

The National Pact to Eradicate Slave Labour in Brazil: A useful tool for unions?

by Lisa Carstensen & Siobhan McGrath

In 2012 two major clothing retailers, the Spanish group Zara and the Brazilian retailer Marisa, were suspended from membership of the “National Pact to Eradicate Slave Labour.” In both cases, the suspension occurred less than a year after the firms became members in the first place. As members of the Pact, they had pledged to eliminate slave labour from their supply chains. These cases generated a major debate – about forced labour in São Paulo’s clothing industry but also about the Pact itself and, linked to this, about the “Dirty List” of those found to be using slave labourⁱ.

So how does the Pact work? Is it a model for other countries committed to the fight against forced labour? Is it useful for the trade union movement? What are its limitations? We argue below that the Pact is a powerful tool which has been used to make progress in the ongoing fight against forced labour. Before explaining how we come to this conclusion, however, it is necessary to provide a short overview of the institutional and legal context of the Brazilian struggle against slave labour.

Why is there a Brazilian Pact to Eradicate Slave Labour?

The ILO Convention No. 29 defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” Brazilian law prohibits “reducing someone to conditions analogous to slavery.” Submitting someone to forced labour is explicitly defined as one means of doing so. However, exhaustive workdays and degrading working conditions are also referenced. In practice, most cases of slave labour could be classified as forced labour. In what follows we therefore use the term “slave labour” when making reference to the specific Brazilian discussion. Migrants in particular – mainly Brazilians who seek work within the country, but also transnational migrants – are trapped in debt. This may involve labour contractors, and/or the truck system involving company stores in isolated locales. In some cases it may involve threats of physical harm by armed guardsⁱⁱ.

Modern slave labour is mainly practised in rural economic activities such as cattle-ranching, deforestation, extractive industries, charcoal and ethanol productionⁱⁱⁱ. Slave labour has also been observed in São Paulo’s informal clothing industry involving Latin American immigrants working and living in small sweatshops under extremely precarious conditions. Recently, slave labour has also been reported in the construction sector^{iv}.

Responding in part to decades of activism and advocacy around the issue, the federal government, with support from the ILO, created the National Commission to Eradicate Slave Labour (CONATRAE) in 2003. The first and second National Plans for the Eradication of Forced Labour (2003 and 2008) included a set of public policies such as labour inspection through Special Mobile Inspection Groups, prevention and labour market reintegration programmes^v. As a result, the MTE reports that 40,000 workers were found and “rescued” from forced labour between 1995 and 2011^{vi}.

As part of these efforts, the Ministry of Labour and Employment (MTE) also began compiling and publishing a “Dirty List” of firms and individuals who have been found to use slave labour. Supported by the ILO civil society organizations (Instituto Ethos, Instituto Observatório Social and NGO “Reporter Brasil”) launched the Pact in 2005. Organizations and enterprises that form part of the Pact commit themselves to not collaborating with companies, farms or individuals named on the Dirty List (e.g., by using them as suppliers, or in the case of banks, extending credit). The National Pact is therefore a potentially powerful economic sanctioning mechanism. In order to identify labour rights infractions in the supply chains, a set of sectoral research projects is carried out by the NGO “Reporter Brasil”.

It maps out the business links between the entities on the Dirty List and their buyers. On this basis signatory companies can be informed about their own links in the production networks. The voluntary use of the Dirty List works because enterprises are confronted with evidence of slave labour in their supply chains and the threat of going to the press. They are thus compelled to respond to such allegations.

Innovations, Advances and Limitations of the Pact

The Pact was launched in an effort to make slave labour unprofitable. Efforts to combat slave labour in Brazil had previously been plagued by issues of impunity and powerful resistance by the rural lobby. The Pact is a tool which can penalise companies that use slave labour more efficiently and quickly than the courts.

The Pact is therefore not a ‘solution’ to this problem, but an innovative tool. Tools are important. It can be very hard to get a job done without the right tool, so they have to be used. The Pact will not solve the problem itself, but it can

be of enormous benefit to those who are trying to make a change.

As an instrument it should be understood in conjunction with overall labour market regulation and labour inspection. Fundamentally, the Pact has to be seen as an extension of the Dirty List. In contrast to other labour rights initiatives, campaigns do not tend to be initiated by workers' strikes or other mobilisations. Rather, state interventions concerning human right violations are the catalyst.

Due to the nature of slave labour, the instrument tends to be used in situations where trade union activities are weak or non-existent and workers' organisational power is extremely low. Slave labour relations only become visible at the moment when they are denounced to authorities by workers themselves or third parties such as trade unions, the Catholic Pastoral Land Commission or migrant rights' organisations. During intervention, authorities usually "liberate" or "rescue" the workers and initiate legal action against the employer. In this regard, a limit to the National Pact is that it is to some extent reactive rather than pro-active.

Initially, companies can sign the agreement without taking on much responsibility. Often this only occurs after labour inspections discover slave labour. Once the agreement is signed the costs can become very high the moment that (further) problems are identified within the companies' supply chains. The Pact is innovative in its vision of shared responsibilities for labour rights violations, not only within companies but the whole suppliers and outsourcing networks. It therefore goes beyond the national legislative framework and functions as a transnational instrument which can strike at a company's key asset, its public image.

Smaller brands, however, are less vulnerable to attacks on their image, and in the case of São Paulo's garment industry, this appears to be a significant portion of the market. The semi-formal nature of the garment industry poses a further problem. Buyers may easily find another supplier not yet subject to labour inspections and the extent to which they carry out monitoring of their supply chains varies significantly by sector and by firm. More generally, the Dirty List itself is under constant legal challenge and many companies have managed to obtain injunctions preventing their names from appearing on it.

The broad consensus that slave labour is unacceptable provides legitimacy to the Pact. However, the focus on the most extreme labour right violations risks isolating these from the wider landscape of labour rights and the power relations which structure these. Therefore it does not *automatically* strengthen workers' movements, trade unions or social movements.

The cases of the exclusion of Zara and Marisa show the necessity and the power of impact of the Pact. At this level it replaces the slow penal judgements and is able to exert pressure on transnational companies. But this does not *necessarily* improve

workers' bargaining power in the respective sectors. In order to empower workers and translate this pressure into something more lasting, the struggles of social movements, trade unions and migrant organisations are crucial.

The Pact can of course provide a starting point for a more general debate about labour relations and regulations. Can the issue of slave labour be integrated into a broader struggle for decent work and its socio-political conditions? In the Brazilian case, social movements are recognising that slave labour needs to be tackled from multiple angles - the labour inspection model but also supply chains, migration, and land reform are important. The annual immigrant march in São Paulo addressing "Decent Work and Universal Citizenship" as well as the recent unification of organisations working towards land reform are emblematic of this continuing progress. Their strategy of embedding the struggle into a broader political context is something trade unions and social movements elsewhere can learn from^{vii}.

- i For a compilation of news reports see <http://www.reporterbrasil.org.br/pacto/noticias/view/427> and <http://www.reporterbrasil.org.br/pacto/noticias/view/422>
- ii Esterci, Neide. 1994. *Escravos da desigualdade: estudo sobre el uso represivo da forca de trabalho hoje*. Rio de Janeiro: CEDI/ KOINONIA; Phillips, Nicola, und Leonardo Sakamoto. 2012. „Global Production Networks, Chronic Poverty and ‚Slave Labour‘ in Brazil“. In: *Stud Comp Int Dev*; Rezende Figueira, Ricardo. 2004. *Pisando fora da própria sombra: a escravidão por dívida no Brasil contemporâneo*. Rio de Janeiro: Civilização Brasileira.
- iii Théry, Hervé, Neli Aparecida Mello, Julio Hato, und Eduardo Paulon Girardi. 2012. Atlas do Trabalho Escravo no Brasil. Amigos da Terra - Amazônia Brasileira: (<http://amazonia.org.br/wp-content/uploads/2012/05/Atlas-do-Trabalho-Escravo.pdf>) p. 37.
- iv Bastia, Tanja and Siobhan McGrath. 2011. „Temporality, Migration and Unfree Labour: Migrant Garment Workers“ (http://www.socialsciences.manchester.ac.uk/PEI/publications/wp_documents/BastiaamdMcGrathunfreepaper.pdf)
- v This year the PEC 438/2001 do Trabalho Escravo was approved by the Brazilian Chamber of Deputies. This law would allow the expropriation of land without compensation in case of use of slave labour. However, it is still waiting for approval in the Senate. For more information see the campaign site: <http://www.trabalhoescravo.org.br/>
- vi Source: Ministério de Trabalho e Emprego: Relatórios Específicos de Fiscalização Para Erradicação do Trabalho Escravo online available at: http://www.mte.gov.br/fisca_trab/resultados_op_fiscalizacao.asp
- vii Mobilization pages: <http://cami-spm.com.br/> and <http://encontrounitario.wordpress.com/declaracao-do-encontro/>

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