreed.Refer to the Employment and Salary Department Office.

Brasilia, 10/04/2011.

[Signature]
MÁRCIOALVESBORGES

General Coordinator of Unemployment Insurance, Salary Allowance and Professional Identification

Agreed.Refer to the Public Policies and Employment Department Office.

Brasília, 10/04/2011.

[Signature]
RODOLFO PÉRÉÍXORELLY
Director of the Department or Employment and Salary

Agreed.Refer to the Minister's Office for information and later send it to the Legal Consultancy
- CONJUR / MTE.

Brasília,10/25/2011.

[Signature]
CARLO ROBERTO SIMI
Secretary for Public Policies and Employment



General Coordination of the Minister's Office

ORDER

Reference: **Document n°. 47625.000152/2011-90**

Interested: **General Coordination of Unemployment Insurance, Salary Allowance and Professional Identification**

Subject: **Application for payment of unemployment insurance for rescued workers.**

Please refer the document in reference to the Legal Consultancy, for acknowledgment and measures.

Brasília, November 22, 2011.

[Signature]

ALEX SANDROGONÇALVES PEREIRA
Chief of Minister's Office



MINISTÉRIO DO TRABALHO E EMPREGO
CONSULTORIA JURÍDICA

Eplanada dos Ministérios, Bloco F, 5º Andar Ed. Sede, Sala 519 - CEP: 70.059-900 - Brasília-DF
Tel.: (61) 224.4716 - Fax: (61) 321-0653 - www.mte.gov.br



Distribuo o presente processo à Coordenação-Geral de Assuntos de Direito Trabalhista para análise e manifestação.
 Prazo: _____ dias
 Brasília, 23/11/11
 [Signature]
 Jerônimo Jesus dos Santos
 Consultor Jurídico MTE

Redistribuo o presente processo ao (a) Sr. Juliana
 para análise e manifestação.
 Prazo: 10 dias
 Brasília, 23/11/11
 [Signature]
 Gustavo Damasceno Machado
 Coordenador-Geral de Assuntos de Direito Trabalhista
 Consultor Jurídico MTE



FEDERAL ATTORNEY'S GENERAL OFFICE
FEDERAL GENERAL CONSULTANCY OFFICE
LEGAL CONSULTANCY AT THE MINISTRY OF LABOR AND EMPLOYMENT

REPORT N° 650/2011/CONJUR-MTE/CGU/AGU

PROCESS NB 47625.000152/2011-90

INTERESTED: General Coordination of Unemployment Insurance.Salary Allowance and Professional Identification - CGSAP.

SUBJECT:Consultation. Unemployment Insurance.Rescued Foreign Workers.

Constitutional, Labor and Civil Procedural Law.Consultation from the General Coordination of Unemployment Insurance.Salary Allowance and Professional Identification - CGSAP. Unemployment insurance for foreign workers rescued from forced labor or slave-like conditions

Dear Legal Consultant,

1 – BRIEF REPORT

This is Informative Notice n »1436/2011 / CGSAP / DES / SPPE / MTE, through which the General Coordination of Unemployment Insurance, Salary Allowance and Professional Identification - CGSAP of this Portfolio forwards consultation on the extent of payment the benefit of unemployment insurance to foreign workers rescued from forced labor or slave-like conditions, regardless of their nationality.

2 - CGSAP emphasizes, through the aforementioned Notice, the extension of the payment of the unemployment insurance benefit to rescued foreign workers, originally from the countries that are part of the MERCOSUR Residency Agreement, Bolivia and Chile, promulgated by Decree 6,975 of October 7, 2009, regardless of whether they are in a regular or irregular migratory situation.

3 - It affirms that, due to the aforementioned Agreement, the treatment given to the unemployment insurance payment requirements of rescued Argentinean, Uruguayan, Paraguayan,

Chilean and Bolivian workers has been the same as the requirements of *falta uma parte do texto aqui* - ilegível.

4 - It emphasizes, however, that in recent fiscal actions, workers of other nationalities were rescued from slave-like conditions. Thus, CGSAP questions whether “the right to unemployment insurance extended to workers who have been proven to have been rescued from forced labor or from slave-like conditions by Law No. 10,608 of 20/12/2002, which gave new wording to art. 2, of Law No. 7,998 / 1990, extends to workers rescued from these conditions, regardless of their nationality”.

5 - The brief report.

II – CONSULTATION ANALYSIS

6 - Unemployment insurance is a temporary benefit granted to the unemployed worker, dismissed without just cause, provided for in the Federal Constitution, which in its art. 79 provides:

The rights of urban and rural workers, in addition to others that aim to improve their social condition:

(...)

II - unemployment insurance in case of involuntary unemployment.

7 - In the infra-constitutional plan, this institute is currently regulated by Law No. 7,998 of January 11, 1990, which instituted the Unemployment Insurance and Salary Bonus Program, and defined its purposes.

8 - The aforementioned legislation was amended, among other rules, by Law No. 10,628 of December 20, 2002, now ensuring the payment of unemployment insurance to the worker rescued from slave-like conditions, under the terms of the new wording given to art. 29 of Law No. 7,998 of 1990:

Art. 2. The Unemployment Insurance Program aims to:

I - provide temporary financial assistance to the unemployed worker due to unfair dismissal, including indirect dismissal, and to the worker proven rescued from a forced labor regime or from slave-like conditions:

// - assist workers in the search for jobs, promoting, for that, integrated actions of orientation, relocation and professional qualification.

9 - In this consultation, CGSAP questions whether foreigners of nationalities other than those covered by the MERCOSUR Residency Agreement, Bolivia and Chile, promulgated by Decree No. 6,975 of 2009¹⁸, are entitled to receive unemployment insurance benefits, in the condition of rescued¹⁹, regardless of whether they are in a regular migratory situation.

10. In fact, the Federal Constitution of 1988, in its art. 5, caput, provides that “All are equal before the law, without distinction of any kind, guaranteeing Brazilians and foreigners resident in the country the inviolability of the right to life, freedom, equality, security and property , in the following terms.

11 The condition of the foreigner in Brazil is regulated, at an infra-constitutional level, by Law No. 6,815 of 1990, known as the Foreigner’s Statute. The mentioned legislation provides, in its art. 91 that “Foreigners residing in Brazil shall enjoy all the rights recognized to Brazilians, under the terms of the Constitution and Laws”.

12. From reading these provisions, it appears that the national legal system ensures equal rights, except for some express exceptions, to Brazilians and foreigners resident in the country. Such an assertion does not mean that the non-resident foreigner, temporarily passing through the country, won’t have certain constitutionally rights guaranteed. Equal rights, however, are assured only to residents.

13. According to José Afonso da Silva²⁰, “a person is considered as a foreigner in Brazil, when they are born outside the national territory and, by any means provided for in the Constitution, do not acquire the Brazilian nationality. There are foreigners residing in the country and the non-residents. Those integrate the Brazilian population and coexist with nationals under the domination of the country’s legal-political order”.

14. And he continues: “The fundamental principle is that foreigners, residing in the country, enjoy the same rights and have the same duties as Brazilians. This parity of legal status is

¹⁸ Brasil, Argentina, Uruguai, Paraguai, Bolívia and Chile.

¹⁹ Brasil, Argentina, Uruguai, Paraguai, Bolívia and Chile.

²⁰ (...)

/ - to provide temporary financial assistance to the unemployed worker due to unfair dismissal, including indirect, and to the worker who is proven to have been rescued from a forced labor regime or from a slave-like condition (According to Law n» 10.608. de 20.12.2002)

‘ Curso de Direito Constitucional Positivo, 32 ed. São Paulo: Malheiros, 2009, p. 33S.

5 Curso de Direito Constitucional / Gilmar Ferreira Mendes, Inocêncio Mártires Coelho. Paulo Gustavo Gonet Branco. ed. rev. e atual. São Paulo: Saraiva, 2009, p. 772.

almost total with regard to the acquisition and enjoyment of civil rights, however, limitations, given their connection with the State and nationality of origin, which condition them a special statute, which defines their legal situation, regarding their rights and duties”.

15. Still on the subject, the teaching of Gilmar Ferreira Mendes stands out:

“The foreigner may be in Brazil permanently, with the purpose of establishing permanent residence or on a temporary basis, regardless of their status or the purpose of travel, the foreigner is granted the right to the basic guarantees of the human person: life, physical integrity, the right to petition, right to effective judicial protection, among others.

The discipline on emigration and immigration, entry, extradition and expulsion of foreigners is the exclusive legislative competence of the Union (CF, art. 22, XV).

In general, the enjoyment of civil rights is recognized abroad, with the exception of the right to paid work, which is recognized only by resident foreigners”. (Emphasis added).

16 - Based on such considerations, it is understood that only the resident foreigner, with a regular migratory situation in the country, will be entitled to the unemployment insurance benefit provided to the rescued worker, provided for in art. 2º, I, of Law nº 7.998 of 1990, as amended by Law 10.608, of 2002.

17 - Exception to this rule would depend on specific legislation, as is the case of foreign workers covered by the MERCOSUR Residency Agreement, Bolivia and Chile, promulgated by Decree 6,975 of 2009.

18 - It should be noted that such a position does not ignore the seriousness of the situation to which these foreign workers are subjected, who enter the national territory in search of better living conditions and end up subjected to degrading and inhuman conditions. However, it is up to the State to adopt practices to combat the illegal entry of these workers, and there is no legal support to extend benefits such as unemployment insurance.

19 - These are the considerations to be sent to CGSAP / SPPE, in response to the consultation submitted.

To superior consideration

Brasília, December 14, 2011.

[*Signature*]

Juliana Moreira Batista

Federal Attorney

Agreed. Submitted to the General Coordinator for their consideration.

Brasília, December 14, 2011.

[*Signature*]

Maria Leiliane Xavier Cordeiro

Federal Attorney

Labor Law Coordinator

ORDER N°1331/2011/CONJUR-MTE/CGU/AGU

REFERENCE: Process n° 47625.000152/2011-90

1. I approve the REPORT N» Q50/20II/CONJUR-MTE/
CGU/AGU.
2. Refer it to CGSAP/SPPE, as proposed.

Brasília December 16, 2011.

[Signature]
Jerônimo Jesus dos Santos
Legal Consultant/MTE

The Labor Inspection Secretariat, then, took a stand in favor of maintaining the non-national rescued worker Unemployment Insurance concession, even when in irregular migratory situation in the country:



Brasília, February 1, 2012

Protocol number:

Reference documents:

INFORMATIVE NOTICE N° 1436/2011/CGSAP/DES/SPPE/MTE

REPORT N° 650/2011/CONJUR-MTE/CGU/AGU

Interested: **Labor Inspection Secretariat - SIT**

Subject: **Making some considerations regarding the REPORT
N° 650/2011/CONJLR-MTE/CGU/AGU**

INFORMATIVE NOTICE/N° 04/2012/RB/GAB/SIT/TEM

I – BRIEF REPORT

1. The Secretariat for Public Employment Policies - SPPE / MTE forwarded the INFORMATIVE NOTE N 1436/2011 / CGSAP / DES / SPPE / MTE requesting, in summary, the position from the Legal Consultancy - CONJUR / MTE on the extension of the right to payment of the benefit provided for in Article 2, I, of Law No. 7,998 / 1990, as amended by Law No. 10,608 / 2002 - unemployment insurance for workers rescued from slave-like conditions as a result of the Labor Inspection action -

foreign workers, regardless of their nationality.

2. D. CONJUR, when analyzing the issue from the perspective of Constitutional, Labor and Civil Procedural Law, issued OPINION N ° 650/2011 / CONJUR-MTE / CGU / AGU in which they concluded, basically, that “only resident foreigners with a regular migratory situation in the country will be entitled to the unemployment insurance provided to the rescued worker”, in accordance with the provisions of the aforementioned legislation in line with the other provisions of the Brazilian legal system.

II - PRELIMINARY MANIFESTATION BY THE LABOR INSPECTION SECRETARIAT - COMBATING SLAVE AND HUMAN TRAFFICKING FOR SLAVE LABOR AS GUIDING FUNDAMENTALS FOR ADMINISTRATIVE POLICE ACTIVITY DEVELOPED BY LABOR INSPECTION

3. Firstly, it is important to emphasize that the confrontation of slave labor in our country has been done in an exemplary manner for over fifteen years, primarily by the Labor Inspection²¹.
4. On a daily basis, Labor Auditors conduct and coordinate operations of a multidisciplinary nature, both in rural and urban areas, which aim to verify situations of submission of workers to slave-like conditions and to ensure the application of protection legislation in an indistinct manner to all workers who are experiencing violations of their fundamental

²¹ The International Labor Organization - ILO and the United Nations - UN have repeatedly cited Brazil as an example in the fight against slave labor in several reports and publications on the subject. V. on the ILO's Global Report on Forced Labor in the World, version 2005: “In Latin America, the Brazilian experience is worth highlighting. (...) Law enforcement has also been intensified in Brazil with positive results. A Special Mobile Inspection Group (GEFM) was reinforced, while 150 new inspectors were relocated in 2004. to priority regions where forced labor has been concentrated”. Available at: www.oit.org.br/sites/all/forced_labor/Oct_relatorio_global.php

And ILO Global Report on Forced Labor in the World, version 2009: “Some of the best examples of action plans against forced labor originate in Latin America. Brazil's first action plan on” slave labor “was adopted in 2003, providing the basis for strong inter-ministerial coordination, through the National Commission for the Eradication of Slave Labor (CONATRAE), built on the basis of this experience, a Second Action Plan, adopted in September 2008, includes important new measures, such as a constitutional amendment proposal, which authorizes the expropriation and redistribution of the property of employers who use forced labor, and other legal changes, in order to promote the protection of workers subject to this type of work in Brazil. The Plan also proposes economic sanctions heavier against employers who use forced labor, depriving them of receiving loans from private and public entities and to sign any contract with a public entity. It has increased the powers of the Mobile Inspection Unit, and proposes the establishment of employment agencies in the areas of origin of forced labor. Finally, the plan includes new preventive and reintegration measures, such as the right to identity documents, legal assistance, social benefits, and professional training for workers released from forced labor “. Available at [cm: www.oit.org.br/sites/all/forccd_labour/oit/relatorio_global.php](http://cm:www.oit.org.br/sites/all/forccd_labour/oit/relatorio_global.php)

rights within the national territory, whether Brazilians or foreigners, regardless of their migratory situation.

5. Once slave labor is verified in the workplace, a series of technical procedures is initiated, under the responsibility of the Labor Auditor in charge of the operation.
6. Thus, it is observed that since 1995, when the Brazilian Government officially recognized the existence of slave-like labor in the country and began to take measures to eradicate it, public policies related to the topic have advanced firmly, gradually and correctly way towards complete control over the determining reasons that lead to the submission of workers, whatever their nationality, to slave labor.
7. As an immediate result of the advancement of these public policies, it appears that, since the beginning of operations aimed at combating slave labor, labor inspection has proven to be an efficient mechanism for rescuing the fundamental rights of the worker, applying administrative sanctions, restoring the workers' assets (through the payment of severance payments) and providing evidence for the Federal Public Ministry to act in the Judiciary²².
8. It is not for any other reason that several normative acts were prepared and edited, within the scope of the MTE, with the purpose of subsidizing the Labor Inspection with instruments and tools of an admin-

²² From the first actions in 1995 until 12/29/2011, 41,451 workers were rescued from a situation similar to that of slaves, which resulted in the payment of damages in the amount of R\$ 67,696,684.59 (Sixty seven million, six hundred and ninety six thousand six hundred and eighty c four reais and fifty c nine cents). In addition, 3,165 establishments remained inspected and 35,788 infraction notices were drawn up. In 2011 alone, 158 slavery-fighting operations were carried out in 320 inspected establishments, which reached 27,246 workers and resulted in 1850 registrations and 2271 workers rescued from subhuman conditions. Payments for severance payments totaled R \$ 5,448,737.23. 4,205 infraction notices were drawn up and 2,139 Rescue Worker Unemployment Insurance Guides and 339 Work and Social Security Portfolios were issued. It is imperative to emphasize that these figures include data on the fight against urban slave labor, in particular, resulting from various operations carried out in the State of São Paulo, which made it possible to rescue 135 workers in the clothing and construction industries, many of them irregular foreigners who suffered mistreatment and various fundamental rights violations in the work environment.

istrative nature that improve the inspection activity and guarantee the effectiveness of the combat operations to slave labor by Labor Auditors.

9. It is a series of decrees, ordinances, normative instructions and other acts of a normative character that reaffirm the primary competence of Labor Inspection in combating slave labor in our country, and which was published with a view to strengthening inspection activity²³.
10. With this intense normative activity and other administrative measures, the MTE has sought to standardize the work of the Labor Auditors in the face of conducts that characterize the submission of workers to slave-like conditions, with the purpose of actions maximum legal certainty actions, in order to avoid judicial questions that could lead to administrative insecurity.
11. Recently, the Labor Inspection Secretariat - SIT, of this MTE, published Normative Instruction no. 91, of October 6, 2011, which provides for the procedures to be adopted in relation to the inspection for the eradication of labor in a condition analogous to that of a slave, with the purpose of collaborating for the standardization of the procedures of labor auditors.
12. With the same purpose, the Manual for Combating Labor in Slave-like Conditions was published at the end of 2011, recently launched by the Minister of State for Labor and Employment, with great prominence because of its usefulness as source of information about tackling this

²³ Notably Decree No. 5,063 / 2004, which approves the MTE's regulatory structure, Ordinance No. 483/2004, which approves the intent regulations of the MTE bodies, both with indications of SIT's competence to formulate and propose inspection guidelines. labor, including port work, prioritizing the establishment of a policy to combat forced and child labor, as well as all forms of degrading work, in addition to Normative Instruction No. 76/2009, from SIT, which provides for the procedures for rural inspection, Normative Instruction "91/2011, which provides for procedures for the eradication of labor in a condition analogous to that of slave, and Resolution No. 306/2002, of CODF.FAT, which establishes procedures for granting Benefit of Unemployment Insurance to the worker rescued from a slave-like condition.

distortion of the labor market.

13. It is worth mentioning the fact that the Manual also deals with the issue of foreign workers and human trafficking for the purpose of exploiting slave-like labor.
14. In this sense, the Manual recognizes that, “following the best tradition in defense of human rights, the Ministry of Labor and Employment must seek to protect workers, regardless of their nationality, and this is the context of the work carried out by the inspection, in cases involving slave-like work, whether by nationals or foreigners²⁴”.
15. In addition to these factors that certainly ensure the Labor Inspection a fundamental role in the discussion about the topics related to the fight against contemporary forms of slavery, another aspect must be taken into account, when it comes to the slave-like work performed by foreign workers: the migratory situation of that worker.
16. In fact, normally the irregular enduring worker, that is, the one who entered the country or remained in it without the proper work visa and carries out work activity in spite of that fact, is in a situation of peculiar vulnerability, because their irregular and undocumented condition will certainly weaken this worker even more, at the moment they do their job, especially when they are in irregular migratory situation.
17. The irregularity of the migratory situation is pointed out as an important additional factor of vulnerability of the migrant workers that will

²⁴ MINISTRY OF LABOR AND EMPLOYMENT. Manual for combating slave-like labor. Brasília: Ministry of Labor and Employment, 2011. Pag. 34.

certainly increase the risk of these workers, exposing them to situations of violation of their basic human rights, a factor that has been highlighted in several documents prepared by the specialized doctrine²⁵:

“The situation of vulnerability to which migrants are subjected has led these people to countless forms of human rights violations ... one of them is the trafficking of migrants, including trafficking in labor ...”

18. The question of interposing the nomenclature human trafficking and slave labor, as well as the interdependence and interrelationship of these two terms, is also quite pertinent, since the exploitation of slave labor is one of the main purposes of the clandestine market characterized by trafficking in human beings: where there is slave labor, human trafficking is necessarily configured, as we will have the opportunity to clarify further ahead.
19. It is important to point out, however, that surely **not all irregular foreign workers end up being victimized by slave labor**, nor, likewise, **not all foreign workers rescued** by Labor Auditors in the course of combating slave labor operations **were in irregular migratory situation**.
20. However, the irregularity of the migratory situation of a given worker is a fundamental and determining factor for their submission to the slave-like condition, for the perpetuation of that evil and for the re-victimization of any workers rescued from a slave-like condition by labor inspection action.²⁶

²⁵ MILESI, Irmã Rosita. Migrações e direitos humanos. In: *Anais de migrantes e direitos humanos*. Cadernos da CMDH - SP. São Paulo: Prefeitura da Cidade de São Paulo, 2008. Pág. 36.

²⁶ V. also, in this regard, an ILO study on the connection between the irregular migratory status of the worker and the increased risks related to the submission of that worker to forced labor: MALPANI, Rohit. Legal aspects of trafficking for forced labor purposes in Europe. Working paper n. 48. Special action programme to combat forced labour. Geneva: International Labour Organization, 2006. Available at: http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wems_082021.pdf. DWYER, Peter; LEWIS, Hannah; SCULLION, Lisa; WAITE, Louise. Forced labour and UK immigration policy: status matters? JRF programme paper: forced labour. York: University of Salford, 2001.

Disponível em:

<http://cc.europa.eu/anti-trafficking/>

download.actionnscsid=ypDxTzhTzv6ljs7fXwYLQgrvP0LvVTGGyCwwz71JcJyqyFzl PH!

21. In this way, there is no doubt that the recognition of the extension of the right to unemployment insurance for foreign workers rescued from a slave-like condition, regardless of their nationality and their migratory situation, is extremely important and that the topic is directly related to the effectiveness of the Labor Inspection activity in one of the most expensive matters for its performance: the fight against slave labor in our country.
22. For this reason and considering that the issue of combating slave labor is a priority for this portfolio, SIT presents below further elements in order to support the analysis to be made by CONJUR.
23. Thus, in order to illustrate more clearly all the elements that are at the root of the fight against slave labor and human trafficking, we proceed to outline some explanations about the concept of human trafficking for the purposes of economic exploitation - slave labor - and its confrontation, on the part of the Brazilian State.

III – THE CONCEPT OF HUMAN TRAFFICKING FOR THE PURPOSE OF ECONOMIC EXPLORATION - WORK IN SLAVE-LIKE CONDITIONS - THE PALERMO PROTOCOL AS A SOURCE OF THE WORKERS’ FUNDAMENTAL RIGHTS

24. In a broad sense, human trafficking can be conceptualized as “the recruitment of third parties, by force, fraud, deception or other forms of coercion, for purposes of exploitation”, according to the United Nations Office on Drugs and Crime - UNODC. Thus, it is observed that human trafficking represents a serious violation of fundamental human

rights and must be combated in a systemic manner by the State.

25. Brazil, when ratifying the Additional Protocol to the United Nations Convention against Transnational Organized Crime Relating to the Prevention, Repression and Punishment of Human trafficking, in particular Women and Children, promulgated through Decree No. 5,017 of 12 March 2004, reaffirmed its commitment to combat these modern forms of slavery and human rights violations. The Palermo Protocol, as it is known, was adopted in that Italian city, on December 15, 2000, and came into force at the international level on September 29, 2003.
26. It is noteworthy that the Palermo Protocol, as it has the clear nature of an International Human Rights Treaty received by the Brazilian legal system, has the nature of a constitutional rule, as the local doctrine emphasizes²⁷:

“It must also be emphasized that, while the other international treaties have sub-constitutional hierarchical strength, the rights enunciated in international human rights protection treaties have the value of a constitutional norm”.
27. As for human rights treaties approved before Constitutional Amendment No. 45 or outside its parameters (art. 5, § 3, of the Federal Constitution), the Supreme Court has recently abandoned the notion that the rules arising from such commitments equivalent to ordinary laws. It is understood that these rules have a supra legal character in the legal system (majority understanding defended by Minister Gilmar Mendes in the judgment of HC 90.172 / SP, of RE 466.343).
28. Thus, it seems essential to reaffirm the international commitments that the Brazilian State assumed when ratifying the Palermo Protocol, and it is unnecessary to remember how much our country has been recog-

²⁷ PIOVEZAN, Flavia. Direitos Iwmanos e o direito constitucional internacional. 10ª edição, revista e atualizada. São Paulo: Editora Saraiva, 2009. Pág. 59.

nized at the international level for its social, economic and human rights advances, the which certainly increases the visibility and vigilance of the international community about the real fulfillment of all these commitments.

IV - ELEMENTS OF HUMAN TRAFFICKING, ACCORDING TO THE PALERMO PROTOCOL APPROVED BY DECREE N “5.017. OF 12 MARCH 2004

29. Thus, it is important to note that the definition of human trafficking contained in the Palermo Protocol includes three basic and cumulative elements: **the action, the means and the purpose of exploitation**²⁸. It is sufficient that only one of the characteristics relating to each of the elements is present for human trafficking being characterized. Below we draw a chart of the characteristics of each of the elements, based on Article 3, point “a”, of the Protocol:

The action	The means	The purpose of exploitation, minimum
the recruiting; the transport; the transfer; <u>the accommodation:</u> <u>people’s shelter</u>	threats; the use of force ; other coercion forms: kidnapping; <u>deceit:</u> <u>abuse of power:</u> <u>vulnerability:</u> receipt of payments or benefits to obtain the consent of a person who has authority over another.	Prostitution of others; Other forms of sexual exploitation; <u>forced labor:</u> <u>slavery or slave-like practices</u> <u>servitude:</u> organ removal.

30. Especially in relation to the confrontation with slave-like labor, we are interested in human trafficking with the purpose of this specific type of economic exploitation, according to the definition of the Palermo

²⁸ ORGANIZACIÓN INTERNACIONAL DEL TRABAJO. *El costo de la coacción*. Informe global con arreglo al seguimiento de la Declaración de la OIT relativa a los principios y derechos fundamentales en el trabajo. Conferencia Internacional del Trabajo. 98ª Reunión. Informe I (B). Ginebra: Oficina Internacional del Trabajo, 2009. Pág. 9

Protocol itself: forced labor or services, slavery or slave-like practices. Likewise, it is important to point out that in the field of typical actions related to human trafficking, the workers' reception and accommodation, with the purpose of subjecting them to slave-like conditions, are the two typical forms, common to all cases of workers being subjected to slave labor.

31. Thus, it is observed that the main purpose of human trafficking for economic purposes is profit, obtained from the exploitation of slave-like labor. This profit, or any other benefit, will be obtained through some form of exploitation of the victim, upon arrival at the destination and, mainly after welcoming and accommodating these workers, substantial elements of human trafficking for slave labor. This profit or benefit will be achieved through a situation of imbalance between the victim and their exploiter, necessarily in favor of the latter.

V - NATIONAL POLICY TO ADDRESS HUMAN TRAFFICKING

32. Through Decree No. 5,948 of October 26, 2006, the Brazilian Government approved the National Policy to Combat Human trafficking, which brought some definitions that are also fundamental to this consultation. In that sense, the referred document determines that:

Art. 2. § 3 The expression "slavery or slave-like practices" should be understood as:

I - the conduct defined in art. 149 of Decree-Law No. 2,848 of 1940, referring to the reduction to a slave-like condition; and

II - the practice defined in art. I of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, as servile marriage.

33. In the same way, when dealing with the solicitation of labor, normally related to illegal activities related to work in a slave-like condition, the Policy states:

Art. 2. § 4 The intermediation, promotion or facilitation of recruitment, transport, transfer, accommodation or reception of persons for the purpose of exploitation also constitutes human trafficking.

34. In turn, when dealing with the participation of the Labor Audit in the execution of the Policy, the competences and obligations of the MTE Inspection remain clear:

Art. 8 VII - in the area of Labor and Employment: a) to guide employers and union entities on aspects related to the recruitment and displacement of workers from one location to another;

- b) ***supervise the recruitment and displacement of workers to a location other than their Municipality or State of origin;***
- c) *promote articulation with professional entities aiming at training and re-inserting the victim in the labor market; and*
- d) ***adopt measures to optimize the inspection of those enrolled in the Registration of employers who have kept workers in slave-like conditions;***

35. Likewise, it is essential to understand the condition of movement of human trafficking, regardless of whether it is domestic or international trafficking, involving both Brazilian and foreign workers, embodied in paragraphs five and six of the Policy, reproduced below:

Art. 2. § 5 Internal human trafficking is that carried out within the same Member State of the Federation, or from one Member State to another, within the national territory.

§ 6 International human trafficking is that carried out between different states.

36. Another fundamental point for understanding the dimension of human trafficking concerns the irrelevance of the victim's consent for its characterization, according to the seventh paragraph of the Policy, reproduced below, as it is usually obtained through the victim's deception:

Art. 2 § 7 The consent given by the victim is irrelevant to the configuration of human trafficking.

VI – HUMAN TRAFFICKING FOR ECONOMIC PURPOSES AND SLAVE-LIKE WORK IN: AN INTRINSIC AND INTERDEPENDENT RELATIONSHIP

37. The relationship between human trafficking and slave-like labor is, therefore, intrinsic and completely interdependent. In this sense, it is important to highlight the understanding of the International Labor Organization, reproduced below:

*It is important to understand that **human trafficking has a close relationship with forced labor**. Indeed, the main purpose of human trafficking is to provide work force for bonded labor, whether for commercial sexual exploitation, economic exploitation, or both.*

It is appropriate to clarify that bonded labor is not to be confused with situations involving low wages or poor working conditions. In order to configure a bonded labor situation, two elements must be present: a) the work or service must be imposed under threat of punishment and; b) it must be carried out involuntarily. In practice, the punishment imposed on male and female workers come in many forms, ranging from more explic-

it expressions of violence (for example, confinement, death threats), to more subtle forms of rape, often of a psychological nature (for example, threat of denunciation of workers in irregular migratory situations to the police) or even financial sanctions (for example, non-payment of wages, threat of dismissal when the worker refuses to work overtime beyond the stipulated period) contractually or in national legislation), among others. The involuntary nature of the the work performance also presents itself under different faces, since the workers may find themselves bound to work activity by debt bondage schemes or even due to geographic isolation. In such cases, apparently voluntary work, in practice, proves to be involuntary.²⁹

38. In this way, the relationship between bonded labor and human trafficking is clearly observed, and the Labor Audit Office must make every effort to eradicate this type of vulnerability from workers' rights. Some basic conclusions can be highlighted, after understanding the terms above:
 - a. In the Brazilian legal system, once labor is configured in slave-like conditions, human trafficking for economic purposes will also necessarily be configured – slave-like work, since the element of economic exploitation is at the heart of the types. ;
 - b. The aim of trafficking for economic purposes is the exploitation of slave-like labor, by insidious, fraudulent means, etc;
 - c. Any national or foreign worker is subject to human trafficking for economic purposes, and it is the duty of the State to ensure all means at its disposal to achieve the eradication of this type of violation of fundamental human rights, **seeking primarily the protection of the victims and their reintegration the society;**

FAUZINA, Ana Luiza; VASCONCELOS, Márcia; FÁRIA, Thais Dumct. *Manual de capacitação sobre tráfico de pessoas*. Brasília: Organização Internacional do Trabalho, 2009. Págs. 10/11.

VII – WORKERS’ ORIGINS

39. Considering that human trafficking necessarily involves geographic mobility, through which a worker leaves their home and comfort zone to an unknown place, it is observed that this factor, reinforced with various shades of deception perpetrated against the worker in order to exploit them economically, it is responsible for the vulnerability reached in the exploitation of slave labor.
40. In this way, both the national recruited worker and the foreigner, both victims of human trafficking for economic purposes, are outside their home, most of the time away from their family members and usually without their closest references, who guarantee them a comfort zone and protection.
41. This double vulnerability - economic and geographical - is partly responsible for the vicious circle that perpetuates situations of slave labor, mainly of irregular foreign workers. The perpetrators of these workers and the beneficiaries of this type of work normally make use of the argument that if these victims are going to report their situation of vulnerability and exploitation to the Brazilian authorities, they will be deported. Thus, these workers feel threatened and continue to be subjugated, ensuring a very unfair asymmetry in the labor market between those who employ irregular foreign labor and those who follow the legal norms.
42. With regard to Brazilian workers, a collection of procedures and a set of tools has been built over the past five years to guarantee the necessary repression of harmful business attitudes to healthy work relationships and the protection due to the victims of this violence. However, with regard to foreign workers, mainly irregular workers, several doubts arose, mainly in view of the work of the Immigration Police, under the responsibility of the Federal Police Department, which is primarily concerned

with protecting national borders.

VIII - TREATMENT RESERVED FOR THE IRREGULAR FOREIGN WORKER VICTIM OF HUMAN TRAFFICKING - NORMATIVE RESOLUTION N. 93 OF 21/12/2010. NATIONAL IMMIGRATION COUNCIL - CNIg

43. In short, it is important to clarify that foreigners who:
- a) have entered Brazil without undergoing migratory controls at ports, airports or border points;
 - b) have stayed in Brazil beyond the regular period of stay granted; or
 - c) have worked in Brazil without holding a permanence or residence visa, that authorizes them to perform work activities.
44. It should be remembered that the Palermo Protocol is quite definitive and enlightening, by imposing on the States that have ratified it the obligation to implement public policies for prevention, protection and prosecution - embodied in the paradigm of the three P - related to the fight against human trafficking, whatever its purpose. Thus, the text of the aforementioned protocol indicates *ipsis litteris* some mechanisms that must be applied by States, **including at the administrative level**, in order to protect victims of human trafficking, of which we highlight the following, as they represent the essence of prevention and protection policies under the responsibility of the Ministry of Labor and Employment - MTE:

Article 6

Assistance and protection for victims of human trafficking

2. *Each State Party shall ensure that its legal or administrative system contains measures that provide victims of human trafficking, when necessary:*

a) *Information on applicable judicial and administrative procedures;*

b) *Assistance to allow their opinions and concerns to be presented and taken into account at appropriate stages of the criminal proceedings against the perpetrators of the offenses, without prejudice to the rights of the defense.*

3. *Each State Party will take into account the application of measures that allow the physical, psychological and social recovery of victims of human trafficking, including, where appropriate, in cooperation with non-governmental organizations, other competent organizations and other elements of civil society and, in particular, the provision of:*

- a) *Proper accommodation;*
- b) *Advice and information, especially regarding the rights that the law recognizes them, in a language they understand;*
- c) *Medical, psychological and material assistance; and*
- d) *Training, education and employment opportunities.*

6. *Each State Party shall ensure that its legal system contains measures that offer victims of human trafficking the possibility of obtaining compensation for the damage suffered.*

Article 7

Status of victims of human trafficking in host States

1. *In addition to taking measures in accordance with Article 6 of the*

present Protocol, each State Party shall consider the possibility of adopting legislative measures or other appropriate measures that allow victims of human trafficking to remain on the territory on a temporary or permanent basis, if applicable, if the case.

2. When implementing the provisions of paragraph I of this Article, each State Party shall take due account of humanitarian and personal factors.

Article 9

Prevention of human trafficking

1. States Parties shall establish comprehensive policies, programs and other measures to:

a) Prevent and combat human trafficking and

b) Protect human trafficking victims, especially women and children, from further abuse.

Article 14

Safeguard Clause

2. The measures contained in this Protocol shall be interpreted and applied in such a way that persons who have been victims of trafficking are not discriminated against. The interpretation and application of these measures will be in accordance with internationally recognized principles of non-discrimination.

45. It should be noted that all the protection provided by the Palermo Protocol is based on the idea of granting permanence to foreigners, perhaps irregular in the country of destination (Art. 7, 1), in the adoption of public policies that guarantee support and material support (Art. 6, 3, c), with a view to avoiding the re-victimization of this worker (Art. 9, 1,

b), based on humanitarian (Art. 7, 2) and non-discrimination (Art. 14) principles.

46. Surely the message to be conveyed, in the full adoption of the Palermo Protocol, is to grant permanence to the foreigner victimized by human trafficking, so that he can recover and, perhaps, collaborate in the investigations that may be established, in virtue of the offense found.
47. In addition to this bureaucratic measure, other financial, economic and psychosocial support measures must be taken in order to guarantee the faithful and complete application of the Palermo Protocol in our country. In other words, it is the set of measures to be provided by the host State of the victim of human trafficking that will be able to reintegrate the victimized worker and guarantee complete protection in the face of the violence to which he was subjected.
48. As mentioned above, the phenomenon of human trafficking and slave-like labor of foreigners certainly finds in the irregularity of the migratory situation a **fundamental and determining factor** for the submission of these workers to slave-like work conditions and their interface has been the subject of several studies at the international level, with several conclusions and recommendations, especially for Labor Inspection - an institution responsible for ensuring compliance with fundamental rights at work.
49. In a recent ILO working document on the interface between migration, undeclared work, human trafficking and current trends, prepared by LAB / ADMIN, the ILO's Labor Inspection program, some global trends are observed, about tackling this growing problem worldwide. Of this work, we highlight, in particular, the following excerpts³⁰:

³⁰ OFICINA INTERNACIONAL DE TRABAJO. *La inspección del trabajo en Europa: trabajo no declarado, migración y tráfico de trabajadores*. Ginebra: ILO, 2010. Págs.4-6

“Inspectors should not, however, be used as if they were ‘immigration police’. Inspectors should focus on controlling working conditions. In fact, this has already been addressed, for example, by the ILO Committee of Experts on Immigration on the Application of Conventions and Recommendations (CEACR) in the comments made between 2006 and 2008 on the application of France’s ILO Convention N. 81. In its 2008 Observation, the Committee emphasized that it should not be excluded from any protection worker based on their status as an irregular worker. The function of labor inspections is to ensure the alignment of working conditions with applicable legal requirements and the protection of workers in the exercise of their duties. Its function is not to control the legal nature of the employment. In this regard, the Committee urged the government to take steps to ensure that inspectors’ powers to enter the workplace were not used to implement joint operations to combat non-authorized immigration.

50. It is also worth recalling the majority jurisprudence that was formed within the framework of the Inter-American Human Rights System. Beginning in 2003, the Inter-American Court of Human Rights established the understanding that labor rights are fundamental rights that must be respected and guaranteed by any State, even if the worker is in an irregular migratory situation. To clarify its point of view, the Court issued Advisory Opinion OC-18/03 of September 17, 2003, which contains the following statements:
 1. ***That the States have a general obligation to respect and guarantee fundamental rights. Therefore, they must adopt positive measures, avoid initiatives that limit or violate a fundamental right and suppress measures and practices that restrict or violate a fundamental right.***

2. *That the omission by the State, through any discriminatory treatment, of the general obligation to respect and guarantee human rights, generates international responsibility.*

3. *That the principle of equality and non-discrimination is fundamental to safeguard human rights, both in international and national Law.*

4. *That the fundamental principle of equality and non-discrimination is part of general international Law, insofar as it is applicable to all States, regardless of whether or not they are part of a particular international agreement. At the current stage of the evolution of international Law, the fundamental principle of equality and non-discrimination has entered the domain of jus cogens.*

5. *That the fundamental principle of equality and non-discrimination, of an imperative character, entails obligations to erect omissions of protection that bind all States and generate effects in relation to third parties, including individuals.*

6. ***That the general obligation to respect and ensure human rights binds States, regardless of any circumstance or consideration, including the migratory status of individuals.***

7. *That the right to due legal process must be recognized within the framework of the minimum guarantees that must be provided to all migrants,*

- regardless of their immigration status. The broad scope of due process intangibility includes all matters and all persons, without any discrimination.
8. *That a person's migratory status cannot be justification for depriving them of the enjoyment and exercise of their human rights, including those of a labor nature. When assuming an employment relationship, the migrant acquires rights as a worker, which must be recognized and guaranteed, regardless of their regular or irregular situation in the State of employment. These rights are consequence of the employment relationship!*
 9. ***That the State has an obligation to respect and ensure the labor human rights to all workers, regardless of their status as nationals or foreigners and not to tolerate situations of discrimination to their detriment, in the employment relationships that are established between private individuals. (Employer-worker). The State must not allow private employers to violate workers' rights, nor should the contractual relationship violate minimum international standards.***
 10. *That workers, as holders of labor rights, must have all the appropriate means to exercise these rights. **Undocumented migrant workers have the same labor rights as other workers in the Employment, and the latter must take all necessary measures to be recognized as such and applied.***
 11. *That States cannot subordinate or condition compliance with the principle of equality before the Law and non-discrimination to the achievement*

of the objectives of their public policies, whatever they may be, including those of a migratory nature.

51. *Thus, in order to regulate the migratory regularization of victims of people trafficking, with a view to granting a permanent visa or stay in Brazil to irregular migrants, the National Immigration Council - CNIg, a collegiate body of the Ministry of Labor and Employment that also has competence to formulate the immigration policy, as well as to deliberate, coordinate and guide the immigration activities, in our country, edited Normative Resolution n ° 93 of December 21, 2010. RN 93 disciplines the granting of a permanent visa or stay in Brazil for foreigners who may be considered victims of human trafficking. Therefore, the aforementioned RN 93 determines:*

Art. 1 Foreigners who are in Brazil in a vulnerable situation, victim of the crime of human trafficking, may be granted permanence or permanent visas, under the terms of art. 16 of Law No. 6,815 of August 19, 1980, which will be conditioned to the term of one year.

§ 1 . From the granting of the visa referred to in the caput, the foreigner will be authorized to stay in Brazil and will be able to decide whether to voluntarily collaborate with any ongoing investigation or criminal process.

§ 2. The granting of a permanent or permanent visa may be extended to the spouse or partner, ascendants, descendants and dependents who have proven habitual coexistence with the victim.

52. *In order to be entitled to the benefits provided for in RN 93, the foreigner in an irregular migratory situation who is rescued from work in a slave-like condition must be referred by the Superior Inspection Head, within the scope of the SRTE, to the Ministry of Justice, through enumerating and*

attaching a technical report attesting the situation of the worker victim of human trafficking, issued by any of the following institutions:

- I - National Secretariat of Justice of the Ministry of Justice;*
- II - Centers for Confronting Trafficking in Persons;*
- III - Advanced reception service stations for Brazilians deported and not admitted to the main points of entry and exit in the country;*
- IV- Human Rights Secretariat of the Presidency of the Republic; and*
- V - Services that provide assistance to victims of violence and human trafficking.*

53. *To this end, it is essential to coordinate the work of the Labor Audit Office with the State Committees to Combat People Trafficking and State Commissions for the Eradication of Slave Labor, instituted within the scope of the State Public Administration responsible for Justice, Citizenship and Human Rights. Only with integrated actions between different federal, state and municipal bodies, as well as trade union organizations and organized civil society, can we reach a level of excellence in tackling human trafficking for economic purposes, which is manifested in work in a condition similar to that of slave.*
54. *Obviously, it is not a question of denying the validity of the legislation applicable to the legal regime of foreigners, notably Law No. 6,815 of 19 August 1980, with its regulatory decree, let alone putting national sovereignty at risk. What we try to address in this consultation is the exceptionality of slave labor / human trafficking within the scope of the national labor market and, therefore, the need to adopt measures that are also exceptional in confronting and fighting this vile form of human rights violation.*
55. *Thus, under the prism of exceptional conduct and also the legal remedies*

to be administered by the State, it is necessary to adapt the Public Administration to this new phenomenon of human trafficking, applying hermeneutics that takes into account the factors related with the effectiveness of human rights at the domestic level of our country.

**IX - FINAL REPORT BY THE SPECIAL RAPPORTEUR ON
THE CONTEMPORARY FORMS OF SLAVERY OF THE UNITED
NATIONS ORGANIZATION**

56. *In May 2010, Ms. Guinara Shahinian, United Nations Special Rapporteur on the contemporary forms of slave labor, visited Brazil on an official mission. As a result of her work, Ms. Guinara prepared a vast and complete report on all forms of slave labor found in Brazil, indicating procedures and recommending measures that the Brazilian Government should take with a view to the complete confrontation of this wound in labor relations.*
57. *The report recognizes the practice of slave-like work carried out by irregular South American migrants, mainly in the clothing industry, and points out several flaws in the public policies implemented by the Brazilian State in addressing this issue. From these notes, Ms. Guinara drew up a series of recommendations that should be followed by the Brazilian authorities, of which we highlight the recommendation contained in paragraph 120 of the final report, reproduced below³¹:*

B. Recommendations regarding slave labor in the clothing industry

2. *Programs to combat slave labor 120. With regard to the protection and rehabilitation of victims of human trafficking, the Government needs to invest in support services, such as accommodation and access to legal as-*

³¹ SHAHINIAN, Guinara. *Report of the Special Rapporteur on contemporary slavery, including its causes and consequences. Mission to Brazil. Human Rights Council. Fifteenth session. Agenda item 3. Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development.* 30th August, 2010. Tradução livre.

Available at:

http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—declaration/documents/publication/wcms_144676.pdf

sistance. It should also provide financial support to help victims recover from the experience of trafficking and to rebuild their lives.

**X- NORMATIVE INSTRUCTION N. 91 OF OCTOBER 5, 2011
BY THE LABOR INSPECTION SECRETARIAT**

58. *Thus, with the purpose of guiding the Labor Auditors in confronting work in a slave-like condition and human trafficking, the Labor Inspection Secretariat issued Normative Instruction no 91 of October 5, 2011. The aforementioned Normative Instruction reflects the universality of fundamental human rights of the worker and guarantees to the Labor Inspection a more relevant role, in confronting slave-like work:*

Normative Instruction n. 91 of October 5, 2011:

Art. 1 Work carried out in a slave-like condition, in all forms, constitutes an attack on fundamental human rights and violates human dignity, and it is the duty of the Labor Auditor to collaborate in its eradication.

59. *This universality character permeates all the items of the administrative norm, ordering the Labor Auditors to observe, in the course of their audits, the prevalence of human rights and to apply to all workers, regardless of their nationality or migratory condition, the same procedures:*

Normative Instruction n. 91 of October 5, 2011:

Art. 2. The Labor Auditors shall observe the inspection for the eradication of labor in a slave-like condition, in any urban, rural or maritime economic activity, and for any worker, national or foreign, the procedures provided for in this Normative Instruction.

60. *For this purpose, the normative content of the normative instruction **under comment equates cases of people trafficking for economic purposes to work situations in slave-like conditions with the purpose of harmonizing exegesis on the matter and ensuring the consistency of the inspection.** In addition to this mechanism, NI 91 determines the conduct of Labor Auditors in the sense that they guarantee victims of human trafficking, when dealing with foreigners, even if in an irregular migratory situation, equal treatment with the national worker. It is a matter of ensuring human dignity and humanitarian treatment advocated by all the aforementioned texts, within the framework of the Inter-American Human Rights System or the UN Human Rights System:*

Normative Instruction n. 91 of October 5, 2011:

Art. 5. The Labor Auditor, when concluding by the existence of work in slave-like conditions, shall take all the measures indicated in Articles 13 and 14, of this Normative Instruction.

*Art. 6. **The provisions of this Normative Instruction are applicable to cases in which the Labor Auditor identifies human trafficking for the purpose of exploiting labor in slave-like conditions,** since any of the hypotheses provided for in items 1 to VI of Article 3 of this Normative Instruction.*

§ I. "It is considered Human Trafficking for purposes of exploiting labor in slave-like conditions, as defined in the Additional Protocol to the United Nations Convention against Transnational Organized Crime Concerning the Prevention, Repression and Punishment for Human Trafficking, in particular Women and Children, promulgated by Decree N. 5,017 of 12 March 2004, the recruitment, transportation, transfer, accommodation or reception of people, resorting to the threat or use of force or other forms of coercion, kidnapping, fraud, deception, abuse of authority or situation of vulnerability or the delivery or acceptance of payments or benefits to obtain the consent of a person who has authority over another for the

purpose of exploitation that will include, at a minimum, exploitation of forced labor or services, slavery or practices similar to slavery or bondage “:

§2 The cases of trafficking of foreign workers in an irregular migratory situation for the purpose of exploiting labor in a slave-like condition that may be identified by the Labor Auditors must be referred for the granting of a permanent visa or stay in Brazil, according to what determines Normative Resolution N. 93 of December 21, 2010, of the National Immigration Council - CNIg, in addition to all other procedures provided for in Articles 13 and 14, of this Normative Instruction.

61. *In turn, articles 13 and 14, of the aforementioned normative instruction, determine the conduct to be observed by the Labor Auditors, in the treatment of cases in which a slave-like condition is found for any worker, whether national or foreign, regardless their migratory situation:*

Normative Instruction n. 91 of October 5, 2011:

Art. 13. The finding of work in slave-like conditions shall give rise to the adoption of the procedures provided for in article 2 “- C, §§ 1 and 2 of Law N. 7,998 of January 11, 1990, The Labor Auditor must rescue the worker who is subjected to this condition and issue the Rescue Worker Unemployment Insurance Application.

Art. 14. The Labor Auditor, when concluding by the finding of work in slave-like conditions, shall determine that the employer or agent takes the following measures:

I - Immediate stoppage of the activities of the employees found in a slave-like condition;

II - Regularization of employment contracts;

III - The payment of labor claims through the relevant Employment Contract

Termination Terms;

IV- The deposit of Government Severance Indemnity Fund and Social Contribution;

V - The fulfillment of the ancillary obligations to the employment contract, as well as making arrangements for the return of workers to their places of origin or to the hotel chain, public shelter or similar, when applicable.

§1: The infraction notices drawn up as a result of this action shall describe the facts in detail and shall be conclusive regarding the existence of slave-like work, in accordance with the provisions of §§ 2 and 3, of Art. 3 of this Normative Instruction.

§2 In case of non-payment of the Government Severance Indemnity Fund and the Social Contribution, the relevant Notification for Collection (NFGC and NRFC) must be drawn up.

§3 In case of non-compliance with the determinations contained in items I, II, III or V, the Labor Auditor shall report the fact immediately to the Head of Inspection to inform the Federal Attorney's General (AGU), the Public Prosecution Office (MPT) or the Public Defender's Office (DPU), so that they take the appropriate legal measures.

§4 If a situation of serious and imminent risk to the safety and / or health of the worker is found, the measures provided for by law shall be taken.

**XI – UNEMPLOYMENT INSURANCE FOR THE RESCUED
WORKER AND OTHER OBLIGATIONS**

62. Among these procedures, the issuance of the Rescued Worker Unemployment Insurance Slip is of particular relevance, for four basic and interdependent reasons:

- a. *guarantee the smoothness, transparency and legal security of the rescue operation of workers subjected to slave labor;*
 - b. *provide the State with a source of information and statistics of the highest utility and relevance;*
 - c. *enable the establishment with public policies for the reintegration of workers who are victims of slave labor; and,*
 - d. *provide rescued workers with immediate financial and material support, so that they can meet their basic and elementary needs during the three-month period.*
63. *One of the emergency measures and financial relief for the worker, in cases of rescue from a slave-like condition carried out by the Labor Auditor, is the unemployment insurance of the rescued worker. It should be remembered that the Federal Constitution raises unemployment insurance to a level of indisputable fundamental social right, by placing it next to the other fundamental rights, in Chapter II, of Title 11:*

TITLE II

Fundamental rights and Guarantees

CHAPTER II

SOCIAL RIGHTS

Art. 7 The rights of urban and rural workers, in addition to others that aim to improve their social condition:

II - Unemployment insurance, in case of involuntary unemployment;

64. *In turn, law n. 7,998 of January 11, 1990, with the reform of Law n. 10,608, of December 20, 2002, brought the possibility of the payment of three installments of the insurance benefit to the worker who will be rescued from a slave-like condition by the Labor Auditor.*
65. *It is important to remember, now after nearly a decade of the unemployment insurance of the rescued worker, the motivations that led the State to adopt this measure of important humanitarian impact. Indeed, the Ex-*

position of Measures that accompanied the text of Provisional Measure n. 74 of October 24, 2002, stated, regarding workers subjected to a slave-like condition³²:

These are workers enticed with false promises, who are exposed to the most precarious conditions of work, diet and accommodation, the absence of medical assistance, abusive discounts, the illegal canteen or warehouse system, the non-observance of the formality of the employment contract and the health and safety legislation of workers in general, with frequent threats to their physical and moral security.

And concluded:

*In turn the relevance of the subject matter of the present proposal is undeniable for the very foundations of the Federative Republic of Brazil, among them that of the **dignity of the human person**. Therefore, with support for this principle, it is the duty of the State, in addition to restraining slave labor, to offer the worker minimum survival conditions, which is the aim of the present proposal.*

*We are convinced, Mr. President, that **the proposal for a provisional measure now submitted to Your Excellency's judgment will be able to provide the minimum means of survival for the worker who has been removed from a slave-like condition.***

66. *It is possible to observe, from the words of the Ministers of State of Labor and Employment and of Justice who signed the Inter-ministerial Motives Exhibition under comment, the clear concern of the Brazilian State with **human dignity**, the maximum corollary of the national constitutional order. It is in this sense that any concession of the unemployment insurance benefit for the rescued worker must be evaluated: the return of human dignity as a fundamental right of the worker.*

³² EM Interministerial MTE/MJ/Nº 06, de 17 de Outubro de 2002.

67. *Fundamental must also be the understanding of the transnational dimension of fundamental rights and the responsibility of every modern state to ensure that these rights are respected within its territory, to any person, regardless of the migratory situation.*
68. *Identical hermeneutics must be applied for the issuance of the Work and Social Security Card of those workers who, being rescued, do not have any national document that can be used to guarantee their regularization and immediate subsistence. The administrative rules issued by the Ministry of Labor and Employment determine this:*

Secretariat for Employment and Salary Policies

Ordinance no. 1 of January 28, 1997

Art 3 - If documents cannot be submitted, the Employment and Social Security Card - CTPS shall be issued with a maximum and non-extendable validity of 03 (three) months, based on verbal statements by the interested party, signed by two witnesses, making the fact appear in the first sheet of "General Notes" according to the provisions of Article 17 of the Consolidation of Labor Laws - CLT and its paragraphs, using its own stamp model.

XII - PRELIMINARY CONCLUSIONS: LEGISLATION AND PROCEDURES APPLICABLE TO VICTIMS OF HUMAN TRAFFICKING SUBJECT TO SLAVE-LIKE WORK CONDITIONS

69. Based on the grounds and conclusions outlined above, the following can be defined:
 - a. That the Palermo Protocol, approved by Decree No. 5,017 of March 12, 2004, is in force in the Brazilian legal system, with effects at least supra-legal, indicating the content of public policies that must be implemented by the Brazilian State when facing the arduous issue of human trafficking;

- b.** That, based on the exegesis of the Palermo Protocol, the National Immigration Council - CNIg issued Normative Resolution No. 93 of December 21, 2010, which regulates the granting of a permanent visa or stay in Brazil to foreigners who are considered victims of human trafficking;
- c.** That, based on the exegesis of human rights treaties ratified by Brazil and, in particular, by the Palermo Protocol, the Labor Inspection Secretariat - SIT issued Normative Instruction No. 91 of October 5, 2011, which provides for the inspection for the eradication of work in slave-like conditions and provides other measures, such as indicating the tools and instruments at the disposal of the Labor Auditor to rescue the worker's citizenship, by ensuring fundamental rights at work;
- d.** That the migrant situation of foreign workers is not a determining factor in conditioning the enjoyment of their fundamental rights;
- e.** That Labor Inspection is responsible for assuring these fundamental rights, through administrative procedures and tools;
- f.** That the instruments and tools at the disposal of the Labor Auditors in tackling human trafficking for the purpose of slave labor are exactly the same as those existing and developed for tackling work in slave-like conditions, as they are related figures and associate in the Brazilian order;
- g.** That the use of these tools and procedures, with the purpose of protecting the fundamental worker's rights, does not depend on the worker's nationality and their migratory condition, in the case of foreigners in an irregular situation³³;
- h.** That, in the scope of the Labor Inspection, the phenomenon of human

³³ According to NI 91 of October 5, 2011, of the Labor Inspection Secretariat, the procedures to be applied by the Labor Auditors when they find slave-like work of any worker, national or foreign, even if irregular, are:

Rescue and removal of the worker from the workplace;

Halting harmful activities;

Return of the worker to his or her home or shelter, according to the convenience of the situation;

Issuance of provisional CTPS if applicable;

Issuance of unemployment insurance guides for the rescued worker;

Determination to register workers eventually without registration;

Determination to pay the severance and compensation payments to workers;

Final report's draft.

trafficking takes special interest, due to the confrontation with work in slave-like condition, which has more than fifteen years of consolidated work and translated into the materialization of a collection of tools and procedures available to the Labor Auditor, used for the purpose of protecting workers;

- i. That, therefore, the unemployment insurance guide for the rescued worker **must be issued even to foreign workers, even if irregular:**
- j. That **unemployment insurance for rescued workers is one of the material support measures introduced in the Palermo Protocol**, with the aim of guaranteeing protection for victims of human trafficking;
- k. That the commitment to face human trafficking and the slave-like work derived from it stems from the obligations contracted by the Brazilian State with the international community, within the scope of the International System for the Protection of Human Rights;

To superior consideration.

RENATO BIGNAMI

Advisor

Labor Inspection Secretariat

Accordingly. Forward this to the office of the Labor Inspection Secretariat.

Brasília, 02/01/2012.

ALEXANDRE RODRIGO TEIXEIRA DA CUNHA LYRA

Head of the Slave Labor Eradication Division – DETRAE

Accordingly. Forward it to the National Immigration Council -

CNIg, for a demonstration, then forward it to the Minister's Office, for their acknowledgment, and then to the Legal Consultancy - CONJUR, of the MTE.

Brasília, 02/01/2012.

VERA LÚCIA RIBEIRO DE ALBUQUERQUE

Labor Inspection Secretary

Thus, in view of what was exposed by the Labor Inspection Secretariat, the advisory body of the Federal Attorney's General finally established a position that non-national migrant workers should be guaranteed all rights and procedures, including access to unemployment insurance, even if they are in an irregular migratory situation in the country, consolidating the public policy of confronting human trafficking in the labor sphere and combating slave-like conditions in the sense of full alignment with the main commitments of Brazil in the context of International System for the Protection of Human Rights and raising our country to a model of good international practice in addressing these issues.

12

CONATRAE's POSITION

In October 2013, following the advances achieved from the inspections carried out by the Labor Auditors of the Regional Superintendence of Labor in São Paulo, the National Commission for the Eradication of Slave Labor - CONATRAE publishes the Prevention and Combat Routine Recommendations Manual to Immigrant Slave Labor that was coordinated by SINAIT and with the active participation of the Labor Auditors of São Paulo, based on the observation of the persistence of several cases in other regions of the country in which the position of the Labor Inspection in the sense of protecting fundamental rights of non-national migrant workers was not respected.



https://www.ethos.org.br/wp-content/uploads/2013/10/MANUAL-Trabalho-Escravo_SDH-VERSÃO-PARA-IMPRESSÃO-REVISADO.pdf

[VIEW DOCUMENT](#)

13

FIRST MUNICIPAL COMMISSION IN BRAZIL

October 2013 - On October 7, 2013, inspired by the numerous inspections for combating human trafficking and to combat slave labor, the Municipality of São Paulo publishes Decree n° 54.432, which initiates the work of the first municipal commission system for the eradication of slave labor in the country, COMTRAE-SP, in order to regulate the provisions of article 263 of

Law No. 15.764 of May 27, 2013:



https://www.prefeitura.sp.gov.br/cidade/secretarias/direitos_humanos/participacao_social/conselhos_e_orgaos_colegiados/comtrae/noticias/?p=158388

VIEW DOCUMENT

DECREE N° 54.432 OF OCTOBER 7, 2013

Regulates the Municipal Commission for the Eradication of Slave Labor - COMTRAE / SP, linked to the Municipal Secretariat for Human Rights and Citizenship, established by Article 263 of Law No. 15.764 of May 27, 2013.

FERNANDO HADDAD, Mayor of São Paulo, in the use of the powers conferred on him by law,

DECREES:

Art. 1 The Municipal Commission for the Eradication of Slave Labor - COMTRAE / SP, instituted by article 263 of Law No. 15.764 of May 27, 2013, is regulated in accordance with the provisions of this decree.

Art. 2 COMTRAE / SP, linked to the Municipal Secretariat for Human Rights and Citizenship, aims to propose mechanisms for preventing and combating slave labor within the scope of the Municipality of São Paulo, in conjunction with the II National Plan for the Eradication of Slave Labor and the II National Plan to Combat Human Trafficking.

Art. 3 COMTRAE / SP is responsible for:

I - evaluate and monitor the actions, programs, projects and plans related to the prevention and confrontation of slave labor in the Municipality of São Paulo, proposing the necessary adaptations;

II - coordinate the process of preparing the Municipal Plan for the Eradication of Slave Labor, detailing the consolidation strategies regarding the goals, objectives and responsibilities, including ensuring its permanent updating, as well as monitoring its implementation and execution;

III - monitor the processing of bills related to the prevention and confrontation of slave labor at the municipal level;

IV - evaluate and monitor the technical cooperation projects signed between the Municipality and national, international institutions and civil society organizations;

V - recommend the development of studies and research, as well as encourage campaigns related to combating slave labor;

VI - maintain contact with the Inter-American Human Rights System and organizations linked to the United Nations that work to combat slave labor;

VII- prepare and approve its internal regulations. Art. 4 COMTRAÉ / SP will be made up of representatives and respective alternates from municipal government agencies and civil society organizations, on a joint basis, in accordance with the provisions of this article.

§ 1 The municipal public authority will be represented by 1 (one) full member and 1 (one) alternate from each of the following bodies:

I - Municipal Secretariat for Human Rights and Citizenship, which will coordinate the collegiate;

II - Municipal Health Secretariat;

III - Municipal Secretariat of Assistance and Social Development;

IV - Municipal Secretariat for the Coordination of Sub-councils;

V - Municipal Secretariat of Education;

VI - Municipal Secretariat for People with Disabilities and Reduced Mobility;

VII - Municipal Secretariat for Policies for Women;

VIII - Municipal Secretariat for the Promotion of Racial Equality;

IX - Municipal Secretariat of Services;

X - Municipal Secretariat for Development, Labor and Entrepreneurship.

§ 2 Civil society organizations should be recognized at the municipal level and develop relevant activities related to combating slave labor.

§ 3 They may also join COMTRAÉ / SP, by invitation, at the discretion of the Municipal Secretariat for Human Rights and Citizenship, provided that the respective activities have an interface with the prevention and confrontation of slave labor:

I - as members, with full and alternate representatives in the collegiate, public bodies from other governmental spheres;

II - as observers or in a consultative capacity, representatives of public and private institutions, including agencies of the Federal, State and Municipal Public Administration, of the Legislative Power, of class entities, of union representation and of non-governmental organizations.

§ 4 The nominations of the full members and their respective alternates must be made by the Holders of the Bodies referred to in § 1, as well as by those responsible for the entities provided for in their § 2, both of this article, and forwarded to the Holder of the Municipal Secretariat for Human Rights and Citizenship.

Art. 5 In order to carry out their activities, COMTRAÉ / SP members may form thematic subcommittees, with the participation of representatives other than those referred to in §§ 1, 2 and 3 of article 4 of this decree, in the condition of guests.

Art. 6 Participation in COMTRAÉ / SP will be considered a relevant and unpaid public service provision.

Art. 7 The Municipal Secretariat for Human Rights and Citizenship will provide technical and administrative support as well as the necessary means to carry out the work of COMTRAE / SP and its thematic subcommittees.

Art. 8 For the elaboration of its internal regulations within 60 (sixty) days, counted from its installation, COMTRAE / SP will designate an executive committee among its members.

Art. 9 This decree will come into force on the date of its publication.

SÃO PAULO CITY HALL, October 7, 2013, 460° of São Paulo Foundation.

FERNANDO HADDAD, Mayor

ROGÉRIOSOTTILI, Municipal Secretary for Human Rights and Citizenship

ANTÓNIODONATOMADORMO, Municipal Government Secretary

Published at the Municipal Government Secretariat on October 7, 2013 published in DOC of 10/8/2013.

14

RATIFICATION OF THE FIRST PROTOCOL FOR TECHNICAL COOPERATION BETWEEN INSTITUTIONS FOR COMBATING HUMAN TRAFFICKING FOR PURPOSES OF LABOR EXPLORATION AND SLAVE LABOR

February 2014 - Regional Superintendence of Labor in São Paulo, Regional Labor Court of the 2nd Region, Regional Labor Court of the 15th Region, Regional Labor Attorney's Office of the 2nd Region, Regional Labor Attorney's Office of the 15th Region, Federal Public Defenders' Office in São Paulo and the Regional Attorney's Office of the 3rd Region ratify the first Protocol of Technical Cooperation to carry out actions and programs aimed at the eradication of slave labor and human trafficking in the State of São Paulo.



Tribunal Regional do Trabalho da 2ª Região
Gabinete da Presidência

TECHNICAL COOPERATION PROTOCOL N° 001/2014

TECHNICAL COOPERATION PROTOCOL THAT AMONG THE REGIONAL LABOR COURT OF THE 2nd REGION, THE REGIONAL LABOR COURT OF THE 15th REGION, THE REGIONAL SUPERINTENDENCE OF LABOR AND EMPLOYMENT IN SÃO PAULO, THE REGIONAL ATTORNEY'S OFFICE OF THE 3rd REGION, THE REGIONAL LABOR ATTORNEY'S OFFICE OF 2nd REGION AND THE REGIONAL LABOR ATTORNEY'S OFFICE OF THE 15th REGION FOR THE PURPOSES THAT SPECIFIES

THE REGIONAL LABOR COURT OF THE 2nd REGION, hereinafter referred to as **TRT2**, hereby represented by its President, Federal Judge of Labor Maria Doralice Novaes, the **REGIONAL LABOR COURT OF THE 15th REGION**, hereinafter referred to as **TRT15**,



TRIBUNAL REGIONAL DO TRABALHO DA 15ª REGIÃO



ADVOCACIA-GERAL DA UNIÃO
PROCURADORIA GERAL DA UNIÃO
PROCURADORIA REGIONAL DA
UNIÃO DA 3ª. REGIÃO



MINISTÉRIO PÚBLICO DA UNIÃO
MINISTÉRIO PÚBLICO DO TRABALHO



Tribunal Regional do Trabalho da 2ª Região
Gabinete da Presidência

in these minutes represented by its Administrative Vice President, Federal Judge of Labor Fernando da Silva Borges, the **REGIONAL SUPERINTENDENCE OF LABOR AND EMPLOYMENT IN SÃO PAULO**, hereinafter referred to as **SRTE / SP**, hereby represented by the Regional Superintendent of Labor and Employment Luiz Antonio de Medeiros Neto, the **REGIONAL ATTORNEY'S OFFICE OF THE 3rd REGION**, hereinafter referred to as **PRU3**, hereby represented by the Regional Attorney Tercio Issami Tokano, the **REGIONAL LABOR ATTORNEY'S OFFICE OF THE 2nd REGION**, hereinafter referred to as **PRT2**, in this act represented by Chief Prosecutor Cláudia Regina Lovato Franco, and the **REGIONAL LABOR ATTORNEY'S OFFICE OF THE 15th REGION**, hereinafter referred to as **PRT15**, in this act represented by Deputy Chief Prosecutor José Fernando Ruiz Maturana:

RESOLVE to enter into this **TECHNICAL COOPERATION PROTOCOL**, based on Law No. 8,666 / 1993, when applicable, and also by means of the clauses and conditions listed below:

Whereas the **REGIONAL LABOR COURT OF THE 2nd REGION IN SÃO PAULO-SP** is a pioneer in the creation of the Itinerant Court to combat slave-like labor, through Act GP 09/12, published on July 27, 2012, revoked by the current Act GP 15/2013;

Whereas the **REGIONAL LABOR COURT OF THE 15th REGION IN CAMPINAS-SP**, also a pioneer in the creation and installation of the itinerant Judge to combat slave-like labor, through Act GP 10/2012 08/23/2012;



TRIBUNAL REGIONAL DO TRABALHO DA 15ª REGIÃO
CAMPINAS-SP



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*Tribunal Regional do Trabalho da 2ª Região
Gabinete da Presidência*

Whereas the **REGIONAL SUPERINTENDENCE OF LABOR AND EMPLOYMENT IN SÃO PAULO**, hereinafter referred to as **SRTE / SP**, and the **PUBLIC LABOR PROSECUTION OFFICE of the 2nd Region-SP** and the **PUBLIC LABOR PROSECUTION OFFICE of the 15th Region-Campinas**, participate in several inter-institutional actions to combat slave labor and slave-like labor.

Whereas the various institutions represented here are part of the **COETRAE State Commission for the Eradication of Slave Labor in the State of São Paulo**;

RESOLVE to enter into this **TECHNICAL COOPERATION PROTOCOL**, based on Law No. 8,666 / 1993, when applicable, and also by means of the clauses and conditions listed below:

THE OBJECT

FIRST CLAUSE - The purpose of this Protocol is to combine efforts among the participants with a view to implementing programs and actions aimed at the eradication of slave-like work and the fight against human trafficking, as well as the strengthening of the State Plan for the Eradication of Slave Labor and the State Plan to Combat Human.



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Participants agree to declare / 2014

STATE YEAR FOR COMBATING SLAVE LABOR AND HUMAN TRAFFICKING FOR PURPOSES OF LABOR EXPLORATION, in the State of São Paulo. COMMON OBLIGATIONS OF PARTICIPANTS

SECOND CLAUSE - The common obligations of the participants are, without prejudice to the legal powers of each body and others necessary to achieve the object of this Protocol:

- I. Create an inter-institutional committee, with representatives appointed by the signatories, with the objective of proposing, planning and monitoring the agreed programs and actions;
- II. Implement permanent public policies that aim to eradicate work in slave-like conditions and human trafficking for the purpose of slave labor, strengthening social dialogue;
- III. Promote studies and research on the causes and consequences of slave labor and human trafficking in Brazil, in order to assist in the prevention and reduction of the resulting social, labor and economic costs;
- IV. Foster educational and pedagogical actions in order to sensitize civil society and public and private institutions about the need to combat slave labor and human trafficking and the effectiveness of the international norms and conventions ratified by Brazil on slave labor, human trafficking and others;
- V. Create and feed a common database, with information necessary to achieve the purpose of this Protocol.



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THE ADHERENCE

THIRD CLAUSE - Other public and private bodies and entities may adhere to this instrument, by means of an adhesion term to be signed with any of the participants, with subsequent communication to the others.

MONITORING

FOURTH CLAUSE - Participants shall designate managers to monitor, manage and administer the implementation of this Protocol.

FINANCIAL AND MATERIAL RESOURCES

FIFTH CLAUSE - The present Protocol does not involve the transfer of resources, and each participant shall bear their respective costs. The actions resulting from this adjustment that imply transfer or assignment of resources shall be made possible through an appropriate instrument.

EFFECTIVENESS AND TERM

SIXTH CLAUSE - This Protocol shall be effective from the date of its signature and be valid for twelve months, being able to be automatically extended for equal periods, except if expressly stated otherwise, under the terms of the law.



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DISSOLUTION AND UNILATERAL RESCISSION

SEVENTH CLAUSE - The parties are free to promote the cancellation of the present Protocol, at any time, by mutual consent, or the unilateral rescission by the initiative of any one of them, by means of a written notification, with a minimum of 30 (thirty) days in advance, leaving for which only the responsibility for tasks performed in the period prior to notification.

CHANGES AND MODIFICATIONS

EIGHT CLAUSE - This instrument may be changed, by mutual understanding between the celebrants, during its term, by means of an Addendum, aiming to improve the execution of the works, except with regard to its object.

APPLICABLE LAW

NINTH CLAUSE - Law No. 8.666 / 1993 applies to the execution of this Agreement, as applicable, the precepts of Public Law and, supplementary, the Principles of the General Theory of Contracts and the provisions of Private Law.

PUBLICATION

TENTH CLAUSE - The abstract of this instrument shall be published in the Official Federal Gazette, considering the multiplicity of participating bodies.



TRIBUNAL REGIONAL DO TRABALHO DA 15ª REGIÃO
LISBOA-PT



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without prejudice to the publication in Official Electronic Gazettes specific to the State of São Paulo, according to what authorizes art. 4 of Law No. 11,419 / 2006, combined with the sole paragraph of art. 61 of Law No. 8.666 / 1993.

ELEVENTH CLAUSE - Jurisdiction: The participants elect, to the exclusion of any other, however privileged it may be, the Federal Court of the Capital of the State of São Paulo to settle matters pertinent to this agreement.

And as they are in full agreement, the celebrants sign this instrument, for all legal purposes.

São Paulo, February 24, 2014.

[Signature]

Maria Doralice Novaes

REGIONAL LABOR COURT OF THE 2ND REGION

[Signature]

Fernando Silva Borges

REGIONAL LABOR COURT OF THE 15TH REGION



TRIBUNAL REGIONAL DO TRABALHO DA 15ª REGIÃO
CAMPINAS-SP



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MINISTÉRIO PÚBLICO DA UNIÃO
MINISTÉRIO PÚBLICO DO TRABALHO



Tribunal Regional do Trabalho da 2ª Região
Gabinete da Presidência

[Signature]

Luiz Antônio de Medeiros Neto
REGIONAL SUPERINTENDENCE OF LABOR AND EMPLOYMENT
IN SÃO PAULO

[Signature]

Tercio Issami Tokano
REGIONAL ATTORNEY'S OFFICE OF THE 3rd REGION

[Signature]

Claudia Regina Lovato Franco
REGIONAL PUBLIC LABOR PROSECUTION OFFICE OF THE 2ND
REGION

[Signature]

José Fernando Ruiz Matorana
REGIONAL LABOR ATTORNEY'S OFFICE OF THE 15TH REGION



TRIBUNAL REGIONAL DO TRABALHO DA 15ª REGIÃO
CAMPO LIMPO SP



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15

URBAN SLAVE WORK EXCEEDS RURAL

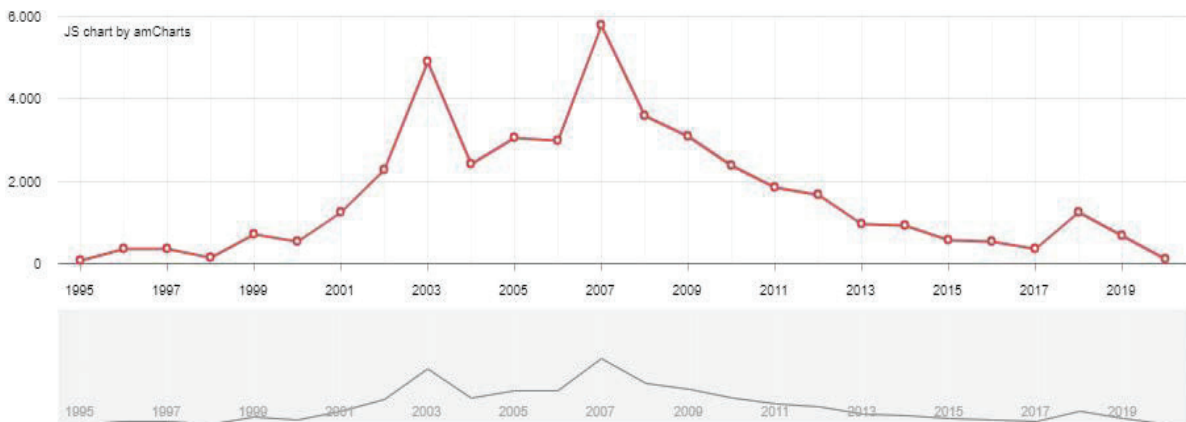
In 2014, urban slave labor exceeded rural labor, in number of rescued people:



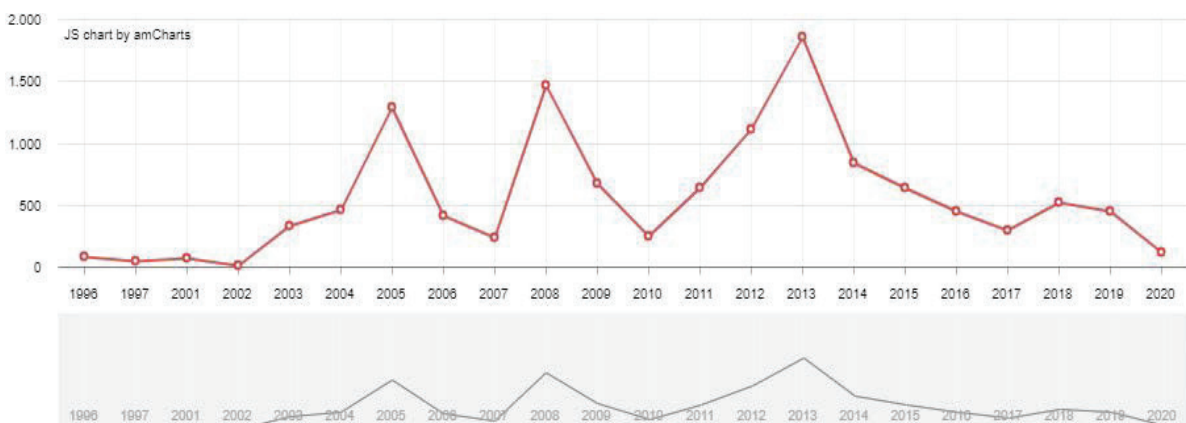
<https://reporterbrasil.org.br/2014/02/escravidao-urbana-passa-a-rural-pela-primeira-vez/>

[VIEW DOCUMENT](#)

Annual table of workers' rescues in rural areas:



Annual table of workers' rescues in urban areas:



Source: Radar SIT, available at <https://sit.trabalho.gov.br/radar/>

16

PARLIAMENTARY COMMISSION OF INQUIRY (CPI) OF THE LEGISLATIVE ASSEMBLY

CPI on Slave Labor of the Legislative Assembly of São Paulo

Start Date: 04/09/2014 / End Date: 10/22/2014

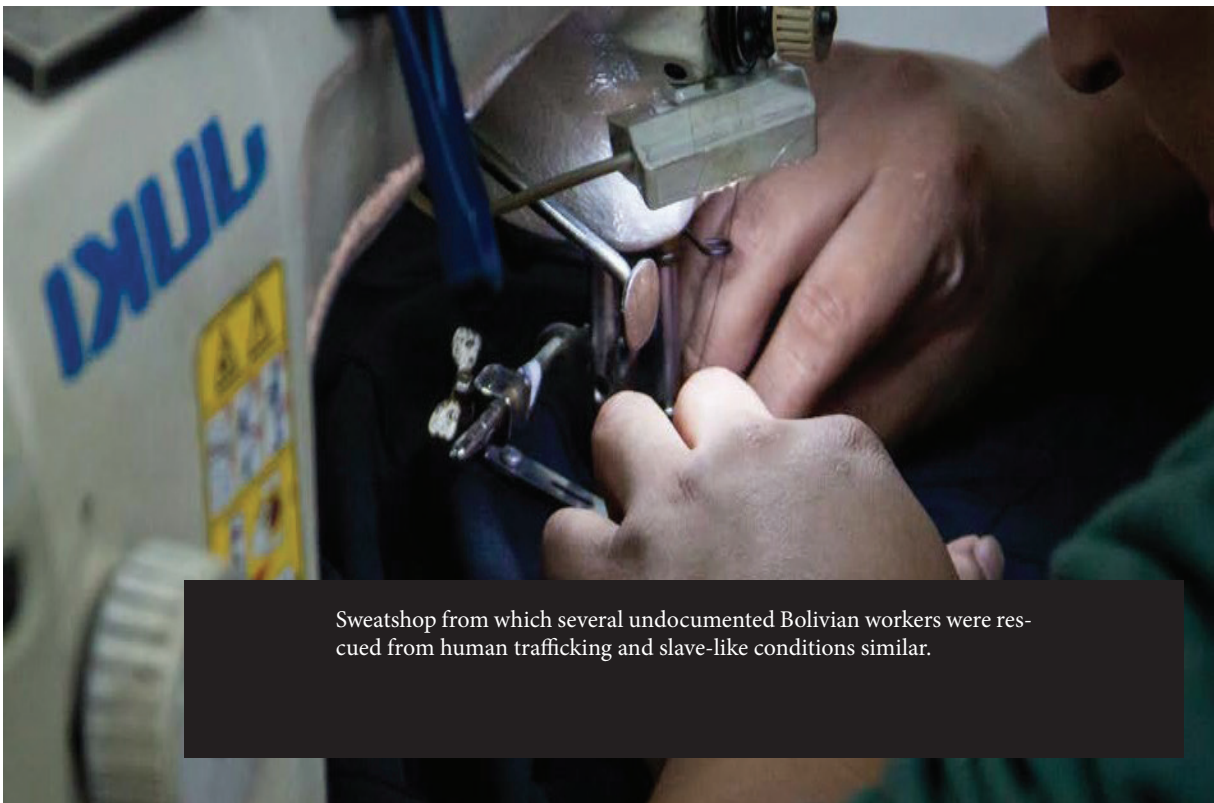
Final Report's Publication: March 2015



<https://www.al.sp.gov.br/repositorio/arquivoWeb/com/com3042.pdf>

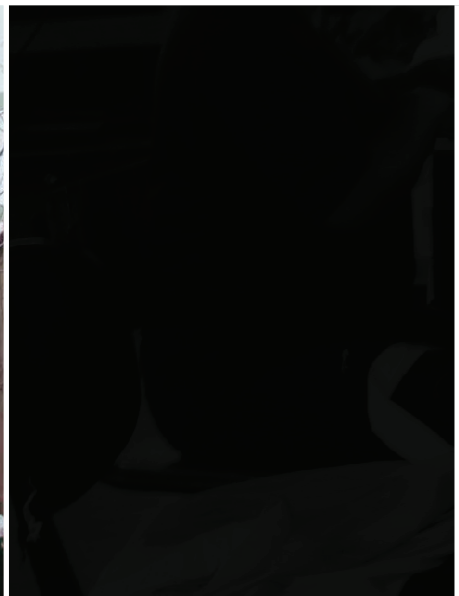
[VIEW DOCUMENT](#)

In the course of the CPI on the slave labor of the Legislative Assembly of São Paulo, on several occasions the Labor Auditors assisted in the investigation work and provided images that reflect the fight against human trafficking and combating slave-like conditions in the fashion industry supply chain in São Paulo, carried out by the State Program for Combating Slave Labor of the Regional Superintendence of Labor in São Paulo:



Sweatshop from which several undocumented Bolivian workers were rescued from human trafficking and slave-like conditions similar.

Sweatshop from which several undocumented Bolivian workers were rescued from human trafficking and slave-like conditions. Multifamily accommodation



Gas cylinders in an inappropriate place, causing the risk of explosion and fire.





Bolivian worker found in an advanced state of pregnancy was being mistreated in the workplace.

The environment offered a serious and imminent risk to the safety and health of workers and gave rise to the sealing of machines and the prohibition of the work environment.



Labor inspector Renato Bignami, state deputy and president of the Slave Labor CPI of the Legislative Assembly of São Paulo Carlos BezerraFilho and labor attorney Luiz Fabre analyze documents seized during the inspection.

Labor Auditor SuêkoUski informs workers about their fundamental rights.



Federal Public Defenders ElianaMonteiroStaub Quinto and FabianaGaleraSevero and representative of the São Paulo Department of Justice and Citizenship provide assistance to undocumented migrant workers in sweatshop in the metropolitan region of São Paulo.

Sweatshop in which Paraguayan dressmakers worked. Labor Auditor SuêkoUski informs workers about their fundamental rights.





Sweatshop in which Paraguayan dressmakers worked.

Degrading work conditions from which workers were rescued from human trafficking and slave-like conditions in a sweatshop in the metropolitan region of São Paulo.



Lawyer at the Migrant Support Center (CAMI) Marina Novaes and a Federal Public Defender provide assistance to rescued workers.

Degrading work conditions from which workers were rescued from human trafficking and slave-like conditions in a sweatshop in the metropolitan region of São Paulo.



Rotten potatoes offered to workers rescued from human trafficking and slave-like conditions in a sweatshop in the metropolitan region of São Paulo.

Kitchen cupboard where food was kept was padlocked, preventing access to rescued workers.





Gas cylinder kept in an inadequate place causing risk of an explosion and fire in the workplace.

Federal Public Defender Daniela Muscari Scacchetti provides guidance to workers rescued from human trafficking and slave-like conditions in sweatshop in São Paulo



CONTRATO DE EMPRÉSTIMO DE MÁQUINA

Eu, RUBEN HUANCA MAMANI, administrador da empresa RUBEN HUANCA MAMANI - ME, inscrito no CNPJ 09.005.850/0001-57, inscrição estadual 149.774.288.117, declaro que estou utilizando, como empréstimo, os seguintes equipamentos, pertencentes a empresa CONFECÇÕES ENTEMPO LTDA., CNPJ 05.075.572/0001-53:

Uma máquina de fazer bolso em roupas, "Universal Flap Pocket Machine", JK 5878 series, Modelo Fenix FX-M4578-38.

Um compressor, para ser usado única e exclusivamente para a máquina de fazer bolso.

Concordo que serei considerado responsável por qualquer dano ou avaria causado aos equipamentos indicados acima, devendo indenizar a CONFECÇÕES ENTEMPO até o montante do dano causado nos equipamentos.

Concordo, também, em manter os equipamentos indicados acima, em bom estado de conservação, realizando os serviços/repáros neles necessários, para o seu bom funcionamento (tais como, troca de óleo, troca de peças etc.).



RUBEN HUANCA MAMANI

São Paulo.

Document found in a sweatshop in which undocumented Bolivian migrants worked. Fraudulent loan of sewing machines to the worker.

Document found in a sweatshop. This is a note that proves the solicitation of workers from the Bolivian Altiplano to São Paulo, paid for by the workshop worker (invoice). This note carries an advertisement that offers jobs in São Paulo on a radio station in Bolivia, suggesting Human Trafficking.

Telf: 2452422
18-mayo-2012

Cliente 8462

AVISO DE INTERES.- Viernes 18 de mayo-2012

hrs. 12 a 13,

Sábado 19 de mayo-2012. hrs. 6 a 7,7 a 8,8 a 9,9 a 10,

Se necesita con suma urgencia COSTUREROS con ~~EXPERIENCIA~~ o sin experiencia, pueden ser jóvenes, señoritas, cholitas, también se necesita AYUDANTES DE COSTURA, el trabajo es en el exterior SÃO PAULO BRASIL. Referencias al cel: 65-613040, 65-613040, preguntar por Don/Ruben.

SON: VENTITA CUMCO 00/100 BOLIVIANOS.
E.S.

Por. -Bs25.-



FACTURA

De: Guido Velasco Aguirre
CASA MATRIZ - B
Av. Tupiza N° 713 Piso 1
Zona 14 de Septiembre
Telf: 2452422 - Casilla 1539
La Paz - Bolivia

NIT 17565013
FACTURA
N° 073314
AUTORIZACION 200100271930r

ORIGINAL

La Paz 18 de mayo de 2012

Señor (es): *Ruben Huanca*

NITICI: *4374657*

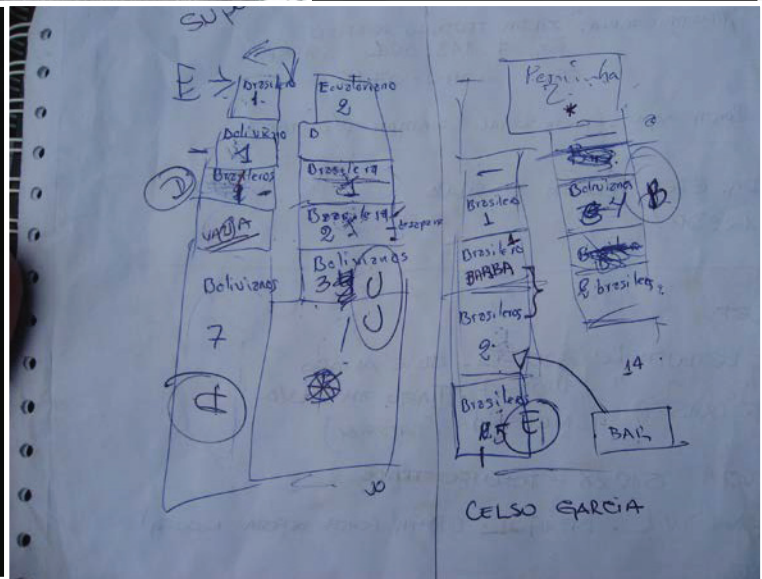
DESCRIPCION	TOTAL
<i>Pago 8462</i>	
TOTAL Bs. <i>25-</i>	

Fire in a Sweatshop where undocumented Bolivian migrants worked in the Brás neighborhood in São Paulo, causing the death of two workers.



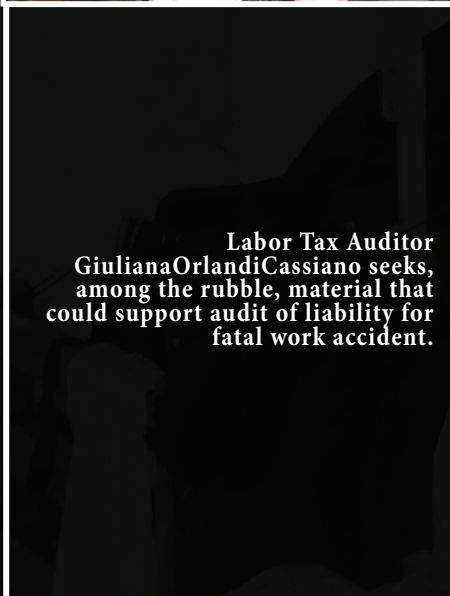
Several gas cylinders stored in the place were responsible for the fire, which possibly started in the irregular wiring, with immediate spread thanks to the precarious safety conditions of the place, coupled with the high concentration of oxidizing material (fabrics and pieces of clothing).

Drawing of the approximate plan of the fire site, prepared by the Fire Department.





Labor Auditor Luís Alexandre de Faria searches, among the rubble, material that could support the audit of liability for fatal work accidents.



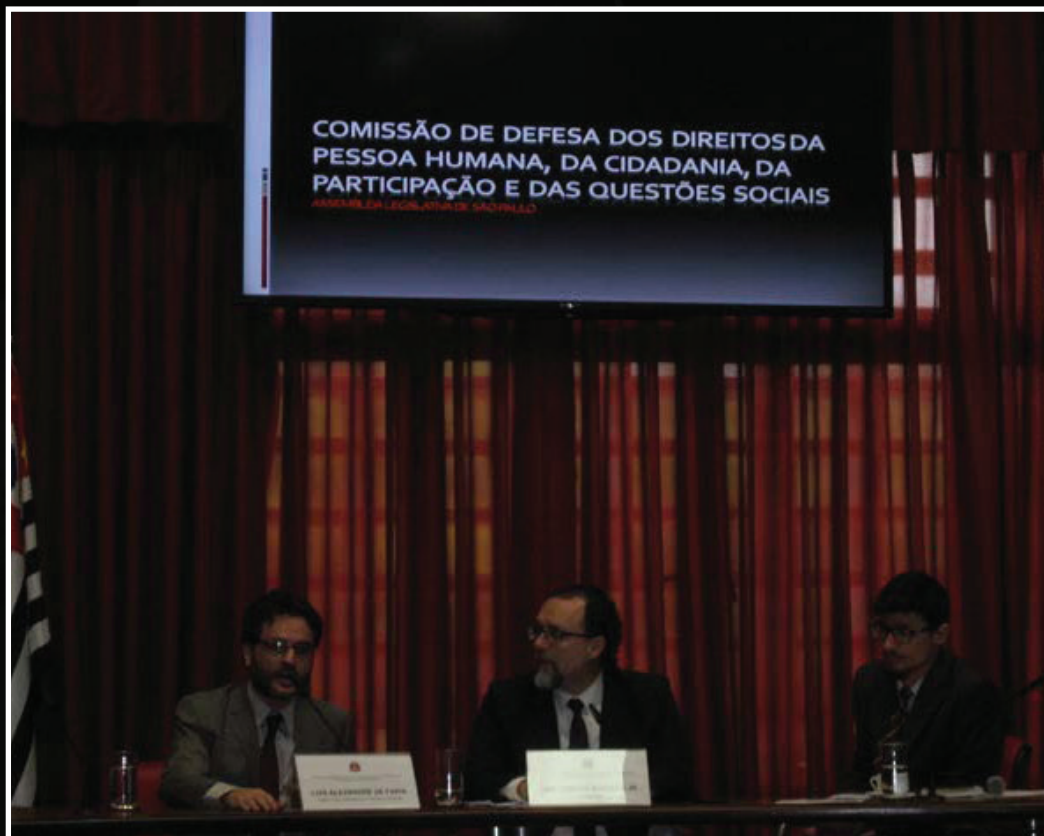
Labor Tax Auditor Giuliana Orlandi Cassiano seeks, among the rubble, material that could support audit of liability for fatal work accident.



Labor tax auditors Giuliana Orlandi Cassiano and Luís Alexandre de Faria search among the rubble.



CPI of Slave Labor of the Legislative Assembly of São Paulo - Labor Inspector Luis Alexandre de Faria gives testimony to the president of the CPI and the Human Rights Commission of ALESP, deputy Carlos Bezerra Jr. on the relevance of the work of the labor inspectors rescuing workers from slave-like conditions and holding companies accountable for these fundamental rights violations. The work carried out was fundamental to inspire the elaboration and edition of the São Paulo Law nº 14.946 / 13 (informally called Bezerra Law, in honor of its proponent), which aims to punish companies and entrepreneurs who use slave labor with the suspension of their enrollment in the ICMS for a period of 10 years. This law was the first in a series of similar state and municipal laws and was recognized by the UN as an example of a legislative measure to inspire other countries.



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WITHDRAWAL OF THE REGIONAL SUPERINTENDENCE OF LABOR IN SÃO PAULO FROM THE STATE COMMISSION FOR THE ERADICATION OF SLAVE LABOR - COETRAE-SP

On August 6, 2015, after a series of disagreements within the scope of COETRAE-SP regarding public policies to combat human trafficking and slave-like conditions, carried out by the Federal Labor Inspection System, and several attempts that the considerations presented by the Labor Auditors of the State Program for Combating Slave Labor were considered, the Regional Superintendence of Labor in São Paulo communicates the reasons for its withdrawal from the aforementioned commission, while they last:



MINISTRY OF LABOR AND EMPLOYMENT
REGIONAL SUPERINTENDENCE OF LABOR AND EMPLOYMENT IN SÃO PAULO

TERMINATION LETTER- COETRAE/SP

The Superintendence has been excluded from the main activities and decision-making of COETRAE / SP.

The Commission has not been prioritizing measures that could have a major impact in combating slave labor in the State of São Paulo, such as the publication of the State Plan for the Eradication of Slave Labor and the establishment of a work flow chart among the various institutions that are part of it so that one could minimally organize the attendance to the serious denunciations of existent slave labor, in addition to deviating completely from the theme that inspired its creation, by using political rhetoric in dealing with the serious migratory crisis that the country is going through to deny its responsibilities and just attack the federal government.

Furthermore, the prioritization of criminal policies carried out by the police apparatus of the State of São Paulo, which only aims to repress

potential crimes and ends up alienating and stigmatizing even more entire populations of migrant workers, to the detriment and disdain of the administrative police activity carried out by the inspection by the Regional Superintendence of Labor and Employment in São Paulo, which reconstitutes social rights, promotes the integration of migrants to the productive extract of São Paulo and blames large companies for precarious working conditions, has aggravated the situation of thousands of migrant workers, making it impossible and unnecessary the coexistence of SRTE / SP in the space it founded in 2011 as COETRAE / SP.

Instead of recognizing the activity of screening complaints, planning and coordinating actions to the Regional Superintendence of Labor and Employment in São Paulo, which should be done by prior submission of the form “Denunciation of Slave Labor” adopted at the national level by the MTE, agents of the state government come making “invitations” for the participation of the labor inspector in the procedures previously defined by the criminal police, which is unacceptable from the point of view of the effectiveness of the action.

Thus, the Regional Superintendence of Labor and Employment in São Paulo departs from this committee with the hope that in the near future these specific issues can be corrected within the scope of the São Paulo COETRAE so that it can once again be a democratic space of excellence in order to achieve the eradication of slave labor from workplaces in São Paulo.

São Paulo, August 6, 2015.

VILMA DIAS BERNARDESGIL

Regional Superintendent of Labor and Employment in São Paulo

MARCO ANTÔNIO MELCHIOR

Head of the Labor Inspection Section - SRTE / SP

SÉRGIO AOKI

Labor Auditor - Coordinator of the Slave Labor Eradication Program
at SRTE / SP

LUÍSA ALEXANDRE DE FARIA

Labor Auditor - SRTE / SP Slave Labor Eradication Program

As can be seen from the content of this document, one of the main divergences of the Regional Superintendence of Labor in São Paulo was the lack of political and technical commitment by the state Executive Sector to publish the State Plan to Eradicate Slave Labor, a document

that had been wide and discussed at length among all the entities participating in the referred commission, but, that, never came to be published. Thus, in order for the society to be aware of the terms discussed by these entities, we publish, below, the last draft of the referred plan approved by all participants and sent to the State Government of São Paulo for the final procedures, which have never been carried out before the start of its execution:

DRAFT OF THE STATE PLAN FOR THE ERADICATION OF SLAVE LABOR / SP

I. GENERAL ACTIONS

ACTION	OFFICIALS	TERM
1. Define the eradication of slave labor as a priority for the State of São Paulo	State Government, Coetrae	Permanent
2. Establish integrated action strategies between agencies to end slave labor	Coetrae	Permanent
3. Establish guidelines for the inclusion of the actions foreseen in the State Plans with the budgetary laws in the State of São Paulo (Pluriannual Plan, Budgetary Guidelines Law and Annual Budget)	Coetrae	Permanent
4. Encourage studies and diagnoses on the situation of slave labor in the state of São Paulo, including in partnership with universities and research centers.	Coetrae	Permanent
5. Articulate the work of Coetrae / SP with Conatrae and other State Commissions, especially with the states of origin of migrant workers	Coetrae	Permanent
6. Articulate Coetrae's performance with the countries of origin of foreign immigrant workers, enticed to slave labor.	Executive Committee, SP State Government and Diplomatic Representations	Permanent
7. Monitor the execution of the Plan, taking steps to correct delays and omissions in its goals.	Coetrae	Permanent
8. Prepare and publish a biannual report on the activities and results obtained by Coetrae.	Coetrae	Permanent
9. Support the approval of the PEC for Slave Labor (Proposed Amendment to the Constitution, No. 57-A of 1999, numbered by the Senate).	Coetrae	Permanent: forwarding of manifestations to the rapporteur in the Federal Senate and party leaders in the National Congress: until December 2012

10. Express opposition to bills that aim to change the concept of slave-like work provided for in the Brazilian Penal Code when this leads to a reduction in the protection of workers and seek the approval of projects in process in the Legislative Assembly of São Paulo and in the São Paulo City Councils that are considered, by Coetrae, as fundamental for the eradication of slave labor.	Coetrae	Permanent: forwarding of manifestations to rapporteurs of bills, members of commissions and party leaders in the National Congress.
111. Create and Maintain the State Fund for the Eradication of Slave Labor, with Coetrae as the managing council, to which sufficient budgetary resources will be allocated, and to which the amount of fines and collective indemnities resulting from the actions of the Public Prosecutor's Office, Public Defender and of the Judiciary in situations involving slave labor	State Government, Secretariat of Justice, Coetrae	Permanent: bill forwarding - medium term (from 06 to 12 months)
12. Create, Maintain and Disclose a space on the Secretariat of Justice page for Coetrae, with the provision of information on Coetrae's activities and on the subject of slave labor.	State Government, Secretariat of Justice, Coetrae	Permanent: term of 6 months to 1 year for creation, from December 2012.
13. Integrate the Reference Centers in Occupational Health and Employment Councils with the objectives of the Plan.	State Government and Coetrae	Permanent
14. Hold public hearings and / or seminars on slave labor.	Coetrae	Permanent: with a minimum of one hearing per year.

II. PREVENTIVE ACTIONS

ACTIONS	OFFICIALS	TERM
15. Foster the development of an electronic system capable of monitoring the actions and results related to the eradication of slave labor in the State of São Paulo.	Coetrae	Drafting and project - term of 6 to 24 months, from December 2012
16. Include the topic of contemporary slave labor in school curricula, in the pedagogical work of schools, through an interdisciplinary transversal approach, seeking to involve all the agents that make up the school unit, as well as conduct educational campaigns and produce appropriate didactic material, in line with the existing state and national initiatives on the topic.	Coetrae, Secretariat of Education, State Council of Education	Permanent

17. Monitor the financial results obtained by economic sectors and companies in circumstances such as to generate suspicion, due to the great disparity with the economic reality involved, of obtaining a significant advantage through the intense suppression of labor costs (evidence of the use of labor). - work in degrading conditions)	Secretariat of Finance, Federal Revenue of Brazil, Ministry and Labor and Employment	Permanent
18. Promote educational campaigns to inform the general population, workers and employers about slave and decent work.	Coetrae	Permanent: launch at least one campaign in the medium / long term (from 6 to 12 months) from December 2012.
19. Support educational campaigns on the themes of slave labor and decent work by other entities.	Coetrae	Permanent
20. Make and distribute informative material on slave labor to workers and employers, and reproducing existing material on the subject.	Coetrae	Permanent: launch at least one long-term publication (from 12 to 24 months), as of December 2012
21. Promote educational campaigns encouraging consumers to seek conscious consumption, with social responsibility, avoiding products produced with the use of slave labor in Brazil and abroad.	Coetrae	Permanent: launch at least one long-term campaign (from 12 to 30 months), starting in December 2012
22. Inform on your website the list of companies and individuals included in the Employer Register, referred to in Inter-ministerial Ordinance no. 2 of May 12, 2011, as well as a list of employers already convicted, with a final and unappeasable court decision, for the exploitation of slave labor, including work under degrading conditions.	Coetrae, Ministry of Labor and Employment, Public Prosecution Office, Public Defender and Judiciary	Permanent: from body creation
23. Suggest to the National Monetary Council the edition of resolution, in addition to Resolution no. 3876 of June 22, 2010, providing for the prohibition of the granting of credit of any kind, by public or private financial institutions, to individuals and companies registered in the Employers' Register referred to in Inter-ministerial Ordinance no. 2 of May 12, 2011, or sentenced, with a final and unappeasable court decision, for the exploitation of slave labor, in this case maintaining the prohibition for a period of 02 years, counting from the res judicata.	Coetrae Executive Committee	6-month term, as of December 2012

24. Recommend to the financial institutions involved in real estate credit, that they do not contract or, as the case may be, suspend the contracting of credit, including real estate, in favor of individuals and companies registered in the Employers' Register referred to in Inter-ministerial Ordinance no. 2 of May 12, 2011.	Executive Committee	6-month term, as of December 2012
25. Express support for bills in progress in the National Congress that seek to include in the bidding law restrictions to companies involved in slave labor.	Coetrae	6-month term, as of December 2012
26. Institute a ban on the granting of public credit and tax incentives, as well as the suspension of credit and incentives granted, within the scope of the direct and indirect State Public Administration, in relation to companies registered in the Employer Register referred to in Inter-ministerial Ordinance no. 2, of May 12, 2011, or sentenced, with a final and unappeasable court decision, for the exploitation of slave labor, in this case maintaining the prohibition for a period of 02 years, counting from the res judicata.	State Government	Permanent: with a minimum term of 12 months to, from December 2012
27. Encourage and promote professional qualification of workers in the economic sectors most involved in slave labor.	SP State Government	Permanent
28. Promote land tenure regularization and land reform in the regions of the state with the highest incidence of slave labor.	State Government, INCRA	Permanent

III. PUNITIVE ACTIONS

ACTIONS	OFFICIALS	TERMS
29. Carry out actions to repress slave labor and the entice of workers into slave labor	Civil Police, Military Police, Federal Police, Federal Road Police, M.T.E, MPT, MPF, MPE, Federal Revenue Service, State Finance Secretariat	Permanent

30. Perform investigative work aiming at the discovery of situations and places where there is the occurrence of slave labor.	Civil Police, Military Police, Federal Police, Road Police, M.T.E, MPT, MPF, MPE, Federal Revenue Service, State Finance Department	Permanent
31. Train civil, federal and military police, as well as road, rail, airport and port police, armed forces, members of the judiciary, prosecutors, labor tax auditors, IRS auditors and Sec. State, Public Defenders, on issues related to enticement and slave labor.	Coetrae	Permanent
32. Carry out investigative work aiming at the discovery of road routes and criminal organizations ("cats" or recruiters) involved in the recruitment of slave-labor workers.	Federal Road Police, Federal Police, Civil and Military Police, M.T.E, MPT, MPF, MPE	Permanent
33. Inspect highways and require the presentation of the Declaratory Certificate issued by the MTE for the transportation of workers	Federal Road Police, Federal Police, Civil and Military Police, M.T.E	Permanent
34. Consolidate information on judicial and administrative procedures involving the use of slave labor, which will be passed on to you by the institutions that make up the Commission, subject to legal secrecy.	Coetrae	Permanent

35. Make companies caught in the exploitation of slave labor object of priority analysis for the purposes of selection and inspection schedule, respecting the criteria of relevance and fiscal interest and taking into account the social and corrective character of tax actions in the segments covered.	Secretariat of Finance, Federal Revenue of Brazil, MTE	Permanent
36. Disclose the final result of repressive actions to the Coetrae Plenary	Coetrae – all members	Permanent
37. Recommend to the Administrative Council for Economic Defense (CADE) to pay attention and punish the actions of companies that practice infractions of the economic order, to the detriment of workers and competition, with the use of slave labor	Coetrae Executive Committee	Permanent
38. Recommend the Securities and Exchange Commission to give priority to the inspection of companies involved with the use of slave labor	Coetrae Executive Committee	Permanent
39. Provide, through an agreement, electronic access to the organs for the repression of slave labor, including MTE, MPT, MPE, DPU, DPE and MPF, to consult state databases that contain useful information for investigations, such as the Finance Secretariat and the Public Security Secretariat.	Finance Secretariat, Public Security Secretariat MPT, MPF, MPE, DPU, DPE, MTE	Permanent
40. Establish as priority the processing of legal proceedings that discuss legal accountability for the exploitation of slave labor	TRT2 and TRT15, TRF and TJSP	Permanent
41. Integrated action by means of an agreement between the fiscal and judicial institutions of the state and federal public authorities for the location of assets belonging to sentenced individuals and legal entities, or in relation to which a decision on the arrest or unavailability of assets has been made, for involvement slave labor, in order to guarantee the payment of indemnities and fines imposed by the courts.	Finance Secretariat, Federal Revenue Service, MPE, MPT, MPF, TRT, TRF, TJSP	Permanent
42. Keep a judge on duty available, simultaneously with the implementation of actions to eradicate slave labor, for the examination of urgent requests.	TRT2 and TRT 15, TRF, TJSP	Permanent

43. Guarantee the exchange of information MPT, MPF, MPE between Public Ministry bodies, aiming at the civil, labor and criminal liability of those involved in the exploitation of slave labor.		Permanent
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IV. ASSISTANCE ACTIONS

ACTIONS	OFFICIALS	TERM
44. Guarantee legal assistance to rescued workers or victims of slave labor.	Public Defender of the State of São Paulo, Public Defender of the Union in the State of São Paulo	Permanent
45. Facilitate the access of victims of slave labor and implement specific actions within the scope of SUS and the National Network of Comprehensive Attention to Occupational Health (RENAST).	Health Secretariat and State Health Council	Permanent: with the edition of the relevant regulations (service protocol) within six months to one year), as of December 2012
46. Develop a proposal for integrated care, including a flowchart, for victims of slave labor, for coordinated action between the institutions that are part of Coetrae, aiming at greater efficiency and breadth of care.	Coetrae	Permanent: with protocol edition, within up to 6 months, from December 2012
47. Train professionals in the areas of public health, education and social assistance in issues related to slave labor	Coetrae	Permanent
48. Train members of the Councils for the Rights of Children and Adolescents and guardianship counselors on issues related to slave labor and the exploitation of child and youth labor.	Coetrae, MPE, DPE, Child and Youth Coordination of TJ / SP	Permanent

49. Carry out programs to prevent the reintegration of rescued workers into the slave labor scheme, through public policy measures in the areas of social assistance, work (including professional qualification) and income generation	State Secretariats that are part of Coetrae, MTE, MPT	Permanent: implementation of at least one project in the medium / long term (from 06 to 24 months), as of December 2012
50. Carry out projects to promote the improvement of working conditions in the sectors of civil construction and in the clothing industry, among other sectors with incidence of slave labor, in partnership with union entities.	Coetrae	Permanent: implementation of at least one project in the medium / long term (from 06 to 24 months), as of December 2012
51. Enable the existence of temporary reception centers for workers rescued from slave labor, ensuring financial resources for their maintenance, as well as for transporting the worker to them.	São Paulo State Government	Permanent
52. Guarantee to the rescued workers, if the extrajudicial or judicial provision of liability of the employer, food and accommodation is not guaranteed until the resolution of their immediate individual situations related to the rescue.	State Government	Permanent
53. Guarantee to the rescued workers, if the employer's extrajudicial or judicial liability is not assured, and if the return by the worker is desired, the cost of the return transportation to their places of origin.	State Government	Permanent

However, although the terms for the withdrawal of the Regional Superintendence of Labor in São Paulo are quite enlightening and have not yet been reviewed by the state executive, which is why the SRT-SP has not yet officially returned to that committee, the work done by the Labor Auditors Labor in the State of São Paulo, in combating human trafficking and combating slave labor, never waned, as the dialogue with the other authorities relevant to this public office continued to occur whenever it was necessary for the smooth running of operations combating slave labor.

18

ADVANCES IN THE ANTI-TRAFFICKING LAW

On October 6, 2016, Law n. 13,344, which provides for the prevention and repression of internal and international human trafficking and assistance measures for the victims; amends Law No. 6,815 of August 19, 1980, Decree-Law No. 3,689 of October 3, 1941 (Penal Procedure Code), and Decree-Law No. 2,848 of December 7, 1940 (Penal Code); and repeals provisions of Decree-Law No. 2,848 of December 7, 1940 (Penal Code). This rule makes it clear in the legislation that every foreigner, even if in an irregular migratory situation, who has been subjected to human trafficking and slave labor shall be guaranteed permanence.



http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2016/lei/l13344.htm

VIEW DOCUMENT

19

**RATIFICATION OF THE SECOND PROTOCOL
FOR TECHNICAL COOPERATION BETWEEN
THE INSTITUTIONS FOR COMBATING HUMAN
TRAFFICKING FOR THE PURPOSE OF LABOR
EXPLORATION AND SLAVE LABOR**

January 2017 – The Regional Superintendence of Labor in São Paulo, the Regional Labor Court of the 2nd Region, the Regional Labor Court of the 15th Region, the Regional Public Labor Prosecution Office of the 2nd Region, the Regional Public Labor Prosecution Office of the 15th Region, the Public Defender of the Union in São Paulo and the Regional Federal Attorney's Office of the 3rd Region ratify the second Protocol of Technical Cooperation to implement actions and programs aimed at the eradication of slave labor, human trafficking and child labor in the State of São Paulo.



FEDERAL PUBLIC SERVICES
REGIONAL SUPERINTENDENCE OF LABOR IN SAO PAULO

TECHNICAL COOPERATION PROTOCOL N^o 001/2017

PROTOCOL OF TECHNICAL COOPERATION THAT BETWEEN THE REGIONAL SUPERINTENDENCE OF LABOR IN THE STATE OF SÃO PAULO, THE REGIONAL TRIBUNAL OF LABOR OF THE 29TH REGION, THE REGIONAL TRIBUNAL OF LABOR OF THE 15th REGION, THE REGIONAL ATTORNEY OF THE UN REGION OF THE 3RD REGION, THE REGION OF THE REGION OF THE REGION OF THE 3RD REGION REGIONAL OF WORK OF THE 2nd REGION, THE REGIONAL ATTORNEY OF WORK OF THE 15th REGION AND THE PUBLIC DEFENSE OF THE UNION IN SÃO PAULO FOR THE PURPOSES THAT SPECIFIES

The Union, through the **REGIONAL SUPERINTENDENCE OF LABOR IN SÃO PAULO**, hereinafter referred to as **SRTE / SP**, hereinafter represented by the Regional Superintendent of Labor Eduardo Anastasi, from the **REGIONAL ATTORNEY OF THE UNION OF THE 3rd REGION**, hereinafter referred to as the Regional Prosecutor of União Luiz Carlos de Freitas, of the **REGIONAL LABOR COURT OF THE 2nd REGION**, hereinafter referred to as **TRT2**, hereby represented by its President, Federal Judge of Labor Wilson Fernandes, of the **REGIONAL LABOR COURT OF THE 15th REGION**, hereinafter referred to as **TRT15**, in this act represented by its President, Federal Judge of Labor Fernando da Silva Borges, **REGIONAL LABOR ATTORNEY'S OFFICE of the 2^a REGION**, hereinafter referred to as **PRT2**, in this act represented by Chief Prosecutor Erich Vinicius Schramm, of the **REGIONAL LABOR ATTORNEY'S OFFICE OF THE 15th REGION**, hereinafter referred to as **PRT15**, in this act represented by Chief Prosecutor Eduardo Luís Amgarten, and the **PUBLIC DEFENDER OF THE UNION IN SÃO PAULO**, hereinafter referred to as **DPU / SP**, hereby represented by Chief Public Defender Nara de Souza Rivitti and, furthermore,

Whereas TRT2 is a pioneer in the creation of the Itinerant Court to combat slave-like labor, through Act GP 09/12, published on July 27, 2012, revoked by the current Act GP 15/2013;

Whereas TRT15, also a pioneer in the creation and installation of the Itinerant Court to combat slave-like labor, through Act GP 10/2012;

Whereas SRT / SP, PRT2, PRT / 15, PRU3 and DPU / SP participate in various inter-in-

stitutional actions to combat slave labor, human trafficking for the purpose of slave labor and child labor,

RESOLVE to enter into this **TECHNICAL COOPERATION PROTOCOL**, based on Law No. 8,666 / 1993, when applicable, and also by means of the clauses and conditions listed below:

OBJECT

FIRST CLAUSE - The purpose of this Protocol is to combine efforts among the participants with a view to implementing programs and actions aimed at eradicating slave-like labor, combating human trafficking and combating child labor, as well as strengthening the State Plan for the Eradication of Slave Labor, the State Plan for combating human trafficking, the Municipal Plan to Combat Slave Labor in São Paulo, the National Plan to Combat Child Labor and the Municipal Plan to Combat Child Labor in São Paulo.

THE PARTIES' OBLIGATIONS

SECOND CLAUSE - The common obligations of the participants are, without prejudice to the legal powers of each body and others necessary to achieve the object of this Protocol:

- I. Create an inter-institutional committee, with representatives appointed by the signatories, with the objective of proposing, planning and monitoring the agreed programs and actions;
- II. Implement permanent public policies aimed at eradicating slave-like conditions, human trafficking for the purpose of slave labor and child labor, strengthening social dialogue;
- III. Promote studies and research on the causes and consequences of slave labor, human trafficking and child labor in Brazil, in order to assist in the prevention and reduction of the resulting social, labor and economic costs;
- IV. Encourage educational and pedagogical actions in order to sensitize civil society and public and private institutions on the need to combat slave labor, human trafficking and child labor, as well as reaffirming the effectiveness of the international norms and conventions ratified by Brazil on slave labor, human trafficking, child labor and similar;
- V. Create and feed a common database, with information necessary to achieve the purpose of this Protocol.

ADHERENCE

THIRD CLAUSE - Other public and private bodies and entities may adhere to this instrument, by means of an adhesion term to be signed with any of the participants, with subsequent communication to the others.

MONITORING

FOURTH CLAUSE - Participants shall designate managers to monitor, manage and

administer the implementation of this Protocol.

FINANCE AND MATERIAL RESOURCES

FIFTH CLAUSE - This Protocol does not involve the transfer of resources, and each participant bears the respective costs. The actions resulting from this adjustment that imply transfer or assignment of resources will be made possible through an appropriate instrument.

EFFECTIVENESS AND TERM

SIXTH CLAUSE - This Protocol will be effective from the date of its signature and validity of twelve months, being able to be automatically extended for equal periods, unless there is an express manifestation to the contrary, under the terms of the law.

DISSOLUTION AND UNILATERAL WITHDRAWAL

SEVENTH CLAUSE - The parties are allowed to promote the cancellation of the present Protocol, at any time, by mutual consent, or the unilateral withdrawal by the Initiative of any one of them, by means of a written notice, with a minimum of 30 (thirty) days in advance, remaining for which only responsibility for tasks running in the period prior to notification.

CHANGES AND MODIFICATIONS

EIGHT CLAUSE - This instrument may be changed, by mutual understanding between the celebrants, during its term, by means of an Addendum, aiming to improve the execution of the works, except with regard to its object.

APPLICABLE LAW

NINTH CLAUSE - This instrument may be changed, by mutual understanding between the celebrants, during its term, by means of an Addendum, aiming to improve the execution of the works, except with regard to its object.

PUBLICATION

TENTH CLAUSE - The extract from this instrument shall be published in the Federal Official Gazette, without prejudice to eventual publication in specific Official Electronic Diaries of the State of São Paulo, according to what authorizes art. 49 of Law No. 11,419 / 2006, combined with the sole paragraph of art. 61 of Law No. 8.666 / 1993.

JURISDICTION

ELEVENTH CLAUSE - The participants elect, to the exclusion of any other, however privileged it may be, the Federal Court of the Capital of the State of São Paulo to settle matters

pertinent

And as they are in full agreement, the celebrants sign this instrument, for all legal purposes.

São Paulo, January 27, 2017.

[Signature]

Eduardo Anastasi

REGIONAL SUPERINTENDENCE OF LABOR IN SÃO PAULO

[Signature]

Luiz Carlos de Freitas

REGIONAL ATTORNEY OF THE UNION OF THE 3rd REGION

[Signature]

Wilson Fernandes

REGIONAL LABOR COURT OF THE 2nd REGION

[Signature]

Helena Rosa Mônaco da Silva Lins Coelho

REGIONAL LABOR COURT OF THE 15th REGION

[Signature]

Erich Vinicius Schramm

REGIONAL ATTORNEY FOR WORK OF THE 2nd REGION

[Signature]

Dimas Moreira da Silva

REGIONAL LABOR ATTORNEY'S OFFICE OF THE 15th REGION

[Signature]

Nara de Souza Rivitti

PUBLIC DEFENSE OF THE UNION IN SÃO PAULO

20

FROM ILLEGAL FOREIGNERS TO MIGRANT WORKERS SUBJECT TO RIGHTS: ADVANCES AND SETBACKS OF NATIONAL LAWS

On May 24, 2017 Law n. 13,445 is finally published, instituting the Migration Law and repealing Law no. 6.815 / 80 the Foreigner Statute. The law reinforces the previous position in the sense of guaranteeing non-national migrants the permanence in national territory, in the cases in which they are subjected to human trafficking, slave labor or who have suffered a violation of rights aggravated by their migratory condition.



http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2017/lei/l13445.htm

[VIEW DOCUMENT](#)

21

RATIFICATION OF THE THIRD PROTOCOL FOR TECHNICAL COOPERATION BETWEEN INSTITUTIONS TO PROMOTE DECENT WORK IN THE STATE OF SÃO PAULO

May 2019 - Regional Labor Superintendence in São Paulo, Regional Labor Court of the 2ndRegion, Regional Labor Court of the 15thRegion, Regional Labor Office of the 2ndRegion, Regional Labor Office of the 15thRegion, Public Defender of the Union in São Paulo and the Regional Attorney's Office of the Union of the 3rdRegion ratify the third Protocol of Technical Cooperation to implement actions and programs aimed at promoting decent work in the State of São Paulo:

TECHNICAL COOPERATION PROTOCOL N° xxx/2019

TECHNICAL COOPERATION PROTOCOL THAT AMONG THE REGIONAL LABOR COURT OF THE 2nd REGION, THE REGIONAL LABOR COURT OF THE 15th REGION, THE REGIONAL SUPERINTENDENCE OF LABOR IN SÃO PAULO, THE REGIONAL ATTORNEY OF THE UNION OF THE 3rd REGION, THE REGIONAL ATTORNEY'S OFFICE OF THE 2nd REGION, THE REGIONAL LABOR ATTORNEY'S OFFICE OF THE 15th REGION AND THE PUBLIC DEFENSE OF THE UNION IN SÃO PAULO FOR THE PURPOSES THAT SPECIFIES

THE REGIONAL LABOR COURT OF THE 2nd REGION, hereinafter referred to as **TRT2**, in this act represented by its President, Judge of Labor **DRA. RILMA APARECIDA HEMETÉRIO**, **THE REGIONAL LABOR COURT OF THE 15th REGION**, hereinafter referred to as **TRT15**, hereinafter represented by Judge of Labor **DR EDUARDO BENEDITO DE OLIVEIRA ZANELLA**, The Union, by means of the **REGIONAL SUPERINTENDENCE OF LABOR IN SÃO PAULO**, hereinafter referred to as **SRT/ SP**, in this act represented by the Regional Superintendent of Labor **DR. MARCO ANTONIO MELCHIOR**, **THE REGIONAL ATTORNEY OF THE UNION OF THE 3rd REGION**, hereinafter referred to as **PRU3**, in this act represented by the Regional Attorney of the Union **DR. LUIZ CARLOS DE FREITAS**, **THE REGIONAL LABOR ATTORNEY OF THE 2nd REGION**, hereinafter referred to as **PRT2**, hereby represented by the Chief Prosecutor **DR ERICH VINÍCIUS SCHRAM**, the **REGIONAL LABOR ATTORNEY'S OFFICE OF THE 15th REGION**, hereinafter referred to as the **PRT15**,

in this act represented by the Labor Prosecutor DR. CATARINA VON ZUBEN, **THE PUBLIC DEFENSE OF UNION IN SÃO PAULO**, hereinafter referred to as **DPU / SP**, hereby represented by the Chief Public Defender of the Public Defender of the Union in São Paulo, **DR. LEONARDO DE CASTRO TRINDADE**, and also,

Whereas TRT2 is a pioneer in the creation of the Itinerant Court to combat slave-like labor, through Act GP 09/12, published on July 27, 2012, revoked by the current Act GP 15/2013;

Whereas TRT15, also a pioneer in the creation and installation of the Itinerant Judge to combat slave-like labor, through Act GP 10/2012

Whereas the social dialogue process initiated and coordinated by the Labor Superintendence in the State of São Paulo, in 2006, on the working conditions of migrant workers in the sewing activity in the metropolitan region of São Paulo, which culminated in the ratification of the ‘Pact Against Precariousness and Decent Employment and Work in São Paulo - Clothing Production Chain, which, in turn, began to confront slave-like labor in the State of São Paulo, extending to other economic activities, for example civil construction and agribusiness;

Whereas **SRT / SP, PRT2, PRT / 15, PRU3** and **DPU / SP** participate in various inter-institutional actions to combat slave labor, human trafficking for the purpose of slave labor and child labor,

RESOLVE to enter into this **TECHNICAL COOPERATION PROTOCOL**, based on Law No. 8,666 / 1993, when applicable, and also by means of the clauses and conditions listed below:

OBJECT

FIRST CLAUSE - The purpose of this Protocol is to combine ef-

forts among the participants with a view to implementing programs and actions aimed at promoting decent work in the State of São Paulo, with emphasis on the following areas of activity:

1. Eradication of slave-like work, in any of its modalities,
2. **Fight against human trafficking;**
3. Fight against child labor;
4. Fight against discrimination and non-equality;
5. Defense and protection of union freedom and the right to collective negotiation;
6. Elimination of unsafe work, understood as any type of work that exposes workers to the risk of accidents or the development of occupational diseases.
7. Strengthening of the State Plan for the Eradication of Slave Labor, the State Plan for Combating People Trafficking, the Municipal Plan to Combat Slave Labor in São Paulo, the National Plan to Combat Child Labor and the Municipal Plan to Combat Child Labor São Paulo, as well as other plans and / or instances to promote decent work in the State of São Paulo.

COMMON OBLIGATIONS OF PARTICIPANTS

SECOND CLAUSE - The common obligations of the participants are, without prejudice to the legal powers of each body and others necessary to achieve the object of this Protocol:

I. Create an inter-institutional committee, with representatives appointed by the, signatories, with the objective of proposing, planning and monitoring the agreed programs and actions;

ii. Implement permanent public policies that aim to eradicate slave-like conditions, human trafficking for the purpose of slave labor, unsafe working conditions and child labor, strengthening social dia-

logue;

iii. Promote studies and research on the causes and consequences of slave labor, human trafficking, unsafe labor and child labor in Brazil, in order to assist in the prevention and reduction of the resulting social, labor and economic costs;

iv. Promote educational and pedagogical actions in order to sensitize civil society and public and private institutions on the need to combat slave labor, human trafficking, unsafe work and child labor, as well as reaffirming the effectiveness of norms and international conventions ratified by Brazil on slave labor, human trafficking, occupational safety and health, child labor and the like;

v. Create and feed a common database, with information necessary to achieve the purpose of this Protocol.

ADHERENCE

THIRD CLAUSE - Other public and private bodies and entities may adhere to this instrument, as long as there is express consent by all other participating entities, in consensus.

MONITORING

FOURTH CLAUSE - Participants shall designate focal points to monitor, manage and administer the implementation of this Protocol.

FINANCIAL AND MATERIAL RESOURCES

FIFTH CLAUSE - The present Protocol does not involve the transfer of resources, and each participant bears the respective costs. The

actions resulting from this adjustment that imply transfer or assignment of resources will be made possible through an appropriate instrument.

EFFECTIVENESS AND TERM

SIXTH CLAUSE - This Protocol will be effective from the date of its signature and valid for twelve months, and may be automatically extended for equal periods, unless there is an express manifestation to the contrary, under the terms of the law.

DISSOLUTION AND UNILATERAL WITHDRAWAL

SEVENTH CLAUSE - The parties are free to promote the cancellation of the present Protocol, at any time, by mutual consent, or the unilateral withdrawal by the initiative of any one of them, by means of a written notification, with a minimum of 30 (thirty) days in advance, remaining for each one only responsibility for tasks performed in the period prior to notification.

CHANGES AND MODIFICATIONS

EIGHT CLAUSE - This instrument may be changed, by mutual understanding between the celebrants, during its term, by means of an Addendum, aiming to improve the execution of the works, except with regard to its object.

APPLICABLE LAW

NINTH CLAUSE - Law No. 8.666 / 1993 applies to the execution of this Agreement, in accordance with the precepts of Public Law and, supplementary, the Principles of the General Theory of Contracts and

the provisions of Private Law.

PUBLICATION

TENTH CLAUSE - The extract of this instrument shall be published in the Electronic Journal of the State Court of São Paulo, according to what authorizes art. 4 of Law No. 11 419/2006 combined with the sole paragraph of art. 61. of Law No. 8.666 / 1993

JURISDICTION

ELEVENTH CLAUSE - Participants elect, to the exclusion of any other, however privileged it may be, the Federal Court of the Capital of the State of São Paulo to settle matters pertinent to this agreement.

And as they are in full agreement, the celebrants sign this instrument, for all purposes of Law.

São Paulo May 10, 2019.

[Signature]

RILMA APARECIDA HEMETÉRIO

REGIONAL COURT OF LABOR OF THE

2nd REGION

[Signature]

EDUARDO BENEDITO DE OLIVEIRA ZANELLA

REGIONAL LABOR COURT OF THE 15th REGION

[Signature]

MARCO ANTONIO MELCHIOR

REGIONAL SUPERINTENDENCE OF LABOR

IN SÃO PAULO

[Signature]

LUIZ CARLOS DE FREITAS
REGIONAL ATTORNEY OF THE UNION OF THE 3rd RE-
GION

[Signature]

ERICH VINÍCIUS SCHRAM
REGIONAL LABOR ATTORNEY'S OFFICE OF THE 2nd RE-
GION

[Signature]

CATARINA VON ZUBEN
REGIONAL LABOR ATTORNEY'S OFFICE OF THE 15th RE-
GION

[Signature]

LEONARDO DE CASTRO TRINDADE
PUBLIC DEFENSE OF THE UNION IN SÃO PAULO

PART 2

22

10 YEARS OF THE PACT

Finally, on December 1 and 2, 2019, the 10th anniversary of the Pact Against Precariousness and for Decent Employment and Work- the clothing production chain was celebrated in São Paulo, with a historic event attended by several public and private organizations, from the third sector and academic entities. Several aspects related to the advances in public policy, the challenges and opportunities for the near future of fighting human trafficking and slave labor in São Paulo were discussed:



<https://reporterbrasil.org.br/2019/12/pacto-pelo-trabalho-decente-nas-confecoos-de-sao-paulo-completa-10-anos/>

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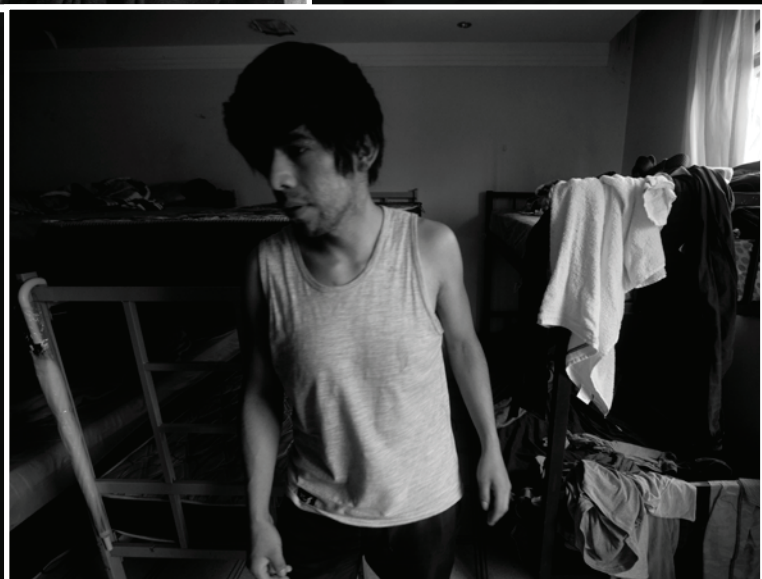
During these 10 years, the State Program to Combat Slave Labor, of the Regional Superintendence of Labor in São Paulo, carried out hundreds of operations to combat slave labor, rescued thousands of workers from slave-like conditions, and held dozens of companies responsible for the conditions to which these workers had been subjected, introducing, within the scope of the administrative labor police, the strategy for approaching supply chains, led to profound changes in public policies regarding the fight against human trafficking and combating slave labor, emphasizing the centrality of the protection of the fundamental rights of workers over any other property to be protected, consolidated the fight against contemporary slave labor in the urban environment, guaranteeing different rights to migrant workers, even if undocumented, a factor that motivated the improvement in national legislation on the subject and inspired many academic studies, in different parts of the world, as a good Labor Inspection practice to combat human trafficking and slave labor, to promote decent work, to protect migrant workers and to hold accountable economic agents that present, in any way, legal attachment to the violations of rights found.

Sweatshop located in the East Zone of São Paulo. Labor inspector Renato Bignami performs inspection and investigation of working conditions



Inspection and verification of the labels of any contracting companies.

Victim of human trafficking and slave-like conditions in a sewing workshop located in the East Zone of São Paulo. The worker, a native of Peru, was confined, was paid less than the legal minimum, was deceived as to the working conditions offered at the origin - southern Peruvian region - sewed for about 14 hours a day and ended up being rescued from this situation by the tax auditors of the Work of the State Program to Combat Slave Labor, of the Regional Labor Superintendence





Victims of human trafficking slave-like conditions in a sewing workshop located in the East Zone of São Paulo. The workers, born in Peru, were confined, received wages below the legal minimum, were deceived as to the working conditions offered at the origin - southern Peruvian region - they sewed for about 14 hours a day and ended up being rescued from this situation by the tax auditors of the Work of the State Program to Combat Slave Labor, of the Regional Superintendence of Labor

Sweatshop located in the East Zone of São Paulo. Labor inspector Luís Alexandre de Faria issues notification of slave-like conditions in the face of possible contracting companies.



Labor Tax Auditor Livia dos Santos Ferreira performs inspection and investigation of working conditions at the site.

Sweatshop located in the East Zone of São Paulo. Labor Tax Auditor Beatriz Cardoso Montanhana inspects and verifies working conditions at the site.



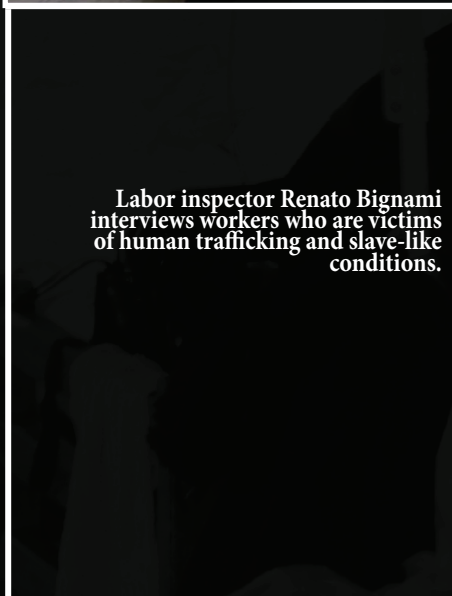
Sweatshop located in Zona East of the Municipality of São Paulo. Labor Auditor - Lívia dos Santos Ferreira performs survey and investigation of the conditions of work on the spot. Photo: Sérgio Carvalho, Subsecretariat for Inspection of Labor / Eradication Division Slave Labor

Labor inspector LuísAlexandre de Faria interviews a worker who is a victim of human trafficking and slave-like conditions. Children in the workplace





Labor Tax Auditor Lívia dos Santos Ferreira performs inspection and investigation of working conditions on site.



Labor inspector Renato Bignami interviews workers who are victims of human trafficking and slave-like conditions.



Victims of human trafficking and slave-like in a sewing workshop located in the East Zone of São Paulo. The worker, a native of Peru, was confined, was paid less than the legal minimum, was deceived as to the working conditions offered at the origin - southern Peruvian region - sewed for about 14 hours a day and ended up being rescued from this situation by the Labor Auditors of the of the State Program to Combat Slave Labor, of the Regional Superintendence of Labor in São Paulo - On the site were found several tags of counterfeit designer clothes

Victims of human trafficking and slave-like conditions in a sewing workshop located in the East Zone of São Paulo. The workers, born in Peru, were confined, received values below the legal minimum, were deceived as to the working conditions offered at the origin - southern Peruvian region - they sewed for about 14 hours a day and ended up being rescued from this situation by the tax auditors of the Work of the State Program to Combat Slave Labor, of the Regional Superintendence of Labor

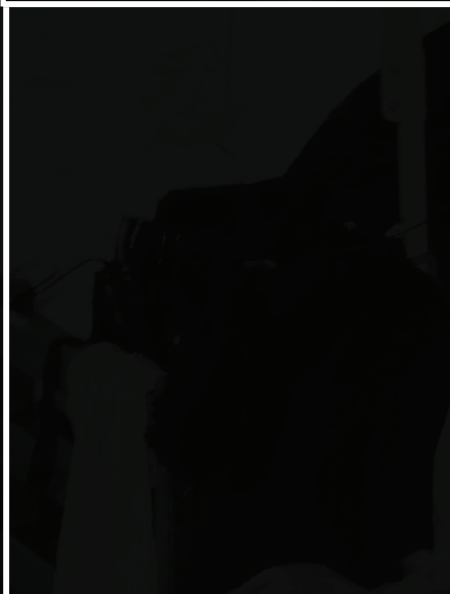


Labor Auditor Livia dos Santos Ferreira conducts an interview with workers who are victims of human trafficking and in slave-like conditions.





Sweatshop located in the East Zone of São Paulo. Labor inspector Luis Alexandre de Faria checks documents and working conditions - several batches of counterfeit designer clothes were found at the site.



Labor inspectors Renato Bignami, Luis Alexandre de Faria and Livia dos Santos Ferreira carry out document investigations, interviews with workers who are victims of human trafficking and verify conditions similar to those of slaves found at the site.

Sweatshop located in the East Zone of São Paulo. Labor Tax Auditor Livia dos Santos Ferreira performs inspection and investigation of working conditions at the site.





Victims of human trafficking and slave-like conditions in a sewing workshop located in the East Zone of São Paulo. The worker, a native of Peru, was confined, received wages below the legal minimum, was deceived as to the working conditions offered at the origin - southern Peruvian region - he sewed for about 14 hours a day and ended up being rescued from this situation by the Tax Auditors of the Work of the State Program to Combat Slave Labor, of the Regional Superintendence of Labor

Labor inspectors Lívia dos Santos Ferreira and Beatriz Cardoso Montanhana say goodbye and greet a worker at the end of the inspection of human trafficking and slave-like conditions. The humanization of service to workers and the focus on protecting their fundamental rights are the main characteristics of the State Program to Combat Slave Labor, of the Regional Labor Superintendence in São Paulo, since its foundation in 2010. Accountability of economically relevant power and the immediate repair of any damage suffered by these workers is part of this successful strategy. Together, these factors drive public policies to promote decent work in the State of São Paulo and place the Federal Labor Inspection System at the center of the network to fight human trafficking and combat slave labor.



For a complete list of the companies in the fashion industry already inspected by the State Program to Combat Slave Labor, it is necessary to have access to the ModaLivre app, developed within the scope of another ratifying entity of the Pact, and the NGO RepórterBrasil, as well as the article published by the same organized civil society entity.

The elaboration and launching of the ModaLivre app were also inspired by the countless cases in which there was responsibility for the submission of workers to slave-like conditions by the Labor Auditors of the State Program to Combat Slave Labor. In the following link you can access the complete list of companies inspected and a summary of the situation found by the Labor Auditors at the time of administrative accountability:

	<p>https://modalivre.org.br/ocorrencias</p> <p><u>VIEW DOCUMENT</u></p>
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The NGO RepórterBrasil, ratifying the Pact Against Precariousness and For Decent Work in São Paulo - Production Chain of the Clothing Industry, in July 2009, with the purpose to guarantee transparency in the effectiveness of the commitments assumed by those in agreement, also covered a good part of the operations to combat slave labor carried out by the Regional Labor Superintendence in São Paulo, and has recently produced material that summarizes these operations:

	<p>https://reporterbrasil.org.br/2012/07/especial-flagrantes-de-trabalho-escravo-na-industria-textil-no-brasil/</p> <p><u>VIEW DOCUMENT</u></p>
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The figures presented by the Labor Inspection Information and Statistics Panel in Brazil, from the Labor Inspection Secretariat's Radar³⁴, inform that, in this period, only in the fashion industry³⁵:

1. **54 companies** were held responsible for subjecting workers to slave-like conditions;
2. **1,089 infraction notices** were drawn up in the face of these companies;

³⁴ Available at: <https://sit.trabalho.gov.br/radar/>

³⁵ It is important to point out that, in the course of these 10 years of the State Program to Combat Slave Labor, inspections to combat slave labor were not restricted to the fashion industry only, having been carried out in several other sectors of the economy, such as construction civil, agribusiness, food retail, domestic work, street commerce and others. For a complete view of all the economic sectors covered by the Regional Labor Superintendence in São Paulo in combating human trafficking and combating slave labor, we suggest accessing the website: <https://sit.trabalho.gov.br/radar/>

3. **506 workers** were rescued from slave-like conditions;
4. **R\$ 5,021,036.00** were paid back to these workers as severance payments;
5. In addition to several other measures, both in the administrative and judicial spheres, which were necessary for the complete remedying of the serious violations of fundamental rights to which these workers were subjected, which must be complemented by the various sectorial business initiatives, in order to expand the list of actions to prevent the occurrence of these illicit acts in the value chain of the fashion industry.

Thus, in the year in which a decade has passed since the formation of this strategic and qualified group of Labor Auditors, we invite everyone to know the Proceedings of the Celebration for the ten Years of the Pact against Precariousness and for Employment and Work Decent in São Paulo - Clothing Production Chain, published below.

Notes on the evolution of the fight against human trafficking in São Paulo: combating urban slave labor, protecting the fundamental rights of immigrants and holding companies accountable in the fashion supply chain

PRESENTATION

As noted in the introduction to the present work, the Pact Against Precariousness and Decent Employment and Work in São Paulo - Clothing Production Chain, adopted in 2009 by 11 public, private and third sector entities, represented the commitment of all around improving working environments. Thus, after ten years of its ratification, we observe as its main legacies for the Brazilian system to combat human trafficking and slave labor, the following achievements:

1. The approximation of figures of human trafficking for purposes of labor exploitation and slave-like conditions as intrinsically connected phenomena;
2. The inauguration of the fight against slave labor also in the urban sphere, in a systematic and decentralized manner by the central authority, with independent action from the Mobile Group;
3. The confirmation of the existence of the figure of contemporary slave labor, which involves different forms of slavery than those found in rural areas;
4. Collaborating to build the view that non-national migrant workers are subject to fundamental rights, regardless of their origin and their migratory status, and they must be guaranteed the same procedures for national workers in recovering their citizenship;
5. Sharing responsibility for working conditions across supply chains; and,
6. The reaffirmation of the Federal Labor Inspection System as a point of convergence of public policies to promote decent work, the protection of workers' fundamental rights and the fight against human trafficking and slave labor in Brazil.

The Pact broadened the horizons of combating slave labor in Brazil and strengthened the agendas for combating human trafficking and slave labor, with a focus on promoting decent work. However, currently, there are several challenges in the face of tackling human trafficking for labor purposes and in the fight against slave labor, with several setbacks and attacks on public policies developed over the years.

Vulnerable populations, such as migrant workers, national or not, suffer from the removal of several rights that rob them of the citizenship necessary to move forward. Public bodies, which should expand efforts to guarantee the dignity of these workers, suffer from a growing disruption that makes it almost insurmountable to perform their daily tasks, while labor law faces attacks from several fronts and the right to decent work becomes scarcer every day.

In this context, the Pact proves to be, more than a fundamental historical milestone in the fight against human trafficking and slave labor in São Paulo, an inspiration for new alliances to be established and old ones to be remade and reinforced. Only by joining different efforts, in a collaborative environment, in which the authority of each public agent is respected and the sum of everyone's efforts multiplies in order to expand the scope of public policies for the protection of fundamental rights, will it be possible to face the challenges that the current context imposes.

The 10th anniversary of the Pact was intensely celebrated, with 2 days of events of the highest quality that attest to the success of the Labor Auditors of the Regional Labor Superin-

tendence of São Paulo in shedding light on themes that, until then, were obscured for several factors that were remembered at the event. Accurate analysis of keynote speakers has demonstrated, during these days of December 2019, the main advances achieved since the Pact, as well as the challenges that remain.

Thus, SINAIT and DS-SP are grateful for all the support in organizing the event offered by the Public Defender's Office of the Union - DPU, National Pact Institute for the Eradication of Slave Labor - InPACTO, NGO RepórterBrasil, Union of Seamstresses of São Paulo and Osasco and, in particular, for the support provided by the Regional Superintendence of Labor in São Paulo, Superintendence of the Federal Revenue of Brazil - 8th Fiscal Region, Paz Mission - São Paulo, Brazilian Retail Association Textile - ABVTEX and Brazilian Association of the Textile Industry - ABIT, without which the event would not have been carried out with the observed brilliance.

Then, a transcript of the proceedings of the event is published, reflecting the commitment of the covenant institutions to this history and the advances achieved during this decade, as well as the current challenges for strengthening the network to fight human trafficking and fight against slave labor in Brazil.

Opening Ceremony – December 2, 2019



Opening table composition:

Chairman of the Meeting: Renato Bignami, Labor Auditor of the Regional Labor Superintendence in São Paulo (SRT / SP)

Marco Antônio Melchior, superintendent of the Regional Labor Superintendence in São Paulo

IvaniContini Bramante, Federal Labor Judge, representing the President of the Regional Labor Court of the 2nd Region, Judge RilmaAparecidaHemetério

João Eduardo de Amorim, Chief Prosecutor of the Regional Labor Attorney of the 2nd Region

João Paulo de Campos Dorini, Federal Public Defender, representative of the Public Defender of the Union (DPU) in the state of São Paulo, representing the Chief Public Defender, Leonardo de Castro Trindade

Juliano Zamboni, attorney of the Union, representing the Regional Attorney's Office in the state of São Paulo, Luís Carlos de Freitas

José Ribeiro, from the International Labor Organization (ILO) in Brazil, representing the director, Martin Hahn

Jennifer Anyuli Pacheco Alvarez, representing the Municipal Commission for the Eradication of Slave Labor in São Paulo

Eunice Cabral, president of the Seamstress Union of São Paulo and Osasco

AntônioValterTrombeta, representing the Presidency of the Clothing Industry Union –SINDIVESTUÁRIO

Marília Ramos, on behalf of the journalist Leonardo Sakamoto, in the role of Organized Civil Society, by the NGO RepórterBrasil

Vera LúciaAmorimJatobá, Labor Audit Officer, director of the National Union of Labor Auditors (Sinait), representing the president, Carlos Fernando da Silva Filho



Renato Bignami: We will start now the commemorative event of the Pact against Precariousness and for Decent Work in the Clothing Industry. To this end, I will call the authorities who will make a brief opening, a brief mention of the role of each of the institutions, both in the Pact and in combating slave and precarious work in the city and in the state of São Paulo.

I will call initially, representing the Regional Labor Superintendence in São Paulo, the Regional Labor Superintendent, Mr. Marco Antônio Melchior. Then, on behalf of Judge Rilma Aparecida Hemetério, president of the Regional Labor Court of the 2nd Region, the judge Ivani Contini Bramante. Representing the Labor Prosecutor's Office for the Regional Labor Attorney's Office of the 2nd Region, Chief Prosecutor João Eduardo de Amorim. On behalf of the Chief Public Defender of the Union in São Paulo, Mr. Leonardo de Castro Trindade, from DPU in the State of São Paulo, Federal Public Defender João Dorini. Representing the Regional Attorney of the Union in the state of São Paulo, Mr. Luís Carlos de Freitas, the Federal Lawyer Juliano Zamboni. Representing the Director of the International Labor Organization in Brazil, Mr. Martin Hahn, Mr. José Ribeiro. Representing the Municipal Committee for the Eradication of Slave Labor in São Paulo, Ms. Jennifer Anyuli Pacheco Alvarez. Representing the Organized Civil Society, by the NGO Repórter Brasil, the journalist Leonardo Sakamoto, represented by Mrs. Marília Ramos. Representing the Seamstresses Union of São Paulo and Osasco, the president, Ms. Eunice Cabral. Representing the Presidency of the Clothing Industry Union, Mr. Antônio Valter Trombeta. Finally, representing Mr. Carlos Fernando da Silva Filho, president of the National Union of Labor Fiscal Auditors (SINAIT), Mrs. Vera Lúcia Amorim Jatobá. In this way, we begin the opening ceremony for the Celebrating the ten years of the Municipal Pact against Precarious Work and for Decent Employment and Work in the Clothing Industry. Each one will have five minutes to make their considerations.

Following that, we will open the technical events. Please take your seats. I leave the floor with the Regional Superintendent of Labor, Dr. Marco Antônio, to make the initial considerations and welcome the guests. Please, Dr. Marco Antonio.



Marco Antônio Melchior: Good morning, everyone, to the authorities here at the table. It is an honor to welcome you to our first event in this new building, at the headquarters of the Ministry of Economy, where, since last Monday, the Regional Superintendence of Labor has been operating the 13th floor and premises.

I am honored and grateful to participate in this event, considering that I had just arrived in São Paulo, in 2009, at the time that the Program to Combat Urban Slave Labor at SRT / SP began. And I also had the honor of working with my Chief of Inspection, Ana Palmira, who is over there. In one of the meetings - I think in the Public Defender's Office - we discussed the union of efforts to develop a work to combat this terrible evil, which we still witness today in São Paulo. Slave labor persists in the city of São Paulo and in Brazil and must be combated every day and every hour. It is a pity that each time the time passes, the number of public servants who deal with this matter, who fight this kind of so ugly and bad work, is smaller. Today we are few Labor Auditors. But even a few, we fight for this very terrible situation to be extinguished so that the right to decent work, to a dignified life for those who work, whether Brazilians or foreigners, reaches everyone. So, friends, we are here together. And I hope we stay together. Count on the Regional Superintendence of Labor and the Labor Auditing. I am a Labor Auditor and I have been a superintendent for a year. What gives me more strength so that the Superintendence develops more and more dignified work that can reach a larger number of people. You are always very welcome to our home. Thank you very much.

Renato Bignami: We'll give the floor to Judge Ivani Contini Bramante, on behalf of Judge Rilmá Aparecida Hemetério, President of the Regional Labor Court of the 2nd Region.

Ivani Contini Bramante: good morning to everyone present. First to all the components of the table, in the person of Mr. Marco Antônio Melchior, who is our host today. It is an honor to be here celebrating the ten years of the Pact. The Regional Labor Court has always been a partner of the Ministry of Labor. We have long-term technical cooperation terms. I am here today as a representative of the TST Decent Work Steering Committee and also as a representative of the Regional Committee, on behalf of the President of the Regional Labor Court of the 2nd Region. Ten years ago, we entered into technical cooperation agreements with the Public Ministry of Labor, the Ministry of Labor, AGU, the Federal Revenue Service and others. We even had an itinerant court that went to the workplace to rescue these workers.

We have entered into a new, broader partnership to combat child labor as well. And we are doing a very big job, in partnership with the city hall and the Ministry of Labor, of inserting the apprentice, from which about 500 vacancies will be offered. And we will have, in due course, later this month, an event in São Paulo on the subject.

So, my message is that one swallow does not make a summer. This inter-institutional action is really necessary to put things on track. And, therefore, I commend all the institutions present here, public institutions, but also aligned with all private organizations, civil entities, unions. We need to be united in this struggle to put things on track, especially in an era of reformatting the economy, work and the relationship between labor and capital. In relation to the issue of precarious work, this is the most important moment of meeting and discussion, to trace the future of this relationship between work and capital.

I wish you all a fruitful work. And that some new ideas will emerge of inter-institutional action. You can count on us, on the Regional Labor Court, to remain firm and strong in this partnership. Thank you.

Renato Bignami: Thank you very much, Dr. Ivani for reinforcing our union, our partnership. There is a huge challenge facing the future of work and work is changing. So it is very important that we all reflect and rethink our partnerships. Much appreciated the speech of Dr. Ivani. We passed the floor to the representative of the Regional Labor Prosecution Office of the 2nd Region, the Chief Prosecutor, Dr. João Eduardo de Amorim.



Good morning everybody. I greet all the members of the board in the person of the Regional Labor Superintendent, Mr. Marco Antônio Melchior. For me, representing the Public Ministry of Labor in São Paulo at this event is a great honor. I can calmly say - and especially in the subject matter of the event, slave labor in the clothing industry - that we in the Public Ministry would not achieve even one tenth of our results without the absolutely competent and impeccable partnership of the Labor Auditors of the Regional Superintendence of Labor in Sao Paulo. They are absolutely loyal partners, with whom we can work very well. We are all united in the same objective, which is the promotion of human rights and decent work. And the Public Ministry feels extremely honored to be part of the Pact. I say that again.

Our dear Melchior, the Public Prosecution Office is also going through difficult times. We all know that the Public Labor Prosecution Office is today, perhaps, the branch of the Public Pro-

secution Office that is being hit the most in the sense of having its activities pruned. So, for us, being here at this event is also an act of resistance. Because what we have been facing lately has not been a joke, such as budget constraints as a lack that makes even greater planning impossible. That is why partnership is always very important. The partnership with the Superintendence, the partnership with the Judiciary system, the partnership with entities and civil society organizations.

That is why I return to praise and thank you for the invitation to this event. I wish you a lot of success, including my colleague attorney Andreia Tertuliano, who will present a panel in the afternoon, representing the Public Labor Prosecution Office. And we can only say that we still have a lot to do despite the great progress, mainly due to the work of SRT / SP. Because we cannot yet live with work in clothing manufacturing shops that is done in an absolutely dangerous, unhealthy manner, with absolute disrespect for human rights, involving national and foreign workers, in our city. The largest and richest city in the country, with an immense urbanization index, but where we still see things that remind us of the Middle Ages.

But all of this makes us have an even greater fighting spirit. Despite human, material and budgetary restrictions, we can say that São Paulo can be proud of its body of Labor Auditors. It is a source of pride and praise because they have plenty of technical competence and wisdom to deal with the matter. I thank you once again for your participation and I wish you success in your work. Thank you very much.

Renato Bignami: Thank you, Dr. João Eduardo de Amorim, who once again reinforced the important partnership at this time, highlighting the advances achieved in the last ten years by our institutions, and also the challenges for the next ten years, at least. We will now move on to the representative of the Public Defender of the Union in the state of São Paulo, on behalf of Dr. Leonardo de Castro Trindade, Chief Public Defender, Dr. João Paulo de Campos Dorini, Federal Public Defender.



João Paulo de Campos Dorini: Good morning, everyone. I would like to greet all the members of the table, in the person of the Regional Superintendent of Labor in São Paulo, Mr. Marco Antônio Melchior. And for me, in particular, it is a great honor to be able to represent the Public Defender of the Union at this event because I have followed closely the difficulties and progress that have been made in this ten-year period. And today we have to celebrate, yes, all this progress. The DPU - I will use a little of Dr. João Eduardo's speech - also works with this topic in a resistance movement. Today, we are still precariously installed throughout Brazil. The Federal Public Defender's Office is not even able to serve all the judicial sections, where there is a Federal Court in Brazil, much less then, the Labor Court, which would be one of the legal and institutional attributions of the DPU.

Even so, in a movement to unite the DPU in São Paulo, in 2007, there was the case that inaugurated our work on the topic of slave labor. For us, in São Paulo, it has always been clear that, regardless of our non-performance in the Labor Court in ordinary matters, the serious violation of human rights that constitutes slave labor cannot exempt any institution, including the Public Defender, from acting efficiently and fruitfully. And it is from there that our perspective of action today in São Paulo arises, exclusively on the topic of slave labor. It is the performance of the DPU in the Labor Court. This proved to be a very correct decision.

Although much has been done, and despite the commendable work of the SRT / SP, of having a permanent body of Auditors working on this topic, we see that, throughout this period, what has happened has been a serious - and visible - precariousness of the forms of work.

Our discussion is even more up-to-date and necessary here. Not only about those violations that we already worked with. And, in the specific case, we are dealing precisely with the clothing industry. But today, we see other forms of precariousness that we haven't seen in ten or twelve years. When it was expected that there would be advances from a social and legislative point of view, we actually saw setbacks in forms of employment.

Finally, I would like to congratulate all members of the Pact for the work done so far. And call them for another ten years, as Renato put it just now. And, perhaps, much more is still needed, Renato. I hope not so much. But anyway, we know that the reality is harsh.

The Public Defender's Office of the Union will be always at the side of this agenda and seeking, within its institutional attributions, to combat these serious forms of human rights violations.

Thank you and wish you a great event.

Renato Bignami: We appreciate Dr. João Dorini's speech, Federal Public Defender in the state of São Paulo, reinforcing the timeliness of the union of all. Reinforcing his view that, in short, there are precarious new forms of work that demand the performance of all the bodies present here, and once again extolling our challenges and the unity of all in favor of common goals.

I would like to remind everyone that our event is being broadcast live on the Facebook page of Missão Paz in São Paulo. I thank you once again for the partnership of Missão Paz for being here from an early age, tireless. Father Paolo Parise, coordinator of the Missão Paz in São Paulo, is over there. In addition to the Facebook page, Radio Migrantes is also broadcasting it. I reiterate these two broadcasts so that everyone has access to the content that is being produced at this moment.

I would now like to give the floor over to the Federal Lawyer Juliano Zamboni, representing the Regional Attorney's Office of the Union in the state of São Paulo, Dr. Luís Carlos de Freitas, Federal Attorney General.



Juliano Zamboni: Ladies and gentlemen, good morning. Initially, I would like to greet all the members of the table in the person of Mr. Regional Superintendent of Labor, Dr. Marco Antônio Melchior. It is a pleasure to receive this invitation. It is a pleasure to come to represent the Federal Attorney's General Office. Some years of inter-institutional partnership have passed and I've had the privilege of participating in several acts, meetings and concrete situations, processes, in which this partnership gave very interesting results in favor of decent work, in favor of a very important work to combat the precariousness of labor relations. So, it is with pleasure and with enormous honor that I have been working for several years with several valued colleagues from the Regional Superintendence of Labor.

And I would also like to express my compliment and record my admiration for the Labor Auditor Renato Bignami, who is an excellent professional, with whom I have had the honor of working for a long time, in addition to the Auditors LuísAlexandre de Faria, André Roston, and several others. And, of course, I will be unfair to some that I am not going to quote now. But it is a pleasure to work alongside these professionals in the defense of the legal order and decent work.

The challenges we face, in economic, social and labor relations, are in intense dynamism, particularly at this moment. The challenges are enormous. Initiatives like this, to bring together important characters and articulate them to better understand the moment and formulate solutions, are extremely important and should be praised. I am very grateful for the invitation and I congratulate everyone, wishing them a great job in these two days of the event.

Renato Bignami: We are also grateful for the kind words of Federal Lawyer Juliano Zamboni, who reiterated the challenges of the current labor market and the challenges that are common to all the institutions that represent the government here. Without further ado, I would like to give the floor to the representative of the Director of the International Labor Organization in Brazil, Mr. Martin Hahn. The Pact is ten years old, but the ILO is one hundred years old, so this is a particular year for the International Labor Organization as well, and we can certainly count on a reflection from the organization's representative, Mr. José Ribeiro, at this opening.



José Ribeiro: Good morning, everyone. Initially, I greet the entire table on behalf of Dr. Marco Antônio Melchior, the Regional Labor Superintendent in São Paulo and also a Labor Auditor, and I convey the thanks and greetings from our director at the ILO Office, Martin Hahn. And as Renato has already said, it is of great joy, satisfaction and importance for the ILO, exactly in the year of its centenary, to participate in this event of the ten years of the Pact, which is a pioneering initiative, I would say, due to its configuration, its institutional platform. And to say that this initiative is fully aligned with the topic that the ILO chose for its centenary, which is the theme of the future of work, which consists of how to think about the next hundred years of the ILO and, obviously, of the world of work.

Within the scope of decent work and the 2030 Agenda, with the Sustainable Development Goals (SDGs), it is an initiative that fits perfectly into SDG8, Decent Work and Economic Growth, especially in Goal 8.7, which involves tackling child labor, labor slavery and human trafficking. The set of these actions, in fact, achieves several other goals, not only for Objective 8, but also for the other Objectives.

Exactly because of the positive externalities, when combating slave labor, child labor is also indirectly faced. The initiative is in line with the principles of decent work with respect to fundamental rights and principles of work, which have a very important component of protection and social dialogue. And, one can never forget, improving workers' working conditions has a positive impact, too, on business productivity and the economy. So, it is the perfect game, with gains for the whole society, in general.

I was talking with Renato about how this type of initiative, which the ILO has been calling expanded tripartism or quadripartism, exactly because of its institutional platform, by the set of institutions, which advances in the classic ILO tripartism was designed to have gained scales.

As Einstein said: “a complex problem cannot be solved on the same basis that originated it.” So, I think the Pact initiative is an intelligent practice. I think that, in fact, it should be better and better cataloged and disseminated, as it is already happening, at the national and international levels. I would also say that it is a model to be followed in several other production chains, in which there are very similar problems.

And, finally, I reinforce an aspect that the Chief Prosecutor of the MPT, Dr. João Amorim, brought. I had the opportunity, weeks ago, at the 37th Enafit, the National Meeting of Labor Auditors, to praise the whole role of the Auditors, represented here not only by the superintendent, but by Renato and Lívia, whom I highlight and thank the receptivity to our presence. I repeat what I said in a lecture I had the opportunity to give during Enafit, that the Labor Auditors - of course, this is an event of a union entity - had a republican mission, that transcended the interests category, the primary interests of an organization.

Because the Auditors have a whole initiative to have this social concern, to have a republican vision of facing and improving the living conditions of workers. And, just remembering, work represents 65% of the income of all families. By promoting decent work, the fight against poverty is also promoted and the improvement of living conditions is guaranteed.

Finally, I would like to once again affirm the honor of being here and making the Office of the International Labor Organization available. The area that we are currently coordinating is that of studies and research to promote decent work. And wish long life and prosperity. And that this Pact will last for many years and only cease to exist when, exactly, it fulfills its main objective and these forces can be redirected to other actions. Congratulations on the event and thank you very much.

Renato Bignami: The future of work is uncertain, José Ribeiro, and I thank you for your words, which reminded us a lot of the transversal characteristic of the topic. This is important for us to think about slave labor not only in the tight way it presents itself, but what it involves, especially in the informal economy. What it also involves regarding productivity. As it advances on other serious violations, such as child labor, discrimination. And the importance of working on these topics all across the board and in a network. That is the great memory.

And when you talked about the Republican role of Labor Auditors, you immediately referred to that famous work by French historian Vincent Viet. He studied the French Labor Inspection, during his training, in the course of the 19th century, and the importance of establishing a Labor Inspection in a country that had already erased - at least from a formal point of view - bonds of servitude during Napoleon's government. However, despite being formally abolished, the various forms of servitude remained in practice. That is why he calls the Labor Inspectors “*les voltigeurs de la République*”. In other words, the Infantry of the Republic, which, with their institutional role, really sought to bring the facts regarding the work environment back to normal. Continuing the opening ceremony, I would like to give the floor to the representative of the Municipal Commission for the Eradication of Slave Labor in the Municipality of São Paulo (Comtrae), the coordinator, Mrs. Jennifer Anyuli Pacheco Alvarez.



Jennifer Anyuli Pacheco Alvarez: Good morning, everyone. I would like to say that it is a great pleasure and honor to be here, in the face of the living history of this Pact. I would like to greet all the components of the table in the figure of Dr. Marco Antônio and also thank him personally for the invitation to Comtrae. I would like to greet and acknowledge the work of my colleagues who preceded me at the head of Comtrae, who are present here, Mariana Novaes and Ebenézer Oliveira, for having contributed to the creation and, shortly thereafter, to the continuity of the work done at the Commission.

São Paulo, in fact, has more than 30% of the statistics on the incidence of slave labor. It is important and very commendable to update this debate after ten years, both in order to eradicate slave labor, as well as in the fight against outsourcing and precarious employment relationships. Unfortunately, we live in austere times and we see a weakening of the relationship between labor and capital. For São Paulo, the Pact was fundamental in articulating the actors that are currently involved in the Commission. And it is important to remember that the actors who were part of the Pact compose and strengthen Comtrae nowadays.

Within the maturation process of the Commission, which is the first of its kind and creator of the first Municipal Plan for the Eradication of Slave Labor (2015) in Brazil, during 2019 there were two priority projects - the monitoring of the Municipal Plan for the Eradication of Slave Labor and the definition of the 1st Municipal Flow of Assistance to Victims and Vulnerable individuals to Slave Labor. These two results of collective reflection were possible thanks to the accumulation of these ten years of work, of the articulation, understanding and engagement of all its members in the whole process.

On the other hand, I would also like to emphasize the need to continue working together, already highlighting some challenges for the future of the development of this work.

Today, we have the Municipal Council of Immigrants, the first Council of its kind in Brazil. And, given its representativeness, I make a reflection that the Pact brings on the representativeness of immigrants in the discussion. The Council is composed of some immigrant communities, leaders of communities such as the Chinese, the Korean, some of Latin American and African nationalities. In this sense, it is very necessary to approach the topic of combating slave labor and this collegiate body, given the demographic particularity of the city, which intersects with the theme.

Furthermore, about the eradication of child labor, we have a municipal Commission, which is run by the Municipal Secretariat for Assistance and Social Development. I leave the provocation so that we can eventually deepen the debate, mainly about the construction of a local flow of

assistance to the victims of this violation, with this collegiate body.

Finally, I want to emphasize that, in the face of the current times and ten years after the creation of the Pact, analyzing the result of the institutionalization of the different levels of combat, articulation, social participation and dialogue between entities of the public power and civil society, we need to continue to believe in this collective cause for which we work intensely and daily. I emphasize that the Superintendence is, in fact, at the forefront of the debate, with the courage to take this flag and bring all the actors here today. As well as the importance of the event in further complexity and expanding the debate to understand the various social elements that involve this violation of human rights, which poses a general challenge for us to deepen the cross-cutting and inter-sectorial aspect of the debate. Finally, I reinforce that Comtrae and SMDHC are available and our intention is to add and continue with you in the fight. Thanks.

Renato Bignami: Thank you very much, Jennifer, for bringing the challenges of acting transversally, showing exactly the structure that exists in the city of São Paulo in relation to coping.

In this act, on behalf of the Superintendence, I would like to bring solidarity to Mayor Bruno Covas to you who represent the city. And also to say that he has always shown unconditional support to the municipal Commission and to the work that was being carried out - and that is being carried out - by his coordination and also by all the entities that are part of the municipal Commission. And there remains the challenge - to give, finally, a practical aspect to this transversal work, which had been put by José Ribeiro.

Following on from the opening speeches, I will now praise the expanded social dialogue once again. We are going to go back to the origin of the tripartism of social dialogue. And give the floor to the president of the Seamstress Union of São Paulo and Osasco, Mrs. Eunice Cabral.



Eunice Cabral: Good morning, everyone. I want to greet the table on behalf of the superintendent, Mr. Marco Antonio. I keep reflecting on everything that is lived regarding the Pact, which is of fundamental importance, all the actors involved. But, in my assessment, this issue may be much greater with the precariousness of the workforce, which in our sector is sometimes impossible to scale.

As a worker representative, I recognize that these issues often happen within a normal home, a place that is rented. I have no authority to enter that house because if I do that, I am invading.

And I will answer criminally. So I think this whole combination of people is important, with all these competent bodies involved in the Pact in these ten years.

In my opinion, we'll have a lot more to do, a lot more. Demanding the issue of unemployment; demanding the issue of precariousness; demanding that our sector, in addition to immigration, has a large number of women, and 40% of them, I speak without fear of making mistakes, are breadwinners. And men and women think differently about their children. And sometimes, women undergo certain things, so that they can feed their children. And we cannot help thinking about it. When we are going to do all the reflections on how we want to move forward, we have to put it all on the table and think. And the competent authorities who are here must think together with us.

We are in this fight because we understand the sector. And I say that very calmly, because I started working at the age of 13 in a clothing company. Today I am 67, so I know what I'm saying. It's life. It is experience. We have to come together for real. Only the Labor Auditors are not enough. I have no words to say how important they are. But we, as a society, also have our responsibility and we have to do our part.

When I look at my great-grandchildren, I think about the future that I can leave to them. And I can only leave a better future for them if, at that moment, I fight so that the precariousness, the slave-like work - not only in our sector - is more and more combated. Thank you.

Renato Bignami: Thank you very much, Mrs. Eunice Cabral for recalling the importance of tripartism, social dialogue and the participation of the whole society. This struggle is not just for the Labor Auditors or just for the prosecutors, the Judiciary, the defenders. This is a struggle for all of us, at least those who dream of a better society, isn't it, Eunice? So I think that was the message. Always, again, remembering the level of precariousness that we currently find in the job market, it is a challenge for all of us.

Continuing in the debate, in the dialogue proposed by this opening table, we invite the representative of the Presidency of the Clothing Industry Union in São Paulo and Region, Mr. Antônio Valter Trombeta.



Antônio Valter Trombeta: Good morning everybody. I greet the entire table, I thank the invitation to Superintendent Marco Antônio Melchior and I congratulate the union of all this very competent team.

Eunice and I represent a very large sector in the country, one of the sectors that employ the most. We know how difficult it is for Auditors to visit small companies - most of them are small - in precarious places. And these companies, sometimes, end up getting lost in the way and doing improper things. We know that it is difficult to control a city like São Paulo, with hundreds of small companies.

We, as Sindivestuário (Clothing Industry Union), look for our associates, all of them legalized. But we don't know what happens within each company. The precariousness of work and the need of some women - as Eunice mentioned - to provide for the family lead them to submit to precarious situations.

We have to go after these situations and fight them. The partnership between the Sindivestuário and the Seamstress Union is fundamental for us to find a way to detect these flaws and correct them. It's not easy. As I said, the city of São Paulo has a lot of people. There are many companies. Small, hidden manufacturing shops that we don't know where they are. But the help and unity of all and the partnership of the Auditors will facilitate our work.

In these ten years, we have seen not only slave labor, but also precarious and child labor. This series of undue situations ends up representing unfair competition for those who have their bills paid, their records and their company within normality. The challenge is great, but you can count on the Sindivestuário, which will always be available. I congratulate all the Labor Auditors for the event. I wish good luck to everyone.

Renato Bignami: Thank you Mr. Antônio Trombeta for your words recalling once again the challenge of transversal work, precarious work, the informal economy, which remain in the sector. The occurrence of small, very fractional companies.

Anyway, we will have technical tables in the course of the event that will debate the topics. And the participants can present doubts, debate with the speakers, with the technical tables, and raise the level of the debate on the issue of slave labor in the fashion and clothing industry.

I now pass the floor on to Mrs. Marília Ramos, representing the journalist Leonardo Sakamoto, director of the NGO RepórterBrasil. She is bringing a speech on behalf of all Organized Civil Society organizations that participated in the pact and that contribute their knowledge - which is not little - which is fundamental for the advance of the dialogue. Please, Marília.



Marília Ramos: Thank you, Renato. I would like to say good morning to everyone, to greet the table on behalf of Mr. Marco Antônio Melchior, Regional Superintendent of Labor in São Paulo. And I would like to begin my speech by pointing out the role that civil society has played in combating slave labor from the beginning.

We talked about slave labor long before there was a system, there was an institutional fight against it. And I think that civil society needs to continue to be heard, respected and considered in this dialogue. Therefore, I think it is very important that they have been involved in the development and realization of this event. And in the case of RepórterBrasil, throughout its 18 years, we have carried out preventive work through actions, such as EscravoNemPensar, and we have been monitoring value chains. We even have, in the case of the textile sector, the ModaLivre app, which provides updated public information so that consumers can make their own decisions when making their purchases.

There is no conscious consumption without quality information and transparency. And that is why we have to value the availability and access to this quality information. In this sense, the work of the Auditors and labor attorneys, the AGU, of the Judiciary, of the Defender's Office is fundamental. And it is important to strengthen the existing system to combat slave labor. Without this networking, it is not possible for civil society to do its job in the best possible way. Much has been said here about the importance of dialogue and networking. And, in addition, the changes in the world of work, which always make us need to update ourselves and rethink what we are doing. We still have - as Renato said - the permanence of easements. And we have political and contextual issues, which also impact our actions. For this reason, I think it is extremely relevant that we are discussing the Pact, dialoguing and networking.

In this regard, I would also like to commend the companies and business associations that are willing to participate in this dialogue and to strive for improvements in the sector in favor of a dignified living and working condition for workers. Finally, I very much want to congratulate the event and wish everyone a good debate. Thank you.

Renato Bignami: I am grateful for Marília's kind words, who reminded us of the role that civil society had since the beginning. The Pastoral da Terra brought the first accusations of slave labor, still in the 1970s - a time when the institutional system had not even been formed, in the systemic sense, to create a public structure and a national system to combat human trafficking and slavery - Something that was only consolidated in the 1990s.

In that sense, I bring the last speech of the opening table. Representing Dr. Carlos Fernando da Silva Filho, president of the National Union of Labor Auditors, Dr. Vera Lúcia Amorim Jatobá, who is the entity's director.

But, moreover, Vera, I will commit here, perhaps, some rudeness, and advance an aspect of your speech. Vera was also a member of the Federal Labor Inspection System as a Labor Auditor. Today she is a retired Auditor. In addition, she was National Secretary for Labor Inspection at the time the National System for Confronting Slave Labor was formed. Perhaps she could even, briefly, bring in some of that rich experience. It was a unique experience, at a time when there was no institutionalism in this regard. And that was formed in the 1990s. So, I pass the closing speech to Vera Lúcia Amorim Jatobá.



Vera Lúcia Amorim Jatobá: Thank you, Renato. I want to say hello to everyone. I want to greet everyone at the table equally, but I would like to give a special nod to two people. First to my fellow union member from the Seamstress Union. We women running a union. And, second, to the master of ceremony Renato Bignami. It is already the second time in a few days that I have the honor of having him as a master of ceremony.

Most of the people present refer me to Conatrac or to inspection. As the ILO comrade said, we meet again. I emphasize that it is a good thing that it is a meeting, not a disagreement because we are talking about a Pact. Sometimes we repeat the words over and over and forget to internalize what they represent. A Pact is a commitment. You disarm yourself. You open your heart. You argue. You create an arena for discussion, but one that evolves towards solutions. We know that it is not an easy path, especially in subjects such as slave labor.

See the timeline of some entities that watch over workers' rights - one hundred years of ILO, ten years of that Pact, thirty years of SINAIT, twenty-five years of the Mobile Group. This means that it is a story with dates and memory. And it's not just a few days. Ensuring that for so long means an uphill struggle. Or does anyone have the illusion that all governments had open arms to work on combating slave labor?

Therefore, I find it interesting to talk about institutionalization because it is not only done within government entities. The real institutionalization is when the theme space transcends the condition of a government program and becomes a State policy. When counting on the participation of public entities, representatives of civil society. And it combines the forces that will move in favor of what has been agreed. It is logical that this Pact has to be with people who have the same interests and who will bring their own strategies and competencies to carry those interests forward.

In this convergence of commitments, the priority is the recognition of human rights. More than a crime (which is already a lot), more than administrative infractions, slave labor is a human rights issue. So, I think it is within this perspective that we have to work.

We see how easy it has been to change the norm. Change ordinary law, change the Constitution. But human law has a bigger envelope, and we have to stick to it. We have to hold on to that, to stop the civilizing setback. This wound - as some have said - cannot remain open. And we will continue speaking and acting.

The ILO, in its centenary, brought the future of work as a reflection. Last week, at the Labor Auditors Meeting, we chose to focus on the future of human work. We played a little word game there. It is the future of human work, which is not only that will cover the advancement of technology. We speak of human work as opposed to the non-human and the inhuman. Previously, the inhumane was slave labor. And this is a door that can be opened. Many of the new contracts can reach this reality that we are fighting. Thus, more than ever, such qualified arena of dialogue as this one has to stay alive and persist.

For this reason, I could not refuse the invitation to represent my union here, SINAIT, on behalf of President Carlos Silva, who was unable to attend the meeting. But we always try to divide ourselves, and this opportunity is considered by me as a delicate deference in the face of the theme and its institutionalization. I refer to institutionalization from the Labor Inspection Secretariat, within the Ministry of Labor. We tried to face the complaints that fell on our lap in the years 1993 and 1994. We received all reports of slave labor - which already existed, but nobody faced it - and from there we started to learn how to do it.

There was no rule, instrument, norm, mechanism, or budget. There was nothing with a focus on slave labor. Even within our corporation, I was unaware of the existence of slave labor. So, it was important to start. And our entry channel, as Labor Inspection, was to improve the instruments for the inspection of rural labor. Because at that time there was already specificity for work in rural areas and complaints were concentrated in those areas. From there, we released a Normative Instruction (NI) orienting the inspector's view (today Labor Auditor) to working conditions that later started to incorporate the new concept of slave labor.

The conduct of the work by the Auditor and his reports at the time gained greater importance. But, for strategic reasons, the NI did not include the term "slave labor" in the title because, if it did, it would receive all the antibodies and resistance that could be imagined. Then, within the instructions for inspecting rural labor, items capable of characterizing work with deprivation of liberty, contracts with fraud, environment and conditions of degradation were included.

Situations were being constructed in which the inspection reports were truly treated to describe what was seen and not yet photographed. Everything was very difficult, it was not a job to be done alone, and the NI itself guided the articulation with other bodies and entities. At the time, the Inspection Secretariat, in terms of legislation, and the Secretariat for Safety and Health were not even articulated. How could such work be done without colleagues in the area of safety and health? That was the moment of the great, necessary and desired union between the inspectors of the two areas, in joint actions, with the expansion of skills, disposition and knowledge.

From the outset, an effort was made to articulate with the Federal Police, deploying to other inspection institutions, such as MPT and others, and civil society - such as Contag and CPT. I dare say that the model would be the incubator of the future Special Mobile Inspection Group, which completes twenty five years in 2020.

In 1995, with secretary Ruth Beatriz - who many know and recognize her work -, the Mobile Inspection Group became official. This format, allowing the mobility of inspectors in spaces in other states, sought to preserve the safety of colleagues located in the locations targeted by complaints. Over that time and this twenty five-year process, we have grown a lot and achieved important recognition. Even so, or perhaps because of this, it is impressive how, due to govern-

ment contingencies - I do not know for what purpose - the number of Labor Auditors has been dramatically reduced and the budget has shrunk.

But we increased in knowledge. Nowadays, we have real experts in this area. We have a fantastic critical mass that cannot be ignored or wasted. This knowledge cannot go into limbo because reality imposes itself and you cannot throw dirt under the rug. That is our greatest fortune. And I think this is very characteristic in this room, in this meeting - sensitivity and knowledge. So, if we are 50 or 100, the more we are, the more we get together, the more we can create.

On behalf of SINAIT, which has a huge willingness to fight on this issue, I want to say that we will not give up on maintaining the fight against slave labor among our priorities. Like others, we are a union that faces many dilemmas because at the same time that we defend our own cadres, we go out in defense of the worker, for humanitarian reasons, for reasons of law and for being the reason why we exist as public agents.

In the current scenario, we can feel how much of this dilemma unfolds because we are within the Ministry of Economy. With all due respect, this seems like a paradox. It is not really the locus in which work and worker are at the top of the activities, or at least visible. We have many barriers to overcome. We have many ways to go. We need to think and act in an articulate way.

Finally, I want to highlight that Móvelis a successful case of institutionalization in addition to a management tool. Due to its credibility and recognized courage and originality in the way it operates, today it is a patrimony of the State and society. From the Special Mobile Inspection Group, the Móvel Group, and now only Móvel, today, Móvel has institutionalized itself beyond the norm, for the knowledge it has, for the uninterrupted work in all these years and also for being the symbol of a struggle. All of this is a treasure.

And I want to point out the quality of my colleagues in São Paulo, pioneers in the fight against urban slave labor, in the midst of the "stone jungle". I mention the renowned work of Ana Palmira Arruda Camargo, who started this in São Paulo and today continues her struggle as the director of SINAIT.

I carry with me the greatest experience of working in the countryside. I learned to face the difficulties of the Amazon, the Pantanal, the most remote areas. But the "stone jungle" has more secrets than you might think. It has a complexity in the dimension of the diversity it welcomes. This wrapping of stone walls, different cultures, customs and languages, makes everything more complex. What demands much more from all of us -it means the need for more resources, more supervision, greater social participation, greater articulation, more partnerships and, above all, commitment to the same cause. Anyway, let's get the ball rolling, "not always winning, not always losing, but learning how to play". That is the idea.

Renato Bignami:With Vera Jatobá's nice words, on behalf of Carlos Fernando da Silva Filho, president of the National Union of Labor Auditors in Brazil, we closed the opening table.

We would also like to thank everyone who came to the auditorium. All authorities present. In particular, I mention the presence of Dr. AntônioFojo, our State Head of Inspection, to whom we thank for all the support, without whom it would not have been possible to hold this event. We are also grateful for the support provided by all the covenants. Edmundo, from ABVTEX. Abit.Public defenders.Inpacto staff. Anyway, all those present who came to praise our event on this cold morning in São Paulo.

And this is curious, as it is nearly December. Climate change reminds us once again that we need to pay attention to sustainability, in tripartite, quadripartite discussions that involves civil society, that involves workers,that also involves the productive sector, obviously. This dialogue is important.

We closed the opening table with Vera's final speech, which brings us so much hope, and which also brings us a little bit of the history of confronting slave labor in Brazil, the challenges found at the time of the creation of the National System for Confronting Slave Labor, the accusations that Brazil was suffering at the international level. Thank you all.



1stModule - History of the Pact and the Characteristics of the Problem Involving Precariousness in the Clothing Sector - December 2, 2019



Opening Lecture

The role of the Pact in the creation of the State System for Combating Slave Labor: Perspectives and Challenges

Mediator: Livia dos Santos Ferreira, Labor Auditor of the Regional Superintendence of Labor in São Paulo

Lecturers:

Soninha Francine Gaspar Marmo, councilor in the city of São Paulo, rapporteur of the CPI of Slave Labor, established in the Municipality of São Paulo in 2005

Ana Palmira Arruda Camargo, Labor Auditor and Director of SINAIT. Head of Inspection of the Regional Superintendence of Labor in São Paulo at the time of the establishment of the State Pact against Precariousness and for Decent Employment and Work, in 2009.

Renato Bignami, Labor Auditor of the Regional Superintendence of Labor in São Paulo. Coordinator of the Working Group that drafted and ratified the State Pact against Precariousness and Decent Employment and Work in the Fashion Industry, in 2009

Comments:

Iara Vidal

Vera Lúcia Amorim Jatobá

Livia dos Santos Ferreira: Good morning everybody. My name is Livia dos Santos Ferreira. I am a Labor Auditor. I am currently coordinating the Slave Labor Combat Group of the Regional Superintendence of Labor in São Paulo. I will not extend much to not draw the technical tables

out, which I think is the most important from now on. Before we start the technical part, I just need to give you some information about the changes in the event's schedule. The Workshop for Discussion and Preparation of Proposals, which would take place today at the end of the day, and the Rapporteur for Closing and Referrals, which would take place at the end of the day tomorrow, were canceled. So we won't have this final schedule today or tomorrow.

Tomorrow, we will have the morning schedule and we will close the event at around 13:00, probably. With that, at the end of each table, the proposal is to have a discussion and open up to some questions from the audience, according to the availability of time.

Therefore, we will start the technical activities of the Commemorative Days for the 10th anniversary of the Pact against Precariousness and for Decent Employment and Work in São Paulo in the Clothing Production Chain. We will start with the first module of the event, which will deal with the history of the Pact and the characteristics of precarious work in the clothing sector. The inaugural lecture of this first module is about "The Role of the Pact in the Creation of the State System for Combating Slave Labor: perspectives and challenges".

To compose this table, we first invited Mrs. Soninha Francine Gaspar Marmo, councilor at the São Paulo City Municipal Chamber, rapporteur of the Slave Labor CPI, established in the Municipality of São Paulo in 2005, to investigate the exploitation of slave-like work in companies regularly or irregularly installed in São Paulo, which worked in the sewing industry. Councilor Soninha now chairs the Commission for the Defense of the Rights of Children and Adolescents. We also invited to the table Ana Palmira Arruda Camargo, Labor Auditor, director of the National Union of Labor Auditors, and Head of Inspection of the Labor Superintendence of Labor in São Paulo, at the time of the establishment of the State Pact against Precariousness and for Decent Employment and Work, in 2009.

Finally, I invite Mr. Renato Bignami, Labor Auditor, currently working to Combat Slave Labor within the scope of the Regional Superintendence of Labor in São Paulo. He was coordinator of the Working Group that drafted and ratified the State Pact against Precariousness and Decent Employment and Work in the Fashion Industry, in 2009.

I remind the speakers that the speaking time is 15 minutes for each one. We will open the table with Councilor Soninha Francine.



Soninha Francine Gaspar Marmo: Good Morning. Thanks for the invite. Good to see some people and meet others. When the invitation arrived I thought: will I have something to say? Do I have news to give, from the point of view of the municipality, the Legislature, the Executive? And then, recapping, yes I do. Not so directly linked to the question of the exploitation of slave-like labor, but about the survival conditions and life in the city for immigrants in general. So, recalling our CPI, one of the first things I discovered was that people who were victims of exploitation in the sewing workshops did not necessarily want us to be present in the form of blitzes, diligences, in the workshops. Because the practical consequence of it was that the workshop was closed and they were left without that job. And they were very afraid of being deported, expelled. A CPI usually has one of its major activities to do the act. And even in conversation with Auditors, with the Public Labor Prosecution Office, we found out that they had already had this experience countless times. It was important to carry out surveys on the spot, to verify, to photograph.

In fact, it was through reports that it occurred to me to propose the CPI at the time. But if we just went to the workshops, we would see the problem. And it doesn't necessarily offer a solution for those people. And we needed to think hard about what made them so vulnerable. What were the conditions that made them not want to close the workshops? I think nothing that you don't already know. But anyway, for me it was good to redo this reflection. Basically it is due to their undocumented status, due to their irregular condition. So it left them in a permanent state of fear and insecurity. This also prevented them, for example, from having a bank account, which facilitated the whole situation of restriction and threat. They cannot save their own money.

Of course, there were also conditions, by definition, for slave-like labor; debt bondage; movement restriction, but, many times, this restriction was more based on fear: "be careful. See where you are going. Who are you going to talk to", than the physical restriction itself. So, insecurity was very much part of what kept them in that condition. It was also not difficult to discover that something like an inter-institutional pact was much more necessary than an action by the municipality itself, by the municipal legislature alone. We were very limited in our possibilities.

In fact, since we dealt primarily with the population of Bolivian immigrants, what was going on? Many of them did not even consider themselves exploited. Because they came from such a critical situation, so unfavorable in Santa Cruz de La Sierra, that when they arrived here they didn't think it was that bad. In fact, if a blitz closed a workshop, what they wanted was to get work in another workshop for fear of being sent back.

Of course, it would be better if we could contribute to a favorable situation in Bolivia, a more prosperous and fair economy. Or if we had the means to curb the activity of the "cats" who captured labor, human resources, with innumerable promises and starting the debt bondage process there. But that was far beyond our reach. We dreamed of spreading alerts in Santa Cruz de La Sierra: "it is not like that. Watch out! It is not what they are promising". But that was beyond our reach.

Some things depended – it always does – on the federal government. We had a meeting in Brasília, with the Minister of Justice, to ask that regularization processes be simpler and cheaper. The payment of the fine made it totally prohibitive, even though immigrants had the courage to look for a public agency for trying to regularize their situation. Once there, they discovered that they were not going to be able to do that.

And we also very much wanted the possibility of expropriating production goods to be approved by the National Congress when slave-like work in urban areas was found. This was also on our list of "the ideal would be". And then we imagined that with the expropriation of the means of production, it would be possible to support people who worked making garments to organize themselves in associations or cooperatives and strengthen themselves in this way.

We try to deal with difficulties that are within the reach of the state and the municipality. Language difficulties did not make it easier and ended up making Bolivians more closed. Without so much contact with the rest of society, it could make them realize that the situation in which they lived was not acceptable. And that the fear they had was not so justifiable. Of course, it was a situation of insecurity, but not as much as it looked. They would not be sent back to Bolivia. I say Bolivians because it was actually the predominant population among the victims of that work at the time. I imagine that today there are several other profiles. But I suppose they are still the mainstream audience. I will know better here, through you.

Another very important thing was access to essential public services, school for children, health care, social assistance. To tell you the truth, at the time of the CPI, we talked about education and health. We did not even bring the need for reception in social assistance services. And in that regard, I can say that we have made a lot of progress recently.

Today it is more determined that children can enroll in schools, that children and adults can have access to health services, regardless of their official status, their status as immigrants, as refugees, whether or not they have a visa, an official permit. This is well consolidated in terms of the rule.

But it is always a challenge to make the rule reach everywhere, get there at the end, at the school office, at the UBS reception, so that, in fact, people can enjoy and exercise their rights. We also realized at the time that communication was an important tool. So, nowadays, there are communication materials in more than one language, aimed at the immigrant population, in health services, in schools. There are several places offering Portuguese classes for immigrants, some institutional spaces, such as in public schools and some institutional and governmental spaces. And non-governmental initiatives, increasingly present. And social assistance services, referral centers and assistance to immigrants, reception centers for immigrant families. Today - far from having a sufficient number - it is a line of action of the social assistance policy to create reception spaces and reference and assistance centers for immigrants.

Another important thing that has improved a lot in recent years and that was mentioned at the opening table is the access to more effective political participation in the life of the city, in the decisions of the municipality. We have already had two conferences to discuss the needs and rights of immigrants. This year, there is a very interesting novelty, which is the creation of a vacancy for immigrants in the Participatory Council in the sub-municipalities. The election for the Participative Councils of the sub-municipalities takes place this weekend. In general, the application process for candidates has been greatly simplified, which is always important. It was possible to register online. It is even simpler from the point of view of the requirement for documents for immigrants to compete for their own specific place in the Participative Councils, and also with the vote of immigrants.

Again, the challenge is to make this better known to the population in general. Until the public hearing in the City Council on the subject, I did not know. Of course, I'm not in the field all

the time either. I am not in the Missão Pazall the time. I hope that there has been more targeted, more intensive dissemination in the places most frequented by immigrants. But even so, it seems that our public hearing was before they completed the evaluation of all those registered. And the number of subscribers was not so great.

And in any case, it is very important that the turnout in the election is more significant. In any case, it is the first time. It really takes time for people to take ownership of the calendar. People are unaware of the election of the Participatory Council in the sub-council chambers. As a curiosity: who of you follow it? [few raised their hands]. Help. We need to improve a lot in the dissemination in general.

Anyway, in addition to the Pact, there are several other instances and meetings of different bodies, from the municipality, dealing with issues related to immigrants. This is more present in the Municipal Health Meetings. There is a discussion. Of course, I am not satisfied because there is an argument. But as Dr. Vera said here: there is the concept, there is discussion, there is institutional construction, this is a beginning. Before, we were in pre-start.

There are spaces that discuss, for example, access to humanized childbirth, according to the customs and culture of immigrant mothers. So, at least, someone is remembering this, thinking about it. At the headquarters of the Otto de Alencar Creative Economy Center, there is service from Conare. There is the Immigrant CIC as well. Since then spaces have arisen, things that we were asking for have been established, started working.

And we also talked a lot about the need for society, in general, to have a sense of what was happening and to engage in it. And having the concern to think: "where do I buy from?" If, on the one hand, we make progress on this, on the other hand, we are still a long way from having this questioning as an integral part of the concerns of those who go shopping. So, we need, once again, to reinforce the matter from the point of view of communication, publicize the RepórterBrasil app - which I did not know -, also make the effort to continually remind people that we can all be part of this, that the consumer is co-responsible. We are there at one point in the production chain. And we have some power to change this scenario.

In fact, not only the consumer, but also the stakeholders. There was no such term in 2006, or at least it was not used. During the CPI, we invited representatives of the chain stores most often involved in cases of exploitation of slave-like labor through suppliers. And, very often, when the company representatives attended, it was always to be surprised or, when that was no longer possible, to say: "but what can we do?"

When we, as consumers, discover irregularities in a certain place, we immediately take action and acquire nothing else from that place. But company representatives put themselves in a very passive position. And we insisted that they should anticipate this. They had to create innumerable measures to curb, to warn in advance. They had to do their own checks and, when they saw it, prevent it. This suggestion was not very well received or was not received at all.

But then, as I was told, news from RepórterBrasil disclosed in Europe worried shareholders of one of the networks at its international headquarters is in the Netherlands. And the shareholders said: "what do you mean? We don't want to see our brand associated with this type of occurrence". That's what they told me at the time. And the fact is, that in the conclusions of CPI's work, chain stores - starting with this one - were more concerned, more interested in creating new criteria for their hiring.

For example, when hiring suppliers, they said: “we do not allow the exploitation of child labor. We don’t stand this. We don’t stand that. We do not allow the exploitation of slave-like labor. If this is found, the contract will be terminated immediately”.

The conclusion is: there is still a lot to be done from the point of view of really promoting possibilities of access to work, productive insertion, work organization, which can offer better alternatives for these people who are subjected to horrible conditions.

We still have a lot to do from the point of view of offering public services, fighting prejudice in general. So that people realize that everyone has rights. It is hard to deal with a world of so many needs and difficulties. And, at times, the homeless population resents the offer of exclusive reception spaces for immigrants. Everyone is so poor and so needy, that they end up having this dispute. So it is necessary to broaden the offer of services, expand the dissemination of what already exists and can be accessed, the offer of opportunities in fact. The awareness of society in general.

I see no other way to do this than with pacts, with working groups, with task forces that bring together different institutions, so that it is possible to really identify what each one can do to contribute to the solution.

I have seen this as one of the best ways for the Legislature to contribute to all things. We, councilors, can present bills, we can do actions and diligences and inspection, etc. But when we join forces with the private sector, the Municipal, State and Federal Executive, Legislative and Justice systems, it is possible to reach another level of construction.

Thank you so much for being here today and for inviting me to it.

Livia dos Santos Ferreira: I thank City Councilor Soninha, who was part of the history of this pact from the beginning, ten years ago. I didn’t even think about starting to inspect slave labor at the time. But I really appreciate it. I represent the Superintendence in the Municipal Commission for the Eradication of Slave Labor, Comtrae. And, really, immigrant policies, since I started attending, have improved a lot. This is an important keynote in the city of São Paulo.

But I just wanted to make a score, in relation to the documentation, that you mentioned - it is still a challenge, unfortunately. In these ten years, it was possible to advance and implement, in the Normative Resolution of the National Immigration Council (CNIg), a possibility to document workers who are victims of slave labor. And today it is in the Immigration Law. It is no longer a legally precarious document. But even if it is in the law, we are not able to document workers who are victims of slave labor. And even with the Mercosur Agreement - by which workers in Latin America can get the document - the way in which work is done in this sector makes it difficult for workers to access the document. It is still a challenge for us.

Soninha Francine Gaspar Marmo: About documents. We held a meeting of the Child and Adolescent Commission two weeks ago about immigrant-born children. And, according to one of the people present, before the Federal Police issued a protocol with photo, but now the protocol no longer has a photo. Thus, many places that previously accepted it as a document today reject it because they do not feel safe. Such an apparently trivial thing as a document that previously had a photo and no longer has one, may cause problems for people, depending on the counter at which they try to present themselves. I heard about it a little while ago. I didn’t even dig deeper to know better, but it is more of a demonstration of how either we work in an inter-institutional manner, or each one is able to do much less than they could.

Livia dos Santos Ferreira: Thank you, Soninha. Now I pass the floor to Ana Palmira Arruda Ca-

margo, Labor Auditor and, at the time, the Superintendence Head Supervisor.



Ana Palmira Arruda Camargo: Good morning, everyone, my table colleagues, Soninha. Which I think is a delight when we can talk Soninha. Renatinho, our Renatinho too. This means that this table is informal, not diminutive. It is because it is informal, it is affectionate. It is because we know who the people are.

It would be important for us to be able to speak to all institutions with the same openness with which we speak here. Often, in order to achieve our goals, we need to know the people at the head of the institutions. When we know it is very good, but when we don't know it, we have additional difficulties. It was from the need to know the institutions and the thoughts of the people who directed them that we started our work here. I am very happy to be here, but the importance of my presence is due solely to the fact that I can tell a little about the history of the construction of this pact. It is also the opportunity to tell a little bit of my story as a Labor Auditor. When I came to São Paulo - I'm from Campinas, which is a smaller environment, where people get to know the people running the institutions - as the Head of Inspection, and I started receiving calls from journalists wanting information about the actions at the "Bolivian" workshops, I didn't know what to say. We did not have systematic, organized work. I knew we had no answer to the questions, as much as I knew it was absolutely necessary for us to have these answers. But I didn't know where to start.

Fortunately, there were Auditors in the Ministry of Labor who went on for their dedication and sensitivity. This was the case of Regina Haddad, Labor Auditor to whom I pay my respects, who supervised the sewing workshops, where foreigners worked. But, at that moment, she was away from the front line, we had no one in place; even so, she was my reference. I talked several times with Regina, who was informing me about names and institutions that were in contact with foreign workers, South Americans, who worked in sewing workshops.

I emphasize that this has always existed in the now defunct and very important Ministry of Labor. When we started our activities, after occupying a position in public service, we could do an important, correct and honest job, but if we wanted to get involved, obstinately and passionately, we could also do it. Sometimes without support from the institution, but we would

not be stopped. This was the case for many works developed, grandiose works dedicated to the population, to workers.

In the first contacts with the work of foreigners in the clothing industry, we were informed by employers that they did not register the workers due to the fact they did not have document. The workers requested the document, but did not receive it, or it took too long. The first impasses were: which agency issued the document? Who was in charge and why? Where was the impediment, the difficulty, the obstacle? We tried to know who did what. I went to talk with Paulo Illes, with Father Mário, who were people in charge of jobs and institutions that took care of and supported these migrant workers. The idea was: what are we going to do? A conversation, which was important at that time, as it is important now.

And we are in a moment - if we make an analogy - exactly like that. Not only in relation to migrant workers but in relation to all workers. Today we observe that what was fraud in the past is no longer. It's legalized. Labor reform legalized situations that we fought and continue to fight, protecting human activity.

If the infra-constitutional legislation does not suit us, we have to go further, seek constitutional protection, international agreements and treaties. At that time we did the same. When we did an inspection ten years ago, we had to think: there was an undocumented worker, but that could not be a reason why they did not have their right assured. We had to resort to international treaties, constitutional principles. And within this situation there was - as Soninha recalled - the "Bolivian", who did not like us to say that it was "Bolivian work". They said: "No. They are Latin Americans who are here, they are not just Bolivians".

We arrived at a work place and realized the precariousness of the facilities, the working environment. People in the community said that the situation of workers in the country of origin was even worse. That in Brazil, at least they made money and could send it to their family. They justified the presence of children in the place, considering that they were close, under the eyes. At times, it was extremely difficult to deal with the situation. We were learning from the workers themselves, we needed to be careful not to offend them, not to treat them aggressively. It was there that I learned that not every Latin American who sewed was Bolivian, that the person was not irregular. They were people who were working and fighting for survival.

No one came into the world to be enslaved. Nobody is a slave. And this whole situation could only be overcome by talking. Talking and talking. We needed not to be ashamed to answer a phone call even without knowing what to say, after all, we were looking for answers. That's how we started. We started by identifying all the institutions that, at some point, related to these workers, their original documents, their departure from the country of origin, their arrival in Brazil, their documents in Brazil, their work, their home.

Our first meeting, which we called "Dignity for the Migrant Worker", took place on January 29, 2008. I remember that we were going to have a meeting in a very small room and, when we saw it, there were a lot of people. We moved to a larger room, it seems that there were 28 institutions. I have the minutes, but I don't have the attendance list, because it was in the Ministry of Labor. There was the General Consul of Bolivia, there was the Ministry of Justice, there was a representative of the Federal Police, the Labor Ministry of the 2nd and 15th regions. There was the Korean Consul. It had representatives from Bolivia, Peru, Cami, and the Pastoral of Migrants. These are the people who spoke at the event. And there was a Bolivia / Brazil Association, Bolbra, which brought together workers and small "workshop workers" involved in this work. And everyone wanted to collaborate.

Eunice Cabral was there and spoke. And she had a very interesting parameter - the number of

seamstresses who belonged to the category and who had lost a lot of work due to these migrant workers. And the number of vacancies lost and what was said to have a migrant working was extremely large, which made us believe that nobody knew anything at all. Between 60 and 160 thousand, any number was possible. It was this reality that we had to deal with. The issuance of work cards for foreigners by the Ministry of Labor was infinitely less. Something like a thousand cards in three years.

We evaluated the situation using numbers like these, we evaluated for everything that was not being done, for the people we met on the streets. And besides, talking about slave labor in São Paulo, practically the Brazilian capital, certainly the economic capital of Brazil, was not easy. Sometimes, even for fear of facing reality, people wanted to say that there was no slave labor in São Paulo.

And it was within this environment that we wanted to diagnose the situation and started with a great conversation. The first meeting was surprising, many people came. We had to continue the dialogue, but how could we continue? Our Inspection Secretariat did not want to, they felt that the rules of rural slave labor did not apply to urban slave labor. We thought they were workers and what had already been built had to be applied.

We were facing difficulties and, within that environment, getting to know our partners' skills. For example, foreign communities, the National Immigration Council, state and municipal departments of Assistance and Human Rights, non-governmental organizations such as Repórter-Brasil, with whom we have always been counting. Today this is very clear, but at that time, over ten years ago, there was already what we call hegemonic media that said what they wanted. And our subjects, as we needed them to be presented and discussed, were not an attractive topic. With RepórterBrasil we have always had dialogue and partnership. We were talking about the same world of worker exploitation.

At that moment, Renato Bignami returned from part of his doctorate in Spain. And that's how I say it: things end up falling into place and we don't miss the opportunity. Auditor Luís Alexandre was fighting fraud and already had a history of working with Renato and we started effectively. Renato started to dedicate himself to this work. He already had a vision about the Pact, about how it could be done. It was in this way that the Pact began to be structured. Between the first meeting and the celebration of the Pact it was a year and a half. But it was a year and a half of struggle, a year and a half of work, many meetings. There we had a better sense of what we were dealing with. Renato Bignami's performance gave a firm and consistent direction to the construction of the work. The Pact was the result of delicate and competent work.

And now, in fact, for me, the important thing is to ask: what has happened since then? Is the documentation status regularized? How are the workshops today?

I also remembered something that I think is important to say: in Bolbra, which was the Bolivia / Brazil Association, there was Mr. Marcos, who was a very fighting person, who knew the work environment of the workshops very well. He participated in all meetings and insisted on the proposal that a minimum price per piece should be stipulated as a way to combat precariousness. Today, when we discuss the changes in the world of work and accept official insecurity as a way of maintaining employment, I keep thinking about Mr. Marcos, who represented a position of resistance to exploitation that he witnessed. The minimum amount proposed by him would prevent workers from being exploited and earning less and less, considering their own weaknesses: difficulty with the language, lack of documents and the frequent threat of being reported to the Federal Police if they did not accept the precarious condition.

Those are the memories. That is what I would like to say, with the conviction of the importance

of this work, which, today, is carried out by the Inspection in the fight against urban slave labor, in the light of the Pact celebrated ten years ago. I thank everyone. And I am always available.

Livia dos Santos Ferreira: I thank Ana Palmira. You touched on a very important point - the issue of minimum values paid per piece. If workers already complained ten years ago, imagine now when the rhetoric is that of less rights in order to have more jobs. And at a time of economic crisis then, it is even more difficult for these workers to have bargaining power in relation to the price for the garments they sew.

I put it here, as a challenge for the Journey of the Pact, to start this discussion of minimum price, taking advantage of the fact that we have here a representative of the Clothing Union, the employers' representation, and we also have the workers' representation, of the Seamstress Union. We can propose how to start the discussion of establishing a minimum price for each piece sewn, already thinking about referrals and proposals drafts. That, unfortunately, will not happen in the end. But it is possible, for example, to leave this event with the date of a meeting to think and start discussing this type of proposal in the sector.

I now pass the floor to Renato Bignami, Labor Auditor who works to combat slave labor by the São Paulo Superintendence.



Renato Bignami: Thank you, Livia. Thank you all for coming. I'll go straight to the point. The issue of the minimum value paid for piece was mentioned, which is not new. I think it can be discussed even in Luis Alexandre's speech, in which he will specifically address the peculiar aspects of the issue. I would also like to remind everyone that there is already a minimum price - not per piece - but per hour, which is the floor of the category. It exists. This is widely discussed between bosses and workers, quite freely. Each piece has a peculiarity. Their productivity is not generic. So this discussion is not very simple.

I do not intend to be long, because it is not the object of my speech. But this is a fairly frequent

discussion. Returning here, and just to make it clear, I think it is worth discussing these very technical aspects of the preparation of the finished clothing pieces. After all, this is the main journeys' objective. I think it's really worth it. That is why I am proposing that we, in the specific panels that deal with the productive challenges for the eradication of slave labor do this discussion. They have proposals related to the study of average productivity, the number of average hours needed to develop certain pieces or certain collections. I think this is more productive as a reflection. Because it is even possible to check, in a generic way, if the price of a particular piece is reaching that value per hour suitable for the category floor to be respected, based on the 44 hours per week provided for in the Federal Constitution. I think this is the big discussion.

But, at that time, there was talk of a value per piece, which never happened, Ana, even due to these productive challenges. I spoke a little about this issue on the value per piece. But I wanted to remember what was presented by my predecessors, both by Councilwoman Soninha, and by Ana Palmira, the history. The objective of this table is to bring a little of the history that was formed from some specific works. I wanted to remember that I only joined this job at the invitation of Ana Palmira. She mentioned that I came from a period away. And she invited me, in that spirit that she brought - do you want to do something beyond what you already have to do? If so, there is this group that is forming. It has a big challenge. There are many entities involved. Within that spirit that José Ribeiro also brought us at the opening table, of expanded social dialogue. And it was very amplified. There was not just a tripartite social dialogue; it even went beyond tetrapartism. There were employers, workers, the third sector was there, organized civil society. Civil society was also not cohesive, there were divergent points of view. Within the government itself, within the federal executive power, there were divergent points of view. There were also entities in the state of São Paulo, municipal entities.

And it is important to register here, Jennifer also spoke at the opening table, the pioneering spirit of the Municipal Commission at the national level. But I wanted to say that, even at the international level, this initiative is pioneering. I do not know of any commission, on any world level, that deals with human trafficking and slave labor, such as the Municipal Commission of São Paulo. I don't know if there is such a commission in New York, for example. I do not think so. I was in London and I didn't see anything like it. Over there it is done directly by the institutions, so this one in São Paulo is unique, peculiar. In this sense, it must always be remembered as a pioneering experience.

And I note that all these commissions, the municipal one, the state one, were rooted in that group, "Dignity for the Migrant Worker", which was formed at the Regional Labor Superintendence of São Paulo in 2007. And I remember that that group was only formed by account of the CPI of Slave Labor, whose rapporteur was under the responsibility of Councilwoman Soninha. That is why these actors are gathered here at the table.

This CPI was pioneering, unique in its sense, carried out in 2005. In 2006, the rapporteur left. In 2007, the group "Dignity for the Migrant Worker" was established, to continue the discussions that had been made at the CPI of the City Council. I was then called to coordinate this group. And, at a certain moment, we understand that the best solution would be to funnel it so that a pact could be established. A pact in the broad sense of the word, not in the strict, legal sense, to bring about any immediate legal effect. But in the political sense, of commitment. So that there was an agreement between the entities that were present there. And so that each of them could add something more. Just like in that pact between boss and subordinates, as Ana Palmira told us: "Renato, bring something besides your job as a Labor Auditor". And so, I proposed the elaboration of a pact and the adherence of the entities to its terms. The idea was the same. Each of the

entities that were present there, government organizations, employers' organizations, workers' organizations, the third sector, should go a little further and contribute with something for the common good.

We had a broad diagnosis, perhaps the most extensive carried out in the country on the specific issue of precarious work by migrant workers in the metropolitan region of São Paulo in the fashion industry. At that time - as we still do today - we observed a remarkable and persistent precariousness of the socioeconomic and labor conditions of migrants, both from the Andean Altiplano and from the Paraguayan Chaco. It is important to remember that Bolivians have always rightly rejected the stigma that was formed against them, because of their nationality. There are not only Bolivians. There are Bolivians, there are Peruvians, there are Paraguayans. More recently there have been Haitians, there have been workers from other nationalities involved. This also led us to verify that the problem was not related to a nationality at all. Rather, the productive system that was established, based on several indicators.

Then, at that time, some signs were very clear in the productive system that was being formed. There was an intense trafficking in South American workers, from the Andean Altiplano and the Paraguayan Chaco, often dressed up - I say dressed up in all tranquility - with irregular regional immigration. Apparently there was irregular immigration. But behind that there was human trafficking. So, that's why I say dressed up. Heading mainly to the São Paulo metropolitan region. Not only the municipality, but the entire metropolitan region ends up being covered by this issue. And not only the metropolitan region of São Paulo, but also the outskirts of Americana, in the countryside of São Paulo.

Furthermore, there is a strong outsourcing of labor, directed from the brand that owns the means of production and the brand to the faction popularly known as Sewing Workshops. That is the place where intensive use of migrant labor occurs to carry out the pieces manufacturing. Especially in the sewing phase, which is labor intensive.

In addition, there was at the time - and there still is, in a way - a complete lack of regulation to properly rule this production matrix, causing a perverse and paradoxical effect of the apparent absence of legal responsibility for the terrible working conditions and the labor credits of these workers. Today we have an Outsourcing Law, but which, in my opinion, does not satisfactorily regulate this type of relationship, which is very contaminated by the informal economy. Very hidden and still very eclipsed by an apparent formality in the legal relations that are presented. At the time, it was estimated that more than 60 thousand undocumented workers worked in this system. Then, that number - as Ana has already recalled - ranged from 60 to 160 thousand. We have already heard 300, 400 thousand workers. And, again, I refer to Eunice Cabral - she, on several occasions, reminded us that the Union had more than 200 thousand members and that this number was falling, while production increased. Most likely, this production is done by the informal economy.

On the other hand, under the institutional bias, the scenario at the time was not encouraging either. There was no service network for victims, who often had to flee from threats, various extortions and beatings. No qualified confrontation by the State. The state was often held hostage to this situation. The prevalence, at the time, was of the priority or merely criminal approach. It was a police matter, it was clear. What also made these actors, both workers and small businessmen, very much afraid of the State's performance. It was mainly due to the action being focused on these workers' deportation, on the migratory agenda rather than on the promotion of fundamental rights, especially fundamental rights at work.

Furthermore, the responsibility of the companies involved in violations of fundamental rights,

when established, was focused only on the image of the direct employer. There was no productive chain approach. So, I believe that these were the main signs under the institutional view. On the rare occasions where this occurred, the public power only acted after denunciations were made. It did not have the proper answers to the society and neither to the question made, such as the submission of these workers, people traffic, and slave-like work. This was the diagnosis of that time.

I believe that many advancements were made from this diagnostic, at least in the formal aspect. Livia, it is the truth that we have practical problems in accessing this worker to migratory regularization until today. However, at that time, not even the legal question was clear. From the legislative point of view, the legal question still pointed to deportation. We had another Migratory Law, a law from 1980. Today, the legislation made advancements. And, without a doubt, it considered everything that this group made. And, most importantly, everything that occurred in São Paulo. And why São Paulo? Because the challenges here are clear. "São Paulo is like the entire world," says Caetano Veloso. Here is the "concrete jungle," as remembered by Vera, during the opening. The challenges from the Amazon jungle are many, but the challenges from the concrete jungle are also considerable.

We have more than 170 nationalities living in São Paulo, as once told me the Federal Police Superintendent. I stood open-mouthed – more than 170. Too many people from different nationalities are living there. Most of these migrants have an irregular migratory status. The challenges are enormous. This number of workers brings wealth and participates in the productive system, many times in the lowest access layers.

And then, it is interesting to remember that that group had its historical importance, which nobody denies. But we must not forget how important it is to promote a network job. To make institutions that used to work alone start to act in conjunction and search for standard solutions. In addition, to promote the very widened social dialogue. That is, listen to several sources. This is the "big plus" that this group brought to Brazilian society.

In addition to understanding the phenomenon, considering the productive system that was being established. We realize that this was not a faction or a simple, ordinary, and typical sewing shop. But rather a true sweatshop. Then, we had to refer to Comparative Law. We had to study and understand that what was being instituted was a Sweating System. This used to be a very traditional system, studies in English-speaking countries, but practically unknown in Brazil. This way, we had to study and understand how this system distinguishes between a legitimate faction and a sweatshop. It is not the same.

When the Anglo speaker uses the word sweatshop, the word itself brings a clear pejorative meaning. Different from when we use the word sewing shop or faction. A sewing shop, a faction, does not necessarily have a negative burden. They may have a positive meaning, such as a correct and proper shop, where you can find some irregularity here or there. Still, the workers are duly registered, adequately paid, and have constitutional labor hours. Everything is right. It is a faction. However, when an English or American person says sweatshop, the meaning is necessarily negative. Because it expresses all the connotations of exploration that exists behind a sweatshop. And what we used to find here in the sweatshops of São Paulo was nothing less than what is found in the sweatshops of New York, Los Angeles, or London, places where these first productive units appeared. And the challenges were always significant in those countries either. It was not lower here in São Paulo.

Maybe the first challenge was to convince all our peers within the Federal Executive that, in the first place, there was work so precarious as the one found in the Amazon jungle. And that also

deserved the same public policies applied to the national worker, victimized in the agricultural border in the North of the Country. The first big challenge was showing Brazil and the world that there was slave work in the urban environment in Brazil. Fortunately, this was overcome. The second challenge was showing other authorities that there was a migratory issue that deserved a different look. We were not only and solely dealing with irregular migration but of people traffic and super-exploitation of irregular migrants' labor force. And, only because of that fact, they deserved differentiated treatment by the Brazilian state. And care and a unique look. We also overcame this challenge from a formal point of view. But, as you remember, it is still under the practical point of view.

Today, the legislation ensures the possibility of residence to the victim, although under an irregular migratory status, provided that some requirements have complied, obviously. And this was an advancement achieved by this group. It was achieved through the Slave Work PIC (Parliamentary Inquiry Commission) Work in the City Council, from 2005 to 2006. The actuation of the group "*Dignidade para o Trabalhador Migrante*" (Dignity for the Migrant Worker) originated the State Program of Slave Work Eradication from the Superintendence of Labor in São Paulo. And, finally, the Pact and everything that came after, state and city commissions.

I wanted to remember that all these procedures that were previously part of some Auditors or even labor prosecutors' scope and personalism scope also had a real advance in the look over this issue. I want to believe - and Dr. João present here reminds us - that much of this work comes from the constant provocation of the Labor Auditors, that always refer Infraction Notes and reports related to this type of labor precariousness to the Public Labor Prosecution Office. The Public Labor Prosecution Office also grew in this view that initially was very restricted, with difficulties to verify the responsibility. It is not the simple dogmatic and legal construction of this view. It is not the simple provocation to the Judiciary Power, which also constructs the right, a fundamental actor in the legal building - positivist to our Country.

The Sweat System is responsible for famous cases in São Paulo. More than 40 well-known brands, both nationally and internationally, ended up being held accountable by the Labor Inspection during these ten years. Only to register a few known brands: Zara, the most general of all, Marisa, Pernambucanas, M. Officer, Animale, Amíssima, Le Lis Blanc, Gregory, 775, Brookfield Donna, Renner, Collins, Cori, Luigi Bertolli, Talita Kume, Atmosphaera, Fenomenal. Really dozens. It is essential to say that many of these griffes today are fundamental players searching for effective solutions for the problem. And in the promotion of the best conditions of work in their own productive chains. Whether directly, by themselves, or through their representative associations. Here we have representatives from the Brazilian Association of the Textile Industry (Abit) and the Brazilian Association of Textile Retail (ABVTEX). From relationships that I recognize are often traumatic, legal accountability made by the Inspection, the Judiciary, or the Public Prosecution Office, are companies that today search and stimulate solutions, inject resources.

It is important to mention this because this process may not happen without this debate. I believe that this is not a process that occurs only in the Judiciary, the Legislative, or the Executive Power. It is a process that must count - and I honestly believe that - with a more extensive social dialogue. We can only advance with social dialogue.

The Sweat System is not a simple or standard system to be faced with or eradicated. In the United States, it was first detected at the end of the 19th Century. It only dropped in the 1950s, 60 years after intense debates in that country, which has much stronger institutionalism than ours, the Brazilian one. See, this is not simple. In the United States, as from the 1990s by pressures due to the globalization, we observed a return of the Sweating System. In 1992, a vast operation was

made in Los Angeles, which freed more than 90 Thai migrant workers. Migrants with irregular migratory status. They used to work in a sweatshop in the periphery of Los Angeles, drawing attention to the severity of the problem. A problem that many considered as solved since the 1950s, a golden decade in the United States, after-war, anyhow, with a growing economy, increased formalization. But that in the 1990s, regresses, retrogrades, and returns to the North American productive system.

It is a considerable challenge. Without the broadest social dialogue, there is no possibility without the involvement of the productive sector, without the participation of workers, the organized civil society, and without the union of all entities from the Public Power, to really eradicate this sore from our Country.

That being said, I finish my participation. And I would like to show here a saying from a great French sociologist and philosopher, Bruno Latour, who gave the form and contents to the reticular approach, which was initially proposed by the State Program of Slave Work Eradication of the Superintendence of Labor in São Paulo. He inspired us in the continuous search of both an institutional network of confrontation and a reticular approach of the productive chain, analyzing the productive chain in the confrontation to the phenomenon. And his saying is very emblematic. Bruno Latour says: “the critic is not the one who disaggregates but yet the one who congregates. The critic – the true critic – is not the one who pulls the rug from the credulous’ and naive’ s feet, but the one who offers the participants an arena so they can be together”.

Hence, I close my speech, thanking you for the opportunity. Thank you all and have a pleasant 10-Years Commemorative Journey of Pact to all those present.

Livia dos Santos Ferreira: I really appreciate the speech of Renato Bignami, my co-worker in the Eradication Program of Slave Labor and a scholar on the subject. I believe that now we could open for quick questions, two or three at most.

Iara Vidal: Hello, good morning. My name is Iara Vidal, from Brasília. I am a journalist. Is everything okay, Renato? I would like you to talk a little more about these statistics on human traffic related to the productive fashion chain. In the same way, we have a really serious problem of calculating the volume of residues in this chain. I would like to know more about how this mapping is made. Thank you.

Vera Lúcia Amorim Jatobá: For those who were not here, my name is Vera, I am a Labor Auditor, and I am currently on the board of the Labor Auditors National Union. Is just a comment – I learned a lot now. To me, São Paulo was not very well known, as I saw now, in this slave labor fight task. And I am really old in this. But the logic with which you presented the paper really gave the historical dimension, principles, forms, and contents. And I think this is especially important. It came from a complaint. Then, there was the first attempt to form and the contribution, and a very qualified deepening. I believe that this is all we expect from a confrontation of the seriousness that is the slave work. Any other type of problem in the labor area as well, but especially in this one. To me, it was essential to congratulate you all.

This network reflection was very well done. It must be deepened, and it must be an example. But the example is not that proposed by you. The example is the way that you are suggesting, as the proposals will come from each location.

I said, “concrete jungle.” How many things are hidden and that we believe they can be easily solved as the State is very close. But sometimes, this does not happen. There, in the Amazon, where the State is distant, it is difficult and complicated. But, many times, locations with a very present State are also like that. If a network is not organized, it is even more complex if this common sense does not exist since it finds the so-called legal barriers that prevent the advances.

Lívia dos Santos Ferreira: Let us see Renato's answer.

Renato Bignami: Only to respond Iara, who is also one of our guest lecturers, representing Fashion Revolution, which is a phenomenal and global movement. This is a movement that arrives in Brazil through the hands of these amazing and beautiful people, who are encouraging us to think in sustainability within an industry that traditionally got used, maybe in not a very positive way, to overwork and exhaust both the production means and the natural means. Today, this is the Fashion Revolution's proposal. Maybe, she may talk more about this in the future.

Iara's question is about numbers. I do not know any truly reliable statistics related to this. We have the official statistics, not from IBGE, but they do not refer to people traffic. They refer to the informal economy. They deal with the subject from another perspective. Also, we have the numbers from ILO itself, already discussed with the NGO Walk Free. Still, these are only estimative, and not statistics, about the number of people suffering from forced labor conditions. The ILO works with the definition of forced labor. Brazil makes a minor extension to this definition for slave-like conditions. It is an option from the Brazilian legislator. The UN works with another definition, slavery. Each one has its definition. Deep down, we are all talking about similar things - inhuman labor conditions. And then, it is tough to talk only about numbers.

If you login into the Labor Inspection Sub-secretariat (SIT) Radar tool, you will find the number of workers rescued from slave-like conditions by the National Classification of Economic Activities (CNAE) and, including, per municipality. And you will see something interesting. The city of São Paulo starts to appear in that tool because of the performance of the State Program due to obvious reasons. Ana also brought these reasons here. Until then, we did not know how to deal with the problem. Does this mean that the problem did not exist? It existed, of course. There were several claims of very precarious conditions and violence within the scope of sewing shops, at least since the beginning of the 1990s. This is where I could reach. I do not know if the PIC managed to trace even further. But the fact is that exploitation existed. The State did not determine, did not give the numbers.

The number of workers officially rescued today is over 50 thousand in the national scope, to all economic activities. And this number reflects the institutional work since 1995. The numbers of São Paulo represented an institutional number as from 2010 when the first rescue of immigrant workers in slave-like conditions occurred in the sewing activity. Lívia, if I may, I would like to talk very fast about this work, as Ana also remembered of it.

Even inside the organ itself, inside the Labor Inspections, we had different views. Brazil is so large and diverse that colleagues from other regions did not have the same view that we had here in São Paulo, that this was really serious, and that our "concrete jungle" is as challenging as the Amazon jungle. And that we needed to give effective answers for the imposed challenge. Then, the initial view that came from Brasília is that there was no possibility of doing the rescue of these immigrant workers in slave-like conditions, as they are immigrant workers with an irregular migratory situation. This is what was said. That is, they were practically supporting the police, who arrived there and deported this worker.

But you do not trust and do not believe in this response. Today, I can say this with confidence. But why do I speak with certainty? Because the first rescue case was severe and symbolic. It was about two Bolivian female workers. They have just received a deporting order from the Federal Police - which appeared in the workplace and did not investigate the violent situation they have suffered. One of them was abused by the work shopper by virtue of the work. It is important to say - using or abusing of an economic upswing status over her. He was the shop owner and violated one of the workers.

Both workers had only five minutes to shower. They had to share the shower. A cold water shower. It was cold during the São Paulo winter. They worked more than 16 hours a day and received less than one minimum salary. If this is not slave work, what is? It was clear to us that this was slave work. The Federal Police was in the place one week before the Labor Auditors to verify only and solely the migratory situation of these workers. They issued a deportation order for both. And there, we understood that this was not the case. They had to be rescued and have their dignity minimally restored. In the face of a situation like that, what is more dignified? It was at that moment that the rescued worker statistics started in the fashion industry.

Iara, the challenges are enormous to evaluate the proper number of workers from a statistical point of view. So, I get back to Ana's speech, we used to have from 60 to 160 thousand, and today I may say that we have from 60 to 400 thousand workers. The number is not precisely known. Because this number also fluctuates.

Livia dos Santos Ferreira: This way, with Renato's answer, we end this table. I am really grateful for the presence of all people who were on this table about the Pacto's Role.

Soninha Francine Gaspar Marmo: May I make some claims and give some advice?

Livia dos Santos Ferreira: Yes.

Soninha Francine Gaspar Marmo: In the Convention on the Rights of Children and Adolescents, we sometimes discussed child labor, which is also very challenging, in terms of making people understand what child labor is and to agree that this is abuse. And a tricky thing to build in the municipality is the action protocol – what does the Child Protection Services have to do? What does Social Care have to do? Anyway, what is the flow? What is the procedure of providences when child labor exploration is found? The Commission workers are practically complete this year. But we will return to this subject next year. And please, feel free to provoke us and inform us about the reflections and actions in this sense.

Another thing that we are discussing a lot in the Chamber in the last few days is drivers' work through applications. And especially motorcycle couriers and cyclists. And even that some representatives of the app companies departments are incredibly open to this conversation, this construction. That is all, thank you.

Livia dos Santos Ferreira: Thank you for your presence. I consider the table closed.

Lecture: Slave work in the clothing industry, the main characteristics, and challenges of eradication: payment per pieces, migrations, housing in the industrial plant, Sweatshops, informal economy



Mediator: Lívia Ferreira da Silva

Lecturer: Luís Alexandre de Faria, Labor Auditor of the Regional Superintendence of Labor in São Paulo

Lívia Ferreira da Silva: This second table consists of the first module of the event, and it will discuss the “Slave work in the clothing industry, the main characteristics and challenges of eradication: payment per pieces, migrations, housing in the industrial plant, Sweatshops, informal economy.” And to talk about this subject, I invite Luís Alexandre de Faria, Labor Auditor, currently acting in the Fight Against Slave Work within the Regional Superintendence of Labor scope in São Paulo. He was also the coordinator of the State Program of Slave Work Eradication. The lecture will have 20 minutes.

Luís Alexandre de Faria: Thank you, Lívia. Thank you very much for your presence. My arrival in the Pact and the Slave Work Eradication Program started in the beginning, upon the conceptualization of the Pact and the Program, through an invitation from Renato and Ana Palmira.

That time, I coordinated with Marco Melchior, the Combat Group to Labor Frauds, which was not focused on slave work. The slave work eradication was not the purpose, but yet the development of a methodology and expertise of interventions in productive chains and the labor accountability of companies due to labor illicit. We were fighting and eliminating fraudulent labor cooperatives, irregular independent-contractors-only policy, several frauds by outsourcing, with highly effective and robust interventions in large companies that, in some way, benefited from the use of outsourcing networks, the inclusion of a fourth party, successive transferences of labor activity from a parent company. Companies that in the last instance hold the resolution

power over that productive chain.

This is what we used to do back in 2008, 2009 – actively interfering through notifications, through the good old ‘bat power,’ in large companies that in some ways were contaminated or contaminated their productive chain with these types of illicit. My friend and colleague Renato Bignami and my dear friend and colleague Ana Palmira kidnapped me for this project. To try to bring all this expertise to the Slave Work Eradication Program, and the expertise developed from interventions in productive chains.

From the PIC of Slave Labor in the City Council of São Paulo, we analyzed the problem in the clothing, textile, and sewing chains of São Paulo. This chain’s productive chain was entirely polluted by the forced labor issue, slave labor, and people trafficking. We had with the PIC, an outline, and the diagnostic premises, practically given on a silver platter for the Labor Auditor’s Office. This diagnosis had to be deepened by the Labor Auditor’s Office. For two years, concomitantly with the Pacto meetings, the Labor Auditors leaned over each of the aspects that the City Counselors brought through the Slave Labor PIC.

In 2010, the Auditors team started a more accurate work of interventions in this economic activity from the diagnostic. The premises presented as the diagnosis of the productive chain by the Slave Labor PIC were the following. Firstly, a context of geographic nature. We launched a traffic situation and afflux of immigrant workers, coming mainly from the Bolivian and Peruvian Altiplano and Paraguay, in a dry border, almost with zero surveillance and an intensive workers flow.

Historically, the destination area in São Paulo is also extremely attractive for immigrant workers. If there is a word that defines the thriving market of São Paulo is “migration.” São Paulo is an attractive magnet for the labor force, both national and if immigrants. And these migratory flows that always existed in the capital of São Paulo were from several natures. In several historical moments, they were regular. In other times, much more irregular. However, this attractiveness is part of São Paulo.

Another premise of the Slave Labor PIC was the economic context in the origin countries of the labor force – places with an extremely low Human Development Index. That is, these places have an excess of people and workers. So, naturally, their family go search for better work and life conditions, going to a destination with an extremely high Human Development Index for South America standards, the Metropolitan Region of São Paulo, and the Metropolitan Region of Campinas. São Paulo is an extremely important magnet of the labor force for these very impoverished regions of Peru, Bolivia, and Paraguay.

One premise also presented by the PIC is the racial context. The victims of forced labor conditions, people trafficking, and slave labor were predominantly indigenous. International standards define people from traditional cultures as indigenous. Over these ten years, with the visits from the United Nations, we learned that this is something internationally cataloged – indigenous populations are naturally more vulnerable to labor exploration than others.

Under this racial context, we saw over these ten years that, in the beginning, there were workers from ethnic groups such as Quechua, Aymara, and Guaranis, in the case of Paraguayans. But we saw other populations appear, escaping from conflicts or natural disasters, the case of the Haitians, or running from social problems, as in the case of Venezuela. The issue became more complex over the ten years of the Program.

There is also a productive context in the clothing chain very favorable to introducing the

Sweat System model, which by nature is a context of productive externalization of pulverized production cells. Deindustrialization of the industrial park was something very discussed in the 1990s. Major confections, with several seamstresses, those large warehouses, started to become almost inexistent. Today, we may observe small cells, much more pulverized and flexible.

If this is analyzed precisely, we may observe crowdsourcing, a labor force source through practically infinite externalization. Today, the companies that wish to hire these services have a list of sweatshops or clandestine or illegal shops, almost endless. And the contracting party is not the one looking for the shop. As a matter of fact, it is always the opposite: the work shopper knocks on the clothing manufacturers offering the services. If the manufacturer denies an order for that party, 20 other work shoppers will provide the cheapest labor force.

Thinking about our future dilemma, what does this remember today? It remembers the history of dynamic price, uberization, crowdsourcing. In all these systems, there is an algorithm that calculates this type of dynamic price. In the Sweating System, there is something a little more rudimentary – the existence of a vast list of suppliers, willing to work for a small amount of money, exceptionally low amounts, knocking on the demanding party's door, which may be a big player of a long chain with up to three levels, or medium-chain.

The long chain is mainly represented by the large textile retail industry. The medium chain is represented by two links, the sweatshops and wholesalers, and large retailers, primarily the ones in Brás and Bom Retiro. And the short-chain is mainly represented by *Feirinha da Madrugada* (a street market) or the autonomous sale on the streets by the same workers subjected to the slave-like conditions in sewing. This is another element to difficult the presentation of a better solution for slave labor of migrants in sewing.

This way, the productive context is a very heated market, with a very high demand for clothing, several pieces of clothes. Concepts such as fast fashion and prêt-à-porter are rooted in the fashion industry, meaning that fashion needs to be fast, and the shop windows need to be replaced very quickly. Today, the autumn/winter and spring/summer issues are totally overcome in the fashion industry. Mid-stations and changes in the shop windows every week are the reality. And there is consumer pressure to an ever more diverse and faster offer of fashion trends. A piece appearing in a prime-time soap opera needs to be in the store window as quickly as possible. And whoever does not enter in this very soon will have its production stranded. There is a need for flexibility and quickness in extensive production.

All these elements have a productive character. Slave labor in the fashion industry has very little to do with cruelty or a desire to submit the migrant brother to unfavorable conditions. But much more to do with questions of productive character. The perversity component that we were always searching for in terms such as forced labor and slave labor does not exist. The main booster element is really the productive design of this chain, which is an additional challenge. Because to eliminate perversity and human evil, there may be some answers. But when the productive issue is embedded, the difficulty for the public agent is much greater.

We already said that the demand is very high in the metropolitan region of São Paulo. And the macroregion of origin is very low. Furthermore, the Country's legal environment, especially at the beginning of this job, was terrible. The environment was, in fact, a deportation environment. And that, inside the sewing shops, led to the introduction of the fear culture in the workers. And this continues to be an essential element when rescuing the victim.

In rescue action within the civil construction or even in rural regions, the worker wants

to be rescued. They want the presence of public power. But the potential victim in this productive chain does not want the State's presence. Their biggest nightmare is precisely the entry of a public power agent in that environment. And the illegal environment, that is, the difficulty to access the document to work, is still a reality. Despite the advancements in the formal and legal aspects, when the time arrives to request authorization to work for the Federal Police, a giant hole may be observed. And even in cases of workers rescued from the slave-like work. We have made advancements. However, there is still a lot to improve.

All this together and mixed, makes the ideal conditions to increase informal economy and international people trafficking, and for the proliferation of sweating shops in the metropolitan region of São Paulo and the metropolitan region of Campinas, that is, Americana, Cordeirópolis, and even in the periphery of Campinas, where there is a very large presence of shops with these characteristics.

What is the Sweating System? In Brazil, when you talk about sweatshops, some conditions must be verified. This is a cataloged exploration system. If I leave a sewing shop and enter the next, several conditions like these or all of them will be found, which is a facilitator. Understanding how the exploration system works is an excellent facilitator of public power intervention. It allows us to predict what to do and, mainly, what to look at and which things you should not spend your time. I will give an example – if listening to the worker in the first moment is something utterly essential in the fight against the rural slave labor, this is almost useless in the sweatshops. Listen to a worker victimized by a system with these characteristics is asking to hear lies. And not because the worker is dishonest but because he is afraid.

His lord land at that time – the work shopper – is telling him since the moment that he was brought from his origin region, that when the State arrives – it will be to deport him, cause him some harm, take money from him, take money from the work shopper, deport his family, take away his children. And this speech is very effective until today. Despite all the changes of information that we have seen inside the vulnerable communities, this still remains very strong. Especially with the recent change of profile observed in those rescued from slave-like work, coming mainly from the Altiplano, ever younger and discouraged people. Several young women, with no perspective of work in their origin, many of them are pregnant. In some way, they are welcomed by the man who brought them from there, who financed their coming here. And who will provide them – for the better or the worst – a subsistence that will have some dignity in their minds, that did not exist in their country of origin.

Invariably, there is the issue of payment per item in the Sweating System, the nature of this model. The payment per item will lead to a legal component of the slave-like work, the wearing or exhaustive journey. As a matter of fact, the payment per item is the first mistake to which the trafficked worker is submitted here in Brazil because this is not explained to him. Whenever a workstation is offered to the workers in their origin, an amount converted into the local currency is given. It really is very attractive. And to our surprise, during the inspection, we sometimes noticed that payments from R\$2,000 or R\$2,500 were possible, amounts way above the levels usually found in slave work since 1995. This exists, but we will expose under which conditions this happens.

And where the mistake component is embedded and will attract another illicit, people trafficking is the key to understand slave labor – receiving R\$2,000 per month, working almost non-stop. Living, residing, and working in the same place and having no window to be opened

during their lives. Think about that: working and living with no doors to open. And living without a window to open in the morning, to see the sunrise. This is the Sweating System. It is, in fact, to live receiving the R\$2,000 but without the minimum human dignity.

I used the example of the R\$2,000 remuneration now that we internalize that in the city of São Paulo, this is slave labor. But this type of remuneration is an exception. It is usually way lower than that, in nominal amounts, lower than a minimum wage or the wage level of the seamstress's class.

Another element that will always appear in the Sweating System is debt servitude. The several mistakes in which the worker is involved during that umbilical relationship with that landlord will lead him to get into debts to eat, in case he needs to go to the dentist, in case he needs to go to the doctor. If he needs to use alcohol and alcoholism in these situations is highly problematic and present over these ten years, more than one hundred sewing shops visited. Sometimes, this is an escape element that the worker must deal with such reality. And, sometimes, he will get into debt to have access to this drug.

Informality is not a constant element, especially now that we had an evolution in the investigation method. We have rescued registered workers from sewing shops. And believe it or not, collecting the employment security fund (FGTS) and the pension and social security fund (INSS). However, this is just a carcass of formalization, only to deceive the public power, to give this shop an appearance of legality. These shops usually have registered workers, collect the FGTS, have all these types of pretense formalities. In the rescues made over the last ten years, large retailers may have management and monitoring systems of the productive chain. But behind this pretense formality, behind the pretense FGTS collection, there are enslaved workers.

Working from home is another element. Although it is not precisely working from home. It is only work. There is no home. Therefore, we feel incredibly comfortable entering these labor environments. Because the Labor Auditor may enter into any labor environment. It is the law. And that environment was not made to live. What actually exists is a sweating shop exploring workers day and night – and keeping the workers living precariously in that place with their children. That is, the labor plant is a life extension. Or the opposite: life is the work. Only and just work. Therefore, the ideal target is the worker who will arrive in an unknown environment, an unfamiliar culture, no home, and not aware of his rights. And the immigrant worker needs to transmit the image of being a hard worker. Extra vulnerabilities.

The cases this year happened in medium-size chains of large retailers in Brás and Bom Retiro. An increase in adolescents trafficking coming from Peru is being observed at a growing rate. They arrive with forged documents, crossing the border with these forged documents, getting into debt for the forged document, already regularly launched in debt, even before they start to work. We have also observed the presence of children in the work environment. It is not child labor, but adolescent labor, mainly of adolescents coming with forged documents. It is the apparent issue of people trafficking.

One of the cases started due to a Paraguay Public Prosecution Office complaint, reporting a trafficking network of women workers from Paraguay to Brazil. There were also problems of sexual violence in the sewing shop. And the presence of children, which is overly concerning and is increasing. We have visually observed all this. Protection to maternity is something historical in the seamstresses' class, as well put by the union's representative herein. It is our concern as well. The collective convention establishes some additional protections that are entirely ignored

in this environment. A child in such an environment, hostile, violent, dangerous, is equivalent to child labor. We do not see a big difference between these phenomena. Lívia's arrival in the Program has brought an enormous contribution, thanks to her degree in Psychology. And she brings several elements to show what happens with these children. Even when they do not work and are enrolled in regular schools, even when they go to school, they need to stay in the sewing shop with their mothers. And which are the psychological sequelae presented by children living in these completely hostile environments.

Another case occurred in the first semester this year. This was the year of unveiling traffic networks originated from Peru, something very worrying. Three teenage workers were taken away from the environment, bearing forged documents to enter Brazil, in this rescue. Among them, one couple with a 17-days baby, who was practically born inside the shop. The mother had no discontinuity between pregnancy, the baby's birth, and the return to the sewing machine. These workers already returned to Peru. When dealing with adolescents and undocumented workers submitted to more acute situations, there is no other option but to prove their return to their homes so that they can be supported by a responsible person in their country of origin.

Another two workers were hidden upon the inspection, at a small room detached from the sewing shop, as they have recently arrived. They were the most vulnerable workers; one was a teenager. They were both sick, submitted to a very rigorous trip from Peru to here. Practically, they did not have started to work yet; however, a documented debt in informal accounting already existed. In other words, they were going to begin to work to settle the debts made in Peru.

Another case in the first semester was a "double flag" shop, which is not quite ordinary. It was a couple of shoppers, from Peru and Bolivia. It was the largest rescue this year, if I am not mistaken. Half the workers were Peruvian, and half the workers were Bolivian. Completely irregular conditions, commonly found in a situation like this. There were also those small rooms separated with plywood, where families with younger children and some babies used to stay. There were more than 15 children and adolescents, and some babies, three newborns, in a filthy environment, lots of industrial residues from sewing. There were several dangerous elements in the place, such as the serious and imminent risk of fire. Interdiction was immediate, both from the living environment and from the work environment.

In another case, we observed technology coming to serve the Sweating System. This picture here had global attention, Gregory's case, if I am not mistaken. One worker improvised a crib between the mother's sewing machine and the father's sewing machine. The newborn baby stayed in the ICU for 30 days before returning to the sewing shop. And the child stayed there, cherished by the sewing machines sound, throughout the labor journey of his parents. Now there is the technology at the service, with baby monitors beside the sewing machines. This way, even the youngest children stay in the plywood rooms, an attached environment to the shop environment, with the baby monitors connected. And the mother remains in this path between the sewing machine and the attached room to serve the child's needs.

Also, in the case of the double flag shop, there was a newcomer worker, illiterate, who did not speak Spanish. She only talked her indigenous mother language. When Inspection arrived, she was cornered, feeding in a corner, a very humiliating and degrading situation, which is not that common. In the more traditional slave labor fight, especially in rural areas, the visual issue is decisive. On the other hand, in the Sweating System, the violence is much more hidden, much more psychological, through coercion, threats. Sometimes, however, we find situations like that.

It is necessary to say that São Paulo's team crossed borders and was at the forefront in this subject. What I showed you today is no longer at the forefront. Fortunately, this is internalized in the actors. It has become judicial. The reticular responsibility is validated by the Judiciary Power, especially due to the incitements from the Public Labor Prosecution Office, as from the Superintendent's administrative accountabilities. However, we still have bordering issues.

For example, there was a complicated rescue case of a Peruvian worker with Stockholm Syndrome. She was totally sold for the situation offered by the employer, who used to sell jewelry in popular shopping malls in Brás. Trafficked worker working there for three months without payment, only to pay her debts. And the girl's approach was overly complex, complicated. The lodging was not in the workplace, another advancement in exploration. They are taking care to no longer lodge the worker in the labor environment. The accommodation was in the periphery of the labor environment, an apartment where the Peruvians stayed. It was ok, very neat. Not too much of a problem.

However, the girl worked there for over three months, without a salary. The defining issue in this rescue was the deceit, the traffic. We provided her return to Peru. And observing her messages exchange while still in Peru, we understood how the slaving and deceit process worked through the Messenger app. From the moment where the work conditions were offered to her in Cuzco until we take her from the labor environment. How the boiling increase in a terribly slow way, until the point where the Inspection arrived there to take her, and she did not want to be taken. There was no problem for that worker, and we had to show her what was offered and the actual situation. She was under such an intense psychological vulnerability that she could not even realize her situation - three months working 15 hours a day, selling jewelry, and not receiving any payment. This case was classified as forced labor because forced labor does not depend on the person's consent.

I really appreciate the invitation. When Renato and Ana Palmira started to talk about the number of things that we did over the last ten years, the companies that were brought, I got tired just thinking about them. If I needed to imagine my biography, I would use the word "tired." But we must find the strength to continue as catalyzers. I say that Labor Inspection is part of the solution but not the solution. It is more a catalyst, the flashlight in a dark room - I am quoting the great philosopher Leonardo Sakamoto - who focuses and illuminates the slave labor. And this because we are from the State infantry and the first ones to enter the workplace. Thank you very much.

Lívia Ferreira da Silva: Thank you, Luís Alexandre. Luís Alexandre is very articulated in the stage, with excellent technical contents, due to the vast experience over these ten years borrowing his knowledge to frauds in the slave labor fight. We are incredibly late, so I will not open to questions. Luís Alexandre will be here all day, and for those interested in talking to him, I say you may.

2nd Module: Challenges that continue to be faced
December 2, 2019
Lecture: Legislative initiatives and the political context

Mediator: Lívia Ferreira dos Santos

Lecturer: Paula Freitas de Almeida, Cesit/IE/Unicamp and member of Remir (Studies and Interdisciplinary Monitoring of the Labor Reform Network)

Comments:

Iara Vidal

Unidentified person.

Lívia Ferreira dos Santos: Paula, thank you very much for your presence.



Paula Freitas de Almeida: Thank you. It is a great pleasure to participate in this event, not only for the importance of the subject but also because I am answering the invitation of a great friend, who is very admired professionally, due to his work to enforce workers protection in the country, Renato Bignami. And these actions regarding the institutional disruption through which our country is passing. Individual efforts show the importance of still having a concern with the social issues and material relationships in Brazil. Therefore, people like Renato, who in their many spaces are enforcing this concern with the sociability of our workers, must always be wildly applauded and find the support of all those who have a look over this issue. I am incredibly grateful for being acknowledged as someone who could come here and contribute.

The table's idea was also talking about the political initiatives, which would be my part since Carlos Bezerra would deal with the legislative action. However, since my first degree is in Law, I will try to summarize to ensure at least a general view over the subject, not with such a specific presentation as his, who would present normative texts related to initiatives in the confections productive chains.

When you talk about the confections productive chains, the idea is to look not only for Brazil.

However, in the Brazilian example, it is possible to identify the presence of all steps in the case of the confections productive chain. Naturally, it is not protected from the international structure pressures of global value chains, whether from the confections sector or the economy structuring as a whole. Here, it is essential to locate where the economic, political, and social foundations are. This will reorganize the labor market in the format found today. Consequently, all the legal, political, social, economic, and fiscal frameworks will fall over these relations.

At this point, it was in the 1970s that technology made advancements in the information technology and communication areas. This will be the technical factor that will make globalization feasible, with financial, productive, and personal flows that we observe since that decade and only intensified as time passed. Globalization will make these economies to be interdependent, and the productive process reorganization from these new technologies will make possible the construction of these global value and production chains. I emphasize here: global value and production chains. Because it is important to know that production is one part, and the value will be created with the production, but not only from it. Here we need to look at the company's shareholder value, leading to the financial market issue. And how the inversions between the financial market and the productive market are disputed.

Therefore, these global value and production chains that use a productive base, which may be expanded to any part of the globe, will naturally search for the conditions proved as the best to the capital appreciation. And this will eventually design the so-called new international labor division. New because the chains will be fragmented. The industrial sector will not have all the steps within a country. First, it will see which is the exporting agrarian country that may better supply the raw material. Then, there is the technology issue. And it goes on, through all the steps. This will also be guided according to the internal policies of the political organization of each national State. All these make up the new international labor division.

In general lines, this new division creates at least two bi groups – countries of significant economies and countries of peripheral economies. Although it is not possible to say that every peripheral economy nation is the same and that every country of the central economy is the same, these would be the two big groups. And Brazil would be inserted in the scenario of peripheral economies, which are economies with more dependence concerning central economies. Therefore, the dollar exchange rate, production release, and the consideration of the labor laws are the source of the productive cost or social investment. These are relevant issues to understand the repositioning of Brazil from the economic point of view. As well as the political options and their considerations in the sociability construction from the labor relations.

According to the World Economic Forum, the global value chains - from what we have seen – started to decrease, especially in 2013, when the so-called Fourth Industrial Revolution occurred, according to the World Economic Forum. Not all chains are suffering from the retraction, but those with the cutting-edge technology – and thinking about that, this Digital Revolution, with the development of technologies that intend to develop human skills and competencies in in-human units – which started to search for the central economies again, passing by a retraction process. Because it is in the central economies that the international labor division ensured the over-investment in research, development, and innovation. The force of capital appreciation is found in the global chain group.

With the global value and production chain retraction, the economies considered peripher-

al eventually find an international competitiveness scenario even more difficult than before. Because now we do not have as many steps as before requiring massive labor force, with low qualification, available to bring the foreigner investment directly into our economies. It is not by accident that one of the reasons for the recent increase in the dollar rate exchange is the decrease of international trade transactions. All this is connected and mutually implied when we talk about labor organization, despite looking at things in entirely different worlds. As this is just materially feeding its own economy.

When we think about the global chain value, we need to understand that it will be possible to abstract the social demand for a labor regularization from the organizational form of this structure. However, the dynamic that will be found between the countries and Brazil's internal organization is what will tell what is needed as regulation. Therefore, it is worthless to look to England and bring the Zero Hour Contract, as if the type of relation were the same. It is not. And this is so true that here we do not even have the Zero Hour Contract regulation. This is only one example of how necessary it is to look inside and create our way of insertion in this global value chain. And not necessarily by comparison. Comparison is healthy, provided that dialogues are made when internalizing the mechanisms existing out there.

In this particular point, the financialization issue is more like a pressure element over the productive market. Because the significant capital that has an amount to invest will decide to invest in the thing capable of providing higher profitability, and if, in the financial market, despite the high risks, there is a potentially higher capacity of appreciation of this capital, the option of the large capital will be to invest there, instead of investing in the expansion of cars manufacturing in an economy that is not offering credit at low-interest rates for the growth of family credit to buy automobiles, for example. I mean, then, that motor vehicle purchase is decreasing. But this will also be a risky investment, a market dispute to value the invested capital through the productive market. This way, financialization is the first and imperative pressure factor, externally and internally, about the organization of the national labor market, not only for Brazil but for any other country.

In the organization form of the global value chain, concerned in decreasing the costs, so the investments in the production become interesting, mechanisms allowing the reorganization of that Fordian production structure were searched, so-called due to the rigidity in the production way. It was necessary to create a flexibilization, to bring new mechanisms that helped to use this labor force, like the investments and demands in the productions started to require. I mean, in short, flexibilization is a labor force management tool. Now the labor force management by the production sector has a purpose, which is continuously extracting the maximum of work that may be extracted, always paying the minimum that may be paid, as this is the difference that will be one of the bases to define the business profitability.

Therefore, thinking about flexibilization as a job creation policy is possible, but not a vital issue. For this to happen, firstly, it is necessary to have the desire to wish. And the investor will only have such desire if he realizes, without a doubt, that a potential demand will exist to what he is investing. Then you may think about job creation coming from a possible flexibilization. The problem is that flexibilization is happening before this economic expansion before a genuine desire to invest in production.

With this flexibilization, the debate about decreasing protection to labor relations is a great

attraction and a competitive advantage to attract investments. It is said that it is necessary to remove social rights from the population. Therefore, exposing them to work as much as possible, earning the minimum that may be paid, potentializing the competitive capacity of a sector before the global value chain, both in the international scope and in the national scope. And when this happens, outsourcing appears, bringing the chain fragmentation and, consequently, fragmentation of bonds inserted in this chain, with pulverization of social protection. When this is taken to the scope of private hiring between the employer and the employee, the hiring standard and the labor normative set are even more pulverized.

The Brazilian model always admitted collective and individual negotiation. However, a minimum level of what is defined as the minimum necessary to exist was established. And the rigidity should be valid only and just over this nucleus – the lack of commitment on what concerns to the minimum to live.

Today, there is an increase in outsourcing with the global value chains, which necessarily advanced to informal services provision. And I am not talking specifically about the clothing sector. I am talking about the institute as a whole. It goes for the question of informality in the scope of the services sector through outsourcing. What not necessarily increases the profitability of the one outsourcing.

With the justification given at the beginning of outsourcing, the company specialization, outsourcing, and, therefore, adding to the minimum labor cost the intermediate profit will only make sense if upon the moment of this transference it is possible to improve productivity and gain a consumer market that will pay for this transference. But if there is a decrease in profitability, the company pressures this outsourcing chain to find someone who can provide the service at a lower charge. However, if labor legislation establishes a level, charging less would have this level as the limit. Nevertheless, in the scope of surviving strategy of a global value chain, the individual who is disputing with Digital Revolution, who is causing retraction of the global value chain steps, and who necessarily needs, through the work find his way of surviving, will accept to earn less than that minimum level. So, I am drawing to you, which is the material problematics, regardless of the law, the administrative capacity, the company's management.

There is a human cost associated with this dynamic. What to do? Then, we enter into the political scope. It is about decisions. Is this Brazil's decision in an imposed scenario – not only over it – but overall, the national States in this dispute process? Which position will Brazil assume? Which are the political options of public investment? Which are the incentives given to the private initiative? And which is the regulation standard of labor relations that will establish the minimum rights to our society?

When I talk about workers, I feel that I am talking about all workers. And I believe that I am not only talking about the right to a minimum wage, a maximum labor journey but about the need to think about, as a society, the distribution of the useful existing work because we are decreasing our amount of labor available, at the same time that we increase the amount of labor force available.

The equation is not only related to ensuring the intracontractual rights. It is necessary to extrapolate the dimension of the individual labor contract. Think about distribution policies. And the journey limitation is one of the ways to do this distribution, no doubts. But there is no point in instituting a reduced journey with a reduced remuneration. From the quantitative point of view,

the person will not be able to get what he/she needs by selling his/her labor force or to self-provide and provide for his/her family. It is not easy. It is complex, and it has no magical formula. Also, there is no defined future, as many times the marked hegemonic speeches try to make you believe, especially through neo-liberal foundations. Future is not written in stone. It is not. One beautiful aspect of human life is the freedom to decide the next day. And we still have not lost that to robots.

Concerning the national textile, clothing, and fashion chain, the entire organization is inside Brazil, which facilitates a little to think about protecting its workers. Because it will not be necessary to interfere in other countries political and economic management, at least, it is a look inward. There are external pressures, but they may be contemporized from internal actions. This aspect really improves the scenario regarding those other chains disputing the international scenario, such as the production chain of trucks and automobiles or the banks.

In Brazil, the textile sector has world importance due to its representativeness amount, which shows that investors in the sector believe that Brazil may grow. There is an effective demand inside and outside the country. And, therefore, they want to do financial inversions here. And this concentration facilitates. The existence of these chains from a leader company or a small group of leading companies may influence the formation of these global value chains. The market is also protected when this chain is built inside the limits of its own national State.

About two weeks ago, an approximation of Brazil and China was announced, with the commercial coverage between the two countries. If the production costs are matched, or the competition is free between these two countries, without concerns with creating mechanisms to protect the national sector. In that case, the external pressure over our internal chain will increase. And this will require cost restructuring, which will fall over many fronts, including in labor hiring. Because then the social investment will soon become a cost. These are issues that we must try to envision so we may guide the political decisions, starting from the decision of a commercial opening. Naturally, Brazil may not close itself, but it must understand how to sew the space, so the national economy is not exposed to the enormous competitive advantages of China. I do not have an answer, and I am here just showing the problem. New managers must consider that. But the fact is that social and labor impacts must be considered. And here I emphasize the social, before labor, because the social impact is higher than the labor impact. The social advances to think in the ways through which these workers, in the future, during their retirement, will provide for themselves, how will be their situation when a labor accident occurs, how will be the situation of family men and women, who must attend daily journeys of 12 to 14 hours. And, not for less, exactly when the journey extension is being incorporated in the consideration, that appears to be one of the main elements characterizing the slave labor. Because their life is transformed, a third party naturally does not revert into human sociability in a proper labor time without a clear limit.

These elements will constrain the society format. And they will interfere in issues such as the parents' participation in family education, the social governability way before the State. Another issue is the environmental impacts in the production, the environmental cost. In the 1970s, this was one of the factors for the transference of the productive steps pollutant for peripheric economy countries, which caused a problem of unemployment in central economies in the decades of 1980s and 1990s. There, a new dispute for these jobs started, as in this pollutant industry, they

were the main elements found in the formal labor market structuring.

Therefore, it is essential to distinguish the work in the body of the industrial structure from that outsourced work of the services sector. And I am not the one saying it. From the National Policy per Continuous National Household Sample Survey (Continuous PNAD), it is possible to identify that the industry has major journey control, better salaries, registered labor agreements. And you must think - upon the expansion, does the services sector necessarily needs to have long journeys, salary reduction, informal labor? It does not need. It is possible to structure the services sector. Still, for this to happen, it is necessary to have the political decision to do it, and this is not occurring throughout the expansion process of the services sector. It is a constant. And, admitting this hegemonic speech of neo-liberalism, the society also leaves the dispute.

In the previous speech, it was told the case of that slave worker who did not want to leave that condition, as he did not see himself as such. But what are the considerations? A speech was legitimizing that place as being that of independence through work. But when this speech is analyzed from a structural point of view, the possibilities are not from that individual but the society. It is observed that reinsertion with another format is possible. Provided that public policies, especially, intend to do that.

And I believe that this is the moment we meet, trying to understand how our society is structured, which are the economic pacts being made within the international scope. At any time, a constant re-evaluation process of our decisions is necessary to understand the ones that need to be rectified and, who knows, deepened. And the ones that might need to be revisited.

The economist, Manuel Castells, was the first person to talk about network society. If this network society exists, which will bring this international competitiveness as pressure. In that case, that will oblige to build competitive advantages the whole time, and for that reason that will get the production outsourcing, and that will reinforce the idea of neoliberalism as the world's reason, the way to organize the social, political, and economic life in the world, you need to look with the possible mechanisms. It is necessary to look inside the chain formation process where these effects may be minimized.

You are in the sector, so you probably know the productive steps better than me, for sure. However, it is worth questioning which are the meanings of outsourcing in Brazilian law. And you may notice that our services sector is in the range of 70% of participation in the Gross Domestic Product. As a matter of fact, it is way above that, while the industry is in the range of 25%. Our GDP is located within the services sector, and the necessary measures to distribute this wealth between the population should be focused on it. It makes little sense that the sector with the largest participation in the GDP has the lowest salaries, the more extensive journeys, and informality.

Furthermore, in 2017, the core activity outsourcing will be admitted with the reformed outsourcing, potentializing the lower salaries, informality, and long journeys in core activity. The inclusion of a fourth party, a fifth party, will be admitted, as this chain is being structured. And this will later impact the subsidiary liability of the services borrower because the person at the end of the chain will not be capable of reconstructing it to understand who are the subsidiaries responsible for the payment of its rights, within its individual autonomy. This way, the chances of frustrating the rights granted are high.

In relation to the world, in the Global Slavery Index, Brazil is not so bad compared to a sig-

nificant part of Africa. But it does not have an outstanding performance either. There is still a considerable pressure of slave labor in the country – 369 thousand enslaved people. There are 40 million precarious remunerated jobs globally, 70% are women, and 24.9 million are under forced labor.

In addition to this international index, the Moda Brasil Transparence Index was produced here in 2018, and each year occurs in a different place. Who was in the front was the Fashion Revolution. And it is not so important as data, its scientific character is not very strong, but it illustrates that there is no information provided. There is no capacity of following the companies in relation to its supply chain to identify the responsibilities of the failure to comply with the labor laws towards the employees.

But we need to think in initiatives, what we can do. One of them is to look forward, trying to bring a different reality to the sector and the productive national chain of confections. It is necessary to understand that this external political pressure exists. We also must build an internal political-social pressure, trying to not allow for this idea of zero transparency about the production chains to expand, trying to bring this information to society.

One possible way is to do a formal registry of your suppliers throughout the chain, binding the chain participating company to use the indicated suppliers. This way, it is possible to create a form of traceability. This does not mean that this cannot be modified. It may be changed at any time. Once you change your supplier, you must inform that you changed your supplier.

And the new supplier must inform who are his new suppliers. This way, we build the registration of companies participating in each one of the steps. It is even possible to rescue through the Annual List of Social Information (Rais) who are the workers of this entire productive chain. It is one way to establish an institutional assurance to these workers. In this case, we would see, especially, the appreciation and legitimation of the Labor Inspection, which does the job of searching, inspecting, prosecuting, and ensuring the labor's right. My offer here is a spring for a more direct action of Inspection through this simple suppliers list.

Fashion Revolution talks about the formation of a link between the worker and the consumer. Because the consumer will be able to verify if the productive chain is perfectly meeting the national legislations. And then you create inside a network society the network responsibility, through the quality of our sociability. The competitive advantage for companies would be the formation of political capital, with the constitution of good socio-environmental practices appreciated by its consumers. And this might bring institutional transformation.

I am thinking of a rupture of pressures established in the direct hierarchy between that employee at the end of the chain and the one taking the service. Because many times, this forced relationship by the leading company is unknown. However, inertia, omission, closing the eyes, and hashing the hands, favor the material conditions to reproduce the exercise of oppressive power, capable of suppressing the human condition of workers. And, in this particular aspect, shops in São Paulo are a clear picture that this happens. You just need to drive with your windows open to find this.

I hope I gave you ways to think in future initiatives, both from the civil society perspective and from the reorganization of our internal politics perspective and our public institutions' strengthening to do these internal politics. This is necessary. These tools are necessary. Thank you.

Livia Ferreira dos Santos: Paula, thank you very much for your contributions. I believe that you

brought essential elements to this discussion and consider what happened over these ten years of Pacto. For example, how the value chain may be applied and reconsidered to promote human rights and better labor conditions. So, what still exists in the confection chains of São Paulo will no longer occur. Does anyone in the audience have a question?

Iara Vidal: Hi, Paula! Good afternoon. I would like to know your opinion about the metrics used in the GDP. Don't you think that it is time to reconsider this and include, for example, human dignity in this calculus, the use of natural resources? Anyway, I would like to know your opinion about that. And about the impact of these metrics in the labor crisis that we are living.

Paula Freitas de Almeida: Who created the GDP metrics, stated that it would not serve the inequality issue. Of course, the GDP is data evaluating the amount of Gross Domestic Product in a country. And the participation of sectors in this GDP composition indicates the segments generating more wealth to the country. Now, when you talk about inequality, you are talking about income distribution. And then you need to think, considering that we have an "X" GDP, which is an excellent GDP in Brazil's case, with a composition of 70% of services. Naturally, if the distribution policies are more robust in the industry sector or the agricultural sector, they will be less effective. Inequality will continue concentrated in that sector generating higher participation in GDP. So, the GDP is only a tool, in this case, about inequality, policies orientation for wealth distribution.

Then it is possible to find several ways of wealth distribution policies. Effectively reducing the time of work without the proportional reduction of remuneration is one of them. By the way, under my view of the Federal Constitution, this would be the proper way to enforce the constitutional law, which talks about a maximum journey of eight daily hours and 44 weekly hours and the receipt of a minimum wage. It is not allowed to transform the maximum of work into what is necessary to earn the minimum. There is no internal logic in this thought. However, this is the interpretation in force in our courts.

Furthermore, it is possible to consider the direct wealth distribution, such as the Program *Bolsa Família* and the family credit creation. There are too many ways. Taxes are also mechanisms of wealth distribution. The rates over a private gain return to public administration, which will compose the budget and turn that into public policies to improve the population's general life condition. So, if I do not spend my money with private schools and find educational quality in public schools, this is income distribution. I am not spending my salary to pay for the boy's school. Idem for healthcare. And the same for car insurance.

The idea that an individual's autonomy is based on the choices that he makes with his earnings is contradicted when he must choose which school, health insurance, or car insurance he will pay. At the same time, he starts to work more, so he did not earn less. It is a tangle of contradictions.

Livia Ferreira dos Santos: Any other question?

Unidentified person: You made it clear that each country has its own peculiarity in how it receives the pressure from global chains and how it is positioned in the international labor division. But can you draw a comparison with a peripheral economy, such as the Brazilian after the labor reform, with labor destabilization and pulverization of social protection?

Paula Freitas de Almeida: You mean a parallel of what is found in Brazil after the reform in relation to some international economy?

Unidentified person: Yes. Some future mirror.

Paula Freitas de Almeida: Sure, but since this is a human sciences matter, the answer is not exact. But, without a doubt, it is possible to think in a range of possibilities that opens from the Labor Reform in Brazil. And I am not limited to the changes of 2017 but to the succession of legislative acts that are changing the entire structure, including labor institutions. I always say that instead of looking to Europe, we should look to Mexico. It is not a perfect mirror since this is impossible, but the Mexican domestic labor work registered more than 90% of informality. And what we saw in Brazil was quickly passing from an informal market of 35% to 52% in just a few years. Brazil never completed its industrialization process to be able to target a new step. The structuring of our labor market ended up being fragile. And the labor reform promoted a rapid disruption of what was structured since the decade of 1950s.

In the case of Mexico, the economy there became dependent on the United States. And the structuring that happened in that economy from the dependence relation on this central economy was not manifested in the structuring of a formal market. This way, I believe that if we continue in this path – despite the different reasons – our future will have advancements for such informalization.

Chile is another country whose example helps to highlight some of the things that may occur in the future with a labor organization in Brazil and with sociability. Under Pinochet's regimen, Chile assumed the neo-liberal agenda. It is important to remind the poverty level of the Chilean retired population, a subject that is emerging with great force in the revindications. I prefer looking to South America, as we are much closer to them than North American, English, or French welfare states.

Lívia Ferreira dos Santos: Thank you very much Paula, for your inputs. Especially now, in the end, when you talk about these references. As a very colonial tradition country, our references always end up going to the Western European countries. Evermore, I have seen that there are also good references to be looked at in Latin America. And I believe that this is becoming an academic trend, searching for bibliographic references and authors from other centers other than the traditional western centers. Thank you very much for your contributions. I consider the table closed.

Lecture: Businesses initiatives



Mediator: Mércia Silva, Executive-Director of *Instituto Pacto Nacional pela Erradicação do Trabalho Escravo* (National Pact Institute for Slave Labor Eradication - Inpacto)

Lecturers:

Edmundo Lima, from the Brazilian Association of Textile Retail (ABVTEX).

Fernando Pimentel, from the Brazilian Association of Textile and Clothing Industry (Abit)

Comments:

Renato Bignami



Mércia Silva: Good afternoon. Good afternoon to those who are watching us online. Thank you for your attention, for dedicating your time to celebrate this ten-year journey with us. As previously said, I am a sociologist, I work at Inpacto, *Instituto do Pacto Nacional pela Erradicação do Trabalho Escravo*. This is an institution created in a pool with several partners – civil society, multilateral organizations, such as the ILO, and the companies and their sector associations. We used to believe, and we are still convinced that we will be all together for the workers and the Brazilian people's dignity. We have several associations in the productive sector. And it is a pleasure to mediate this discussion table.

These ten years of the Textile Sector Pact are an example. Other sectors are still crawling in this history, but we will get there. One day we will have the cascade effect where all the Brazilian sectors will be together in this Pacto - no matter how big the company is. Pacto, as said by the doctor, professor, and brilliant Vera, is a pact, a deal. I loved her saying, and I will use it.

To help me discuss what was done in the Brazilian productive sector, I would like to call Mister Edmundo Lima, the Executive-Director of ABVTEX, the Brazilian Association of Textile Retail. I also would like to call mister Fernando Pimentel, President of Abit, Brazilian Association of Textile and Confection Industry. Therefore, I give the floor to Edmundo, my also journey colleague.



Edmundo Lima: Good afternoon to each of you assembled here. It is an honor to be here with you and share the work done by the entity and the retailers. And I believe that we have a good opportunity here to discuss a little about the actions, initiatives, suggestions in the face of such a complex problem. The morning section was vibrant to know precisely how complex the problem to be faced may be.

For many years, I participate effectively in this discussion, many times seated where you [the audience] are. We feel somewhat powerless. Because the problems, the challenges, are very well put, very well exposed. On the other hand, which solutions are being addressed? What is being done in a conjunctive and collective way with the public power, to in some way address these issues and minimize all these problematics not only in the textile sector - as said by Mércia - but in the national scope, to ensure good labor conditions and dignity for these workers?

It is excellent to be here and hear all that was said about working in a network and unite efforts.

All this is very healthy and very engaging to those here, even more ahead of complex problems and a very challenging situation, as we have in the Brazilian economy today. More than ever, the solution passes through the union of the actors and the public power, through a dialogue of the public power and the private initiative, with organizations from the civil society and representatives of the workers. In a certain way, it is essential to join forces to discuss and address that. Renato Bignami, in his speech, raised the question that the private initiative is indeed working, building solutions, and trying to address possible solutions. The fashion sector has a very close affectional relationship with any human being, as we are connected to a textile product since birth. We are minimally hugged at the beginning of life by a blanket, an initial cloth, and the clothing that accompanies us. It is unacceptable that the sector has informality and extreme degrading conditions, exposing a human being to slave-like conditions and child labor. Or even the excessive use of irregular immigrants in very precarious conditions within the country.

I am the Executive-Director of the Brazilian Association of Textile Retail. This entity reunites the largest fashion retailers, but I am here representing 102 brands that, in the face of a labor destabilization scenario, in 2008 and 2009, decided to get together and create an initiative. It was not possible to just watch. Or, as well said by Professor Paula, it was not possible to just wash your hands and leave the economy moves on, leave the business to be done as they were always done. Definitely, these companies always understood the issue, always had a view of the problem.

The Labor Auditor, Luís Faria, made very clear that the public power has a relevant role in the inspection. And they had the mission of shedding light on this issue and show the significant challenges in a reality that needed to be worked, still needs. But especially at that time, it needed to be worked. Many talked before me about the challenge of establishing concepts and aligning understandings, whether from the public power, the society, companies, private initiative, the own workers, in relation to this question. And over these ten years, we are building a legal framework and an understanding regarding the challenges that are not very simple. Quite the opposite, they are very complex. And they can only be addressed in a definite way if we have the union of all, working together, developing initiatives dealing with the labor conditions and human dignity, and talking about sustainable supply in the fashion world effectively.

Fernando Pimentel will undoubtedly bring a very clear picture of the industry installed in Brazil. But we know the complexity of this industry, the large number of companies, which are thousand. As well as other sectors of the economy, this is a sector where the inclusion of a third party or a fourth party is very used. Consequently, this creates a natural complexity in the monitoring and visibility of the chain.

It was precisely in this challenging environment that in 2008-2009, the retailers reunited inside ABVTEX – existing since 1999 – trying to address possible solutions for this question. A lot was talked about pioneering and protagonism of the public sector. But here we also have an example of the pioneering in the private sector – highly competitive companies in the edges, in the fight for the consumer in their sales points, stores, who seated around a table to think about collective solutions for the destabilization problem throughout the productive chain. These companies reunited and started to believe in how the productive chain might be monitored and how the bad labor conditions could be eradicated from the productive process. And how the formalization and good labor conditions might be encouraged in these companies. And especially how the third-party and fourth-party companies relating directly with the retailer company might

strictly comply with the legislation in force in the country. This is what we search.

Large companies and groups – including international ones – are concerned about the compliance matter, due diligence, corporate image, and reputation as a company. But mainly, there is a social responsibility regarding the business configuration of these companies, which is also related to having a healthy productive chain. Generating wealth where it acts, and in some way, including the population in the productive process.

In 2010, we launched the Program ABVTEX, which brought the commitment of retail networks to no longer acquire more goods from suppliers that are not audited and approved by this program. Again, it was a challenging scenario because we talked about productive chains for highly competitive companies. But they understand the need to unite the efforts and work collectively to address a complicated problem.

We are members of Inpacto and participate in a forced labor international forum established by ILO. We also participate in the Sustainable Apparel Coalition, another international front reuniting the biggest retailers of fashion in the world. As from this initiative in Brazil, these large retailers started to develop, on a world level, the proposal to sit around a table with suppliers, workers, and the government. The purpose is to think logically and rationally of monitoring the productive chain, eliminating the bad labor conditions and, especially, not punishing the industrial with so many costs and multi parallel audits as exist in the world today. This is also a challenge here in Brazil.

At that time, the Program ABVTEX had fundamental help from Institute Ethos when everything was new. By the way, we are working with very recent events. We organized a basic protocol with a checklist to monitor the productive chain, taking care to effectively contemplate the labor and tax Brazilian legislation and the excellent world practices adopted by the companies individually. We believed that we could make up a list of proper solutions for the segment.

Basically, the program tries to ensure good labor conditions throughout the productive chain, which provides for the 102 brands. Eliminate the slave-like labor, forced labor, child labor, and the use of irregular foreigners in the productive chain. Definitely, it values the formalization and good practices throughout the productive chain. Today, the audited items refer to compliance with the labor and tax legislation. Physically, at least once a year, we evaluate the formation of companies, regardless of the position in the chain, first-level supplier, subcontractor, third-party, fourth party, ensuring the formalization and good labor practices.

Obviously, since this chain uses lots of subcontracting, we are concerned with how these subcontracting agreements are done. If they establish at least the clauses not allowing precarious labor conditions, slave-like labor, child labor. In the same way, we worry about the rigor in the contractual execution of the retailer with its supplier. Upon the monitoring of the productive chain, the entire company's documentation is evaluated under this aspect.

In relation to children, we also do not allow their presence in the work environment. And we effectively orient that. We evaluate items like housing, health, safety, and the worker's environment. If slave-like labor, child labor, or irregular foreigner labor is detected during the audit, the company is suspended from the program for six months. In this suspension period, the company will not have revenue from the retailer brands of the entity. And you know that six months without payment is a capital penalty for the company. The penalty is hard to effectively raise awareness in the businessperson that this type of situation is unacceptable and unnegotiable for

the retailers' chains.

The result of this initiative has been extremely positive and comprehensive. Today, we have 3,766 companies monitored on a periodical basis, physically audit in their structures, spread over 600 cities in 18 states of the country. They employ almost 340 thousand workers producing clothes in the country. Since 2010, the entity, with 80 auditors from five homologated organisms, overcame 38 thousand audits in the field.

When we look to the main clothing producer poles in the country, we realize the magnitude of the challenge from the north to the south – thousands and thousands of companies, mainly micro and small-sized, producing clothes. The companies participating in the program are emphasized here [showing the image], with a powerful presence of the states in the South, Southeast, and Northeast regions. It is an industry that follows the consumer market, so it is remarkably close to the consumer market. And definitely, all this gives an idea of the challenge that we have with the monitoring of the productive chain in the big companies.

A productive chain of a retailer network made considerable investments to ensure good practices, good labor conditions, adequacy of its structures, provision of safety equipment to the workers. A formalization of all their workers. Extra hours not paid with checks or money but deposited in the credit accounts, which is one of the program's demands. All the workers receive the payments with a deposit in their bank accounts, as we understand that this is the best way to ensure the funds delivery to the worker with no additional discount.

More than R\$130 million were invested by the industry and the retail sector to ensure good practices over these nine years. An extremely important and expressive resource.

São Paulo is a genuinely relevant producer pole. It is not the primary producer pole of clothes in the country for this retailer network, but it has representativity, with 63 thousand people employed in the sector. In the city of São Paulo, we have 350 certified companies and approximately 13 thousand workers in this regimen monitored by the entity, ensuring good practices and proper labor conditions for this worker.

And here, Luís, I also have some pictures showing a little more about the reality of before and after the certification. It is common to find shops under unhealthy conditions, without natural ventilation, exposed wiring, without lighting, although they are not indeed the majority. And this change is very radical in this sense. It is a real transformation of what we are doing in the productive chain. We could spend all day showing cases of changes.

The city of São Paulo recently recognized them with the Citizenship Municipal Seal. For the second year, the company awards this seal in three categories – women, childhood, and immigrants, precisely due to the fight against labor destabilization. And on behalf of the work and dignity of these people. All this due to a vast collective effort of the industry and these 102 brands, who joined their forces to produce good labor conditions, with a noticeably clear purpose of promoting sustainable fashion, making it more accessible through the development of a responsible and ethical productive chain during this process.

And the invitation here is to all of us unite our forces to that. These 102 brands correspond to 25% of the retail fashion market in the country. We have another 75% that need to be monitored and inspected. And this is a profoundly serious and critical situation, as 1/3 of clothes traded in the country are done informally or illegally. We are talking about illegal trade fairs, like *Feira da Madrugada*, in São Paulo. We are talking about street vendors, “*sacoleiros*” (informal salesper-

sons), who have no idea about where the items they sell are produced. And indeed, if the trade is informal, the production is also informal.

We need to advance in this proposal and unite our efforts in this fight. And search ever more to exchange experiences and address the main issues.

I finish my participation with a movie about ABVTEX values, what these retailers believe. The entity was born in 1999, and since 2010 it develops this systemized and organized initiative through an internet platform that connects all these actors and manages to give visibility, traceability, the binding of retailers to the productive chain, as well as all the subcontractors, that is, all the links involved in this productive chain. Thank you.

Mércia Silva: Thank you very much, Lima. It is always good to update with the numbers and see this journey. Thank you for telling me this path. It is essential to recognize that the engaging process in the pre-competitive environment is challenging. And the program construction shows the success of negotiations, of the exercise of working in conjunction. And out there, Brazil is really teaching how it is done.

Now, I would like to call Fernando Pimentel. Please, tell us what the industry has been done.



Fernando Pimentel: Thank you, Mércia. Good afternoon, everybody. Hi Livia, Renato, Luís Alexandre, all those here today. Hi Eunice, our leader in the sewing area, as well as to all those who are watching us “onlinely,” as Odorico Paraguassu [fictional Brazilian soap opera character] would say.

Right now, I am the president of Abit, and I am in this field since April 1977. So, I am almost a space cowboy, as in the movie with Clint Eastwood, where the old-school gang was called to meet an almost impossible mission in space. I am in this gang but with lots of energy, joy, and

satisfaction of working in an industry that today is at the center of a big world issue.

This industry is suffering a series of questionings, many of them are legitimate, over several aspects – employed raw materials, consumption, labor issues, such as journeys. It is an industry that suddenly entered the fulcrum of these discussions even because it is an industry that deals with basic necessities.

I will briefly speak about Abit, founded in 1957, and has its representative in the entire sector productive chain, from the raw materials to the final product. Our mission is essentially to make this sector grow and develop.

Unfortunately, Brazil unlearned to grow. From 1988 – and I am not talking about this milestone because it is the year of the 1988 constitution – until 2018, in 30 years, the country grew 2.2% per year. The population grew 1.4% per year, and the per capita income increased 0.72% per year. In this rhythm, it would take 100 years to double the per capita income. Brazil unlearned to grow. I considered 30 years because this period includes several governments. All this time, the world grew 3.7%, and the emerging countries grew more than 5%.

With no development, it will be exceedingly difficult to solve essential questions that Brazil is facing, starting with basic sanitation – more than half of the population do not have treated water or sanitary sewage. And this has a high cost to society. This is, in fact, a deleterious effect of inequality existing in the country. And to solve this issue, we must invest more than R\$100 billion per year.

The textile industry is significant, and we are amongst the five largest in the world. But this is an industry that disputes the market with all countries, in almost all levels of development. In relation to China – and I do not support a pact with China – ten years ago was one country, today it is another country. The industry is somewhat nomad regarding the changes in the productive process. Today, there is a bunch of investments being made in Ethiopia. The Chinese capital is gravitating through Asia, in countries such as Vietnam and Sri Lanka. But Africa will be the new border, with all peculiarities and situations. We also have an internal Asia, and we do not need to go so far. You just need to go to *Feirinha da Madrugada*, and we will know Asia. And there, everything is illegal in its commercialization, in one way or the other. There is illegality in some link of the productive chain, which destroys the formal business and the registered and better-quality jobs within this industry.

This industry does not pay the best average salaries, but it is between the five largest salary payers in absolute numbers. There are more than R\$20 billion per year and approximately more than R\$20 billion in taxes. And it employs one million and a half people. But the great challenge is how to attract and retain talents in this industry.

And where is this industry? Here in this edging [showing in the image] and starts to interiorize a little more. When you look to the North, it is a little more, but it is an interesting activity to this region. But the industry is very located near the consumption markets. And in the Central-West region, which is the great granary of cotton production, the primary raw material that we consume.

Brazil has a classic problem of logistics costs, which also contributes to the industry concentration. Since the main consumer markets are in the South and Southeast, and Brazil's transportation cost is one of the highest in the world. Consequently, it is not possible to pulverize it more than it is already pulverized. There is a solid movement for the Northeast due to the incentives. But we still have a very concentrated productive base. São Paulo, in particular, represents 28% of

the production. Santa Catarina, 17%. Minas, 12%. Paraná, 9%. Ceará, 6.5%. And Rio de Janeiro, 6%. It is a very fragmented activity.

In a panoramic way, if a country decided to start building a clothing textile industry like the one in Brazil, the investment would be R\$270 billion, of which R\$6 billion would be destined to people qualification. And one of the biggest challenges is, in fact, people qualification, despite the very qualified basis that we have.

When we look to Paraguay, a neighbor receiving a series of investments, the great advantage of that country is, essentially, the taxes part. For the confection industry, electricity is a less relevant factor, and considering the logistics cost, it ends up neutralized. In South America, the great advantage of some changes is the competitive differences in some of these main cost vectors.

Brazil is much more fragmented than desired. This industry is fragmented worldwide, but we are more than others because the country, due to its tributary complexity and legal insecurity, ends up being an excellent stimulator of small-sized companies included in the scope of *Simples*. This is good because of formalization but bad because it does not grow. When the salesperson reaches the upper limit of *Simples*, he opens a new company, even when many times, he pays more in *Simples* than he would eventually pay in the system of *Lucro Presumido*.

Fragmentation in textile is lower, and there is a large concentration in the revenue of large-size companies. In the clothing sector, fragmentation is even bigger. The revenue concentration also exists, but it is not as accentuated as the one existing in the textile industry. And I consider this fragmentation is negative. These specializations will always occur, but Brazil led this fragmentation to a significantly higher power for the reasons I mentioned. For example, large retails prefer buying from more verticalized companies. And I would like this too. But why there is not too many verticalized companies? To us, a company with one thousand employees under the same roof is a large-sized company. The same for a company with five thousand, like one I visited in the Northeast region. But in China, this scale is more considerable, despite the fragmentation. These are models that led us to a very relevant discussion about how we could be a sustainable, legal, and competitive country. We are under a clenched attack, from all fronts, in relation to the internal market, which is not rich from the average income point of view but is a market amongst the seven largest globally, estimated at R\$230 billion. If we add footwear and some other sectors such as ornamentation, we may reach almost R\$300 billion.

Here you may see a cost matrix [referring to an image], where I show the main cost items. I took only three. Energy is much more vital in the textile industry and much weaker in confection. The labor force is much more robust in confection than in the textile industry and the transformation industry. And the raw material has great relevance in all of them, obviously.

I present to you a little about the sociodemographic profile, so you can see where we are. Regarding educational level, most people working in the sector have completed high school, completed superior education, and have a master's or doctor's degree. If the education quality is good or bad is another discussion. But we are not talking about an industry that employs people who did not have a minimum period of seven or eight years in school. Regarding the gender, primarily females, especially in confection. In general, 61% of the jobs are taken by women. This brings all the questions of gender treatment, conditions to take care of the family, and all this implies. Regarding the age group, people older than 50 years have a broad representation. However, most of them are from 30 to 49 years old. Regarding nationality, it is registered in the official statistics that the greater amount is composed of Bolivians, followed by Haitians and Paraguayans. In-

deed, this number is much higher than what is registered.

And what about performance? This year, we created 15 thousand formal jobs, measured by Caged. We are buying more machines and equipment. Textile production is in a fall of 1.7%, and it will reach the end of the year in a scoreless tie – a little more, a little less. Confection is under the same situation. And retail with grows approximately 1%. Based on that, our perspective is to look to 2020, and the first calculations indicate growth.

Which are the movements and trends? Many people, many actions, many questions from all over the world. In February 2020, I will be in the Due Diligence of the Organization for Economic Cooperation and Development (OECD) to deal with a subject related to certifications, which is becoming almost impracticable due to the excess of audits that end up creating costs and unnecessary overcharges. We are taking care of that with ABVTEX. However, there are several corporative policies in progress from which Abit participates, besides working in this mobilization.

The industry will evermore be involved in a hybridization with the services, in an almost unavoidable process. Today, to sell its product, the textile industry will learn how to sew, wash your hands, how this, how that. Anyway, it will help its clients to have a better performance. This way, the services area is increasing more and more. This is the change of business model in the industry. But Brazil is losing industrial density.

Inside the Global Fashion Agenda, we are working on the analysis and trends for the sector. This discussion is included in the Global Fashion Summit, and a new meeting is scheduled for May 2020 in Denmark. In relation to Confection 4.0, we are moving our action and, mainly, looking to the sustainability issue as widely as possible.

About the new labor models, we have plants installed in them. It is a trend. In textile, robotization and automation are actual factors. Today, in a new textile plant, there are few people. In confection is different. There are too many people, both in the cutting areas and finishing areas. Several movements were made. And now, we work on the core. But from our point of view, sewing will still exist for a long time as it is known today, however, with better and more modern machines. In the segment of digital printing, in the finishing area, this is a reality. And all the sectors move in this way. However, in confection, sewing, this is not identified as consolidated, or which will gain speed very fast. And I would say that the major challenge is to qualify and requalify the people. The learning mode must be on the entire time in all of us.

Here is the plant of São Paulo [showing an image]. The invitation to visit there is made. We have one in Rio and another in São Paulo to establish the labor mechanisms existing within the conception of advanced manufacture conception, one of the pillars of the Fashion Global Agenda. All this was done with Brazilian technology - sewing 4.0, many pieces made seamless, filaments directly from the machine to the clothes, especially in knitwear. All this is happening. There are many clothing pieces with characteristics to shorten the production process.

The labor agenda is our last action, which will be carried out in May 2020. I invite all in this room to participate with us. Here we had a gym, an industry, the union. I called the Dieese [Inter-Union Department of Statistics and Socioeconomic Studies] to be with us to discuss this view. We are working on evolution, training, sustainable raw materials, global integration, and competitiveness. All this is connected to the UN's Sustainable Development Goals. And there is also productive sequencing, which is one of the elements that we explore a lot. To work on these modules, the strengthening program of the production textile industry is going online, together

with the Technology Center of Chemical and Textile Industry of Senai (Cetiqt). The modules have 40 hours, which does not require too much time. And that will not cost too much as they are digitalized. And this will help a lot in the management issue.

We have partnerships with Sebrae [Brazilian Service of Support to Micro Businesses]. And the relations with Inpacto and the Fight Commission Against Slave Labor, besides a public-private partnership with ILO. We have the Sustainable Fashion Lab. We have the Tex Index, a self-diagnosis, on our website. The company manages to see where it is in terms of sustainability. It already receives a small plan of work, which may be extended as per the desire to increment the consultancy.

We participate in all WTO meetings, where our mantra is “global products, manufacturing ways ever more global.” I do not believe that Brazil lacks legislation. It may be needy in other aspects, but the legislation is very strong despite the changes that occurred. However, some countries do not even have enforcement for this to happen. We are sustaining at WTO that commerce needs to talk with labor. It is not helpful to do everything right within our territory and let items improperly produced arrive from abroad, occupying the Brazilian employment space, within the national territory, without proper competitiveness. This also works for sustainability and climate policies. Our fundamental role is as mobilizers, totally working with the retail.

We are doing research, predicted for the end of the following year, with large retail suppliers about their view of large retailers’ relationship. They are clients. They are suppliers. No one can fight. We have a common enemy, which is labor destabilization due to informality, even more dramatic in the most distant regions, but that also exists in the São Paulo capital. On my way from Abit to here, at *Estação da Luz*, at *Cracolândia* [Crackland, at Luz Subway Station], we may see how much exists with this nature. And I believe that no solution passes through without a robust integration.

Ten years of celebration. And I believe that we advanced and are always trying to improve. We have been a reference in international discussions, not only about this, but we are also leading the Latin-America Alliance issue in the Fight Against Smuggling and Piracy throughout Latin America. Of course, we are not dreaming. South America is complicated, and there is too much porosity in its borders. It is not a continent with fantastic compliance. But here in Brazil, we have had a very relevant action with Colombia, Paraguay, and entire Central America producing it. It is a continent with tremendous potential, but unfortunately, it is not developing correctly. And Brazil must be this locomotive. It must be this reference. And the confection textile industry in our country is amongst the five largest in the world. It employs one million and a half people. It is estimated that 75 to 80 million people are working in this sector across the globe. If we count the home sewing machines, it is much more. Our challenge is how to disseminate these good practices. Because we will not have quality jobs without quality companies.

This is an endless agenda. This schedule has a starting gun, but it does not have a finish line. And it increases when there is a recession, like the one we lived in 2015 and 2016, which extinguished 200 thousand jobs in the industry and the clothing retail. But we will, together in this journey, do our best to take Brazil as a reference to the world. We have several pains. However, we are a democracy. Our pains are exposed all day, every day. Unlike many countries that compete with us and have a controlled media and some other things, you do not really know what happens. The confection textile industry in Brazil, represented by Abit, will work on this agenda every day. And we will give good examples to those who do not know the direction to go.

Congratulations to all who are working on this agenda and thank you.

Mércia Silva: Thank you very much, Fernando, for bringing the industry complexity and showing us our place in the world. I liked the approach that Brazil has towards other countries, different realities. And we must deal with that. It is different in São Paulo and other places, with more or less possibilities of access to infrastructure. This counts for everything. And we also cannot forget about the history of Latin America, with slaving and exploration of the native indigenous. In Brazil, this happened for 400 years of its 500 years. There is still a lot to do to change this situation. I will open for questions. Please, Renato, the floor is yours.

Renato Bignami: First, I am very grateful for the presence of Inpacto, ABVTEX, and Abit in our Journeys, responding to a call from the Program, answering an invitation of the Superintendence. I appreciate at all levels the support given. And thank you for the disposition to discuss with us.

Fernando, especially, remembered us that this industry ends up being the target of several attacks. Some of them are justifiable, as he pointed out. Others, maybe not. Anyway, there is a complex, global context. Sometimes, a context even of hysteria. And many times, people exaggerate. But there is something that also needs to be discussed and approached.

With this in mind, all the acknowledgments made on behalf of our group of Labor Auditors, I have two questions, one to Edmundo and the other to Fernando. I will start with Edmundo, who mentioned the ABVTEX Certification Program, which we are studying and facing in several aspects. Edmundo knows that we even rescue workers from certified shops, and this also gave us a certainty that the certification has a limitation. It cannot be a panacea. And it needs to act in a coordinated and integrated way with the public power and the private power. This is also a challenge. On the other hand, you, Edmundo, told us about a certification acquired before the city hall of São Paulo. And I remember that, on one occasion, we were discussing, and I asked you how many shops of immigrants were effectively certified by the program. If I am not mistaken, you gave me a very low number. On the other hand, it calls the attention that the city hall certified or, anyway, awarded, whatever is the nature, the program, because it benefits these immigrants. When, in fact, its reach within this community is very short. I speak this with comfort. Even so, we can propose discussions and debates in this way.

Furthermore, on the other hand, it arose on this table – which frequently happens when we discuss with the productive sector, the issue regarding *Feira da Madrugada*, which is located in the district of Brás, east region of São Paulo, and which deals of the informal economy, in its most primitive essence. In fact, it seems to me that this is an informal sector aligned with Hart's proposal in the 1960s. And see how curious and complex this sector is. The city hall that certifies a program with a very short reach in the immigrant community is the same city hall that should inspect *Feirinha da Madrugada*, but apparently, it does not. Obviously, I am not saying that to tease or bring apparent contradictions. But yet to show and reaffirm the complexity of this sector.

And, of course, I say this remembering of some existing studies, especially of the Private Compliance Initiatives models, that ABVTEX program is an example. Some of these studies say that the most effective models are not those based on negative sanctions, which I realized during your speech, Edmundo, that is, if the subject does not attend the legislation, he is out of the market. This is an explicit negative sanction. However, the most effective systems would be those based on the capacity-building model. And we know that this sector is extremely deprived of

knowledge, especially the micro-entrepreneurs. The sector is very fractioned. Sebrae has programs, but I do not know if they have a reach and scale. Maybe Fernando could talk about this too. The Ministries tries. The Executive Power, federal, state, and city, they try. However, there is still a massive deficit of decent labor, of the State capacity to inspect correctly. And even of private initiatives to reach the communities, as they should. So, my question to you, Edmundo – will we ever see the ABVTEX system migrating from a negative sanction model to a capacity-building model? Is this possible? Is this desirable?

I will now talk to Fernando, who mentioned that in February will be at OECD. This makes me incredibly happy. I already observed the manual built at the OECD, aided by Abit, of specific guidelines to the textile sector. I will say again, the textile sector is attacked a lot. It is the focus. For this reason, paradoxically, it is a privileged actor. It can react. And it has all the possibilities of responding positively. It will be ahead of other sectors. This is clear, especially in the compliance matter. My question is – Fernando, do you see any possibility of interaction with public power in the due diligence matter? As until today, what we see is always a self-managerial initiative of sectorial nature. Volunteer, self-managerial. It is a purely private regulation. This is the trend. Nonetheless, many times, or maybe most of the time, private regulation does not have the same effect as more significant interaction with public power or public nature regulation. So, here is my question. Is there any room for this interaction? Which room is that if we have a positive answer?

Edmundo Lima: Renato, thank you for your question. I will respond very objectively. Retailers associated with ABVTEX intend to develop a program leaving a monitoring and control process, particularly important when it started. It needs to evolve effectively to a capacity-building process, especially of awareness, bringing more awareness both for the workers and the entrepreneurs. We are discussing, in the scope of the programs associates, traceability development, capacity building. This is a highly relevant subject. Retail has the ambition of taking to the consumer traceability with the product origin, where it is possible for the consumer, the one acquiring a clothing product, to know exactly where that piece was in the productive process, since the beginning of the chain – spinning, weaving, transformation industry – until reaching the sales point. But it is complex. We are acting in a link to the transformation industry. We still have weaving, spinning until reaching the cotton farm's gate, to mention a natural fiber.

But yes, this need is urgent and highly relevant to retailers. Hence, evermore we have the actual situation of this productive chain, and we may identify the main bottlenecks and needs for development in a definitive way. We are talking to Sebrae about this issue. We are jointly developing productive sequencing; some retailers, individually. But the entity anticipated in this talk with Sebrae to do the productive sequencing, co-anchored by several retailers, with a much larger impact in the productive chain, in terms of capacity and detection of these issues.

We have several fragilities in the program, which obviously are not presented as a total eliminator of labor destabilization. And we fight a lot against that. This is a very dynamic industry, with a very fast production easiness. It is possible to produce a shirt, a clothing piece, in another manufacturing unit that, maybe, is not certified. Indeed, we also do not have the pretension of auditing and having an auditor 365 days per year besides the entrepreneur.

We believe that this will be mitigated with an increasing awareness of this entrepreneur about the norms that should be followed and the damages that degrading conditions bring to the segment. These conditions do not bring productivity or competitiveness to these companies,

especially in a consumer market, evermore demanding and more aware of the importance of sustainability, better use of resources, and cleaner energy. And which effectively is not aligned with labor destabilization and degrading conditions throughout the productive chain. This way, brands must be organized. The value chain should be organized to satisfy the expectation of this consumer, who will continue to dress, but who wants to precisely know the conditions in which these pieces were produced.

In Brazil, we have a great challenge of consumer awareness, guided mainly by today's prices. And many times, especially in some layers of the population, there is no attention to the conditions in which those pieces were produced, their origin. This dialogue should be ever more evident. It must be disseminated in social networks. We are here broadcasting this event. But we need to take information and awareness, so each person, upon the purchase, may opt by companies concerned with these issues to the detriment of those who do not. So, each person may elect the formal market to the detriment of the informal market. Because indeed, the formal market is creating formal jobs, in some way, it is ensuring the rights. And we need to foster this type of action before the Brazilian consumer effectively.

Fernando Pimentel: Before answering the question made to me, Renato, I would like to extend a little more what you said to Edmundo. Because, again, there are "n" types of companies within this sector. Companies with international quality, brands placed abroad. Companies that exclusively serve the internal market, its district, its region, its own street. The confection sector is a sector with low entrance barriers. For example, it is not the textile industry that demands intensive environmental licenses in the capital. Then, this is a reality.

I may buy a sewing machine tomorrow if I believe that I am good at sewing and design. I will go home, turn it on, sew the clothes and sell these clothes in my building. Then, I will get better and sell them on the streets. Then, all over my district. It is a very fragmented sector.

Continuing in the path of what you put over the due diligence process in the public sector. I believe that over these ten years, we know each other a lot. And I think that we made advancements.

We have a Clothing Committee – that you, Renato, know. The Labor Auditors were there already, and I invite you to return for the meeting next year - when we will openly discuss the issues. And the supply retailers are going there, and they must answer all the questions that are being made because we cannot have a situation extrapolating what is established by law.

I remember the beginning, what would happen if a person lived one meter away from the factory. The guy almost had to live in Rio to work in São Paulo, such was the fear of saying that the person was confounding residency and workplace. Despite we know that this exists. So, Renato, do not doubt that we believe that the public and private powers should be together, which is why we are here today. The private power does not have the inspection power, entering an establishment and make them comply with the law. What it does have are the performance requirements to meet a specific client, a specific company. And I have stimulated a lot of the textile industry to make advances in this regard.

The retail has an advantage – I only buy if you have a specific certificate. It is a decision. But the excess of diligence is a subject that is also being discussed all over the world. The difference between the medicine and the poison is in the dose. When you start to have half a dozen of certifications, one entering, another leaving, the factory will have to stop all the time, and no price remuneration will be able to handle that. Because then it comes the story that the consumer no

longer pays. And just for everybody to know from July 1994 until the last IPCA, in October, the clothing inflation was 55% of general inflation. That is, the sector was not the economy's inflation factor. Whenever we talk about prices with the government – and we have been talking to Minister Guedes – we presented our performance. So, I feel that we must make advances in this narrowing. Because the public power's part may only be made by the public power, the private power cannot knock on a door, enter the establishments, as the Inspection may do.

Let us talk honestly, here between us. You [Renato] mentioned the possibility of this being a less punitive program and much more capacitive. This is important. To that guy, who is always trying to coast the fence, as Brizola [a former politician] said, there is no other way. There must be a punishment. But to that guy who is making a mistake because he does not know the law, the best for everyone is to guide him and let him recover.

There are 260 thousand Individual Microentrepreneurs (MEI) with our National Classification of Economic Activities (CNAE). MEI may even employ one person. But is it hiring only one person? Or is there two, three, four? One formal and others who are informal? Based on Sebrae, with whom we have a partnership, our understanding is that it is necessary to make the companies grow and not multiply. Multiplication is positive if it happens through growth, such as installing units from the same company in different states to meet other markets. However, today the multiplication in the sector is not healthy; it is being done to overcome the issues of the Brazilian economy operation. This isn't good.

A few time ago, I visited a factory in the city of Recife, with 900 seamstresses. In ABVTEX scope, this company is valued today because it produces everything inside one factory. There is a bigger peace by the buyer in relation to deviations. There is no such thing as impregnable certification in Brazil, or the United States, Russia, China, nowhere. Today, this company in Recife is having a competitive advantage in ABVTEX buyers' scope regarding the fractioned companies, to which a series of parallel certifications is required. The ideal is a condensed production in a less judicialized and more stable work environment. Brazil is not a stable country, but the world is not stable either. For that, public power is essential.

What we did in 10 years, before we meet, break the ice, break the thinking models about the public and private power - this was an excellent gain. Like advancing depend on us. Besides celebrating these ten years, this event may indicate what to do now to celebrate new achievements. Mércia Silva: Thank you very much to all. Thank you two for the courage of being here. I mean, the dream is to walk in a direction where we do not need a certification to tell us if everything is ok or not. We would like that, in the future, all entrepreneurs may show us what he is doing in advance. It is based on this logic that the next ten years should follow. It is not a certification or the State who has to prove that everything is right. Who must prove that everything is right is the one operating in the end. We have the great challenge of building this Brazil in terms of equality and humanity.

Subsequently, we will have a discussion table about institutional initiative. Keep following.

Lecture: Institutional initiatives



Mediator: Tiago Casteli, from *Repórter Brasil*

Lecturers:

Fabiana Galera Severo, Public Defender, acting over the last ten years to defend workers rescued from slave-like labor conditions, member of the Labor Group of Assistance to Workers Rescued from Slave-Like Labor Situations from the National Public Defender's Office, advisor of the National Board of Human Rights.

Andreia Tertuliano, Attorney from the 2nd Regional Attorney Labor's Office (PRT), in São Paulo, and representative of this PRT before the National Coordination of Slave Labor Eradication, a sector within the Public Labor Prosecution Office.

Comments:

Mércia Silva:

Lívia dos Santos Ferreira: Good afternoon for those watching the event on social media. We will have the last discussion table of this day, of the second module of the event, about institutional initiatives from the Pact. To present this table, we have as mediator Tiago Casteli, from *Repórter Brasil*. The floor is yours.

Tiago Casteli: Good afternoon to all. It is a pleasure to be here with you, colleagues in the cause. It is a pleasure to represent *Repórter Brasil*, an institution that is part of Pacto and mentioned during the day, to our satisfaction. Thank you, Lívia.

Since the morning period, we first saw the Labor Auditors showing how the Pacto genesis occurred. In the metaphor made by Luís Alexandre, who is making his day, they pointed the flashlight in a dark room and saw a problem. Since then, we see how the institutions started to try to

solve these problems. The business sector also showed us how it is trying to trim the edges. And now, we will know a little more about the institutions who operate this territory's rights. To compose the table, representing the Federal Public Defender's Office (DPU), doctor Fabiana Galera Severo, Public Defender acting over the last ten years to defend workers rescued from slave-like labor conditions, member of the Labor Group of Assistance to Workers Rescued from Slave-Like Labor Situations from the National Public Defender's Office, holding a master's degree in Human Rights from USP Law College, focused on the contemporaneous slaving in Brazil. Welcome.

Representing the Public Labor Prosecution Office, doctor Andreia Tertuliano, attorney from the 2nd Regional Attorney Labor's Office (PRT), in São Paulo, and representative of this PRT before the National Coordination of Slave Labor Eradication, a sector within the Federal Public Prosecution Office.

It will be a pleasure to have you with us to close the day. I remind you that some persons were invited, but they could not be present, from the following institutions: Federal Attorney General's Office and Labor Justice. We will start with doctor Fabiana, who will do a presentation about the role of DPU.



Fabiana Galera Severo: Good afternoon to all. It is a pleasure to be here with you, friends, and colleagues on a long journey. These last two days were significant to remember our journey. A special thank you to the invitation made to me, certainly due to the trajectory built throughout these ten years, since today I am no longer working with this subject. Still, I worked over these last ten years, until the middle of this year, with concrete cases of assistance to slave labor victims.

Today, at the front of this job in the Regional Defender's Office of Human Rights in São Paulo, my colleague here, João Paulo Dorini, who kindly gave me this space to deal with this trajectory, and the colleague Viviane Dallasta. It is an honor to be here and share this work with you, and I hope to contribute a little to the debate. More than presenting, I would like to take this moment to hear your suggestions, ideas on how to improve the work, as I think this is a collective exercise, on behalf of a common cause, which is this enormous challenge of acting to defend the interests of slave labor victims.

First of all, I will emphasize the three fronts where the Federal Public Defender's Office work in this subject - (i) it works in the administrative, extrajudicial sphere; (ii) it works in the labor judicial sphere; and (iii) it works in the criminal justice sphere. I will briefly speak in the work within the administrative sphere, and then I will give some more emphasis to the judicial work, focused on the labor procedure because I believe we still need to make advance a lot in the Justice System.

The participation of the Federal Public Defender's Office in slave labor inspection operations started here in São Paulo in 2010. Our first joint operation, with the inter-institutional involvement, happened on August 11, 2010. And in the Mobile Groups of Slave Labor Inspection, at a national level, the Federal Public Defender's Office started to participate in January 2015.

Initially, in this work, our purpose is the service to rescued male and female workers, which, besides the legal labor orientation, involves legal orientation in general, aiming for the emancipation of the individuals with rights, breaking the revictimization cycle. In this line, we provide legal orientation, for example, about the documentation, both for international immigrants – as we do have a lot in São Paulo and to Brazilian citizens – for the issuance of identity documents, in cases that we already saw in rural areas. It also includes orientation regarding assistance and social security benefits – and all this legal orientation work is our institutional duty, provided in law³⁶.

We also followed the indirect terminations of labor agreements promoted by the Labor Auditor's Office, the release of unemployment insurance to rescued workers, and we proceeded with the extrajudicial negotiations with employers for indemnifications. Constantly keeping this idea of strengthening inter-institutional initiatives, which is part of Pacto's idea, as already said by Mérica (Inpacto) and Vera Jatobá (Labor Auditor), doing this joint work and following it up since the beginning, strengthening our work front.

Another side of administrative work has to do with requests to include the workers in witness and victims protection programs. Our colleague João Paulo, who succeeded me in 2019 in the job as Regional Defender of Human Rights, was actually the one responsible for the start of the work, having worked in the first case of slave labor that knocked on the Federal Public Defender's Office's door, in 2009. This was the time when he received a group of workers who reached the Federal Public Defender's Office on a Friday, at 6:00 pm, with no place to sleep, scaping from a sewing shop. It was a severe violent situation, and the first measure adopted was their inclusion in the Threaten Witnesses and Victims Protection Program (Provita). The workers had just finished the Police Report, and with this in hands, the Public Defender's Office could articulate their immediate inclusion in the program. Without previous articulation that the Public Defender's Office already had through the work of the colleague Daniela Muscari in the Confrontation to People Trafficking Committee in São Paulo, this would not have worked, especially on a Friday night.

In 2014, we participated in another operation involving the rescue of Peruvian citizens. On a Friday and late at night, we discovered that one of the rescued workers was a minor. It was late already, but we managed to contact the Childhood and Youth Court to receive the teenager. Also, this was only possible due to the articulation that already existed since the Judge was part of the Confrontation to Slave Labor Committee. Through that, we had the contact in the Public

³⁶ Under the terms of art. 4th, III, of Complementary Law 80/1994, it is one of the institutional functions of the Public Defender's Office to promote the diffusion and awareness of the human rights, citizenship, and legal framework.

Defender's Office. And therefore this initiative of strengthening our Pacto is so important. With the Public Labor Prosecution Office in São Paulo, the articulation of the Federal Public Defender's Office started as from Zara's case in 2011, when both institutions realized there is much work to do to promote the defense of workers victims of slave labor. So, we could work in cooperation, potentializing our common institutional prerogatives, such as the signing of Terms of Conduct Adjustment. There is space and the public interest for both institutions to act on the same side in the fight against slave labor. This joint effort was consolidated at M. Officer II's case (2014) and during the case of the Philippines female workers (2017), when each institution acted through their own, yet coordinated, measures.

Going to the judicial work in the labor territory, firstly, we need to clarify that the Federal Public Defender's Office has a restriction to act in the Labor Justice due to an internal normalization. Throughout Brazil, we have 639 Federal Public Defenders, of which 467 work in the first instance – a lower quantitative in relation to the State Public Defenders. They only work in the state of São Paulo. Therefore it was understood that the Labor Justice work would not be possible, despite the legal disposition of art. 14 of the Complementary Law 80/1994. Notwithstanding, I am a member of a group of defenders who defend that the work to protect the interests of the most vulnerable groups should be prioritized, as in the case of workers rescued from slavery conditions. The legal assistance to these groups should be provided in full, including the work in the individual labor sphere, in addition to the criminal work, and venues of collective guardianship. Answering one of the questions made in this event – which advances did we do over the last ten years? I may say that, within the scope of the Federal Public Defender's Office, we were able to face internal resistances and break these barriers that existed before within our institution. We institutionalized the work in legal assistance to workers victims of slave labor, including the judicialization of individual labor claims in the Labor Justice, despite the generic restriction to the labor work in the Federal Public Defender's Office. An exception to this restriction was formally established³⁷, authorizing the promotion of legal assistance before the Labor Justice in cases of slave labor. This work follows the attributions given upon the exercise of the regional defenders of human rights function, under the terms of Resolution 127/2016 from the Superior Board of the Federal Public Defender's Office.

Then, another challenge appeared: an institution that is not working day and night in the Labor Justice ends up facing some difficulties, even involving simple bureaucratic issues, such as the lack of the institution's personal subpoena, as provided in law.

However, the challenges I wanted to share with you are related to the Justice System itself. When we act in the Labor Justice, in cases involving slave work, we have a few deadlocks, for example, the practical absence of effectiveness for the reasonable length of procedures principle. The Labor Justice is usually fast, but in cases of slave work, for the most diverse reasons, it ends up being terribly slow, and we need to advance on this. We need to put into practice the priority proceeding of these processes. Furthermore, we face a huge resistance to obtain injunctions which are absolutely necessary in the cases of slave labor, such as, for example, the assets freezing. If we have a process that takes time, and no injunctions were made, such as the assets freezing and the anticipated production of evidence, this process risks having no effectiveness in the end.

Also, one cannot wait that workers under a very high vulnerability situation will take the stand

³⁷ The normative act of the Federal Public Defender's Office, which foresees the exception to the restriction of work in the Labor Justice, in cases of slave labor, was at first the Directive DPGF 501/2015 and, later, the Directive DPGF 200/2018, still in force.

in court in some months or years. It is necessary to advance in a closer look by the Labor Justice to anticipate the production of evidence. In Labor Justice, due to the enormous number of procedures, the cases are treated in a certain way, like if they were in a kind of business counter. Everything that deviates a little from this script has difficulties.

This worsened the labor reform. After that, it is as if the access faucet to justice is closed by the own mechanisms planned in the new legislation. Today, we have even more barriers to litigate before the Labor Justice. And even before, there was already a logic to push deals. The Labor Justice's culture is this logic of making deals at any cost – due to the enormous amount of procedures. The more contracts signed, the higher the productivity goal is achieved, and the goals do not make a difference if it was a complex case of slave work or a typical labor case.

Slave labor cases should not be operated through this logic of labor deals in general, in this business counter format. These cases require slightly different attention. After all, the claimant party is a victim of human rights violation, often fragilized and traumatized, and sometimes, maybe even threatened and risking their lives. In summary, it is necessary that all actors from the Justice System, and I also include the Federal Public Defender's Office, take a closer look when dealing with slave work cases.

The case of slave labor should not be treated only as any other case. It needs to receive a differentiated treatment - both by the Federal Public Defender's Office and by the Federal Public Prosecution Office and the Judicial Power. In these cases, we ask for the Federal Public Prosecution Office intervention as the *custus legis*, always assuming that Parquet, in this function, will corroborate in the fight against this violation of human rights. Sometimes, however, this logic of *custus legis* does not always work. In practice, this is very much at the mercy of each attorney's personal understanding, based on their functional independence. However, the functional independence prerogative, of which the Federal Public Defender's Office also makes use, and that is essential for the work in defense of human rights, should be applied on behalf of the social groups that we represent, and not to its detriment, becoming an unacceptable personal privilege, in exclusive benefit of members of legal careers.

Maybe we must think, institutionally, in how to improve the social control strategies for the work of public power, so our institutions of the Justice System, Federal Public Defender's Office, and the Public Labor Prosecution Office may effectively meet their institutional purpose, not being corporative shielded from a distorted view of the functional independence prerogative.

From the procedural rules point of view, there is a certain inadequacy of the individual labor procedure due to the protection and guardianship of the victim of slave labor. That is, the labor process is not designed with this perspective. The issues of priority of the processing and reasonable length of the process are not observed, in practice, in the cases of slave labor, and we need to make advances in this area. Some peculiarities of the individual labor process also make it more difficult the work in cases of slave labor. When we think of slave labor victims, the need for the claimant's physical presence in the hearing, which is proper from the individual labor action, is not a dynamic compatible with the effectiveness of the process. It would be necessary to find another way. We even considered that to overcome this difficulty of the requirement of the claimant's physical presence in the labor hearing. It would be better than the Federal Public Defender's Office, which also has attribution for the collective guardianship, to plead for homogeneous individual rights of rescued workers in specific inspection operation of slave labor, instead of filing individual labor complaints.

In the case of M. Officer II, in 2014, when six workers were rescued, the Federal Public Defender's Office filed a labor claim on behalf of these six. Still, five of them gave up on the claim even before the hearing – and in that special case, the hearing was held very quickly, only four months after the filing. There are situations, such as fear, threats, and even extrajudicial agreements between the parties, that escape from our institutional control sphere and that impact on the judicial processes, which proved to be ineffective. The institutions need to see these questions - the difficulty of access and presential attendance of the claimant's party in the hearing, situations of exposure and threats, traumatic processes, and revictimization, among others.

However, after a claim is filed in the judicial labor work, the case is no longer visible to several actors that acted jointly in the inspection operation of slave labor, which also weakens the cause. It would be interesting that other institutions, which do not have further action in the judicial procedure, such as the Labor Auditor's Office and the Federal Revenue Office, keep monitoring these cases after the judicialization.

Another issue that deserves attention is the competent jurisdiction. The thesis that the worker may litigate in his/her residency jurisdiction is still not easily accepted. We had cases of Venezuelan migrants, victims of slave labor in the state of Roraima, which later came to São Paulo through the interiorization program of the federal government, and even this way, they were not recognized for the right to litigate in the jurisdiction of their new residency, in the labor sphere. The interiorization was made by a program of the Brazilian state. Still, the State itself, through the Justice System, denies access to Justice for the migrant worker because, after all, he came to São Paulo instead of staying in the violation site. Not to mention other cases where threatening situations and founded fear of the victim exists, who ends up being expelled from the place where his rights were violated. We may not prevent slave labor victims' access to justice due to a restrictive interpretation of the Labor Justice territory competence.

In the labor process, we also faced challenges during the execution stage when we encountered patrimonial shielding practices. In terms of victory in the knowledge process, the labor conviction cannot be enforced in many cases. So, from the public power work point of view in the fight against slave labor and the interinstitutional and articulated work, we need to pay attention to this risk. We may not face a situation of not reaching any effectiveness in the process after winning all the procedural steps. For that, one more time, we need an articulated interinstitutional work. In the case of M. Officer II, in 2014, we counted with the Labor Itinerant Court in the scope of the 2nd Region Labor Regional Court, giving more effectiveness to the case. This is because it was possible to take the workers' statement in advance since, sometime later, almost all workers gave up the labor procedure, and only one claimant remained. By the way, the public institutions were at the top of the interinstitutional articulation in the fight against slave labor in São Paulo.

I will quickly introduce some case studies of maximum similarity, using the methodology technique of qualitative comparison named Most Similar, Different Outcomes (MSDO)³⁸. In this brief study, practically an exercise that I develop here with you, I focused on cases related to the productive chain of textile confection. The cases could maintain a maximum similarity in relation to the facts and exploration methods, although presenting different outcomes. According to this technique, the cases are similar in their origin, having as an independent variable to the

³⁸ IN the normative act of the Federal Public Defender's Office, which foresees the exception to the restriction of work in the Labor Justice, in cases of slave labor, was at first the Directive DPGF 501/2015 and, later, the Directive DPGF 200/2018, still in force.

procedural trajectory, but the results are different as to the damage remediation, which is the dependent variable.

Comparing the cases of M.Officer I (2013) and M.Officer II (2014), the last one was the most successful in the first instance. The difference of procedural trajectory between these cases is precisely the granting, in the most successful case, of the assets freezing injunction at the beginning of the process. Even to make deals, and indeed, for the effectiveness of the execution itself, the deferral of a provisional remedy for assets freezing makes all the difference.

Collins's case (2010) is emblematic in this sense because this was a process filed in 2010, which went to the Labor Superior Court and, in 2017, went back to the first instance. The claimant party was victorious throughout the knowledge process. But since 2017, the process is under the execution phase, without many effectiveness perspectives, as the company disappeared during the process. Now, we are forming an economic group to identify what happened to the company, which continues to operate, but with a patrimonial shielding. This type of maneuver requires a bigger articulation from those who defend the workers, in the fight against slave labor, especially between the actors of the public power.

Finally, in the cases of Unique Chic I (2016) and Unique Chic II (2017), the procedural trajectory was decisive for the damage repair results. These are two distinct trajectories regarding deals before the Labor Justice. The deals are not always advantageous, despite the famous saying that a deal is always better than a judicial dispute. However, in asymmetric relationships common in slave labor cases, deals may be very disadvantageous. As institutional actors of the Justice System, we need to be very careful not to foster the celebration of bad deals for the most vulnerable parts of the procedural relationship. In the case of Unique Chic I, the deal was celebrated, at the beginning of the process, with an amount four times lower than the deal celebrated in the case of Unique Chic II, in a more advanced procedural stage. Both cases involved the same factual context of slave labor exploration and the same employers.

In the criminal judicial sphere, the Federal Public Defender's Office acts to defend the interests of a victim of slave labor exploration, appearing in the procedure as prosecution assistant, searching for the due remedy to the victim, based on the legal provision of art. 387, IV, instituted in the Criminal Procedural Code in 2008. This institute of repairing the victim is not much used in the Brazilian criminal procedural practice when the victims usually make their statements as prosecution witnesses, they expose themselves, and they do not participate in the procedure with this side in the search for the right to repair due to the supported violation. But we have concrete cases of work as prosecution assistant in the Federal Public Defender's Office, including the judicial victory and fixation of indemnification to the victims.

Although this institute is relatively new and not often used, it is important to have in mind that if the case reverberates in the criminal sphere, it is fair that the victim participates in the process being duly assisted, as a prosecution assistant, not appearing just as a mere prosecution witness. After all, the victim's participation in the criminal procedure is very delicate. There is a context of higher exposure through the proper dynamic in the criminal procedure, increasing the chances of revictimization. Whether in the labor or criminal sphere, we need to present to the Judiciary Power the internationalist interpretation applicable to concrete cases of slave labor. For example, in the case of workers at *Fazenda Brasil Verde*, in the Inter-American Court of Human Rights, the sentence presented the foundation of historical and structural discrimination, based on race, origin, economic position, as a marking category in the exploration of slave

labor in Brazil³⁹. We need to present this category for the Brazilian Justice System. Another interpretation extracted from this international precedent was the imprescriptibility regarding the cases of slave labor exploration. In the case of *Fazenda Brasil Verde*, the Inter-American Court of Human Rights recognized the imprescriptibility regarding the criminal procedure, as it was a severe violation of human rights. If there is imprescriptibility in the criminal procedure, which is the last ratio of law, we may defend the thesis of imprescriptibility also before the Labor Justice in cases of slave labor.

We also have other sources of interpretation of the international right, which may be presented in internal litigious, as per the Protocol of 2014 to Convention 29 of the Labor International Organization and respective Recommendation 203. However, we still do not have formal ratification of Brazil to said international treat. Even though this is not a binding international norm, we may not ignore that the document is a source of internationalist interpretation. In this point, it is important to emphasize the guideline, reinforced by these norms, of the complete impossibility of criminalization of the forced labor victim, which is usually ignored by the Brazilian Justice System, in the case of drugs trafficking “mules,” who are victims of people trafficking. Finally, since I also represent the National Board of Human Rights, where I am a counselor representing the Federal Public Defender’s Office, I will leave registered that the board completed in October this year, its first Investigative Process of Conduct and Situations Contrary to Human Rights. From that, the result was the application of a public censure sanction in the face of the Former State Minister of Labor, Ronaldo Nogueira de Oliveira, as he assisted the release of the Dirty List of Slave Labor, and also because he edited the Directive 1,129/2017, of an emptying attempt of the slave labor concept in Brazil. The public censure sanction by the National Board of Human Rights is foreseen in the law⁴⁰. It has a political character. It is inserted in the logics of other repression methods, beyond the strictly legal repression, which is also interesting to be on our radar.

I finish with the systematization of some challenges in the fight against slave labor in the Justice System. Briefly summarized, we still have the difficulties of deconstructing narratives of the slave labor concept banalization; ensuring a reasonable length of procedures; avoiding situations exposing the victims to risks and revictimization processes; applying the institute of remedy to the victim; ensuring the granting of injunctions, aiming for the effectiveness of the procedures; avoiding disadvantageous deals; and engaging the institutions in articulated work strategies, aiming for the effectiveness in defense of slave labor victims.

This was all I had to share with you so that you may think about the work in defense of slave labor victims. Thank you all for your attention.

Tiago Casteli: Thank you, Doctor Fabiana, for this beautiful panorama. From the inspection, we could see a myriad of problems and challenges opening to all institutions related to the fight against slave labor. I believe that the speech of doctor Fabiana explained very well how the impact within DPU. This applies to everyone, including to Repórter Brasil, who covered the cases. When the pact was created, we already talked about slave labor in the far reaches of Brazil, as we used to say at the time, and to us, it was a challenge to readapt the language and channelize what would be the best way to verbalize these cases. And we multiplied this information that DPU

³⁹ IACHR. Case of Workers at Fazenda Brasil Verde vs. Brazil. Preliminary Exceptions, Merits, Remedies, and Costs. Sentence dated October 20, 2016. Series C, no. 318.

⁴⁰ Law 12,986/2014 foresees in art. 6th, II, that constitute sanctions to be applied by CNDH, among others, the public censure.

gives, for example. In the training of teachers and social assistants, the most asked question at any time is: “what about the worker? I did understand that something is happening, but you may skip this chapter and go to the end. What about the worker?”. Regarding DPU, people’s doubt is always about the individual damage, the challenge of remediation. And I believe that there is another point, which was not placed, that is the issue of migratory regularization, which also bumps into DPU’s work.

Continuing, I would like to invite doctor Andreia Tertuliano from the Public Labor Prosecution Office.



Andreia Tertuliano: Good afternoon to all. Thank you for the invitation. I believe that I have already worked with most of you. This lecture refers to the commemorative journey of 10 years of Pacto. According to the Federal Constitution, the Public Labor Prosecution Office (MPT)’s responsibility is to defend the legal order, the democratic regimen, and the unavailable social and individual interests. The main areas of the MPT work are the fight against children and adolescents exploration, equality promotion, fight against labor frauds, environment protection in work, fight against irregularities in public administration, inspection in ports and waterways, promotion of Unions freedom, and the fight against slave labor.

I will talk a little about people trafficking because, regarding the textile industry, we are frequently seeing that the main victims in Brazil come from other countries. Unfortunately, people trafficking involves lots of women – 51% of the victims – who are trafficked not only for the work in sewing machines but also for sexual exploration, housework, and other purposes. We are currently facing the horror of organ sales, even that we do not hear this too often.

This is not precisely our motto, but it is important to understand that people trafficking aims to bring workers for sewing and even worst activities. This is an advantageous crime due to low cul-

pability and the short sentence. It is very common for the victim to find it difficult to collaborate with justice, whether due to the fear of retaliation or because his/her condition in the country of origin is so bad that he/she prefers to stay here, even in a precarious situation. The requirements to define the crime of people trafficking are established in article 149A of the Criminal Code – illegal adoption, sexual exploration, submission to any type of slaving, servitude.

There are four requirements for the characterization of contemporary slave labor. Today, it does not occur as initially – the man with a gun, preventing the person from leaving. The blockage occurs, for example, due to debt servitude, with that awful little notebook where people are always in debt. Degrading conditions are also present and forced labor, exhaustive journey, as it is usually paid by the piece, the person needs to manufacture a lot to receive a minimally decent salary. There is the consent factor, as many times the person is so hopeless and just accepts that situation, believing that this is all he/she has at that moment. It is an incredibly sad thought, and we need to learn how to change it. By the way, the solution is in all of you gentlemen, the joint work chains.

In relation to effectively fighting slave labor, there are three working axes in the Federal Public Prosecution Office – criminalization, protection to victims, and prevention. All this is done in conjunction. For example, we usually count on NGOs and other institutions to protect victims, which helps us a lot when there is a rescue, providing to the rescued people a place to stay. MPT tries to operationalize this fight in three different lines of work – repressive, when it receives the denounces and act to solve them; the work as law inspector in individual cases, even with the limitation of not being able to act in individual cases; and the social articulation, which ensure to us the contact with civil society and other organs, so it is possible to give a joint address for the situation that is multifactorial and needs a multidisciplinary team for the resolution.

Over these ten years of MPT work in Pacto, 1,154 procedures were opened with subject 2, which is the slave-like labor, degrading condition, and exhaustive journey. In the 2nd Region, hardly any of these procedures will be related to the rural area. Probably, they are all related to the work in civil construction and confection but not rural work, as our field of work is the city of São Paulo, where the rural work almost does not exist. We celebrated 188 Terms of Conduct Adjustment, and 54 claims were filed. Of these 54 actions distributed over the last ten years, only 29 are still pending, the others were already had their final judgments. Of the Terms of Conduct Adjustment, 33 are still being followed up. We have 29 denounces that are still unsolved, out of the large number that we received. There are more than 900 procedures that were registered and filed due to the ineptitude, and the denounces' lack of consistency. And, because, as it was already said here by the Federal Public Defender's Office, the companies simply vanish.

I will make some considerations about some of the MPT works over the last ten years, although some are not specifically in the textile industry sector. We had the work of colleagues from the 14th Region, in the state of Acre, because of Haitians, who were arriving in 2015. And I believe that this situation will repeat, or already repeated, in the situation of the Venezuelans arriving in the city of Boa Vista (state of Roraima – RR) today, as there are groups and groups of people who really do not have anything to do, anywhere to stay, or anything to eat.

Another operation occurred in the state of São Paulo, in the city of Franca, against cross-dressers and transgender trafficking, with very cruel victimization of these people, who were interested in doing plastic surgeries, silicone prosthesis implants, and they received a proposal of that back-to-back transactions. There was one case that is now returning to the spot of dairy products street vendors.

And we are trying to radicalize in some things, such as trying to hold responsible the bank in-

stitutions. After all, the money promotes the purchase of machines, fabric financing, launching new collections, and coming from somewhere. This way, the idea was to call financial institutions to their responsibility in the process. Promotional procedures were open, as the main banks talked openly that they have a socio-environmental and accountability policy, and we want to see that in practice. So, these promotions were open, then an investigation was made, yet concise, with the public audience and the banks hearing, who effectively did not agree with any deal. Subsequently, seven civil public actions were proposed this year, and now the banks must identify all the socio-environmental risks related to violations of human rights in the labor area, including slave labor, human beings trafficking, child labor, fatal accidents, and occupational sickening in a high number caused by the failure to comply of the health and safety norms, discrimination, and moral and sexual harassment.

In these public actions, we had several requests, of which I emphasize the following. Investments and provision of assurance, and clauses recognizing the socio-environmental obligations should be inserted in their agreements related to the granting of credits and financing. It is not enough to say they must effectively work and abstain from granting or renewing the credit – especially rural – to people enrolled in the *Dirty List*, the list of employers who kept their workers in slave-like conditions. Since the actions were proposed this year, the final judgment still did not come for several of them, and many even did not have any sentence.

My last comment is that the TST, on November 18, in Recommendation no. 4 of the Minister Lelio Bentes Corrêa, recommended to Labor judges and magistrates to ensure priority in the procedure and judgment of individual and collective processes, subjected to their competence, involving themes of professional learning, slave labor, and child labor, both upon the knowledge phase and upon the execution of the sentence. This way, there is at least a direction of the TST, so there will be a criterion of priority to our actions, even the individual ones, and we will not get so close and fall at the final hurdle.

Tiago Casteli: Thank you very much, doctor Andreia, from the Public Labor Prosecution Office, for giving us a grand panorama, showing several interesting data. We will continue the discussion and open for the audience interventions. First of all, is anyone interested? Livia.

Livia dos Santos Ferreira: I would like to thank the presence of doctor Fabiana and doctor Andreia and congratulate them on the speeches. I would like to know from you which type of work from the Federal Public Prosecution Office and the Federal Public Defender's Office regarding the documentation of workers victims from slave labor and people trafficking.

Today, when rescues the worker, the Labor Inspection immediately issues the Labor Booklet, a Brazilian document valid throughout the Brazilian territory, but only in theory, as the worker may not open a bank account, in any bank, not even a public bank, with it. Obviously, that with this document in hand, we managed to oblige the employer to register the booklet, but only that. Even the unemployment insurance is difficult to withdraw when the worker presents only the Labor Booklet to Caixa Econômica.

Furthermore, there are problems regarding the Foreigner Brazilian Registration (RNE), a document issued by the Brazilian Federal Police to the victim of slave labor. This allowed her/him to start having a series of benefits that the Brazilian citizens have, just for being a Brazilian citizen. There was a quick and fast procedure, with a resolution from CNIg. With the entry into force of the new Migration Law two years ago, we are not managing to make this victim of slave labor and people trafficking's document effective because there is no directive of the Federal Police about the path of RNE. The rescued worker has its permanence published in the Brazilian Official Gazette. However, the Federal Police does not issue this worker's RNE, making it more

difficult to reestablish. We are in this situation for two years, and we did not manage to solve this problem. I pass it to the Federal Public Prosecution Office and the Federal Public Defender's Office. What could be done within this scope?

Tiago Casteli: Anyone else? Mércia has the word.

Mércia: Good afternoon, thank you very much for the explanations. I have one curiosity. Fabiana, when you brought the case of Brasil Verde, you talked about the aggravating factor of racism in the Inter-American Court. And all the rescues should have this aggravating factor, as most slave labor victims come from discriminated minorities – indigenous population, women, children, African descendants, and Riparian populations. The data show the composition of these rescued people and their ethnical-racial identity, and I do not know if these data is from the citation, if they are going to MPT, MPU, anyway, where they will go. Why are we not showing that the exploration situation of these people indeed has a racist component, a superior and inferior relationship, of thinking that this kind of situation is good because that person is black, poor, or from the Northeast? If we do not start to talk about that, the situation becomes natural, and even the people that go to farms to issue the certification will not find this weird, they will think that everything is normal. So, I want to know where it starts, who we need to pressure in relation to these issues.

Tiago Casteli: Thank you, Mércia. Complementing what Mércia said, I remember a newspaper report from *Repórter Brasil*, in allusion to November 20, which showed that more than 80% of people benefiting from the unemployment insurance – between 2006, 2016, and 2018 – were black and *pardos*.

Finally, we still have time to one more question. Anyone? No? So, I have some questions.

Of these rescued immigrants, how many of them were benefited from full citizenship? Which starts with the documentation, the RNE.

And, to the Federal Public Prosecution Office, since we have no justice representatives here, how it was over these last ten years to build the justice understanding that companies, large brands, were responsible for these cases of slave labor through joint liability?

Fabiana Galera Severo: I will start with this specific question from you two, Tiago and Lívia, about the directive. The Normative Instruction 93, dated December 2010, was the first to predict the hypothesis that CNIg for migratory regularization for people trafficking victims. I remember that, at that time, the former Foreigner Statute, law from 1980, pretty obsolete. This way, the National Board of Immigration was regulating the omitted cases with no legal provision. One of them was the migratory regularization of people victims of people trafficking. We had lots of criticism about Resolution 93/2010. It only dealt with people trafficking. It did not mention slave labor, and there was a very restrictive interpretation of people trafficking without considering slave labor, which was way before the law against people trafficking, from 2016. We had a normative vacuum there.

Another point was related to who could ask for regularization, always under the perspective of collaboration with the criminal procedure. Today, according to Convention 29 from ILO of 2014, the protection and assistance to the victim should be provided regardless of the collaboration with the criminal procedure. The logic of NI 93 was the usefulness of the victim in the criminal procedure. The judicial authority, the police authority, and the Federal Public Prosecution Office, in that case, it was not even the Public Labor Prosecution Office but the Federal Office, regulated the victim's situation, so he/she could stay in the country and cooperate. Anyway, the most committed institutions were not those who received the demand to ask, in practice. For example, a judge will not make the regularization request. This is not the nature of the jurisdic-

tional activity.

In August 2016, there were advances with Resolution 122 from the National Board of Immigration, one month before the People Trafficking Law. The resolution extended the possibility of requesting the Labor Auditor's Office and the Federal Public Defender's Office, actors who will directly deal with the victims and make this request. It also expressively extended for slave labor. But one month later, in September, the law against people trafficking was approved. It is great to have institutionality and the rights provided in law, but the need for regulation appeared because the Federal Police applies the law when a directive arrives with the step-by-step of the application. In practice, we could not use Res. 122.

On May 8, 2017, when Directive 347 was edited, we gave a practical step in practice. The directive regulated the law article against people trafficking in a much simpler way than Res. 122. It allowed the agency to make the regularization request, at the Federal Police, for victims of people trafficking and slave labor.

So, we had a great advancement in the migratory thematic in Brazil, which was the approval of the Migration Law in May 2017. The directive was edited two weeks later and entered into force in November 2017, anticipating the migratory regularization. But another problem appeared. The Migration Law entered into force on November 20, 2017, together with the decree that foresees a regulation through an inter-ministerial directive involving several ministries. Directive 347 was only from the Federal Police. Furthermore, during this time, several ministries passed through changes, which messed up the inter-ministerial directives. Since the Migration Law entered into force, and throughout the year 2018, a series of inter-ministerial directives for each type of migratory regularization visa, but not for this case.

At that time, still leading the DRDH, I teased the Federal Police about the possibility of continuing to apply Directive 347. Still, they understand that this directive fell, as it regulated the law against trafficking, which, in its turn, changed the Foreigner Statute, which was revoked. This way, we now have a new and much better Migration Law, but in practice, it does not have regulation from the inter-institutional political articulation point of view.

The inter-institutional political articulation is a working front of the Federal Public Defender's Office, through our colleague that coordinates, on a national level, the Labor Group *Migrações, Apatridia e Refúgio* of DPU, responsible for the articulation with the ministries in general. We had the non-formalized information that they interpret that we are in legal limbo. Furthermore, when the change in the government occurred, we were informed that they were going to an inter-ministerial directive. Still, when the government changed, the process returned to the beginning. They understand that Directive 347 cannot meet what is required by the law and the decree. Deep down, they want more control over what you are talking, which is slave labor and people trafficking. I suspect they are in a narrative dispute.

The Federal Public Defender's Office has a procedure initiated here in São Paulo regarding this, in the 1st Office. We always discussed the moment and the litigious strategy, and I see the judicialization with great caution. In another case, I judicialized a lack of normalization of the Migration Law about the subject that has to do with expulsion. In the Judiciary, the response was the worst possible. It is necessary to think in strategical litigation and, objectively saying, the most proper answer in the collective sphere would be public civil action in the federal justice, filed by the Federal Public Defender's Office or the Federal Public Prosecution Office. If you really think strategically, it would be good to have an individual case to file. An individual case would have some hypothesis of regularization by other ways, such as a Mercosur agreement.

In relation to the question about *Fazenda Brasil Verde* and the look of the Inter-American Court

to the Brazilian reality that Mércia brought, we need to bring these precedents and present to the Judiciary these categories of internationalist interpretation, as institutions litigating in the Brazilian justice system. It is an international precedent in relation to historical and structural discrimination, in the concrete case, based on race and origin, as they were internal migrant workers, youth, black, from extremely poor regions in the country. Then the Court also talks about discrimination due to the economic position. Anyone of us, public institutions that litigate, lawyers, activists, we all have an obligation to take these issues to the Brazilian Judiciary. On the other hand, Mércia, there are speeches about the slave labor banalization in judicial decisions. I will read some cases and decisions here, raised during my master's degree, when I studied the subject. On the foundation of a decision, for example, the judge says the following "there is no characterization of slave labor, despite the subvention of workers to an exhaustive journey, since there was a need of immediate harvesting of the perishable crop, considered as a common circumstance in the field, and requiring an extra effort of the labor force."

Another decision, which is repeated in the 1st Region - North and Central West - and in the 5th Region - Northeast - states that "degrading labor conditions are a picture of the proper Country's inland reality." There is another pearl of wisdom that says the following: "these conditions [talking about people exposed to risks, including those exposed to agrochemicals, the absence of sanitary facilities or the supply of drinking water, absence of a dining room], although they represent severe violations of the labor legislation, they are no different from the labor reality of several agricultural entrepreneurship in the Northeast."

In another case: "the facts do not deviate from the social reality, unfortunately, lived by poor people resident in the most interior cities of the Northeast region, who leave there to risk any other occupation in other places. The conditions, indeed, precarious, are not so different from the reality lived in the rural area of the Northeast region, and the conduct would be justified by the work emergency situation, which could not stop, under the penalty of causing unimaginable damages."

We have the challenge of addressing these issues in our elite, almost not diverse, and racist justice system. And, in accordance with the Inter-American Court, there is discrimination that is not punctual, but historical and structural in the Brazilian social reality, and that reaches the justice system and the legal institutions in general.

Andreia Tertuliano: I will do some explanations about the comments that were made. In a public civil action, we offered professional training programs, although the labor force cooperative was the object. But still, it was stated in the sentence that part of the amount regarding the collective moral damage would be reverted to training programs of the impaired workers. This took more than eight years by the *res judicata*. Finally, when we managed the elaboration of the programs with Senac, many of the cooperated had already disappeared, the addresses no longer match, the list we had from the cooperative did not contain the CPF qualification, only a name, and the address, and since the people moved over these ten years, we did not get much contact with them. So, we had several vacancies open, which we extensively offer, trying to occupy them, since the programs were already paid, and they would occur, with or without students. Then, we remember Priest Roque - who is here - and offered him the vacancies. But Senac did not give the authorization to these people because they did not have a CPF, Identity Card, or the legal possibility of being in Brazil.

Now, with the electronic Labor and social Security Booklet (CTPS) that will soon replace the paper booklet, the situation will get even worse because many times, people do not have a last generation cell phone with memory to support the digital document.

In the Public Labor Prosecution Office, what we see in cases of situation regularization, many immigrants from the Philippines to work as housekeepers, is the officer from the Ministry of Justice asking for authorization for the justice. And usually, we have managed to do that, but it is an ant work, with individual cases. This is not exactly what we could do, but we try to help the person to have conditions to stay in Brazil.

I believe that, maybe, in our meetings of national, state, and city commissions, where a follow-up flow of the denounces and services to the victims is being built, the solution was asking to the Federal Police if a partnership or some celerity in this regularization was possible. However, the directive is also a political situation. I may compromise myself to try to discuss the national and the state commission at the forum. But, in fact, the Federal Public Prosecution Office might help us in the judicialization of the public civil action, in the hypothesis that the Federal Police has no interest in doing a partnership.

Regarding the discrimination issue, I totally agree that Non-Caucasian people, so to speak, are most of the excluded group, and they would deserve at least equivalent conditions. I always defend the education history – while Brazil does not have an honest and equal education for all children, regardless of their social condition. This passes through the teacher's qualification and valorization. I do not see a positive perspective.

What the country is doing today is sugar-coating with the policy of quotas. Indeed, Brazil is implanting the policy of quotas, but this is not ideal since the ideal would be that all children have equal conditions. It is sad to talk about these so utopic histories, but I believe that we will not go anywhere without education.

And the inclusive policy had to be a priority, as Brazil is not a Caucasian country. Brazil is a country with more than 50% of the classic non-Caucasian population – we have Black, Indigenous, and people from other countries. In São Paulo, we have Chinese, Japanese, Korean, although they are all Brazilian now. In this audience here, no one is 100% Caucasian. Fortunately, Brazil is a total. Anyway, I apologize for not pointing to a solution. We are aware of this difficulty, so that now all the public contests of the Federal Public Prosecution Office have quotas to be filled. This is all we can do at this first moment.

And regarding the responsibility of the productive chain, by rule, we always give the responsibility to the brand's owner in public civil actions. The difficulty that we are facing is that they are getting smarter. For example, they send pieces without labels and do the labeling process within the own brands, and this way, it is impossible to correlate the product to the effective brand. When we still manage to get with the pilot-piece, or at least with one piece bearing the brand identification, and call the company to sign a Term of Conduct Adjustment, it usually argues that the item was stolen or deviated by employees even though we file the action and put it in the passive pole.

So, by default, there is this accountability. They are penalized, even because they have the economic capacity to do the minimum refund of rights and payment of rescissory fines and non-material damages. And we always end up trying a Term of Conduct Adjustment or a deal within the records to be faster, so we can get the amount and revert to the assistant party *de facto* because people need to eat. The rescue is made, people are removed from that terrible conditions, but three or four days later, they need professional training, documents, another job. And I insist - we need to work together in our flows of people services.

Tiago Casteli: Thank you very much, doctor Andreia and doctor Fabiana. This was an intense and rich debate to all here and those watching us online and those who will access this panel in the future. Tomorrow, we will have new ideas and new discussions, so be sure to continue with

us here. Congratulations on the general organization of the event, and I give the floor back to Livia.

Livia dos Santos Ferreira: So, I consider our last discussion table of the day closed. Thank you very much for the presence of all of you who stayed until now, watching the discussion tables and participating. Tiago who mediated, doctor Andreia, doctor Fabiana. Tomorrow, we will have another morning of discussions and tables, beginning the third and last module of the event, which will deal with the challenges that persist. The tables will approach current and new subjects in the scope of slave-like labor discussions, people trafficking. The idea is that the pact is fostered and incremented with these additional discussions. Good night, see you all tomorrow.

3rd Module: Challenges that continue to be faced on 03 December 2019.

Lecture: Degrading condition of the migrant subject and victim of slave labor



Mediator: Renato Bignami

Lecturer: Livia dos Santos Ferreira, Labor Auditor, state coordinator of the Program of Slave Labor Eradication from the Regional Superintendence of Labor in São Paulo

Comments:

José Ribeiro

Luís Alexandre de Faria

Mércia Silva

Vera Lúcia Amorim Jatobá

Renato Bignami: We will start the second day of the commemorative journey of the Pact against Destabilization and for Decent Work in the city of São Paulo. I remind everyone that we are being broadcast live on the internet, on the Facebook page of *Missão Paz São Paulo* and *Rádio Migrantes*. I had the curiosity to visit the page of *Missão Paz*, which is complete, beautiful, with all the lectures that were given yesterday. And there were more than 500 people watching it live. How good it is to have resources today, to take all the messages and technical lectures that were given to everyone.

I observe that, with the Pact, the Regional Superintendence of Labor in São Paulo, committed itself to intensify inspections in the economic sectors mentioned in the PIC of the City Council,

after an intense social dialogue in which there was an understanding of the best methodology to be implemented at the time. It was decided to reproduce public policies to combat people trafficking and slave labor that had been consolidated in the national scope, for the Brazilian worker, especially in the Amazonian agricultural border region, since 1995, and extend these same policies to migrant workers, from other countries. The purpose is, above all, ensure the fundamental rights to these workers, regardless of their migratory condition, whether regular or irregular, and deepen the audits in the productive chains to recognize the proper legal accountability.

Ten years later, we are here reflecting about that moment, the advances and the challenges, and the paths we should take from today. So, in fact, the journeys are also a call for everyone to unite again, aimed to reflect about this trajectory and readjust the years to come.

Today, we will continue only on the morning part, with more technical discussions, bringing several views that may bring some reflection in the direction of the paths that we should take as from today, from now.

In the first table, we will start with the state coordinator of the Slave Labor Eradication Program of the Regional Superintendence Labor in São Paulo, the Labor Audit, Lívia dos Santos Ferreira. Lívia will present some considerations she has been developing from her work in coordination. Bearing a Psychologist degree, Labor Auditor, for three years in the coordination, and expert in Mental Health, Immigration and Interculturality from the Federal University of the State of São Paulo (Unifesp). With all the experience that she has in the program and in the academic scope, she will certainly be able to stimulate the beliefs of everyone here today, this is our hope. I inform that those present here and those who are participating online, if you want, you may leave messages, considerations, and questions, which we will try to answer in the end.

So, Livia has the floor.



Livia dos Santos Ferreira: The idea of this third module – “Challenges that continues to be faced” – is to talk about issues not too much mentioned in the theme of slave labor, so we can advance further on the subject.

I am a psychologist, Labor Auditor, and I am in the Coordination of the Slave Labor Eradication Program of the Regional Superintendence Labor in the State of São Paulo for three years. I am now concluding a specialization in Mental Health, Immigration and Interculturality at Unifesp. Therefore, I intend to talk a little about what I study in this specialization, trying to make an interface between slave labor and the mental health of immigrants who are victims of the violation of human rights that we are dealing with here. I will talk about some preliminary perceptions, which are based on my practical experience in the inspection of workplaces and analyzed in the light of readings in the areas of psychology, psychoanalysis and mental health, materials that helped me think in a more systematic way on the impacts on mental health of the immigrant victim of people trafficking for the slave labor exploration purposes.

The first input I bring to this exhibition is the Palermo Protocol (Decree No. 5,017, of March 12, 2004). It is an international treaty against people trafficking, whose concept brings aspects related to a certain incapacity of the victim, when mentioning in its text the abuse of vulnerability and the irrelevance of the victim’s consent, when configuring the crime. This prior disability of the victim, provided for in the Palermo Protocol, may be also interpreted as a psychological disability in relation to the impossibility of doing a proper discernment about the proposal and working conditions offered. Then, according to the Palermo Protocol, it is possible to infer that, even before the subject becomes a victim of slave labor and people trafficking, there is a pre-existing condition of vulnerability, which does not allow him to make the right choices, which leads to an addicted consent of the worker.


Regarding this victim’s pre-vulnerability, it is important to mention a contribution from psychoanalysis. In the book by Professor Miriam Debieux Rosa, from the University of São Paulo (USP), entitled “*A Clínica Psicanalítica em face da dimensão sociopolítica do sofrimento* [The Psychoanalytic Clinic in the face of the socio-political dimension of suffering]”, the condition of the subject excluded from the neoliberal model is mentioned, a system in which many people are in a situation of greater vulnerability in relation to others:

PSYCHANALYSIS

“This way, before thinking in diagnoses or structures, it is necessary to listen to the subject, this subject that occupies a remaining place in the social structure, and who is under a traumatic condition (my emphasis). There are different ways of evolving compared with the same process that intends to suppress his/her condition as a subject, the collective objectification process that may, among other ways, lead to the blind submission or the autistic closure”. (page 44)

A Clínica Psicanalítica em face da dimensão sociopolítica do sofrimento.

Miriam Debieux Rosa



Professor Miriam Debieux calls into question the preconceived diagnoses and psychological


structures, stressing the importance of listening to the subject who occupies this place, who she calls “the rest in the social structure”, and who is under a traumatic condition. In another excerpt from the same book, Professor Miriam Debieux writes that:

PSYCHANALYSIS

“(...) The identification of the subject to this waste place is one of the factors that hinders his/her positioning in the knowledge plot and which will characterize his/her speech, many times, marked by the silencing”
(page 45)

A Clínica Psicanalítica em face da dimensão sociopolítica do sofrimento.

Miriam Debieux Rosa



Therefore, the individual degradation begins even before his condition as a victim of slave labor and people trafficking, resulting from social, economic and political vulnerabilities, which are experienced by many workers today. Together with these vulnerabilities, which produce psychological effects on the subject, and which determine his way of relating with the world, we also have the vulnerabilities inherent to the migratory process.


Migrations imply in a change of the cultural context, which imposes the necessary psychological restructuring to deal with the new day-to-day problems to which the subject was not accustomed in the context of origin, and which cause him psychological distress. On the psychic illness and suffering resulting from the migratory process, I bring some inputs from intercultural psychology. Professor Sylvia Duarte Dantas (Unifesp), in her article published in the book “*Saúde Mental, Interculturalidade e Imigração* [Mental Health, Interculturality and Immigration]”, mentions that:

INTERCULTURAL PSYCHOLOGY

“Intercultural studies show that the contact between cultures is more a conflict factor than a synergy factor; all the social interaction processes that involve different belief systems are subjected to frictions.” (page. 61)

Saúde Mental, Interculturalidade e Imigração –USP Magazine no. 114 - P017

Sylvia Dantas




Professor Geraldo José de Paiva writes about the phenomenon resulting from the migratory process called acculturation:

PSICOLOGIA INTERCULTURAL

“At these cultural matches/mismatches, the entire articulation of the life meaning is called into question, leading to complex maintenance processes, of rejection and negotiation regarding to amounts, family relationships, personal and group identity, children’s education, food and hygiene habits, anyway, the entire human reality. The intercultural psychology, talking to anthropology, has summarized in one word the set of these processes: Acculturation” (my emphasis)

Geraldo José de Paiva




Acculturation is a psychological process resulting from changes in cultural contexts that occur in migratory processes. Acculturation creates psychological stress, which results from socialization in a new context, from the loss of references and senses that were part of a subject’s life before migration. It requires new learnings that are not easy to assimilate. When this new learning involves another language – which is the case of the Latin American migrant – we have, then, another hindering factor in this transition. This all generates psychological stress, which can lower the subject’s mental health status and, in some cases, break out psychopathologies and significant mental suffering. About this, Professor Sylvia Dantas writes:

INTERCULTURAL PSYCHOLOGY

“Under stress situations we are affected, and our organism responds changing the balance of biochemical substances (such as cortisone, serotonin, and adrenalin), causing from a headache until severe diseases. It is common to occur anxiety increase, depression, feelings of marginalization and alienation, an increase of psychosomatic symptoms, and identity confusion.” (page 62)

Saúde Mental, Interculturalidade e Imigração USP Magazine no. 9114 – 2017
Sylvia Dantas




Intercultural psychology, with its recent studies, which started in the middle of the 20th century, has contributed a lot with knowledge about the migratory process impacts on the mental health of immigrants. And this needs to be considered in the context of slave-like work. Which factors influence, positively or negatively, the acculturation process? With no intention of being exhaustive, I mention some of these factors: 1) Socioeconomic level; 2) Age; 3) Existence of public policies for immigrants in the destination country – health, housing, migratory regularization and others; 4) Whether immigration was planned or forced; 5) The possibility of enjoying the support from social networks in the destination country, and 6) The possibility of having a decent job. Regarding the migratory regularization and the access to documents in Brazil, I make here an

important consideration regarding the immigrants who work in the clothing industry. Although there is a residence agreement within the scope of Mercosur, which favors South American workers, many of these immigrants who work in sewing remain undocumented. This is because the difficulties in processing Brazilian “papers” are also the result of labor conditions and the way in which this work is organized and executed. Furthermore, there are fees to be paid in the migratory regularization procedure that may represent, for this worker subjected to debt servitude regimen, the increase in indebtedness with the work shopper/employer. Remain undocumented is a factor that increases their vulnerability, which is constantly used by work shopper/employer as a threat argument to immigrants do not go to the Brazilian police, as there is an alleged risk of deportation or imprisonment. Therefore, there are several situations arising from the proper sewing labor context and people trafficking, which difficulties the documentation of the South American worker.

ACCULTURATION

FACTORS INFLUENCING ON THE ACCULTURATION PROCESS

- Socioeconomic level
- Age
- Existing policies (health, housing, work, rights)
- Documentation (despite the Mercosur Agreement, they remain undocumented)
- If the immigration was planned or forced
- Cultural contrast (e.g.: language)
- Possibility of social media support
- Job as a cultural integration hinder factor



Therefore, work in the clothing industry in São Paulo is configured as a factor that generates negative impacts on the acculturation process of the South American immigrant, which also has negative consequences on their mental health. As explained, the way it is organized and executed, this letter is imposing difficulties that impact on the socialization and integration of immigrants in Brazil.

When they realize they are victims of false promises of work, indebted, exploited in slave-like labor conditions, but needing to maintain the family’s support, their psychological condition, which is already being impacted by the process of acculturation, is even more aggravated by what they live in the work context. The construction of a new social position, in a new cultural context, occurs, in the case of South Americans who entered in the sewing activity, with significant mishaps. This new social position is being marked by submission. Thus, in addition to the stress resulting from the acculturation process that affects these subjects, we must consider that the insertion of these individuals in the Brazilian society is occurring as from the construction of a social bond of submission. This way, what kind of impacts this have on the mental health of these individuals and their families? Therefore, we need to understand the extent to which these subhuman conditions degrade the psychological condition of this subject.

Pedro Seincman, a psychoanalyst, in his master’s degree at PUC-SP, spoke about the case of a Bolivian child he attended, who was diagnosed with autism in the public health system. In his academic work, Pedro Seincman wrote:

PSYCHANALYSIS

*Parents that were submitted to slave labor situations when they arrived in Brazil. Their precarious conditions in Bolivia forced them to migrate searching for better conditions but what they found here upon their arrival was a submission offer, the social place of a slave worker.

If, when they leaved Bolivia, they disconnected from a certain social, cultural, and political operation, searching the passage to a new context, upon their arrival, they did not have the chance to stand in new bond positions. They had this possibility of building a new position in face of a past in Bolivia and a future planned in Brazil removed. This would be the passage that characterizes the end of a migration process: the subject needed to disconnect from a certain social operation and his/her bonds position and, when arriving at a new context, this subject permeated by his/her past, but attached to it, builds a new bond position and a new social context." (pages 77 and 78)

Rede Transferencial e Clínica Migrante
Pedro Seincman



What kind of story could be transmitted by these parents, sewing slaves, to their children?

About the degradation consequences of the subject victim of slave-like work in the lives of his children, I bring some situations experienced as Labor Inspector. For some years, I have witnessed the “indirect” involvement of many children in labor activities in the clothing industry. According to my previous assessment, these children would be subject to accidents in the machines and with the sharp materials when they circulate in these work environments. Today, I am sure that this is not only the problem of involving children in this context, and it is certainly not the most serious problem either. The labor context of the sewing workshops is producing physical and mental illness of children who live in these places. It appears in official information from SUS (Brazilian Public Health System), that referrals to psychological care of immigrant children by teachers to health units, have become recurrent in São Paulo.

Victor Hugo Brandalise, in his article entitled “*Autista não, imigrante* [Not autistic, immigrant]”, published in the newspaper *Estadão* on March 19, 2017, indicates that there is no survey on the number of referrals, but the frequency of evaluation requests for diagnosis of dyslexia, attention deficit, learning disabilities and autism, draws attention.

I present the report of two very alarming situations that I found during inspections in sewing workshops. The first concerns a workplace where we find baby monitors next to the sewing machines. In this workshop, the number of children who lived there drew my attention. There were at least 15 children at very young ages, including newborn babies. All remained “locked” inside the rooms so that their parents could sew. Mothers in the puerperal period used baby monitors for the remote monitoring of their babies. Therefore, these children are living a considerable part of their early childhood alone and limited to very small environments, usually a room. And this is due to the impossibility of the parents to provide proper care for their children, to follow-up their growth and interact with them. This way, these children are being subjected to the limitation of social interaction during the initial phase of affective bonds building.

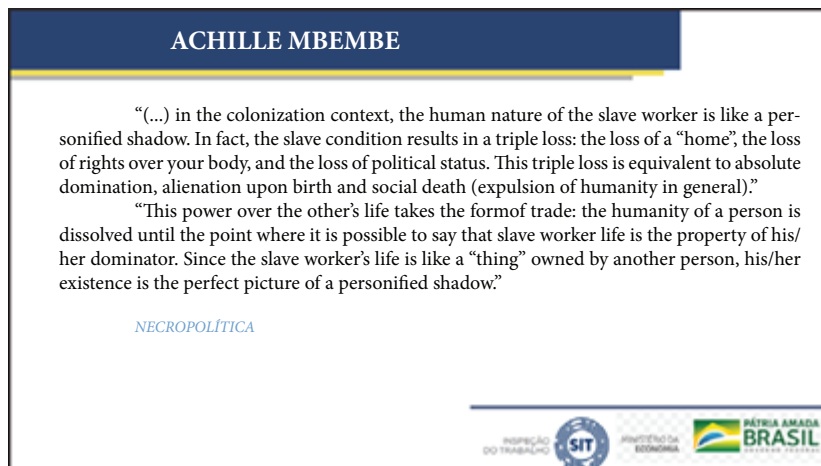
The second situation that I will report refers to the last inspection carried out in 2019, also in a sewing workshop. During the audit of documents found at the site, I discovered that one of the work shopper’s children had died due to the worsening of a health condition caused by chickenpox. I asked for details of the story and he told me: his three children, all children at the time, caught chicken pox at the same time. However, one of them did not support the disease and died at the age of two. Certainly, this death and these illnesses were the consequences of unhealthy conditions in the workplace, the way how this work is organized, the way that diseases spread very easily in these confined environments and the parents’ difficulty in provid-

ing their children with the necessary care. The three children had chickenpox at the same time, they were hospitalized at the same time, but one of them did not bear the disease and died. There are several impacts on the health of individuals involved in the activity of the clothing industry in São Paulo, which happen all the time, getting sick and killing children and adults, spreading tuberculosis and severe respiratory problems, causing mental and intellectual deficit, psychological impacts, depression and others.

To close my presentation, I emphasize that the victim of people trafficking explored in slave-like labor conditions in the clothing industry is a subject marked by extreme vulnerability and, therefore, muted. Many of these people do not even recognize themselves as victims, even though they are deeply injured in their most fundamental rights, which is to have their human dignity recognized. We face, then, with people so in need of their most basic and urgent desires for survival that they are captured by the offer of unworthy work, which allows them to have only the food necessary and another 16 hours of work on the next day.

Therefore, I bring here my concerns about the degrading condition of the immigrant subject who is victim of people trafficking for the exploration of slave labor. I believe that a broad understanding of the subject of degrading work also involves understanding of the psychological consequences of the submission to unworthy labor conditions. I am sure that the improvement of this public policy will come through the increasingly expanded assimilation of the slave labor phenomenon, in an interdisciplinary way, which will allow the improvement of victims' care, to promote their human and fundamental rights.

To conclude, I quote Achille Mbembe, a Cameroonian philosopher who wrote about Necropolitics, the "death management policies", which choose who will live and who will die in a society:



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José Ribeiro: Good morning, everyone, I am Ribeiro, from the ILO. Livia, congratulations on the presentation. We know that mental health challenges are growing a lot, and the suicide associated with labor has been a concern of the United Nations. In 2017, for example, the theme of World Health Day was “Depression, let’s talk”; in 2018, the World Mental Health Day also had depression as its theme, and in 2016, the ILO, on World Workplace Safety Day, dealt with stress. There are also several studies of labor psychodynamics dealing with the subject. We realized, then, that this is an ever more present phenomenon, and it is possible to imagine, obviously due to the conditions of degradation and acculturation, that the challenge among immigrants is greater.

So, I want to know, based on your sensitivity as Auditor and as a psychologist, if you could, by approximation, trace an idea of the incidence of these mental health problems, in addition to those reported. And if, in your assessment, from the public health point of view, the Psychosocial Care Centers (CAPs) are geographically well spread and can meet these challenges of migrant workers. Thank you.

Livia dos Santos Ferreira: Your question is a little complex for me to answer because it involves the public health network, with which I do not have so much dialogue. But I know that in São Paulo there are many initiatives and groups that try to create this type of network, as well as a lot of work being done to try to serve the migrant, under the perspective of considering the impacts of immigration on mental health, and from an intercultural perspective upon the service to these people, in the sense of understanding that much of the illness is related to changes in cultural contexts.

One aspect of psychology and other areas is that the knowledge comes from Western Europe or the United States, and brings, in a way, a colonial burden. And this often makes it impossible to understand in our context of different cultures, which have, for example, indigenous origins, in the case of Latin Americans. Or, in African contexts, cultures that have, for example, a quite different religiosity from that experienced by the most Western communities, so to speak.

In São Paulo, the groups are working considering the understanding of these diverse cultures in service to immigrants. And many of them have tried to form a network with the municipal and state health systems, to interconnect these actions.

For example, in this specialization course that I am about to complete, many students are active in the municipal and state health networks of São Paulo, as psychologists and social workers. So, this discussion is growing, and it is very strong here. As for the incidence, I believe that, maybe, not even the network knows exactly what it is, but it is a theme that is beginning to be researched by the academy. In the area of collective health at Unifesp, many people study migration and health and deal with this issue of incidence. I cannot give you numbers here, but it is certainly a very interesting subject to move forward.

Luís Alexandre: Livia, we have a 25-year history of fighting slave-like work and, in a certain way, I believe that, regarding the slave labor and degrading conditions subtype, the Brazilian State

has practically reached a comfort zone. Upon the identification of degrading work conditions, we have a vast experience in matters that are palpable, visual, evident, in the work environment. Even because the images are self-explanatory, and anyone who looks at them will identify the degrading conditions.

And you are bringing a very challenging question, which is dealing with elements that are psychic and invisible, as degrading conditions. I wanted you to talk more about this and about the issue of deceit. And, if you want, use the example of that case that we talked about yesterday, of the young Peruvian woman trafficked to sell jewelry, which is perhaps an iconic case of degrading and invisible conditions, in which the analysis by the Inspection led to the characterization of the degrading condition.

Lívia dos Santos Ferreira: It really is a challenge. And I do not see much of this type of problematization in relation to actions that are carried out in the rural area. I believe that *Grupo Móvel*, for example, which predominantly works in the rural area, is very addicted in the degrading condition as a visual aspect. And here in the urban environment, we realized that slave labor is subliminal, related to the vulnerability of the subject's condition. It is a very delicate aspect, but very clear to me when I see it. And sometimes, I get very anguished because there were some actions from *Grupo Móvel* in São Paulo, to inspect a work situation similar to what we had already inspected, with strong components of indebtedness and deceit, when the *Móvel's* team did not identify problems. This worries me because, more and more, with the increase of social and economic differences, new ways will appear in which the individual may be captured by the job proposal.

I did a research in the infraction notices and since 2017, in almost 1,200 tax actions for slave labor, there were four notices drawn up with a list of the subject's psychophysiological conditions. I do not think this means that the Inspection is disregarding this aspect, but it is a symptom. And we have syllabus dealing with the psychological aspects in the Regulatory Norm – NR 17. But it is necessary to consider the reasons why this worker is being captured and deceived. Among these reasons, the structural, social, racial discrimination that exists and impacts mental health and the way in which this subject is captured by indebtedness and deception.

As Luís Alexandre recalls, there is the rescue case of this young woman, who, I believe was approximately 20 years old. She had no degrading visual condition, but the condition of her capture by the employer was very visible, and this shocked us. The worker was highly indebted, had not received any salary, had just arrived, undocumented, super vulnerable. In face of that situation, we did not even know what to do, because in fact there was no visual degrading condition, but she was absolutely enslaved by that employer. At the same time, the worker said that the employer was very good, that he gave her money to buy a flat iron, to do the nail and the eyebrow, although everything was annotated in the debt notebook.

So, if we do not face these challenges, we will not be able to move forward, because more and more the worker will be caught and captured in deceit, in his vulnerability not only economic and social, but also psychological, in which he does not understand himself as an individual of fundamental rights and that considers any right as a privilege.

I intend to develop this subject academically, so my work is used by the Labor Inspection. My idea is that the Inspection should be inspired by this and start to discuss and put these aspects in the reports. And that starts to sensitize the Judiciary, the Federal Public Prosecution Office, the institutions, in general, regarding these issues related to the individual's psychological condition.

Mércia: Good morning, everyone. I am Mércia and I have a comment and a question. I am a specialist in Gender and Race Discrimination and for a period I worked with training for elementary school teachers in the city of Guarulhos (SP), where there is a very large immigrant population. And I spent hours talking with the teachers about what it is to discriminate, what it is to embrace.

Working in a school for three weeks, one day I arrived earlier, and I was sited in a corner of the teachers' room. A teacher came in and did not see me and said the following: "it is a hell to stay with these Bolivians, that boy, that pest, he does not even speak Portuguese properly". There were other teachers in the room, who told her that I was there, but she did not see me and continued to shoot all kinds of prejudice against an eight-year-old boy, who had just arrived in Brazil. When she saw me, she got embarrassed.

I was drinking a coffee, I stayed there, but I started to provoke them in their role as teachers, civil servants who did not even know how to embrace a child. I was pointing out how incompetent they were to embrace the one who is different from what they think is the standard. In addition to the racial issue, I talked about the gender issue, and started to tease them in this place too. What I want to demonstrate is the importance of understanding that, at school, psychological harassment is also present. So, it is important to see how we bring the education factor, in addition to health, into this embracement.

I also mention the beautiful work of *Repórter Brasil*, which seeks to include all agents, all entry doors for immigrants, and not just immigrants since vulnerability is for everyone.

Another important point that you are bringing in relation to the records, and that there are many studies showing, concerns the occurrence in rural areas of very strong psychological harassment. There are absurd reports of penalties, humiliations, including forcing men into sexual practices, as a way of controlling all of them.

Another factor that people do not understand, or are not looking at, is that slave labor, anywhere, especially that requiring manual labor force from men, is totally based on machismo. If the man says the work makes him tired, in pain, he is called cheeky, weak. And how does this man come home and say that he ran away from this job because it was too tiring, yet to hear the woman say that he wants easiness? And these vulnerabilities, machismo and racism, are structural, and need to be changed. So, the question is: how is it possible to consider and analyze all these connections to make policies communicate? Because it is important to get to education, get to health, and really develop campaigns against these elements that make people vulnerable and that some people know very well how to use.

Livia dos Santos Ferreira: I will give you a very objective answer, Mércia. The path is training, raise discussions, study, train civil servants, my fellow Inspectors, the Judiciary, I cannot see any other way.

I will also add to what you said of structural aspects, another common and subtle aspect of the slave-like work, which also shows the way in which the worker submits – the worker's family relationship as the immediate employer. In the case of sewing, this immediate employer is the work shopper. I have no experience in rural areas, but I imagine that this factor is the relationship with the "cat", the person who recruits the workers.

And how does it work? The person who makes the recruitments is from the community of that worker. He knows the father, the brother, the uncle. This is why it is so common to hear from the worker that such person is his relative. This community relationship of this worker's recruiter,

who takes him out of misery and puts him to work, with a plate of food and a bed to sleep, is very cruel for the vulnerable worker. How will he recognize and say that that person is exploring him? He will not say. And, if the worker becomes aware and says, his home community will question him and even recriminate him. All of this is very cruel, it is submission in the person's soul.

And I question when this type of aspect will appear in the Labor Inspection reports. When will we be able to have a racism infraction report, for example, even if it is possible? I am working to make it appear, as it has great relevance.

Vera: Good morning, Livia. I believe I waited too long to hear the subject of slave labor being treated in this way, under this psychological bias, within this knowledge of the soul. Everyone here must have read *Vidas Secas*, *Germinal*, *Almas Mortas* (Barren Lives, Germinal, Dead Souls), in which it is said that even the soul of a worker was bought to make a patrimony. The man was already dead, but his soul was worth it, it was business.

Since I am very old, I faced the slave labor issue from an early age. And these situations mark a lot who try to tackle them pioneeringly. What most outraged us was the blindness that we identified in people, who could not see that slave labor existed. Even manual labor was not considered slave, and decades passed before they began to recognize that degradation is not only of physical strength, nor only in the material work environment, but that degradation consumes people's souls to the extent that they do not see themselves as people. In the movie *Bacurau*, in one scene, the following line occurs: "who is born in *Bacurau* is what? People". And it is necessary to make these people understand that they are also people.

Even we, from the now extinct Ministry of Labor, today the Ministry of Economics, pioneers in the treatment of slave labor in Brazil, do not follow a broader reflection on these issues. Because they never left us, we were always in a hurry, we always had a system that should be privileged over the reflection.

But I am very proud to know that at a certain point in history, we were able to lift the restriction that the Labor Auditor, in the fiscal era, could only be a lawyer or an economist. If we did not have a psychologist, if we did not look at the world with many eyes, from different angles, we would lose a lot of knowledge of realities. This way, I want to congratulate you, Livia, and I think São Paulo is doing a very interesting job.

Now, to speak a bit of Labor Auditors who work in rural areas, who cannot see in the city the problems they have there. Yesterday, I said it was another jungle, and by that I meant that in rural areas the problems are different, such as distant areas, more dangerous regions in the sense of ambushes. There was the case of our colleagues who were victims of slaughter. But none of that scared us. However, in the beginning, we had this same doubt. Why our colleagues in a particular state did not see this problem? Why did we get there and see? Because we were imbued, with a prepared spirit, with previous reflection and discussion, so that we could begin to see reality in a different way. This situational blindness is genuine. And we must be very careful because we may be creating other blindness, as victims, because we are being induced to have a different view of work and society.

Over the last decades, we managed to advance in the fight against slave labor, whose existence was not recognized in Brazil, although we knew that it existed. But right now, we are having a setback and seeing things in a simply pragmatic way. Why do I say that? Because slave labor may cease to exist, since the "cat" and precarious contracts are legalized. And we may even think

that we are not guilty for all this – we really are not – but we must not forget that we have a privileged capacity for reflection, as well as broad access to information. Labor Inspection still has the skills that the Constitution gives, in addition to being a career that counts on guidelines and recommendations from international conventions.

This way, we must think a lot about how to face the problem of mental illness with determination. Congratulations, Lívia. It is important that Labor Auditors do not neglect this issue, and it goes through racism, machismo, harassment of all kinds. I am from the Northeast and when I went to Brasília, as Secretary of Labor Inspection, it was not easy. Young and northeastern woman. These questions are genuine. Thank you, that was the message I wanted to pass.

Lívia dos Santos Ferreira: Thank you, Vera. Thank you very much for your comment, hearing congratulations from you is very good, because you were there at the beginning of the Labor Inspection's public policy in the fight against slave labor and managed to see what happened and have this view. I really am very happy with your congratulations.

Unfortunately, I will not be able to continue to answer other questions here at the table, so that we can continue the activities. But anyone who has doubts can come and talk to me later, and I answer. Thank you all for participating.

Lecture:
Entrepreneurship, informality, and the reflexes of compliance systems in the work environment



Mediator: Ângela Tepassê, producer of studies and statistics for Dieese Union Action.

Lecturers:

Katiuscia Moreno Galhera, Doctor in Political Sciences from Unicamp, with an internship exchange program in Global Worker's Rights from University of Pennsylvania, in the United States, and postdoctoral internship from the State University of Londrina.

Eunice Cabral, President of the Union of Seamstresses of the cities of São Paulo and Osasco and President of the Worker's Confederation in Industries of the Textile, Clothing, Leather, and Shoes Sectors.

Paolo Parise, Coordinator of *Missão Paz*, entity that acts with immigrants and refugees since the 1930s. Doctor in Theology and Master in philosophy.

Comments:

Renato Bignami

Unidentified Person.

Ângela Tepassê: Good morning, everyone. I am Ângela Tepassê, from Dieese, an inter-union institution, producer of studies and statistics for union action. I am here to present and mediate this discussion table on "Entrepreneurship, informality and the reflexes of compliance systems in the work environment".

To compose the table, I invite Katiuscia Moreno Galhera, Doctor in Political Science from Uni-

camp, with an internship in Global Workers' Rights from the University of Pennsylvania, in the United States, and a postdoctoral internship at the State University of Londrina.

I will invite the president of the Union of Seamstresses of São Paulo and Osasco and President of the Worker's Confederation in Industries of the Textile, Clothing, Leather, and Shoes Sectors, Eunice Cabral.

I will also invite Priest Paolo Parise, one of the coordinators of *Missão Paz*, an organization that works with immigrants and refugees since the 1930s. Paolo Parise has a doctorate in Theology and a Master's degree in Philosophy.

Each of the participants will have fifteen minutes of intervention and then we will open for questions. I give the floor to Katiuscia.



Katiuscia Moreno Galhera: Good morning. I would like to thank the invitation made by the event's organizers, especially Renato Bignami, who I interviewed in research that I did and contributed a lot not only with objective research data, but also with the theoretical contribution that this type of investigation requires. What I am going to present is the result of postdoctoral research, but it is also the result of research that I have been doing since 2013 with the fashion chain, specifically with the Bolivian people who work in that chain, precisely because of the weakest link, which can be called contemporary slavery.

I research specifically the private governance of productive chains. It is a central subject in the research because it is not possible to understand the work destabilization outside a structure of multinational companies with global value chains. So, I approach global value chains and what I try to understand is why this attempt of private compliance by specific companies and associations coexists with the recurrence of slave-like work in the fashion chain. My focus is mainly the state of São Paulo. The case study is the Brazilian Textile Retail Association.

The concept of compliance is removed from private international law, but I intersect it with

work studies. It is the understanding that there is an effort to comply or meet private companies' compliance with a series of regulations that established by them. So, in the case of the Brazilian Textile Retail Association, there are a series of rules that it itself determined – the so-called private labor audit. I try to answer whether the compliance practices fulfill the purpose of fighting slave-like work.

The hypothesis is that, when you trivialize the State mediation, private governance functions as a form of transference or outsourcing of responsibility, which, in fact, hides subordination and accountability relationships over activities and working conditions, especially in global value chains. Why is it essential? Because when we talk about the fashion industry, we are talking about a buyer-driven chain model – a fundamental Gereffi's concept to understand global value chains, with some structural characteristics.

The fashion chain is dictated by consumption. And big retailers coordinate the demand and the supply of pieces from these chains, where there is a low technological intensity, specifically in the clothing manufacturing sector. So, the cost and pressure to lower the cost are precisely on the labor force. It is on this labor force that there is an effort to include a third, fourth, or fifth party in the production chain, forming a structure in which there is a factory without a factory, that is, production exists, but it is made by a third or fourth party, and so on. Large companies end up concentrating only on the areas of product design, marketing and, often, logistics. All other steps in the chain are outsourced to reduce the labor force costs. This is how scandals of slave-like work occur.

Although this outsourcing exists, as well as attempt to push costs down, there is an issue that is the companies' intangible capital. And every time that cases of slave-like work conditions occur in the chain, the company ends up being affected in its intangible capital. There is one case of Nike in the 1970s, in which it was discovered that children were being subjected to slave-like work in Indonesia, and this episode has tarnished Nike's image over time. The case of Rana Plaza is not so well known in Brazil, but in it, companies had to rush to compensate families and workers, so that their image would not be harmed in the consumer market.

This way, the companies try to prevent scandals of slave-like work and, therefore, the importance of compliance or private governance. This governance is different from the State regulation, but it is always dialoguing with the State regulation, as it is a response to the State regulation. And this is extremely relevant, because it speaks, within the specific literature, of public and private regulation. So, if there is a stronger public regulation, there is a greater effort by companies to increase their private regulation, that is, the public forces the private to move. That is why the private sector does not necessarily delete the importance of public inspection. In fact, the private sector highlights the relevance of public inspection, even to improve the private inspection.

Specifically regarding ABVTEX and its governance, the intention is to increase market share, according to the association itself regarding governance structures, on its website. This way, ABVTEX is very concerned with the public inspection radar. Last data that I collected were these: 3720 certified companies with approximately 333.000 direct jobs, and so far 34.000 audits were carried out. An essential issue in this process – slave-like work – is that the suppliers pay for the audits. Thus, companies like C&A, Riachuelo, Inditex, do not have a substantial cost, compared to suppliers, with the adhesion to ABVTEX. In fact, it is a certain shielding that these large

retailers have when they associate with ABVTEX, that is, it is very advantageous. Suppliers, on the other hand, have to bear with all costs of engagement in the program, they need to have at least a larger financial structure, and this automatically deletes the possibility of more precarious suppliers, such as Bolivian and Peruvian shops, to engage in the program. So, automatically, the program removes the possibility, from the people who need it most, to participate in these productive chains.

This also leads to another issue – medium suppliers eventually end up including a third or a fourth party in the production. And it is important to think about this subject precisely due to the ability to trace the productive chain and find slave-like work in the edge. So, let us think that an average supplier takes from a small shop with a MEI inscription and also shields itself in this process, so as not to find slave-like work.

The types of ABVTEX's private audits are focused on child, forced, and slave-like work, in addition to other issues related to occupational health and safety, abuse and harassment, the production chain itself, hours worked, supply, subcontractors. It is important to say that ABVTEX's private audit reports are not public documents, so it is not possible to use them in academic research, whether qualitative or quantitative, to determine the results of the audits, for example. Over time, there has been an exponential increase in suppliers and certifications with ABVTEX. It is possible to see that now there are more than 3 thousand certified subcontracted suppliers – this number should be even higher at this point. It is a very expressive number.

Of course, there are some institutional limitations, such as unions and their format in Brazil. Here, they mostly represent formal workers, which leads to a restriction of union representation of informal, illegal, immigrant workers, who are extremely destabilized. Another is that public inspection, especially since 2002, had its capacity to inspect reduced, which leads to an increase in private inspection. Over time, this public-private relationship will also lead to greater flexibility in private inspection.

NGOs, with the exception of NGOs such as *Missão Paz* and *Cami*, for example, in Brazil at least, or in Latin America in general, because of people's acquisition power, do not fall much for this idea of a conscious consumer market. This characteristic is strongest in Europe, in the United States. Thus, naming and shaming strategies and tactics, that is, pointing and holding companies accountable, which are used by *Repórter Brasil* and the Labor Inspection on the *Dirty List* of Slave Labor, for example, go in the direction of a civility in the companies' action. However, the consumer itself – according to some research from the Federal University of Minas Gerais (UFMG) – buys first and then feels guilty. So, naming and shaming strategies must also consider this issue that the consumer market, in Latin America, is not so concerned with an ethical issue of consumption.

Other social movements will hardly raise the subject. For example, in the United States, there is a very interesting experience which is the United States Against Sweatshops. Sweatshops is the name given to precarious sewing shops. In that country, universities buy from Nike and other brands, and this movement claims that universities should sign contracts with these major suppliers, so that social responsibility pieces are provided. But this is because they have a whole sport issue with universities. This is not a very important issue for the Brazilian student movement. Perhaps the World March of Women released one note or two in solidarity with women

working in the sector, but the migratory issue of women, for example, is not on the agenda of feminist movements, at least in those we see, except for initiatives such as the Front of Immigrant and Refugee Women, in São Paulo.

The persistence of slave-like work occurs in at least three of the eight founding companies of ABVTEX. In these companies that started ABVTEX, there are a series of recurrences in the discovery of slave-like work by the public inspection. Of the total incidences of slave-like work that I searched, in a historical series from 2010 to mid-2019, 21.4% of the total cases discovered by the public inspection in the fashion industry are from large retailers associated with ABVTEX. These retailers hold 23% of the national market. It is possible to verify that there is a correlation between how much these companies have of market share and how much slave-like labor exists. In this point, I reinforce that we start from a specific social context where these numbers are probably sub-measured by me, due to the low public inspection in this regard.

Besides the recurrence of slave-like work, some companies linked to ABVTEX adopt a strategy that is extremely condemned by a more active literature in terms of holding companies accountable for what to do in cases of slave-like work, degrading conditions, violations in the work are found. It is the cut and run strategy, which is based on the idea of simply cutting off a supplier who does not meet the prerogatives to avoid slave-like work. And this is very complicated because instead of the company provide all the needs of that supplier and improve health, safety and payment conditions, among others, for the workers in the workplace, it simply eliminates it. It is an issue related to global value chains and the attempt to lower wages and working conditions.

Here I demonstrate [pointing to an image] the percentage of companies associated with ABVTEX in relation to all cases of slave-like work found, according to my survey, done with two other professors, one from USP and the other from Columbia University, in the United States. Throughout the historical series, this number varies from 0% to 35.7%, depending on the year. It is possible to verify that there is an expressive recurrence, mainly in some specific years like 2013, and that it continues over time. The average of the historical series is 21.4%. So, of the total cases of incidence of slave-like labor in the fashion chain, 21.4% are from companies associated with ABVTEX. There is a relationship between the existence of private mechanisms to fight slave-like work and the recurrence of slave-like work over time within ABVTEX.

In the final considerations of my work, I present some questions and reflections. The general conclusion is that throughout the cities there is a highly atomized and fragmented structure to supply small sewing shops, which is related to global value chains in the fashion industry. And not only on the Brazilian scenario, but also on the American and Southeast Asian scenarios. In this structure, it is very difficult to detect slave-like work and, as Livia said before, there is a series of interrelationships with immigrants who have no roles, who have a double or triple vulnerability, with the relationships of affection and familiarity, and with their own global value chains that keep this structure because it is very interesting in terms of wages lowering. What happens is a hiding of this most fragile part of production within a process of global value chains.

The ideal framework to combat extreme job destabilization is a greater verticalization of the fashion productive chains. This means bringing the productive process into the production chains. This way, there should be a C&A factory, for example, with workers directly hired, with

a signed Labor Booklet, with labor rights, including immigrants, with union representation of those who are not Brazilian. This already exists, of course, but for those who are within a more verticalized process, which may or may not be more formalized in the workplace.

Taking this into account, in relation to the ABVTEX program, the main research findings are as follows. The recurrence of slave-like work ranges from zero to 35% in the historical series mentioned. There is the intention of ABVTEX to bring a certain shield to its suppliers, to guarantee or increase the market share of its participating companies, and to escape the radar of Labor Inspection and NGOs such as *Repórter Brasil*, which has naming and shaming strategies, or from the *Dirty List* itself. This shielding aims to protect the intangible capital of large fashion companies, passing on costs to their suppliers. This is done by inspecting their outsourced parts, that is, those that are not within their production chains, they include third, fourth, and fifth parties, and through the exclusion of these fragile suppliers, which are probably suppliers' chains of Bolivians and immigrants.

The issue of a more complex and fragmented production structure affects all fashion production chains globally. All began with Benetton, which started this model in the early 2000s, in Italy. I would like to thank you once again for the opportunity to exchange this idea with you and I am open to questions.

Ângela Tepassê: Thank you, Katiuscia, for the presentation. And I pass the floor to Eunice.



Eunice Cabral: Good morning, everyone. A movie is playing inside my head. The union began to act in the fight against slave-like work long before other sectors of organized civil society. I remember the first time we detected the problem in São Paulo, in the capital, where it is our base

– it was in the district of Bexiga, and there were foreign and Brazilian women involved. And how do we get to them? The female workers observed that every day the same person passed through the shop street and they threw a message for that person through the window, the only access they had to the street. The person saw the message and called the union. So, the union went to the competent authorities, since he could not remove those women himself.

Our fight started there. And the union has always served these workers. Sometimes, when the problem came to us first, we could resolve some issues without accessing the public power, making the work shopper – who subjected the workers to the slave-like work condition – pay for that period in which the person worked, all their rights. But this was not enough, it was almost nothing. When we realized that these actions alone were not enough, we started to work together with the competent bodies. In fact, we did the detective work, observing the movement in the shops and taking the information to the competent bodies, such as the Ministry of Labor and the Public Labor Prosecution Office, so they could enter these places and inspect them.

And what most caused us agony and strangeness was the fact that the occurrence of slave-like work increased, instead of decreased. We take all kinds of things. In a workshop where we arrived with the competent bodies, the female workers' documents were locked in a closet. Those people had no access to anything, they were totally locked.

We also verify denounces that may be made to the union without the identification of the informer. From that, we try to verify what is happening. The problems are not only related to slave labor. It has unfair competition, it has alarming informality. In the 1980s and 1990s, in the city of São Paulo, where the union is based, we were 200,000 formal workers. Today, we are 55,000. The big retailers – as well said before – are protecting themselves through ABVTEX, but they cannot fully protect themselves due to outsourcing. A company can even prove that everything is legal and pass the association's inspection, but if they include the force labor of third or a fourth party, they lose the rein. There is no way to maintain control in the sector, where it is very easy to have a workshop with several workers. The clothing industry is also not advanced in terms of technology – at least 50% are still made up of old and obsolete machines. And more and more employers are looking for new ways to explore and enslave more workers, most of them women. I astonished yesterday when they told the case of a workshop where there was a baby monitor. That is, the baby cries, the mother stops, breastfeeds and returns to work. There is no maternity leave period.

There are places where people sometimes have to work all night if they want to earn some income. This is because the work is paid per piece and, of course, the workshoppers takes the order from a company for a certain amount but, in order to profit, he passes on the work offering a lower value. We, as a union, have advanced within this. We even have foreigner unionized workers, in formality, who participate in all union activities, but this is still little.

One time, I participated in a worldwide event in our sector, promoted by an international union organization, in Cambodia. There, we met a company with more than one thousand workers, all young. When we walked through the premises, everything was precarious, with bad lighting and seats, for example. And what scared me the most was what happened at the employees' lunch time – they took their lunch boxes, crossed the street and looked for a shady place to eat, because they heave a searing heat there. In other words, they did not even have a dining hall. I remember thinking, my God, what is this? All this distresses me a lot, as a woman, as a union

leader, as a worker in this sector since a very young age. I learned everything within the sector, inside the factory, at a time when the factories kept all production in one place. Today, maintaining all the production within the same factory has an extremely high cost, and the large companies only aim at profit, even if they have to put people in a degrading situation for such.

When I started my career in the union, I always talked to the female workers that our aim was to be blind and crippled because of the effort with vision in precarious situations and the wrong posture. And that we were going to retire with such a low salary that we would not even have money to buy a medicine. When I took a survey from the São Paulo Workers' Health Reference Center, about the occurrence of psychological illnesses, I saw that our sector registered most of these cases. I saw how serious the issue was and how it was necessary to look for alternatives. This information was from the formalized sector, and I imagine the situation of these workers in informality. Even more, with all the changes in the labor law, with the increase of independent-contractor policy, that more and more destabilize the labor force aimed to increase profits. The vision is to destabilize and remove rights that are essential to human survival. The sector does not have an extraordinary salary, but it does have a collective agreement that must be respected, which we do not give up. Even with all the difficulties, we demand that, because we understand that people are entitled to a dignified life condition.

In these ten years, many things were built, but there are still many more to build. ABVTEX has a private body that checks companies, but what about the situation in smaller companies? To get an idea, according to union data, in the scope of the 55,000 formal workers that I mentioned, there are seven thousand companies. This very week, we took a company with eight unregistered workers, without a journey, with nothing, and we face them. It does not matter if it is not formal, because we understand that people must have dignity. Dignity is the minimum, the right to have a journey, to be able to have a leisure time with the family. We cannot afford to go back, we have advance in the sector improvements, in Pacto, which in my opinion is very important for our sector.

We have here several auditors, who always helped us with our demands – Renato, Luís Alexandre, Ana Palmira – acting to resolve what we cannot. And we must organize ourselves because more and more the worker has no one to turn to, with the end of the Ministry of Labor, and the difficulty to access the Labor Court brought by the new law, which says that if the worker does not prove his demand, he is the one who will pay, which is absurd.

And we, Brazilians, must also have the capacity to feel outraged. We are very still, accepting everything, as if everything is fine, and we know it is not. If we do not feel outraged, if we do not organize ourselves, if we don't invest in Pacto, bringing more actors to join us, nothing will ever change. As actions is what make reality change. I am certain that we will leave here strengthened, but I would like us to leave with projects and proposals to move forward.

I remember that the children who are in the workshops today will be tomorrow's workers. And how are we going to allow – Livia spoke very well about the psychological issue – for these children to become sick, traumatized, and dreamless young people? Regardless of who they are, where they come from, it does not matter, we cannot allow this. And we must think about how we can get stronger and look for alternatives. Nobody does anything alone. Either we all make efforts, or we are not going anywhere. If each one works alone, we will get there at the front broken and we will not build anything else. But if we make efforts and strengthen and unite our-

selves, I have no doubt that, even with all the storm that is coming, that they try to do against us, we may advance to fight the slave-like work, thinking about these children who are today within the workshops, and who will be tomorrow's workers.

I do not want to extend myself. To complete, I reaffirm that our union will always be available, always with the doors open, so that workers have dignity. And I do not measure the company by its size, I measure the company by its attitudes. Thank you very much.

Ângela Tepassê: Thank you, Eunice, I give the floor to Priest Paolo.



Paolo Parise: Thank you, Angela. A big hug to all who make up this table and greetings also to all those present, partners and friends.

While I was listening to the previous inputs, I thought about part of my biography and went back over the years, to the late 1980s, early 1990s, in the region where I was raised in Italy, Veneto. There were major clothing brands that produced everything in their factories. It was a period of great economic growth. At the time, Veneto was considered as one of the regions in Europe with the highest quality of life. I remember some brands, such as Benetton, Diesel, Lotto, Marzotto, Replay and Stefanel, amongst the best known. However, the picture gradually changed, and the transfer of production to other countries and the growth of unemployment started. I experienced this process in Italy and when I arrived in Brazil, I realized the other side of this perverse dynamic. Many clothing items are produced here. And I noticed how the fashion industry moves its production with agility based on the logic of profit.

In my speech, I want to point out some challenges and return to some details, avoiding repeating elements previously discussed. I will briefly present the *Missão Paz* – prevention actions, embracement of victims of slave-like work in the fashion sector, and the challenge of work reinte-

gration. Next, I will focus on immigrants from Paraguay and Venezuela, as targets of the sector's exploration. I will close the presentation with a critical provocation about entrepreneurship.

Initially, I would like to remind you that, ten years ago, Father Mário Geremia, who is currently in Rome, served, for *Missão Paz*, in Pacto, against Destabilization and for Decent Employment and Work in the Clothing Production Chain. At the time, the entity was known as *Centro Pastoral do Migrante*.

Missão Paz is an integrated service center for immigrants and refugees. Among the services offered, I highlight the reception at *Casa do Migrante*, the support in obtaining documentation, health, education, language learning, socio-cultural insertion, legal assistance and work. In this sense, if, on one hand, the institution does not work exclusively with people involved in the various stages of the fashion industry's production chain, on the other hand this audience that works in the sector is part of the people served. There is a large number of Bolivians and Paraguayans and, to a lesser extent, Peruvians, who work in sewing workshops.

Missão Paz carries out actions preventing slave-like work in the fashion industry, the victims welcoming, work reintegration, collaboration in the fight, and network performance.

In the prevention area, support is offered in migratory regularization and to obtain Labor Booklet, intercultural lectures with labor information, radio programs and actions developed in partnership with the consulates. In addition, the teams visit sewing workshops and are present in places of high concentration of Hispanic Americans, to disseminate information. Since 2012, a program to support job insertion is developed, monitoring the hiring and post-hiring phases. At the headquarters, rooms and lounges to create associations are offered, free of charge.

Moving to the victims welcoming, I would like to thank the Labor Auditors, Lívia dos Santos Ferreira, Renato Bignami and Luís Alexandre da Faria. On several occasions, I saw them going beyond work. Often, at the weekend, they show up to take the Labor Booklet, to talk, clarify or simply to support victims of slave-like work. *Missão Paz* has the *Casa do Migrante*, but it needs the important partnership with the Labor Auditors to carry out the solutions. It is not enough to welcome them in the house if things are not addressed and solved. In some cases, people want to return to their country of origin, in others, they want a new opportunity, with formal and dignified work.

Labor reinsertion has a great importance to escape the vicious circle of degrading or slave-like work. I will tell you an example to explain. *Missão Paz's* social workers selected 25 children in a highly vulnerable situation, daughters of Bolivian and Paraguayan families who worked informally, sewing at home. Every day in the morning, a micro-bus takes these children for the Institute Cristóvão Colombo, in the district of Ipiranga, where they receive free quality education while remaining in the structure until the late afternoon.

Over time, it became apparent that there was an insufficiency of acting only with children, while the parents were unable to improve the situation. Faced with the lack of documentation, families were helped to regularize the migratory situation. Over time, two mothers expressed a desire to quit the sewing work. They saw no future by remaining in the area. The two started to attend a nursing school, thanks to a scholarship. Currently, one is graduating, while the other has failed several courses, due to the lack of time to study, and because she must work in addition to going to college. I mentioned this example to remember that solutions, job changes, are not easy. They need supporting programs, offering other directions and opportunities. It is difficult to get out

of this vicious circle of exploration.

Anyway, it is also important to remember all the activity of legal guidance, active participation in municipal and state commissions, in addition to the important network performance.

Now, I would like to focus attention on two elements that may be complementary to yesterday's statements, on some current realities involving Paraguayans and Venezuelans.

Missão Paz is carrying out a program of visits to Paraguayan sewing workshops with a Paraguayan agent. One hundred and fifty-nine sewing workshops were mapped, in which only work Paraguayans. For example, in Guarulhos, Vila Any, there are 31 workshops, and in Jardim Continental, there are 5. In São Paulo, district of São Miguel Paulista, there are 17; Penha, 19; Vila Maria Alta, 12; Vila Sabrina, 25. There are 817 male and female workers, almost all of whom are in an irregular situation. Most are young people between 18 and 20 years old, who plan to spend a year or two in São Paulo sewing and then return to Paraguay. Almost all of them worked for Koreans.

A problem raised in this mapping is the payment term – you have to wait from 40 to 60 days for the money to enter the account. The solution is to exchange checks with moneylenders who take 10% of the total amount. Another element that drew attention in this situation is that many of them do not even have documentation from Paraguay, the country of origin. It was necessary to talk to the consulate to carry out actions to issue Paraguayan documents, and then it was possible to carry out migratory regularization in Brazil. However, in this regularization process, one more difficulty arose – the consulate charges US\$ 30 for the Certificate of Nationality and US\$ 35 for the criminal records, that is, US\$ 65 per person for documentation. This makes migratory regularization and labor formalization unfeasible. In an attempt to dialogue with the consulate, the answer was that this is a national law and does not depend on consular representations. Something similar happens with the Bolivian consulate. In other words, consulates are other elements that cannot be forgotten, and which, unfortunately, instead of helping, many times they make it difficult. There is a new Migration Law that gives exemption from fees for people with low income, but on the other side the consulate does not collaborate in the expected way.

Moving on to another reality, Venezuelan migration is highlighted at this juncture. And, because of the vulnerability situation, several people are being recruited to work in sewing workshops.

We recently saw the case of a Venezuelan family who was in the city of Boa Vista and was brought to a sewing workshop in São Paulo. The most recent case was that of a woman recruited by social media from Venezuela, with a misleading proposal. When she arrived in São Paulo, in the district of Lapa, she faced with the reality of exploration. After four months, she asked for her husband's help. He was in Venezuela and sought in São Paulo for an organization that could help immigrants. He found the Facebook page of *Missão Paz* and asked for help to free his wife. Thinking about Livia's psychological approach, this wife had a cell phone, messaging apps, so the temptation could be not to classify the situation as slave-like work. But it sure was. These two examples of Venezuelans who ended up being explored in sewing workshops point out how the unfair mechanism takes advantage of vulnerable individuals. The logic is always the same – they can be Bolivians, Peruvians, Paraguayans or Venezuelans, whatever, the important thing is to explore.

Another point that I had planned to address I will skip, because it was already presented on the first day – the broader framework for understanding the fashion industry, with issues such as massive and precarious unemployment, the employment bond, flexibility, deregulation of labor laws, weakening of state public policies. In this broader horizon, issues of gender and race cannot be overlooked, as Mércia put it.

I would like to think about, as a last point, on the path of entrepreneurship. Obviously, you may not agree with what I am going to talk, you may criticize. There is a diffusion of narratives that point the way of entrepreneurship as a great solution. This happens in cooking, clothing, music. It seems to be the big way out, the solution! For a small group of people it may be, but not for most. Unfortunately, in most cases, entrepreneurship is the new name given to precarious and informal work.

The entrepreneurship narrative is located in the face of the wage society crisis, which was characterized by state regulation and the incorporation of rights. Today, we are faced with a deregulation of the labor markets, based on cost reduction, with a reduction in social obligations connected to the employment agreement. Entrepreneurship is valued, but it is a product from the flexible capitalism. I would add that there is entrepreneurship by necessity, a new form of precariousness. Yesterday, a Bolivian woman who attended an entrepreneurship course, wrote that she has cancer. She is an entrepreneur who has cancer! How will she face the disease? Will she receive a sickness benefit, since there was no money left to make the contribution, as an autonomous, to the INSS? We are facing a precarious new form, entrepreneurship. How many courses, narratives, advertisements in that sense.

I would like to complete this brief speech by placing a question mark on the word “entrepreneurship”, which is problematic in many sectors, including the fashion world. Thank you very much.

Ângela Tepassê: Thank you very much to the table participants. We saw here yesterday, the presentation of institutional and business initiatives, and today, Katiúscia brought some of the limitations of these initiatives. Taking advantage of Father Paolo’s speech, I mention a study by Dieese that shows that, for the public opinion, white entrepreneurs are closer to the figure of employers with higher average pay than black entrepreneurs, who are closer to the figure of the street vendor, the autonomous person, with lower income.

Before we open for questions, I wanted to leave a question for you about the figure of the individual microentrepreneur, created in 2009 aimed to formalize self-employed workers, bringing some protection, since there is a social security contribution for this type of figure. Contextualizing, talking a little about the city of São Paulo, we saw that there was a reduction in informality in the fashion chain, since 2014, considering a very comprehensive concept of formality, which counts as formal, the self-employed worker who has a social security contribution. In the city, approximately 1/4 of formal workers are individual microentrepreneurs. Therefore, I ask: how do you see the role of the individual microentrepreneur in reducing informality? I also want to provoke you a little more about what are the future perspectives for reducing informality in this sector, in this current political context.

Before I move on to you, let us open to questions and interventions.

Renato Bignami: Okay, my question is very objective, but I wanted to make a link between the three lectures. Katiúscia talked a lot about the compliance systems. It is a pity that I am not

seeing anyone from ABVTEX here today, they were here yesterday and made an interesting presentation, but of which I questioned the following points – firstly, the issue of the association's certification system does not forecast the capacity building mechanisms, but only mechanisms of the cut and run type, as well presented by you, Katuscia. I did not get a satisfactory answer, it was obviously vague, in the sense that they would work in that direction, but without a more robust proposal on the part of ABVTEX.

Another fundamental question, which we have taken a lot of into consideration, is about the ability to build a multistakeholder model to control the monitoring system itself, but it does not seem to me that this is the system under construction in Brazil. And, in that sense, I incite the Union of Seamstresses, because I know that in some point the entity was even invited to participate in meetings about the ABVTEX system. However, I do not know how this is going. Whenever we talk to ABVTEX, we insistently suggest that the Union of Sewing Workers should be involved, but I do not know if this is happening satisfactorily or on a regular basis.

Furthermore, it is important to point out that public inspection is in decline, as well pointed by Katuscia. And then, I return to the question I made to Fernando Pimentel, from Abit that appeared to me at the same time very curious and instigated with the excess of private audits, which is proliferating in the country and the market. It was clear that it is a growing market, which has generated, in the scope of ABVTEX, some good million of Brazilian reais, and in Abit's scope it has not been cheap either, according to what Fernando confirmed to me. However, public inspection is also not cheap and has a public cost. The *Grupo Móvel's* operations are expensive operations, they have a capillarity, which obviously involves a cost from the State, which AGU – too bad that AGU's staff is not here – was trying to pass on to those responsible, through return actions. It is also important to point out that, despite being expensive, the State's action is extremely effective, and the numbers are published to ensure transparency in the effectiveness of the labor public inspection.

Now, I will link that with the speech of the Federal Public Defender's Office of yesterday, according to which the difficulties of reconstituting labor credits for victims of the Judiciary are increasing. On the other hand, in the last 25 years, the public inspection has proved to be an effective tool in this sense, as more than 90% of the actions result in practically immediate reconstitution of labor amounts to workers rescued from slave-like workd conditions, being used, in fact, as a great tool for reconstituting rights.

Here I return the speech to the table, sewing the question to what Father Paolo brought, and also commenting on Angela's speech. It would not be the case of first expanding the notion of informal economy that we have in Brazil, bringing it closer to that which Professor Dari brings in the studies of Cesit at Unicamp, instead of, as Professor Paula said, stimulating a mere shell of primary formalization, as is often done by the public power, as in the case of formalizations through microentrepreneurship that proliferate in this sector?

Unidentified person: When Renato talks, you want to just clap, but I needed to say, in reference to what Eunice pointed about the fact that we, Brazilian citizens, are acting as if all was well in this country. I want to remember that it was promised to businesspersons last year that they were going to remove the inspection of their neck. And this is what is happening. And we see this when Katuscia talks about the lack of public inspection, about the existence of certifying companies while public inspection is absent.

Yesterday, I heard ABVTEX talk about this high cost for the entrepreneur, and it can really have a high cost, but there are also many flaws in this certification. They also certify what they want, where they want, without public inspection there to say how it is going and what this certification means. So, the entrepreneur says that he spent an amount and that everything is okay, but everything is not okay. Some questions are left unanswered. How these certified companies pass on the work to third or fourth parties – or the small entrepreneur?

The entrepreneurship's speech today is so widespread that people are feeling guilty for not being able to be entrepreneurs. They think they have failed, that they do not know how to make money. And if we are being harassed in this way, imagine those who cannot afford access to all this debate over the white microentrepreneur and the black micro-entrepreneur, for example. We are experiencing a huge problem.

Livia spoke about this speech that wants us to believe that people have no right to anything, that rights are privileges. And that is what is being passed to the population. The same discourse that the civil servant is privileged, that the Labor Inspection is formed by privileged senior officials who must have their rights cut, that there are many, that they cannot increase the list of employees, that Brazil does not need this, that workers do not need inspection. At the same time, Eunice states that in 1980s and 1990s, there were 200,000 formal workers, and today there are 50,000, and this in a larger world, which uses much more clothes.

There is no inspection, the government does not account for anything and leaves the person subjected to capital, that is the truth. Certifying agencies will verify compliance, so that companies do not lose capital. But, if in this process, whoever is losing is the worker, and we workers are losing rights, the green and yellow booklet is there to prove, it does not matter. I agree with Eunice, we really are accepting everything. We are always saying that all this will pass, but until it does, how many people will die because of this system? Thank you.

Ângela Tepassê: I will now pass the questions to the table.

Katiuscia Moreno Galhera: I am available for anyone who wants to contact me by email with further questions.

Bignami asked several questions in one and I will try to answer most. Regarding the own model of ABVTEX, compared to other international experiences, this is the worst existing model, and I say based on another research that I am doing. There are other models, such as the Worker Driven. In the adopted format, ABVTEX has low involvement of third parties, it does not have seats within its decision-making process for unions, social movements, and groups of workers, nor to public inspection; that is, it is closed on itself. There is no accountability – as I said in my presentation – because the reports are not accessible to researchers, for example. ABVTEX's board of directors is made up of members of ABVTEX itself, of the associated companies. So, in relation to all the other experiences of private governance, private audit, it is way down. If compared to FLA, with WRC, ABVTEX is the one that tends to have less effectiveness and efficacy.

As to whether this formalization translates into improvements in working conditions and wages, the answer is no. Labor reform indicates this. There was an increase in formalization, the MEI brings formalization, but it does not necessarily translate into improvements in well-being for workers. And I think the fundamental question is not whether there is formality or not, and then I fully agree with Bignami – what needs to prevail is the ILO's direction about decent work and safety at work.

Regarding the companies' private governance models, I wanted to pass the ball over to Eunice and bring in the union. We know that union unity is by professional category and city, so it mostly represents CLT (formal) workers. It is a union structure from Getúlio Vargas and, therefore, it does not have mechanisms that refer to union structures previous to that of Getúlio Vargas, which were communitarian, by professional category, bringing together all workers within the same union. So, what are the unions doing to overcome this legal, bureaucratic and legal structure, which does not respond to the sectorial needs that you brought yourself, Eunice? There were 200,000 workers before, formalized, and now there are 55,000. From the panorama you bring, it is the end of the union as it exists. I bring this affront to know what are the alternatives that the union itself, or a group of unions, is thinking.

Eunice Cabral: We participated in some ABVTEX meetings, but we have no decision-making power, let us make this clear. Their seal considers what they believe to be the best, but there are many companies that are unable to get an audit from ABVTEX because of the high cost, especially small, medium and micro companies.

About formality, many people today do not want to work in this formalized sector anymore. I have twenty-years old granddaughters who do not want to know about this business because they understand that there is no future. And this is the view that many workers have of the sector. This is a discussion within the employers' union, and I always tell them that it is necessary to advance in general working conditions, in terms of wages, benefits, or soon there will be no people wanting to work in the sector, due to the precariousness. And many companies – and I repeat that I do not measure the company by its size, but by attitudes – understand that, with the green and yellow booklet and the labor changes, they can do whatever they want.

Regarding the union movement, the first thing the government did in relation to it was to break it financially. But it does not matter, we showed that we are alive, and that this is what we are talking about in companies of the sector that are beginning to destabilize the working conditions, wanting to ratify terminations without the union, taking away the workers' rights. Of course, we are having much more work, do not doubt that. They say that the union structure will change, that there will be greater plurality, but plurality already exists, there are already several federations, confederations, unions that were within the same category were split into other categories. But there is also the union that works and the one that does not work – the one that works will prevail because it will not bend. And I will repeat that I do not generalize. There are bad bosses who end up hurting those who seek to act within the law, with unfair competition because they have a lower cost.

The workers must understand that the union is not the headquarter, and I am not the Board, even when I am working as the president. The union is each worker, united, organized, aware of their rights and duties. I do not talk to the worker only about rights, but also about duties, because if I comply with my duty, I do not give my right to anyone.

The big magazines find ways to not honor the commitment assumed with the clothing companies, which in turn must pay the employees, water and electricity bills, etc. And within the experience we have in relation to all the changes, we fight to ensure that there is no greater destabilization in the worker's life and to not allow malicious companies from implanting an independent-contractor-policy only, destabilizing, or putting workers in informality. Another thing that we pay attention to is that the production sold in *Feirinha da madrugada*, in the streets,

comes largely from slave-like work. Just try to find out.

As well said by the priest, sometimes we are afraid to look for alternatives, to act, but we have to act, we cannot remain silent, or the situation will get worse. This way, either we get together to keep things from getting worse, or else we take our hat and go home. And Pacto is not about taking the hat and going home, but about finding alternatives for people to have a dignified life.

Paolo Parise: As we have already run out of time available, I complete saying that Renato, from his great experience and training, would certainly be able to answer the questions raised much better than me. I totally agree with Renato's comment on ABVTEX's repression mechanisms. The solution cannot be restricted to punishing, it is necessary to point out ways, to reconstruct mechanisms. We know well that the father who only represses his son is not fully educating him; he should also point out the values to be followed.

Regarding the high cost of certification, I believe that there are not only flaws, but also that it is necessary to invest in public inspection, so that the mechanism can be even more transparent. I remember a brand that, some time ago, was doing a national survey to show good practices in the working conditions of its productive chain. On the launch day, the survey was not presented because it was discovered that there were still problems.

As before, I end with the question of entrepreneurship and MEI. If it is part of the companies' cost reduction logic, it is obvious that it is not benefiting the person but putting the person in a precarious situation. I am very critical! Including of the MEI enthusiasm as a solution, as the chance to have your own company, as a possibility to belong to the business world.

Angela Tepassê: Thank you, and we close this table.

Lecture:
Human rights, companies and sustainability:
an urgent agenda to meet



Mediator: João Paulo Dorini, Federal Public Defender, from the Federal Public Defender's Office (DPU) in the state of São Paulo.

Lecturers:

Flávia Scabin, from the Center of Human Rights and Business of Getúlio Vargas Faculty, Professor of FGV Law School of São Paulo, and Director of the Applied Research Center in Human Rights and Business of FGV, Consultant of the World Bank and ILO.

Iara Vidal, journalist interested in conscious consumption and public policies aimed to sustainability. Representative of Fashion Revolution in Brasília, and she writes the blog *Consumo Consciente*.

Daniele Martins, Coordinator of Inpacto's projects. Master's Degree Student in Global Governance and Formulation of International Policies from *Pontifícia Universidade Católica de São Paulo*.

Comments:

Luís Alexandre

Carmelita

Fabiana Galhera Severo



João Paulo Dorini: Good morning, everyone. First of all, I would like to thank Livia's invitation to be the mediator of this table and congratulate her personally for the excellence of the event. And on her behalf, I congratulate everyone who helped in any way in the organization. This is our last table, and we are in the third module of the event, which deals with the challenges that persist and must be faced. And I believe this is an important point in this moment of celebration of ten years of Pacto – not only looking back at what was done, but also having a vision of the future, of what can and should still be done. The subject of the table is “Human rights, companies and sustainability: an urgent agenda to meet”.

I will invite to compose the table Flávia Scabin, from the Center of Human Rights and Business of Getúlio Vargas Faculty, Professor of FGV Law School of São Paulo, and Director of the Applied Research Center in Human Rights and Business of FGV, Consultant of the World Bank and ILO. With ILO she is coordinating projects related to decent labor promotion in supply chains. I invite Iara Vidal, from the Fashion Revolution. She is a journalist interested in conscious consumption and public policies aimed to sustainability. Representative of Fashion Revolution in Brasília and writes the blog *Consumo Consciente*. She defends participative democracy as a platform for revolution in fashion and believes in the network performance to democratize the debate about the fashion productive chain.

Also, I will invite Daniele Martins, Coordinator of Inpacto's projects. Master's Degree Student in Global Governance and Formulation of International Policies from *Pontifícia Universidade Católica de São Paulo*. She works with subjects such as violation of human and labor rights in national and international productive chains for ten years.

I thank all the speakers. And, to start the work, I give the floor to Flávia.



Flávia Scabin: Good morning, everyone. First of all, I want to thank you for the opportunity to come and talk to you this morning and thank you Renato – a longtime partner – for the invitation and the entire organization.

At FGV, I am a Professor and coordinate an applied research center in human rights and companies, FGV-CeDHE, in which we have worked, among other topics related to companies and human rights, with the issue of supply chains and forced labor, which, in the nomenclature used by the International Labor Organization, incorporates slave-like work and child labor.

My proposal is to present two researches that are still ongoing in CeDHE, but that bring a series of relevant inputs to understand the challenges and opportunities to deal with forced labor and its eradication.

These two surveys are part of the Business and Human Rights agenda, and so I would like to start the presentation by addressing what is being discussed on the international scenario about holding companies accountable for human rights abuses, what this agenda means in terms of changes in paradigms for the companies' performance, and the obstacles to accountability of these companies for the impacts that they have caused not only within their workspaces, but also in their supply chains.

The Business and Human Rights agenda responds to a series of movements that started especially with globalization and the presence of multinational companies in all parts of the world. Often, the company's ability to influence a given territory is much greater than that of the states. A company such as the General Eletric, for example, has an annual revenue higher than Peru's GDP. Its ability to influence a territory, both positively and negatively, is huge and may bring a lot of abuses to the rights.

As a reaction to this context, the United Nations has demonstrated, over the last few de-

cedes, to establish parameters to be observed to fight human rights abuses that occur in the scope of business. In one of these initiatives, which included the appointment of John Ruggie as special rapporteur for the subject, the Guiding Principles on Business and Human Rights were established, in 2011. These principles aim to bring parameters to achieve the framework “Protect, Respect and Remedy”, created in 2008, under the rapporteur of John Ruggie.

These principles establish a series of guidelines in relation to the companies’ commitments to human rights. And what they define is a tripod, formed by: (i) the obligation of States to protect human rights, through laws and policies and inspection, (ii) corporate responsibility to respect human rights, through programs, instruments and actions aimed at causing no harm, and (iii) remediation of cases of human rights abuse by companies. The concept of remedy is more comprehensive than repair, meaning not only to ensure the full reparation of all damages caused, but also establishing principles, processes and channels that ensure the participation of the actors in the solution of cases of rights abuse.

This is a paradigm shift, since human rights have historically been created to fight and stop violations of rights committed within States against their own citizens.

In the case of companies, it is expected that not only they do not generate negative impacts, but they also should not contribute to cases of rights abuses. This is an important change in the fight against forced labor because the company is expected not to be omissive – and therefore accomplice – in terms of rights abuses with which it may be involved through its supply chain, “even when it did not contribute to generate them”.

In fact, there is a big change about what is expected of companies. If until 2011 it could suffice not to violate the labor law, the consumer code, the environmental legislation, today companies need to act to ensure that they not only do not violate but that they are not involved in cases of rights abuses in their chain actions.

And this is a conduct that must be observed in relation to all human rights ensured by the International Charter of Human Rights, the Universal Declaration, the pacts on civil, economic and political rights and all the main conventions of the International Labor Organization. And, as established by the UN Guiding Principles on Business and Human Rights, this is due regardless of the ability of States to enforce those rights. If the State was negligent in relation to the inspection of the working condition of the workers, mostly women, who died in the disaster of Rana Plaza, in Bangladesh, this does not mean that companies that made up the textile chain of sewing workshops located there did not have a duty of care and an obligation to respect the human rights of all workers, regardless of whether they are part of their staff or whether they are outsourced.

This means that the company’s responsibility to respect human rights, as established by the UN Guiding Principles on Business and Human Rights, extrapolates the bilateral working relationship and extends beyond the work environment, covering the entire length of the supply chain. A company may influence from the way the workspace is organized to the conditions to be observed by its suppliers, through the supply contract. What happens, however, is that much farther away is the rights abuse situation, considering the complexity of supply chains, the greater the challenge of ensuring that the company is not involved in cases of child labor or slave-like work conditions.

In a globalized world, supply chains are complex and spread across different territories and realities and knowing and controlling working conditions throughout the chain can be challenging. What is the company’s responsibility in these cases? This was a concern expressed by the Organization for Economic Cooperation and Development (OECD) in a letter addressed to the UN

Working Group on Business and Human Rights. In the response, the UN Working Group established that “corporate responsibility for human rights cannot be restricted to those violations that directly result from their practices and the casualty between the harm and the conduct that causes the damage cannot be the only factor to determine accountability: companies may also be held responsible for human rights violations arising from their operations and business partners. The exception would be when there was no relationship with the adverse impacts caused” (our translation)

In Brazil, the Federal Constitution of 1988, in art. 5, XLVII, prohibits the penalty of “forced labor”. The criminal law, in turn, condemns “to reduce someone to a slave-like condition, either by subjecting them to forced labor or exhausting journey, or by subjecting them to degrading work conditions, or by restricting, through any means, their locomotion, due to debt contracted with the employer or agent,” according to the Criminal Code, article 149. It is clear that I may be convicted if there are workers in a slave-like condition in my establishment. But how is the company’s responsibility that hires a supplier in which workers are found in a slave-like situation?

Answering this question was the purpose of a study that we carried out at FGV to identify in the jurisprudence: (i) if there were cases in which the company was held responsible for slave labor found outside its establishment, but in its supply chain, and (ii) which were the arguments used by the judging body to consider that the company would be liable in such cases. The research focus prioritized the textile sector. We found 13 cases, in the Labor Court, involving the liability of companies for the slave-like condition found in their supply chain, and there was no employment relationship between the company responsible and the workers who were victims of rights abuse. Although there is no specific reference in these cases to the UN Guiding Principles on Business and Human Rights, these precedents go in the same direction as the paradigm change contained therein, which is: “companies must seek to prevent or mitigate the negative impacts on human rights related to operations, products or services provided by their commercial relations, even when they have not contributed to generate them”.

In all these cases, the complexity of the business and the economic capacity of the company were considered as reasons to assume that it would be able to know and monitor the existing working conditions, and, therefore, it is reprehensible for not having acted. Among the reasons presented by the judges, the following were decisive issues for the decisions: (i) the degree of influence/economic dependence existing between the companies; (ii) the exclusivity of production; (iii) the same economic purpose between companies; (iv) belonging to the same production chain; (v) the absence of inspections to verify working conditions in the contracted companies, and (vi) the economic advantage that can be obtained from the practice of slave labor.

In another survey, our goal was to understand how companies react to this accountability and the actions they take to face the slave labor found throughout their supply chain. In this research, we surveyed all the Terms of Conduct Adjustment (TACs) signed in São Paulo related to the textile chain, to verify the type of solution adopted. This is an important verification since it is not clear, in the labor law, what is expected from companies involved in slave labor in their supply chains, what actions they must take to remedy or contribute to remediation, etc. Using the data mining technique, all the TACs signed in São Paulo were collected, among which we selected those that dealt with the textile chain and dealt with companies and the fight against slave labor in supply chains, a total of 35. These agreements were then analyzed with the support of the Nvivo software, which allows the identification of recurrences and associations between terms and concepts used.

In all these cases, the Public Labor Prosecution Office recognized the need to understand the

complexity of a chain and to go beyond the bilateral relationship existing between the contractor and the victim of slave labor, as a condition for him to exercise his role of seeking the eradication of slave labor. In relation to companies, the reasons presented in these documents resume the commitments they assume with corporate social responsibility and sustainability, to remember that it is necessary to act, in addition to showing and being transparent.

About 1/3 of the analyzed agreements considers that companies already carry out inspections (or due diligence) in their supply chain. If, on the one hand, this can be considered an advance, in the sense that companies, at the end of the chain, recognize their role in the fight against slave labor beyond their walls, it is important to consider that the companies that are part of these agreements have a very similar profile, with the majority being multinationals that practice retail. It is possible that this reality is very different if we consider the different situations and conditions existing in the sector.

In addition, if on one side it is possible to identify an innovation in the sense of recognizing the role of these companies in the fight against slave labor beyond their walls, on the other hand, it is possible to observe that the motivation to carry out these inspections is not in improving the chain conditions to promote better working conditions in its most vulnerable links, but in selecting, not hiring and excluding situations that put the leading company at risk of involvement with slave labor. This happened in all cases where inspections were mentioned. Hence, it is possible that we are facing a perverse effect of innovation – as the risk of slave labor is excluded, instead of supporting or influencing better working conditions along the chain, it will possibly increase the vulnerability of those who already are very vulnerable – most undocumented immigrants, protecting only the image and reputation of the leading company, by excluding them from the range of suppliers.

This way, I conclude by saying that it is important to recognize that we are facing a paradigm change, driven by the UN Guiding Principles on Business and Human Rights, as well as the relevance of the innovations brought by some companies, when looking at their supply chain. However, if we really want to tackle and eradicate human rights abuses, we need to go further and recognize that respect for rights by companies can mean using their ability to influence not to select suppliers that bring them less risk, but to promote better working conditions also in the most vulnerable links of their chains. Thank you.

João Paulo Dorini: I thank Professor Flávia for her words. We know that the historical evolution of human rights begins precisely with the opposition of the citizen to the State, but there is no doubt that it is essential that this paradigm be broken in the type of society in which we live. It was well put by the Professor, at the beginning of the approach, the great economic influence and, therefore, of power and politics, that the large conglomerates have. This type of discussion is indispensable today so that it is indeed possible to have an efficient fight in the elimination of human rights violations.

It is evident that we have a long way to go in this aspect in Brazil – Professor Flávia pointed out several problems – and I am concerned that, at this moment, public institutions to fight human rights violations are being routinely attacked in the country. We hope we can evolve and we will all be in this fight.

Leaving the academy view, which Professor Flávia brought us very well, and so we may have the vision of civil society and social movements, I will invite, in order, Iara Vidal, from Fashion Revolution.



Iara Vidal: Hello, good morning. My name is Iara, I am a journalist from Brasília, where I represent the Fashion Revolution. I will bring you the vision of fashion, which is a power. If fashion can have a negative impact, it can also have a very positive impact on our lives, and we must not lose sight of that. Because fashion goes beyond production – it is identity, memory, comfort, ergonomics, tradition, acceptance, politics, employment, dictatorship. Fashion is a force and it can be used both for good, to promote changes and inclusion, and for evil. And we have an environmental liability on a scale that we need to face up front.

The Fashion Revolution was created in response to a tragedy that occurred in 2013, when the Rana Plaza building in Daka, Bangladesh, collapsed and killed more than 1,000 people, in addition to injuring 2,500 others. The episode aroused the attention of social movements in the world. Today, Fashion Revolution is present in more than 100 countries. Always on April 24th, there is the Fashion Revolution Day, and, on the week of that day, several actions, lectures, workshops, debates are promoted, in several places around the world.

We wonder who made our clothes and why we need the fashion revolution. About 20% of water contamination comes from textile dyeing. Textile waste reaches 12 tons in São Paulo alone, an underestimated value because there is no count, although the country has a National Solid Waste Policy since 2012. In Brazil, 170 thousand tons of textile waste are produced per year. We talk a lot about cups, straws, but nobody talks about the clothes we wear. And Abit, ABVTEX and the entire fashion productive chain keep a poker face, as if they do not have anything to do, as if the textile were not garbage. But it is.

The global production of clothes has doubled to more than 100 billion pieces, that is, we are in a mad frenzy, consuming junk, because most are made of plastic, polyester. Approximately 16% of the pesticides and poisons used in the world are in the cotton we wear, which is the most commercialized fiber.

On the subject of this event, slave-like work, in Brazil, between 1995 and 2015, almost 50 thousand people were rescued from a slave-like condition, according to data from the Labor Inspection.

In the fashion and human rights relationship, after the accident at the Rana Plaza in Bangla-

desh, many activists went to the place and found labels from major brands. But it is an invisible chain. In the same way that we sometimes think that the chicken was born in the gondola, we think that the shirt was born on the hanger. But the T-shirt was not born there, it passes through a very extensive productive chain, which includes the cultivation of fibers, farmers and latifundia, people who transport this piece, dyeing, confection, the button that uses ore. So, as it is an extensive chain, it is very difficult to answer who made our clothes. And even if you know who made the clothes, I am not sure that you will know who wove that fabric, who did the processing.

It is a complicated issue that involves all of us, since nobody walks naked, we all eat and dress. So, this is not a debate restricted to the organs, enterprises, and consumers. All of us here are dressed, so we are all responsible.

After the Rana Plaza tragedy, it seems that a click occurred. Several initiatives emerged – some before, such as Fair Trade – and several social movements met on this issue of fashion. And we started a process that included several initiatives, including the Global Fashion agenda. But it must be emphasized that, despite the importance of any initiative that tries to minimize the impact of fashion, we need scale. We should not believe that fashion will change because of the Slow Fashion, the Upcycling. We need public policies, scale.

In addition, we have to turn on our GPS. Brazil is not Denmark, Brazil is not England, we have millions of unemployed people in the country. The job destabilization is very sad, but we have to remember that people need to survive, they need to pay the slips, they need to put food on the table. So, I am very careful not to demonize these initiatives, because people need to survive, which is very difficult. If the worker has a sewing machine, has a productive nucleus at home, we have to reflect on that. We are not in Europe, we are in Brazil, one of the ten most unequal countries in the world. And we must not lose sight of this when making our considerations.

Sometimes we hear the speech: “she does not buy a R\$10 shirt”, but both the R\$10 and the R\$800 shirt are in the same production chain and suffer from the same lack of transparency. Thus, it cannot be assumed that the responsibility rests solely with the consumer who is buying from a place that sells illegally. Now, sometimes, that is all he can buy. And this needs to be analyzed in the light of our social context.

The Fashion Revolution – they have already mentioned it a few times – created, then a transparency index, which was first launched in Europe, then in Brazil, in 2018. For this index, mainly abroad, they did an analysis of fast fashion. At this point, I want to say that fast fashion is not Brazil’s problem; the problem in Brazil is human trafficking, slave-like work, as you have seen here. Fast fashion is a problem in developed countries, in central economies. Not in Brazil, and here is the last complete productive chain in the West. In Brazil, when you discuss fashion, you are also discussing feminism, because at least 70% of the labor force are women, mainly peripheral, who are breadwinners.

In Brazil, this index of transparency in fashion revealed the top 20 brands, and not even eight scored. And the first step towards change is to know what you are dealing with, that is, there needs to be transparency, but today everything is very opaque. The index addresses social and environmental policies, implementation with its suppliers, goals to improve the impact, information that can be measured. I invite you to read the Fashion Revolution website, where we have all the methodology explained.

And a consideration that we must do is that a 4th Industrial Revolution is in progress, with automation, big data, internet of things, digital twins, which will create a gigantic contingent of unemployed people. And I say again that people need to survive. And you cannot stop the progress, which is here to stay, but from the point of view of the worker, we need to take this seriously, because people will not be able to survive, and fashion is the second biggest generator of first employment in the country, fashion is a force. It is not possible to just boycott fashion. And how will these people going to live? We need to find a balance.

For example, I believe we need, to review the metrics used in GDP, which I think is a joke, due to the concentration of wealth. And how do you distribute this wealth? What does it mean for a country to produce that amount of wealth if inequality continues to worsen? Chile is there to show us this in a very clear way, the “the big GDP” of Latin America and an absurd inequality. So, I believe it is time for the civil society to think about new social and economic models. Unfortunately, we are forcibly swallowing a neoliberal model that has not worked anywhere in the world, and which is aggravating problems that already existed, such as inequality, which will become unsustainable.

There is a movie that I suggest you watch, which is “Waiting for the Carnival”, available on Netflix, about Toritama (PE). I cannot stop thinking on this film because when you think about the fashion industry, you think about São Paulo. Toritama is a city with less than 30 thousand inhabitants, which accounts for 16% of the national production of jeans, but which does not have a sports court, a restaurant. And I think the workers there were brainwashed, because they believe that working countless hours a day is to own your own time, to be an entrepreneur. This movie is a portrait of that. But how can we get there and tell those workers that they cannot do that? Well, I am a mother, how many people here are mothers and fathers, and we do whatever it takes to support our children. If the person does not have a job, he will manage, he will become an entrepreneur. It is obvious that the question is not about what the person does, but about the system that allows this to happen. So, I invite everyone to see the movie and reflect on the reality, on the future of these people, who think there is no tomorrow, who will not retire, because they have no guarantee, neither social nor labor.

The motto of Fashion Revolution is “Who made my clothes?” and the movement brings many more things besides which is the pantone table, which is the fabric. We want to know the people behind those clothes, the carbon footprint left. We need transparency and information to change.

Here I also want to show my work as an activist and citizen, my blog *Consumo Consciente*, where I write about fashion, food and other issues. And I leave my contacts here. I want to thank Renato's and Lívia's invitation, thank you very much for the opportunity to pass on my message here.

João Paulo Dorini: Thank you very much, Iara, I think you brought a very interesting view of how reality is imposed in the face of all the theoretical and legal advances that have occurred. There is no point in having a beautiful text, all the declarations of rights, if it is not possible to apply all this to transform people's social reality. And this, in fact, is the objective of all those who work in the fight for the valorization and the concretization of human rights.

I now pass the floor to Daniele, from Inpacto, who will talk about data intelligence to fight against slave and child labor.



Daniele de Lara Martins Santoni: Where should companies with complex productive chains and suppliers spread across the country look more carefully and with attention to avoid cases of slave and child labor in their products? What is the set of factors that make a municipality and its population vulnerable to slave labor? In which places could public, private or third sector institutions expand their actions to help prevent and eradicate slave and child labor in Brazil? These were the questions that inspired the creation of the Inactivity Vulnerability Index. It is now possible to map the factors that make a municipality, a region and its population more vulnerable to slave labor or any other human rights violation and, based on the crossing and analysis of hundreds of socioeconomic and demographic data, establish a risk scale.

Each actor has a role in the fight against slave labor. The State's role is to inspect and protect Fundamental Rights, the civil society's role is to demand responsibility and transparency and promote conscious consumption, and the companies' role is to eradicate any type of exploration or violation of their production chains. What about Inpacto's role?

Inpacto is a nonprofit organization that mobilizes the different sectors in promoting Decent Work for 15 years, since the creation of the National Pact for Slave Labor Eradication. We believe that our contribution place in society is to mobilize companies and engage them by providing technical expertise to face the challenge in a more efficient way. In addition, we build bridges between the productive sector, the public sector and civil society, with respect to the differences and potential of the different actors, so that together we can move towards our common goal – the eradication of slave labor and the promotion of Decent Labor in productive chains.

Inpacto is aligned with the UN Sustainable Development Goals, mainly the SDG no. 8: Decent Work and Economic Growth, SDG no. 12: Responsible Consumption and Production, and the SDG no. 17, about the importance of partnerships for sustainable development. As a way of acting, we chose to change the logic of the problem to the solution, and we dedicate ourselves to the joint construction of paths that promote Decent Work in national and international productive chains.

The use of slave-like work in production chains is a global challenge. It is believed that there

are about 25 million workers subjected to these conditions worldwide. An estimate by the Walk Free Foundation, in partnership with the International Labor Organization, points out that at least 370 thousand people are still in this situation in the Brazilian territory.

Over the past 25 years, more than 53,000 people have been rescued from slave labor in Brazil. Even though this number is the result of a strong public policy to fight forced labor, which has become an international reference and boosted the maturation of the discussion on the subject in other countries, the challenge in the country is still immense.

The problem is complex, systemic and it is not possible to tackle it through isolated actions. On the contrary, it demands a great collective effort, with the involvement of companies, governments and civil society. Some obstacles hinder the eradication of slave labor in Brazil. It is worth mentioning two of them, which boosted the use of data intelligence to fight this type of violation in the country: (1) social vulnerability on part of the population and (2) lack of qualified information for decision makers to contribute for the prevention and fighting slave labor in the Brazilian territory.

(1) Social vulnerability on part of the population

According to the Institute of Applied Economic Research (IPEA), which published in 2018 the report “Social vulnerability in Brazil: concepts, methods and first results for Brazilian municipalities and metropolitan regions”, social vulnerability is understood as “susceptibility to poverty, symptom of poverty or even dimensions of poverty and complex situations of social malaise, such as unemployment, difficulty to access education and health, inadequate housing conditions, hunger and misery”. Such conditions are the biggest factors behind slave labor in Brazil, since they leave a significant portion of the population more susceptible to several ways of exploration. Therefore, locate slave labor in Brazil is also looking closely at these data.

(2) Lack of information for decision making

There is still a demand in Brazil for more information that helps to locate and measure the risk of slave labor in the country, so that it contributes to the decision making of companies that want to prevent this crime in their supply chains. The same goes for local governments and civil society organizations, to take action to reduce this vulnerability. For more than 15 years, the *Dirty List* has played an important role in making public the names of employers caught in slave labor. However, due to its nature, it has two limiting factors – it is the result of inspection operations and, as a consequence, it reveals only the slave labor caught.

It is estimated that the Labor Inspection will only be able to verify about 10% of the denounces that reach public agencies. In other words, the *Dirty List* is not an instrument that contributes to the measurement and localization of the problem in the country. In other words, it is not enough for a company that wants to know and mitigate the risk of slave labor in its businesses. There is still an aggravating factor – according to an ILO assessment, Brazil has a deficit of at least a third of auditors, which, added to the Brazilian territorial dimensions and consequent difficulties in displacement and information, and to the cuts in funds destined for inspection operations, makes up a scenario that greatly compromises the ability to identify cases of slave labor and workers rescue. With regard to child labor, there is no similar list.

Considering that slave labor is one of the most extreme forms of human exploration and that some of the main importing countries are creating increasingly stringent laws to charge preventive measures by companies against human rights violations in productive chains, and in the face of a scenario of rights reductions in Brazil, it is essential to improve the tools to fight slave

labor of the productive sector in the country.

Since 2010, salespersons or retailers who do business with the state of California and have gross worldwide annual receipts above US\$100 million must disclose – on their website or in writing – information about their efforts to eradicate people trafficking and slavery in their supply chains.

In 2015, a British law came into force that requires national and foreign companies, which do business with the United Kingdom and have a global annual turnover of more than US\$52 million, to declare, at the end of each financial year, the measures taken to ensure that there is no modern slavery in their businesses or supply chains.

In the same way, France approved, in 2017, the requirement of a “Surveillance Plan” to avoid violations of human rights and environmental impacts throughout its production chain. The law applies to companies with headquarters in its territory, which employs 5,000 employees on national soil or at least 10,000 employees worldwide (including through direct and indirect subsidiaries), and for companies based outside France, with French subsidiaries, if they employ at least 5,000 employees in French territory.

The most recent, complex and demanding legislation on this subject is that of Australia. Approved in 2019, it requires companies operating in their territory with annual revenues above US\$100 million to declare, annually and publicly, the entity’s structure, operations (and the entity’s supply chains), potential risks of modern slavery in operations (and supply chains), actions to assess and mitigate risks, including due diligence and correction processes, as well as how the entity evaluates the effectiveness of these actions.

In other words, companies that want to continue doing business with these countries will need to invest a lot in their Due Diligence processes, if they do not want to be subject to non-tariff trade barriers due to social issues.

Another big risk is running out of financing. In recent years, several movements in the sense of putting pressure on the financial sector (banks, pension funds, insurance companies, fintechs, regulators and others) to take measures against modern slavery and human trafficking are occurring at international level. An example is the “Liechtenstein Initiative”, a public-private partnership between the governments of Liechtenstein, Australia and the Netherlands, as well as actors and foundations in the private sector of Liechtenstein, which places the financial sector at the center of global efforts to end the modern slavery and people trafficking, in line with the 2030 Agenda.

In Brazil, the Public Labor Prosecution Office recently filed public civil actions against national and international banks for granting credit to employers who were on the *Dirty List*. The same pressure on companies has been made by investors. In 2011, shares of a fashion giant fell a lot on the Madrid Stock Exchange after denunciations of slave labor by a company supplier, in clandestine workshops in the state of São Paulo.

We know that the more complex a production chain is, the more vulnerable it is in relation to slave labor. And when discussing this vulnerability, we proposed another look – to identify, measure and locate the risk of slave labor based on the vulnerability of the local population. And there is no lack of data about this in Brazil!

To improve the prevention processes, create a common framework, optimize resources and efforts and bring agility, security and assertiveness to actions, we created the Inpacto Vulnerability Index. For months, we looked at IBGE’s data, including Multidimensional Statistics Bank,

Central Register of Enterprises, Demographic Census, Profile of Brazilian Municipalities and Survey of Basic Municipal Information. We studied other databases such as Dataprev, CAT, SUB, Entrepreneur Portal/Federal Government, MDS/SAGI, Rais and other bases of the Ministry of Labor (now the Ministry of Economic), we added the ILO's System of Decent Work Municipal Indicators, and we consider the data available on inspections and slave labor at the Digital Slave Labor Observatory (MPT and ILO).

We analyzed all these data and created weightings for the variables, dividing them into three groups: (1) sociodemographic and economic variables that help to build the municipality's economic and social context, but are little related to slave labor; (2) variables indirectly related to slave labor, which do not necessarily demonstrate a vulnerability, but rather a social fragility (e.g., the existence or not of public health facilities, culture, housing, urban development), and (3) variables that have high relationship with slave labor, as indicators of poverty and more critical social vulnerabilities, in addition to the history of slave labor, which includes data on the *Dirty List*, inspection and rescue operations.

This way, through quality information produced in a safe way from the crossing and analysis of reliable data, it is possible to unveil, locate and measure the risk of slave or child labor so that more efficient prevention and fight policies are created.

Do you want to know how this works in practice? Imagine a representative from the purchasing, sustainability or compliance area of a large multinational company dealing with hundreds or thousands of suppliers throughout Brazil. In the crazy pace of the commercial flows of the value chains, how to make sure that all the partners of the various stages of the production processes act responsibly in the hiring of their workers? On the screen, zip codes and CNPJs run all day. Behind these figures, life stories, and among them, some that may be marked by situations of extreme exploration, such as slave labor.

Now imagine that same buyer easily accessing an application that shows public data, from reliable sources, analyzed in real time and that indicates among all the cities where the suppliers are, which ones have a greater or lesser risk of slave labor, according to the vulnerability socio-economic status of its population. Furthermore, what is the weight of this vulnerability for each sector, what are the socioeconomic factors that are making workers more vulnerable, etc. With this type of information, companies will be able to make better decision when doing business and demand more responsibility from suppliers. In addition, it will be possible to involve local governments in the search for solutions that reduce the vulnerability of the population, through specific public policies for the identified vulnerability factors.

The first initiative around the Inpacto Vulnerability Index was formed between 2017 and 2018, with the support of JBS and the partnership with Agrottools. The demand for more information for decision-making was a recurring feature at Inpacto member meetings, and JBS was the first company to invest and bet in this idea.

In 2019, we developed a proposal for the coffee sector, with the support of Catholic Relief Services, the international humanitarian agency of the Catholic community in the United States, which at the time was a partner of Inpacto for a sector strategy.

In mid-2019, through a notice of the British Embassy, we managed to consolidate a test pilot of the Index Vulnerability with Brazilian and multinational companies. It was an opportunity to broaden the discussions around indexers, bring the company's strategy to look at the vulnerability of populations, and validate them with professionals who have the challenge to prevent

and tackle slave labor in the productive chains of corporations they represent.

Our next step, after a test run with the companies, is to validate the index methodology with a group of specialists in data, statistics and expert on the subject of slave labor. And, in parallel, to build a platform where index information is easily accessed by companies.

The Inpacto Vulnerability Index has already been presented to several national and international organizations, as well as in a public hearing of the National Congress. Since then, it has aroused the interest of several actors, once again highlighting Brazil in strategies to fight slave labor.

In 2019, Inpacto, which since its creation has acted in the field of fighting slave labor, approved in a meeting with its associates and by demand of the companies, the possibility of also acting in the fight against child labor in productive chains. For this reason, the subject of child labor has been incorporated into the Vulnerability Index, as well as in the other strategies of the institute. Thank you.

João Paulo Dorini: Thank you, Daniele. We will open now for questions. Doctor Fabiana Galhera Severo, from the Federal Public Defender's Office, has the floor.

Fabiana Galhera Severo: Good afternoon, everyone. I greet the speakers, the presentations were very good. In fact, we had two days of presentations and enriching content. My name is Fabiana Severo, I was at a table yesterday. I am a Federal Public Defender. My question is directed to Professor Flávia, it is a pleasure to meet her in person. I already knew her through her work of the human rights group and companies at FGV. And my question is motivated by the fact that I represent the Federal Public Defender's Office in the National Council for Human Rights, as a counselor, and in which I held the Presidency in the second year of the last biennium. At CNDH, we had a work that touches on the subject of human rights and companies, for some time now, from the perspective of the affected communities, given the vocation of the council, which receives them in plenary sessions, in actions, and also goes to missions throughout Brazil to dialogue directly with these collectivities.

In 2019, the subject of human rights in companies, since the edition of the decree last year, has concerned us, due to the prospect of adopting a plan designed without the direct social participation of the communities historically involved in the fights for rights and without taking into account the achievements we obtained in the Brazilian legal system, whether in law in the strict sense, such as in the legislation on slave labor and environmental legislation – and Brazil has more advanced legislation than the guiding principles – whether in the incorporation of international treaties. And of those treaties, I specifically quote ILO Convention 169, on the right to consultation. Or even in more advanced jurisprudence.

The research group has been talking directly with the government in some constructions. For example, there was a seminar on human rights and companies at the CNDH in August, bringing together several collectives – Justice on the Rails, *Maroons*, *Livre Barcarena*, indigenous people, anyway, people who are on that side, who see themselves as not there, not being called to dialogue in these government spaces. Then, in October, there was another seminar on business and human rights, which had some dialogue with the FGV research group. And that is why my question is from this perspective: these two issues are on the group's radar – direct social participation of social movements and the concern with the adoption of a plan, or standardization, which at this point means return in relation to rights acquired in our legal system? Thank you.

João Paulo Dorini: Thank you. Luís Alexandre, please.

Luís Alexandre: I will complement Fabiana's question, asking Flávia to comment on an experience that the Labor Inspection in São Paulo had, perhaps the first most in-depth, in this fantastic world of governance in human rights in multinational companies. It was a specific and recent case in 2018 in the food industry, in which the Slave Labor Eradication Program focused on the mechanisms of two large multinational food companies, two of the largest in the world, which had very robust rights governance programs in human rights. But they failed very badly, allowing situations of exploration of slave-like labor to occur in the distribution line of these foods. I would like you, Flávia, to comment the failure in the previous diagnosis of these governance systems, by not bringing potentially dangerous activities to the radar regarding the issue of human rights legislation. For example, in the specific case of these two companies, and not only in the branches in Brazil, but in other countries in which these companies operate, and even in their headquarters in Europe, they did not treat the distribution activity as an activity in their value chain. So, on one side of the core business, everything was very well done, but on the other, it was an MMA for the distribution to occur. I also want you to comment on the importance that the Public Labor Inspection could have in pointing out this type of failure.

João Paulo Dorini: I will also pose a question, extending it to the other speakers, Iara and Daniele. In the current context of state omission in the fight against human rights violations, how do we act to convince both suppliers and consumers about the importance of an effective agenda of conscious consumption? If the state itself indicates that it has not any violation occurring and it is all right, how do we make that agenda come indeed to those entities and consumers?

Any other questions? Please.

Carmelita: My name is Carmelita, I am from the Union of Seamstresses. In fact, I just wanted to make a statement. We have 7.5 thousand companies registered in the union, which supply to large department stores, and have the ABVTEX seal. To produce for large department stores, you must have this seal. But we also must concern about those companies that do not produce for the large department stores, and they have precarious conditions, even with all the work of the Labor Inspection, which gives us a lot of support. So, I thought your presentation was really cool, Iara, because we also have to take a look at these workshops, where there are not only Bolivians, but Brazilians as well. In addition to slave labor and precarious force labor, our sector registers immense moral harassment.

In relation to Pacto and its ten years, which we are discussing here, I believe that we have to continue this work, with greater attention on companies that do not produce for large department stores.

João Paulo Dorini: Thank you for your collaboration. We will close for questions with Livia.

Livia dos Santos Ferreira: I would like to ask two questions. For Iara, I ask you to complement what Dorini talked on the issue of conscious consumption. I am very uncomfortable with this speech of conscious consumption. I see many events raising the issue of consumer responsibility, but, frankly, this discussion does not make sense in Brazil because of the lack of transparency in the production chains here. For me, trying to make the consumer responsible is somewhat similar to trying to make the slave worker responsible for having gone to that degrading job. And the consumer also needs to save money, most people receive a salary. So, my question is: what is the transparency index that the consumer receives from the chains, to really be able to adhere to conscious consumption?

The next question is to Flávia. I would like to know from her which is the possibility of this re-

search being extended to the subject of the TACs effectiveness, to answer the following question: in what terms do TAC clauses really cause a change in the reality of the labor world? And not just the formal aspects of TAC. Because what I see in practice are many TACs and the Public Labor Prosecution's Office depending on whether the Inspection verifies if the TAC was met, if it was effective. So, in fact, without the inspection verification, the MPT has no information about the effectiveness of the TACs themselves.

João Paulo Dorini: Thank you, Lívia. This issue of conscious consumption is interesting because it is not possible to simply bring concepts applicable to other types of societies and cultures and want to internalize them as if they were absolutely applicable to our reality. Therefore, it is also necessary to think about how to bring the consumer into some form of responsible participation within consumption. First, I will pass to Flávia, who will start to answer.

Flávia Scabin: Thank you for all the questions. I will start with Fabiana's question. It is also a pleasure to meet you in person, I follow your performance at distance and seeing you here is very good. I think you have two questions within the question asked – the first, the question of national plans, and then, the non-implementation of the guiding principles with the participation of the victims of the violations.

Firstly, we are also concerned with the issue of the voluntariness of the decree, and what the United Nations has been asking is that we need to advance in mechanisms that are voluntary, but also, especially, in mechanisms that are binding. The UN even created a concept, called Smart Mix, which is the best scenario that we are observing. It consists of charging both reputationally and bindingly. And we have seen that, in Brazil, the binding aspect is retreating, which also concerns us. The decree, assuming that the guiding principles are a voluntary commitment, poses a problem that we need to put on the table and discuss.

Regarding the plans, you are right, Fabiana. We did a survey. I think in 2013 or 2014 – it is published on our website in Portuguese and English – and at that time seven national action plans about companies and human rights were made. And our research looked at the texts of those plans, but it also included interviews with people who participated in the governments of those countries in the plan and with relevant civil society actors who were monitoring those plans. And I think your concern is supported by all of them. We are still talking about the first plans, European, whose reality may even have a series of violations, but it is very different from ours in terms of scale. As was said here, Brazil has a reality of violation and a much greater risk. Even in relation to these plans, what is presented as criticism refers not only to the non-participation of the different actors involved, especially the victims, but also to the question of language, which was much more a language of corporate social responsibility, of saying that the company had a social action, but with little charge. In this report that we publish, there is a series of criticisms, regarding what not to do, the lessons learned and what are the examples that Brazil should not follow. So, in fact, it is necessary to demand that the country does not follow these examples in an action plan, because it will add very little to the fight against violence.

In this sense, in the previous government we were called to make an action plan. And our response was to refuse and say that if the country were to make an action plan, it would be better to make a baseline assessment, better understand what the violations were, understand the risks, consult the affected actors, throughout Brazil. And this is something big, it cannot be done in one or four months of work, there has to be a lot more time, because access to information and consultation has to be taken seriously. So, instead of a plan, we did the document

“Implementing the guiding principles about business and human rights,” with a lot of criticism and considerations on the reasons for the need to be consultation and transparency, and participation of victims and potential victims of violation of human rights by companies. I bring this reference to say that we are on the same side.

In relation to this last event, our participation was motivated by an invitation from the United Nations High Commissioner for Human Rights (OHCHR), who asked us to carry out a technical review of the translation of the document into Portuguese, because, despite Brazil having adopted the guiding principles on companies and human rights in 2011, until recently there was no official translation into our language, which compromised the access to the document. So, an official version was made in Portuguese and the High Commissioner asked us to carry out a technical review, in which we take care to bring concepts of human rights and look to that, to go far beyond corporate social responsibility. That was our big mission, and a lot of what we put in has gone – I do not know if the government made a review.

But I agree that this should have been done at an event with all the actors involved, especially the victims and the possible victims of violation, because I believe that we really need to listen to them, and it is a huge challenge to do that. We know how much we need to progress in the implementation of ILO Convention 169, and how much it is not observed in all policies and projects of infrastructure, mining, and other areas.

Regarding Luís Alexandre’s speech, we did know about this case, yes. I will bring here information from another research, which is also ongoing – Rafaela is one of the main researchers on this front – to corroborate what you brought, Luís. When the principles were approved, they not only brought the new paradigm of saying that companies need to respect human rights, and that this is far beyond the bilateral relationship that it can have, and this is far beyond just looking at the workspace, which needs to consider chains, and also the surroundings of operations, but they brought a series of tools of risk prevention for companies.

The principles brought a new framework that says that the company is involved not only in a causal relationship – which is a technical-legal term – but also because it can contribute or be connected to a violation, and these three cases become accountability cases. And we see that this is still little observed and stated. But I believe there is an opportunity to increasingly bringing to practice these new concepts, which are already established under the guiding principles. These principles also brought some tools – the assessment of impacts on human rights is one of them, and due diligence on human rights, which the impact assessment integrates, is another. They will point out that it is necessary to respect human rights and ensure that the company is not involved in any violation. And they will point out that the company needs to carry out an impact assessment, checking the different actors, especially the victims, and to be supported by effective actions within the company, in an integrated manner. There is no point in having a diagnosis and nothing be done. Companies need to monitor and be accountable, in a transparent and public way.

I believe that we need to go a long way, because there is no demand for accountability here. In this same event, the example of ABVTEX was given, which has a very interesting initiative, to collect certification and carry out inspection, but which is not public. So, if companies increasingly make their risks public, it will make a big difference. And why am I talking about transparency? Because perhaps requiring transparency is the way to fight cases of violation.

In another survey, which I announced here, we are monitoring the sustainability reports, un-

der the GRI format, of the 50 largest companies operating in Brazil, over the past five years. In these reports, the companies say what they do for human rights. Analyzing these documents, our focus is on understanding what they have stated about the chain. And it scares us to see, for example, that, of these 50 largest companies, very few talked about the chain. And, in fact, the companies do not look at the issue of distribution that you mention, Luís, it is an area that is not reported. Anyone who knows a little about GRI knows that it is necessary to look at the most severe damages and risks indicated there and, once it is understood the most severe damages and risks, it is necessary to report them.

Among these largest companies, there are agribusiness, mining, banks, all sectors that involve and influence many chains. If most do not deal with chains, there is a problem. And we need to start to understand that risks or severe impacts cannot be just what they want to report for having done an interesting social action. At this point, I bring another observed data – of the actions registered by companies in human rights, 80% have no relation to their business. Thus, when Luís talks about core business, we understand that he is talking about the need to address the real and potential risks of violations, only after there is accountability for the actions of a certain company.

We hope that, with this research, and also with a greater demand for transparency, we can understand that we need to change the course a little and look at the fact, how the business is impacting or not, and not for the company's social actions. And that is a paradigm change in social and corporate responsibility, in sustainability for human rights and companies, which means very different things and that we need to start putting this on the agenda.

When we started doing research that shows which are the judicialized cases, how they have been charged, we are pointing out that it is necessary to go beyond what is voluntary, if we really want to change a reality. And I agree with what Lívia brought, about the need to go further to demand effectiveness. This is a survey that started now, with a small sample, only in the municipality of São Paulo, but that will certainly look at effectiveness, look for indicators to evaluate the effective changes in the municipality after some years, because these companies have a huge capacity to influence cities. These, I think, are the next steps, and it takes a lot of breath and a lot of people to do all of that. Thank you.

Daniele Martins: Answering your question, Dorini, I would complement what Flávia brought in her presentation on international legislation. These laws have increased over the last ten years, and from there can come the strength to change reality in the internal context of the setback in which we live.

This shows how, in the international debate on human rights and companies, this rigor is evolving, it is a trend. And many companies do business with these countries, we are talking about Europe, the United States, Australia, and global value chains. Thus, it is imperative that our multinational companies look closely at this. And our vulnerability index initiative aims to bring standardized, legitimately evaluated tools that allow the construction of collective action to identify and mitigate these risks.

Iara Vidal: Talking about conscious consumption – I will even control myself a little, because I am vintage – I believe in participative democracy, in all this construction. To be quite honest, I see with caution the business initiatives, because I believe that the State is the one who should do this mediation. In relation to conscious consumption, to me, after voting, it is the most important tool I have of citizenship. I believe that the decision about my money – what, how and

where to buy – is the way to really change the world.

But I do not know how to promote conscious consumption. I believe that the path goes through the construction of public policies, not only of accountability, but of people's awareness. And always remembering that we are Brazil, not Denmark, which means that we have a specificity of our own. In addition, in relation to conscious consumption, the process of gentrifying this access bothers me a lot. There are several brands out there called sustainable, but very expensive. I wonder to whom are these brands selling. So, I think that conscious consumption starts with how much a person can pay for the goods.

I will tell you what I do. I, Iara, give my money to my "sisters", help my friends to pay the bank slip, I buy from those I know. And I will not necessarily be able to know how these goods were made. This here [showing the clothes she is wearing] I bought from another Iara, from a specific brand, this piece is from a friend's store from a brand here. I love going to a shoemaker, going there and fixing my shoes, instead of buying new ones. But I believe that there is no formula. I cannot reach out to the other and impose how he must consume. We consume what our reality allows us, and conscious consumption goes through an exercise in citizenship. There are stores where I do not go, to which I do not give my money, which I do not want the pieces of, even if they are being distributed, but this is the personality of each person.

Anyway, I do not believe in good companies, but I believe in an active citizen. I charge whoever I elected with my vote – when I am lucky to elect someone – I want my citizen agenda. And I am interested in the fashion that is made on the periphery of my city. I believe that my way of buying is also a way to contribute to tackling inequality. So, I buy from who I think needs. This is it; I hope I answered. Thank you.

João Paulo Dorini: Thank you. With that, we closed the last table of our journeys. I now give the word to Livia, who is going to close the event.

Closure



Livia dos Santos Ferreira: I really appreciate the lecturers of the last table, which was amazing, and all the people who participated and accompanied the event until the end.

I am pleased for being part of the journeys' organisation, together with all institutions that marked their spot here.

I also want to praise the multi-sector initiative of this event, which was fantastic. We all have a glass roof, but still, we are all open to receive criticisms and dialogue. We had the union, government, business entities, civil society, academy, which shows the level of maturation and how it is important to continue the discussion and the improvement of Pacto, to increment the sector and create more ways of performance.

Thank you and I consider the event closed.

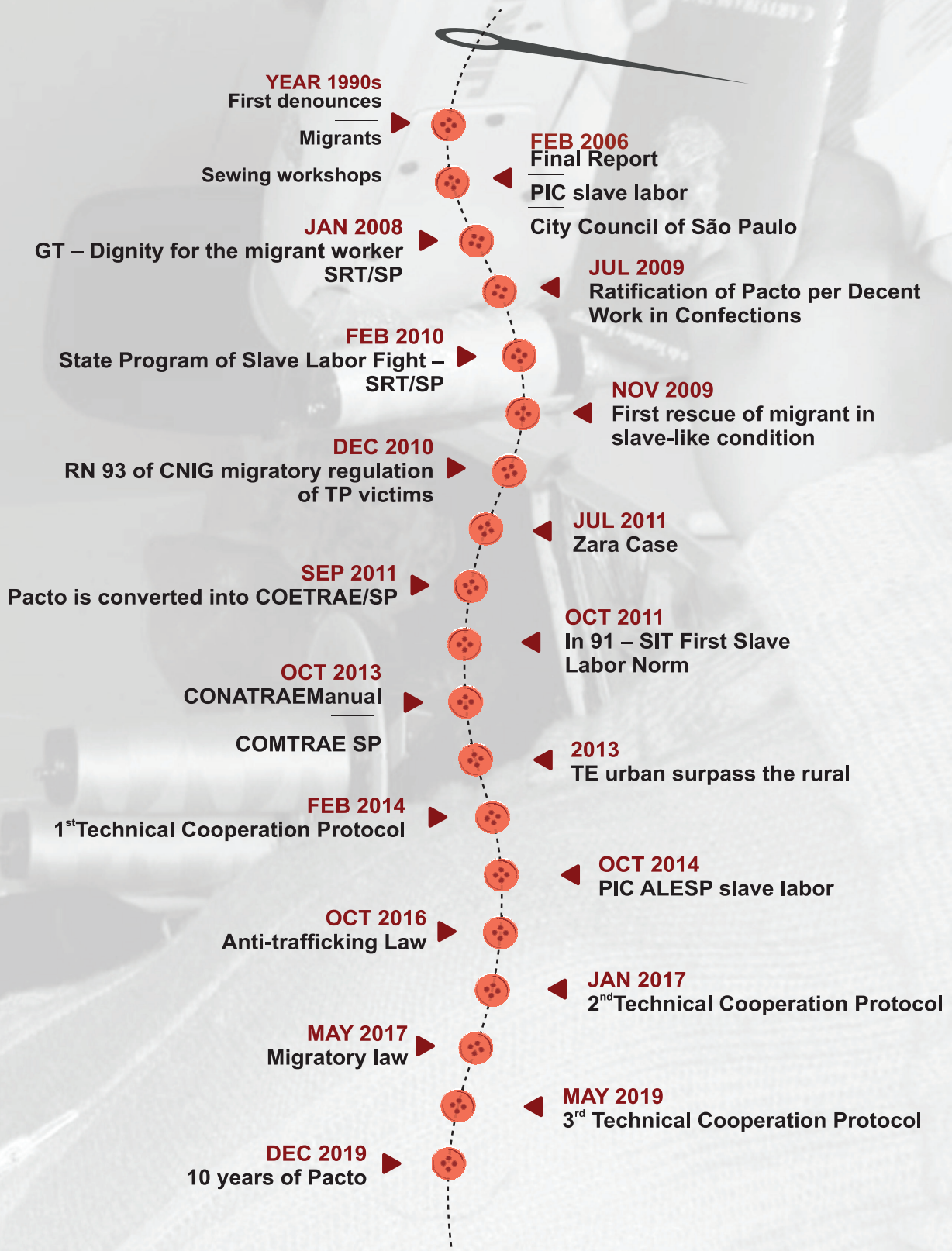


Organizing team of Pacto's event

TIMELINE –POINT TO POINT

History of Slave Labor Fight in São Paulo

10 Years of Pact Against Destabilization and Decent Work in São Paulo



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Cover Picture: Victim of people trafficking and slave-like conditions in a sewing workshop located in the East Region of the city of São Paulo. The female Peruvian worker was confined, she was abused, received amounts lower than the minimum legal, she was deceived about the labor conditions offered in the Peruvian meridional region of origin – and she was rescued from this situation by the Labor Auditors from the State Program of Slave Labor Eradication in São Paulo - Picture: Sérgio Carvalho, Sub-secretariat of Labor Inspection/Division of Slave Labor Eradication.