



Brazil's fight against slave labor under attack

by Renan Bernardi Kalil

Brazil officially recognized the existence of slave labor within its boundaries in 1995. In that year, the Brazilian government began to design public policies to face that basic human rights' abuse and the most significant measure adopted was the creation of a Special Mobile Inspection Group, under the Ministry of Labor, responsible for inquiring employers who allegedly used slave labor. The Special Mobile Inspection Group, formed by labor inspectors (civil servants of Ministry of Labor), prosecutors (members of the Federal Labor Prosecution Service) and police officers, aimed to go in-site and free workers from that situation while punishing employers for their wrongdoings. Since 1995, around 50,000 workers have been freed and more than 4,000 properties have been inspected.

In 2003, two relevant legal improvements came into force and strengthened the work developed by the Group. The first one was the Penal Code's reform to strengthen slave labor's concept. According to Article 149 of Penal Code, slavery is defined as forced labor, debt bondage, degrading conditions that violate human rights or over work that threatens workers' health and safety. The second one was the creation of a public list of names and information about companies that were caught using slave labor. This simple listing, known as the "dirty list", has raised awareness on the general public and block those employers from receiving government loans for two years. It was published through a ministerial ordinance and released each semester.

In 2014, another important step towards the eradication of slave labor was achieved. The Brazilian Congress has approved an amendment to the Constitution in order to allow for land expropriation from employers who were convicted of enslaving workers. All those Brazilian policies to fight slavery were pointed by the International Labor Organizations as an example to be followed.

However, all the progress achieved through decades of sound policies, embodied by different governments, seems to be at peril. On one hand, the agribusiness lobby has been pushing for new legal definitions of slave labor. Their main goal is to narrow the definition to the extent that it is practically impossible to characterize modern slave labor. Unfortunately, we are at a point where there is enough political support in the Congress to approve one of these new proposals.

On the other hand, the publicity of the slave labor "dirty list" is also threatened. In December 2014, Supreme Court Justice Ricardo Lewandovski ordered the Ministry of Labor to suspend its released. The decision was an answer to an injunction filled by Brazil's Real Estate Developers' Association (ABRAINC), including the largest construction companies in Brazil, that challenged the constitutionality of the list.

During 2015, labor inspectors discussed a new design for the list aiming to conform it to the issues raised by Supreme Court's order. As a result of this process, the ministerial ordinance questioned by ABRAINC was revoked and a new one was launched in May 2016.

At that same month, Brazil's senators have voted to admit the impeachment process of Brazil's President Dilma Rousseff, over financial maneuvering allegations. In August, Vice President Michel Temer took over for the remaining time of her term.

Despite the fact that both Dilma Rousseff and Michel Temer were elected on the same ticket in 2014, he has been scaling back many of public policies put in place by his antecessors, and nominated Ronaldo Nogueira, a Congressman with no previous involvement to labor issues, for the Ministry of Labor.

Since Ronaldo Nogueira has been appointed as Minister, nothing had been done to release the "dirty list" under the rules of the new ministerial ordinance. Due to the government's omission, the Federal Labor Public Office ("Ministério Público do Trabalho" or MPT) – responsible for enforcing labor law in a collective perspective - filed a lawsuit against the State of Brazil, arguing that the Ministry of Labor – responsible for labor policies in the Executive branch - was not complying its own legislation and that it is a government's duty to release the "dirty list".

On December 19th, 2016 a labor judge granted a preliminary order to the MPT requiring the Brazilian State and the Ministry of Labor to release the "dirty list" in 30 days, arguing that the government's omission should not be accepted and that the Minister's procrastination undermines Brazil's public policy to fight against slave labor.

However, trouble remain at the horizon. Another worrying event took place last Friday, on January 13th, 2017, when the Federal Government announced a replacement on the board of the Coordination of the Standards Department and the Appealing Department, in charge of applying fines for labor violations. The new nominees are not from the Labor Ministry' technical area and many commentators see this movement as to please political allies of the President, which might suggest that they are more exposed to external pressure in order to review fines applied to employers due to labor violations, including slave labor.

These last developments – the attempts to undermine the concept of slave labor, the lack of interest of the government to release the "dirty list" and the political control over technical areas of the Ministry of Labor – suggests, perhaps, that in a very short time, Brazil will be pointed as an example of what not to do to eradicate slavery.

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