

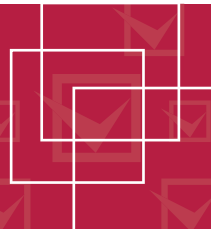


International
Labour
Organization

THE GOOD PRACTICES OF **LABOUR INSPECTION** IN BRAZIL

THE ERADICATION OF LABOUR ANALOGOUS TO

Slavery



Secretariat of
Labour Inspection

Ministry of
Labour and Employment

ILO Office
in Brazil
Labour Administration
and Inspection Programme

THE GOOD PRACTICES OF LABOUR INSPECTION IN BRAZIL:

The Eradication of Labour Analogous to Slavery

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PREFACE

The existence of an efficient labour inspection system, capable of facing the challenges of an increasingly complex and changing society and productive system is a central element for the promotion of decent work. A properly functioning inspection system is vital for guaranteeing the effective enforcement of labour legislation and the protection of workers. Labour inspection increases the effectiveness of labour and employment policies, contributing to social inclusion through work and, consequently, broadening citizenship. Labour inspectors are agents of the State who work with the concrete and quotidian reality of labour relations and conditions, directly contributing to the promotion of decent work for all.

The creation and strengthening of labour inspection as a fundamental instrument for guaranteeing labour rights has been a constant concern for the International Labour Organisation (ILO) since its inception in 1919. In 1947, the ILO adopted Convention No. 81 concerning Labour Inspection and, in 1969, Convention No. 129 concerning Labour Inspection in Agriculture. In 2008, with the Declaration on Social Justice for a Fair Globalization, these conventions became a priority and were acknowledged as some of the most significant International Labour Standards from a governance point of view. This process culminated in 2009 with the launching of the Labour Administration and Inspection Programme (LAB/ADMIN).

The Decent Work Hemispheric Agenda (DWHA) and the Brazilian Decent Work National Agenda (ANTD), both launched in 2006, as well as the National Plan for Employment and Decent Work (2010), and the state-level agendas for decent work (in the states of Bahia and Mato Grosso), acknowledge that the role of labour inspection is essential to improve labour conditions and relations.

The Brazilian Federal Government, through the Ministry of Labour and Employment (MTE) and the Secretariat of Labour Inspection (SIT), acknowledge the crucial role of labour inspection services and, throughout the years, has worked to constantly strengthen it, adapting its services to new realities and providing solutions to new challenges with vigour and determination.

The ILO acknowledges that Brazil is well-suited to share its good practices with other inspection services. A good practice is every experience that, in its totality or in part, is proven to work with a positive impact. The good practices of labour inspectors' interventions reflect not only the enforcement of the law, but also practices, often creative and innovative, capable of providing legal and technical solutions that also work as positive incentives for companies to comply with the law.

In this context, with the objective of contributing to the production and diffusion of acquired knowledge concerning labour inspection, the ILO and the SIT established a partnership within the technical cooperation project "Strengthening of Labour Inspection Services," sponsored by the Norwegian Government, to systematise some good labour inspection practices in Brazil that can be replicated due to their proven relevance, impact, and sustainability.

This partnership is embodied in the collection "The Good Practices of Labour Inspection in Brazil," comprised of four publications on the labour inspection system in Brazil and the Brazilian labour inspection experiences in the following areas: eradication of child labour; combating forced labour; and the maritime sector.

The areas selected for this systematisation reflect some of the intervention priorities for both the MTE and the ILO, and contribute to making themes that have recently and constantly been in the country's political agenda be understood with a approach centered on labour inspection. Many of the measures adopted are creative and unique and reflect the evolutionary and modernisation process of labour inspection in Brazil. This series also provides an opportunity to reflect on the advances, lessons learned, and necessary improvements for inspection activities and, in a direct and practical manner, contributes to broaden the knowledge base about the issue already existent in the country.

Based on these good practices, some common points can be identified, indicating some characteristics that could be replicated and adapted to other realities:

1. One fundamental aspect for improving inspection procedures is being able to count on **reliable databases**, suitable for an effective “intelligence” system for identifying which enterprises are to be inspected, as well as for collecting and systematising information on completed inspections. The importance of relying on these sources of information stands out in all the good practices analysed. This is the case of the Federal System of Labour Inspection (SFIT), the Information System on Child Labor Hotspots (SITI), and the Slave Labour Monitoring System (SISACTE).
2. The **adaptation** of the Special Group of Mobile Inspection model used in combating forced labor to the maritime sector, with the creation of the National Mobile Group for the harmonisation of procedures in different Brazilian states, shows how certain tools or processes can be successful in other inspection areas, when implemented with the necessary modifications.
3. The **coordination with other government entities** and the State can significantly boost inspection results, especially in countries where resources are scarce and the number of inspectors may not be ideal. This is the case of the experiences in combating child labour, combating forced labour, and fishery inspection, just to cite a few examples.
4. On the other hand, an **inspection coordinated with social partners**, especially worker and employer organizations, augments the efforts to improve work conditions and business competitiveness. The experience of the Naval Industry Tripartite Commission and the National Commission for the Eradication of Child Labour (which also includes civil society organisations) are platforms where these issues are exemplified.

We hope that these publications will be useful not only in disseminating the Brazilian experience, but will also contribute significantly to the strengthening and modernisation of inspection services and

the exchange of labour inspection experiences that Brazil has been developing with other Latin American countries and other regions of the world. We also hope it will stimulate reflection, within and outside Brazil, on how to implement innovative responses to the current challenges of the world of work.

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List of Abbreviations

ACP	Civil Public Action (Ação Civil Pública)
CEJIL	Centre for Justice and International Law
CLAT	Latin American Central of Workers (Central Latino-americana de Trabalhadores)
CONAETE	National Coordination for the Fight against Slave Labour of MPT (Coordenadoria Nacional de Combate ao Trabalho Escravo)
CONATRAE	National Commission for the Eradication of Slave Labour (Comissão Nacional de Erradicação do Trabalho Escravo)
CPB	Brazilian Penal Code (Código Penal Brasileiro)
CPT	Pastoral Land Commission (Comissão Pastoral da Terra)
DETRAE	Division of Inspection for the Eradication of Slave Labour, DEFIT/SIT/MTE (Divisão de Fiscalização para a Erradicação do Trabalho Escravo)
DEFIT	Department of Labour Inspection of the Secretariat of Labour Inspection, SIT/MTE (Departamento de Fiscalização do Trabalho da Secretaria de Inspeção do Trabalho)
DMC	Collective Moral Damages (Danos Morais Coletivos)
DMI	Individual Moral Damages: (Danos Morais Individuais)
FAT	Workers' Assistance Fund (Fundo de Amparo ao Trabalhador)
GEFM	Special Mobile Inspection Group (Grupo Especial de Fiscalização Móvel)
GERTRAF	Executive Group for the Repression of Forced Labour (Grupo Executivo de Repressão ao Trabalho Forçado)
IACHR	Inter-American Commission on Human Rights
IBAMA	Brazilian Institute of the Environment and Renewable Natural Resources (Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis)
IBGE	Brazilian Institute of Geography and Statistics (Instituto Brasileiro de Geografia e Estatística)
ILO	International Labour Organization
INCRA	National Institute for Settlement and Agrarian Reform (Instituto Nacional de Colonização e Reforma Agrária)
MDS	Ministry of Social Development and Fight Against Hunger (Ministério do Desenvolvimento Social e Combate à Fome)
MPF	Federal Prosecutions Office (Ministério Público Federal ou Procuradoria da República)
MPT	Labour Prosecutions Office (Ministério Público do Trabalho)
MTE	Ministry of Labour and Employment (Ministério do Trabalho e Emprego)
NR	Regulatory Norm (Norma Regulamentadora)
OAS	Organization of American States
PF	Federal Police (Polícia Federal)
PPA	Pluriannual Plan (Plano Plurianual)
PRF	Federal Highway Police (Polícia Rodoviária Federal)
RAF	Inspection Activity Report (Relatório de Ação Fiscal)
RIT	Labour Inspection Regulation (Regulamento da Inspeção do Trabalho)
SPPE	Secretariat of Employment Public Policies - MTE (Secretaria de Políticas Públicas de Emprego do MTE)
SISACTE	Slave Labour Oversight System (Sistema de Acompanhamento do Trabalho Escravo)
SIT	Secretariat of Labour Inspection of the Ministry of Labour and Employment (Secretaria de Inspeção do Trabalho do Ministério do Trabalho e Emprego)
SRTE	Regional Superintendency of Labour and Employment (Superintendência Regional do Trabalho e Emprego)
TAC	Conduct Adjustment Term (Termo de Ajuste de Conduta)



Photos: Special Mobile Inspection Group / SIT/ MTE



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Photos: Special Mobile Inspection Group / SIT/ MTE



The good practices of labour inspection in Brazil:

The eradication of labour analogous to slavery

1. Introduction: synthetic description of the practice

The eradication of labour analogous to slavery is today one of the main objectives of the Brazilian agenda for the promotion of human rights. This document presents a synthesis of labour inspection actions of the Ministry of Labour and Employment (MTE), in cooperation with governmental partners, employer associations, workers' unions and civil society organizations in the fight against this extreme form of labour exploitation.

The text highlights the work of the Special Mobile Inspection Group (*Grupo Especial de Fiscalização Móvel* - GEFM), constituted of labour inspectors¹ whose work is supported by prosecutors of the Labour Prosecutions Office (*Ministério Público do Trabalho* - MPT), agents and marshals of the Federal Police (*Polícia Federal* - PF) and the Federal Highway Police (*Polícia Rodoviária Federal* - PRF)². The Secretariat of Labour Inspection (*Secretaria de Inspeção do Trabalho* - SIT/MTE) receives complaints by means of an institutional network of partners and, based on them, the GEFM conducts secret inspection operations, which take place predominantly in rural areas. When workers are found working in conditions analogous to slavery, they are rescued, with the main objective of securing their safety and their rights as workers.

Since different institutions are involved, the inspection activity generates consequences for offenders in the civil, labour, administrative and criminal levels. To guarantee their punishment, the MTE counts on the Employer Offender Registry, also known as the 'Dirty List'. The registry lists the

¹ In Brazil, labour inspectors are referred to as "labour fiscal auditors" (auditor-fiscal do trabalho, AFTs).

² In special cases the GEFM can also count on the participation of representatives from other governmental institutions, such as the Federal Prosecutor's Office (Ministério Público Federal-MPF).

natural persons and legal entities caught in flagrant utilising workforce in conditions analogous to slavery, giving publicity to the inspection, and triggering a series of actions undertaken by the government, the private sector and civil society to punish offenders and discourage the practice.

2. The beginning of the practice

In 1995 the Brazilian Government officially recognized the existence of labour analogous to slavery in the country and started to take measures to eradicate it. As far as labour inspection, this materialized with the creation of the Special Mobile Inspection Group (GEFM) in that same year. However, this was not an isolated fact; there were other events that marked the development of this process:

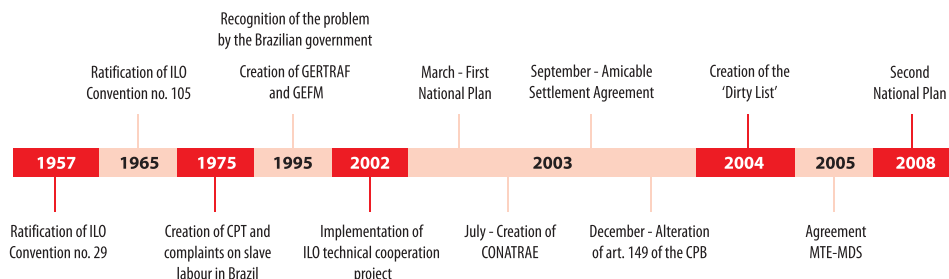
- 1957 – Brazil's ratification of ILO Convention no. 29 concerning Forced or Compulsory Labour (1930);
- 1965 – Brazil's ratification of ILO Convention no. 105 concerning the Abolition of Forced Labour (1957);
- 1975 – creation of the Pastoral Land Commission and with it, the intensification of the first complaints on the existence of slave labour in Brazil;
- 1995 – the Brazilian government recognizes the existence of slave labour in the country;
- 1995 – creation of the Executive Group for the Repression of Forced Labour (GERTRAF), along with the Special Mobile Inspection Group (GEFM);
- 2002 – beginning of the implementation of the technical cooperation project “Combating Forced Labour in Brazil” of the International Labour Organization;
- 2003 (March) – launch of the First National Plan for the Eradication of Slave Labour elaborated by the Special Commission of the Council for Defence of Human Rights (CDDPH)³;
- 2003 (July) – creation of the National Commission for the Eradication of Slave Labour (CONATRAE)⁴;
- 2003 (September) – Amicable Settlement Agreement between the Brazilian Government, represented by the Special Secretariat on Human Rights of the Presidency of the Republic, and the petitioners, represented by the Centre for Justice and International

³ Constituted by Resolution no. 05/2002 of the CDDPH.

⁴ The creation of CONATRAE substituted GERTRAF.

- Law, CEJIL-Brazil and the Pastoral Land Commission (see section 3.3 the recognition of the problem);
- 2003 (December) – modification of article 149 of the Brazilian Penal Code, that typifies the crime of reducing a worker to a condition analogous to slavery;
 - 2004 – creation of the Employer Offender Registry (Resolution no. 540/2004 MTE);
 - 2005 – agreement of technical cooperation signed between the Ministry of Labour and Employment and the Ministry of Social Development and Fight against Hunger, with the objective of prioritizing the insertion of rescued workers in the Bolsa Família Programme (Family Grants Scheme);
 - 2008 – Second National Plan for the Eradication of Slave Labour, elaborated by CONATRAE.

Figure 1: Events that marked the development of labour inspection for the eradication of labour analogous to slavery in Brazil:



3. Context

3.1. FORCED LABOUR AND LABOUR ANALOGOUS TO SLAVERY

In 1930, the International Labour Organization (ILO) Convention no. 29 defined 'forced or compulsory 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." As the years passed, this concept became broader, including several forms of coercion to perform jobs under the threat of punishment, including the imposition of military obligations to civilians and the punishment by means of forced labour for divergent political views. In 1957, the ILO adopted Convention no. 105 related to the same theme. In all cases, the clearest characteristic of forced labour is the lack of freedom.

In article 149 of the Brazilian Criminal Code, Brazil adopted the concept of “work analogous to slavery” that has a broader conception than the forced labour concept established by ILO international labour standards on the issue. The concept of the Brazilian Penal Code also includes in its typification work in degrading conditions and exhaustive workdays, even when there is no evidence of restriction of freedom.

3.2. CHARACTERIZATION OF LABOUR ANALOGOUS TO SLAVERY IN BRAZIL

Labour in conditions analogous to slavery in Brazil, defined in terms of the Brazilian Penal Code, is predominantly found in the rural areas, especially those removed from urban centres and is directly correlated with poverty and the concentration of land (Shahinian, 2010).

In cases where there is a *curtailment of the worker's freedom*, it is the result of one or more of the following factors:

- **Debt-bondage** – when workers’ are lured to the site, their families receive an advanced payment along with the promise of a good salary, usually agreed upon according to the amount of labour undertaken (e.g. per acre of land deforested). However, when they arrive to the locale, the workers realize that reality is a different one. They are required to pay inflated prices for lodging, despite the inhumane conditions, and for food, even if inadequate, in addition to being charged the costs of transportation and of their working tools. The workers generally do not receive invoices for the expenses they owe, and thus have no definite knowledge of what they still need to pay. This practice is known as the ‘truck system’. Even though the imputation of the debt is fraudulent, many workers are morally coerced to paying their debts;
- **Document retention** – the workers’ documents are frequently retained during the period in which they are providing the service;
- **Physical isolation** – in many cases, the workplace is difficult to access and distant from urban centres, which makes the worker’s escape difficult;
- **Overt surveillance** – in some cases armed guards threaten the workers and apply physical punishments.

Contrastingly, *degrading conditions* are usually characterized by a combination of the following factors:

- **Lodging** – workers are commonly housed in precarious canvas or palm leaf tents in the woods, exposing them to a series of risks;

- **Susceptibility to illness** – especially on the agricultural frontier, where the main hotspots of labour analogous to slavery are found, there are high levels of tropical diseases such as malaria and yellow fever, as well as elevated levels of other diseases, less common in other regions, such as tuberculosis. When workers become ill, many of them do not receive medical care;
- **Sanitation conditions** – this refers both to the precarious sanitation conditions (absence of sanitary installations, for example) as well as to the lack of drinking water;
- **Nutrition** – insufficient for the caloric necessities of the workers and in inadequate conservation conditions;
- **Inadequate compensation and unpaid wages** – even when there is no bonded labour where workers are not paid in currency, it is common for them to receive less than what was agreed upon and have their salaries retained or paid with delay;
- **Abuse and violence** – reports of public humiliation, threats and even physical violence inflicted on workers are common.

Box 1: The origin and destination of workers in conditions similar to slavery

A recent study concluded that the region with the most occurrences of slave labour in Brazil is the region known as the “arc of deforestation” in the north of the country (ILO 2010:47). According to the MTE, three states are the largest exporters of workers that end up in conditions similar to slavery – Maranhão, Piauí and Tocantins – while the largest quantity of workers rescued from these conditions were found in Pará, Mato Grosso, Maranhão and Tocantins. Of these, Pará and Mato Grosso had the largest number of occurrences, almost 60% of all workers rescued by the GEFM between 1995 and 2006 (ILO, 2010:69).

Many times the practice of submitting workers to conditions analogous to slavery is linked to the degradation of the environment, for this type of manual labour is frequently used in activities like illegal deforestation. The activities in which the workers are engaged in are usually labour intensive, such as: cutting down native vegetation, cleaning out terrain for the planting of crops, harvesting of sugarcane, planting of grains and the production of vegetable coal. The majority of workers are men aged between 15 and 40 (ILO, 2010:69-71). Out of the 37,272 workers rescued by MTE between 1995 and 2010 (august), 72 victims had between 15 and 16 years of age, 0.2% of the total. Workers rescued between the age of 16 and 18 totalled 101 individuals, meaning 0.28% of the total.

3.3. THE RECOGNITION OF THE PROBLEM

The strong pressure from civil society at the national and international level, associated to the political pressure from international organizations led Brazil in 1995, to recognize the existence of labour analogous to slavery. It is worth citing the main events of this process:

- Since 1987, the ILO Committee of Experts on the Application of Conventions and Recommendations sent numerous observations to Brazil, resulting from the analysis of the application of Convention no. 29 (1930). In 1992, the Brazilian Government was called to the Commission to offer explanations, and its representative denied the existence of slave labour in the country, claiming that there were only violations of labour law. The Commission called upon the Brazilian government again in 1993, 1996 and 1997 (ILO, 2010:31).
- In 1993 the Latin American Central of Workers (CLAT) presented a complaint against Brazil, claiming the violation of Conventions no. 29 and no. 105 on forced labour (ILO, 2010:31). The same year, the Pastoral Land Commission (CPT) denounced, at the United Nations Commission on Human Rights and European Parliament, the omission of the Brazilian government in the investigation of cases concerning slave labour. Also in 1993, the ILO recognized in a report that slave labour in Brazil registered 8,886 cases.
- In 1994, the CPT and the NGOs Centre for Justice and International Law (CEJIL) and Human Rights Watch presented a complaint to the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS), accusing the Brazilian Government of not meeting its obligations regarding the protection of human rights in the José Pereira case.

Box 2: The José Pereira case

In September 1989, at the age of 17, José Pereira and a companion, nicknamed Paraná, tried to escape from a farm where they along with 60 other labourers were forced to work without pay and in inhumane conditions. They were surprised by employees of the farm and attacked with rifle fire. Paraná died. José Pereira survived because he was thought dead. His body and that of his companion were wrapped in a tent and abandoned on highway PA-150.

The proceedings at IACHR led the Brazilian government to recognise its responsibility and sign in 2003 an Amicable Settlement Agreement with petitioners, committing to a series of measures for the eradication of labour in conditions analogous to slavery (ILO, 2010: 27-28).

3.4. LEGAL SOURCES FOR THE INSPECTION OF SLAVE LABOUR

3.4.1. Agreements and international conventions

By being a signatory of the following instruments of international law, Brazil has committed to fighting labour in conditions analogous to slavery:

- ▶ **United Nations Convention on Slavery of 1926**, amended by the **Protocol of 1953 and the Supplementary Convention on the Abolition of Slavery of 1956**: ratified by Brazil in 1966, establish the commitment of signatories to completely abolish slavery in all its forms;
- ▶ **ILO Convention no. 29 concerning Forced or Compulsory Labour (1930)**: ratified by Brazil in 1957, it establishes that signatory countries are committed to “suppress the use of forced or compulsory labour in all its forms within the shortest possible period”;
- ▶ **ILO Convention no. 105 concerning the Abolition of Forced Labour (1957)**: ratified by Brazil in 1965. The signatory countries are committed to adapt their national legislation to the circumstances involving the practice of forced labour therein, so that it may be typified according to the economic, social and cultural particularities of the context in which it exists. Furthermore, the Convention stipulates that legislation should prescribe effective sanctions;
- ▶ **United Nations International Covenant on Civil and Political Rights of 1966**: ratified by Brazil in 1992, it prohibits, in article 8, all forms of slavery;
- ▶ **United Nations International Covenant on Economic, Social and Cultural Rights of 1966**: ratified by Brazil in 1992, guarantees, in article 7, the right of all to equitable and satisfactory work conditions;
- ▶ **American Convention on Human Rights (Pact of San Jose in Costa Rica) of 1969**: ratified by Brazil in 1992, signatory countries commit to repressing servitude and slavery in all its forms;
- ▶ **Declaration of the United Nations Conference on the Human Environment, (or Stockholm Declaration) of 1972**, whose first principle establishes that: “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being”;
- ▶ **Protocol to Prevent, Suppress and Punish the Trafficking in Persons, Especially Women and Children or “Traffic Protocol” (Palermo, 2000)**: is one of the supplementary protocols to the United Nations Convention against Transnational Organized Crime and proscribes the criminalization of trafficking in persons directed

towards any form of sexual exploitation. This protocol has entered into force internationally since 2003 and was ratified by Brazil in 2004. The recruiting of rural labourers in Brazil with the intent of submitting them to labour analogous to slavery is similar to the definition of trafficking of human beings contained in the protocol.

3.4.2. National legal instruments

In the national legislation, **Article 149 of the Brazilian Penal Code (CPB)** (reformulated by **law 10.803/2003**⁵), typifies the conduct of placing a worker under the condition analogous to slavery:

- It prescribes a sentence of two to eight years for the reduction of someone to a condition analogous to that of a slave, aside from a fine according to the violence committed;
- It includes four conducts that, together or isolated, make up the crime of reducing someone to a condition analogous to that of a slave:
 - ◉ Submitting a worker to forced labour;
 - ◉ Submitting a worker to exhaustive work hours;
 - ◉ Subjecting a worker to degrading work conditions;
 - ◉ Restricting, by any means, the locomotion of the worker due to a debt to the employer or responsible agent.

⁵ The reformulation of article 149 of the CPB was one of the actions to which the Brazilian government committed itself in signing the Amicable Settlement Agreement with the CPT, CEJIL-Brasil and Human Rights Watch (ILO, 2010: 28-29).

Box 3: The alteration of art. 149

Since 1940, article 149 of the Brazilian Penal Code has prescribed punishment for the crime of 'reducing someone to a condition analogous to that of a slave'; however it contained a generic text, without typifying the condition. Probably for this reason, this article was rarely used (Gomes, 2008: 22-24).

This was an obstacle for the establishment of public policies to combat this criminal form of exploitation of labour. A term was necessary to delineate this ample and complex phenomenon, making it clear that this was not a secular practice of labour exploitation, or a simple crime against labour rights, but a total negation of rights, and therefore, a crime against the human rights of the worker.

Great national and international political pressure led to a debate that was both political and legal on the meaning of 'labour analogous to slavery' culminating in the 2003 alteration of article 149 of the Brazilian Penal Code, stipulated as one of the measures that the Brazilian Government committed to by signing the Amicable Settlement Agreement (OIT, 2010. 28-29).

Aside from article 149 of the CPB, offenders can also be charged with different crimes as consequences of the actions practiced against workers or against the environment, by means of the following legal instruments:

- ▶ **Article 132 of the CPB:** prescribes a sentence of three months to one year in prison for those who expose the life or health of a person to direct or imminent danger;
- ▶ **Article 197 of the CPB:** condemns the illegal containment that restricts the freedom of the workers;
- ▶ **Article 203 of the CPB:** altered by **law 9.777/98**; prescribes a sentence of one to two years detention plus a fine, aside from the sentence corresponding to violence, for those who "frustrate, by means of fraud or violence, rights assured by labour legislation." This article complements article 149, by punishing the practice of debt servitude (or truck system), when it establishes that the same punishment applies to those who:
 - ◉ "force or coerce someone into using merchandise from a certain establishment, to prevent the disconnection of service that stems from debt";
 - ◉ "prevents someone from leaving a service of any kind, through coercion or through means of retention of personal or contractual documents."
- ▶ **Article 206 and article 207 of the CPB that,** respectively, punish recruiting for emigration and for internal migration. Article 207 was modified by **law 9.777/98** and punishes the recruiting of workers

outside the working grounds by means of fraud or charging a fee of any quantity from the worker or when the workers' return to the recruiting site is not assured.

Moreover, **the Federal Constitution of 1998, in article 186**, conditions the possession of rural property to the fulfilment of a social duty. The land may be expropriated for agrarian reform if this condition is not met, as in the case of the utilization of labour analogous to slavery, considered a failure to comply with the social duty of the property.

There is also a **Proposed Constitutional Amendment, PEC 438/2001**, proposed in 1999 and still being processed by Congress. If approved, it can make possible the expropriation of lands where workers have been found in conditions analogous to those of slaves. These lands would be used for agrarian reform, giving priority to the workers rescued therein.⁶

In the administrative realm, the employers can be punished based on the non-compliance of the dispositions of the safety and health norms, established in the Regulatory Norms (NRs) of the Ministry of Labour and Employment of mandatory observance by all enterprises. Today, in rural areas, where most of the complaints of labour analogous to slavery originate, the main applicable norm is the **NR 31**, instituted by **Resolution no. 86/2005** of the MTE. It applies to any activity of agriculture, livestock, forestry, and aquaculture, as well as activities of industrial exploration developed in agrarian establishments.

In so far as the reinsertion of the workers, it is important to note **law 7.998/1990** (altered by law 10.608/2002), that assures that the rescued worker from the situation of forced labour or conditions analogous to slavery receives a payment of three instalments of unemployment insurance, each in the amount of one minimum wage. The law establishes also that the rescued worker should be sent by the Ministry of Labour and Employment, to professional qualification and relocation in the labour market by means of the National Employment System (SINE)⁷. There is also an agreement of technical cooperation between the MTE and the Ministry of Social Development and Fight against Hunger (MDS) to prioritize rescued workers in the *Bolsa Família* Programme (Family Grants Scheme).

⁶ An amendment needs three-fifths approval in two rounds of voting in the Senate and House of Representatives, in order to be approved. In 2001, it was approved in the Senate and sent to the House, where it was approved in 2004 in a first voting round. Since then it awaits a second round of voting in the House, so that, if approved, it can return to the Senate to be considered again, due to amendments made since 2001.

⁷ <http://www.mte.gov.br/imo/default.asp>

4. Inspection agents

4.1. LABOUR INSPECTORS⁸

The inspection of labour is a competence of the Federal Government, through the Secretariat of Labour Inspection (SIT) of the Ministry of Labour and Employment (MTE). Its implementation is mainly decentralized by means of the 27 Regional Superintendencies of Labour and Employment – SRTEs (until 2008, they were Regional Labour Precincts – DRTs), decentralized units of the MTE present in the 26 states and the Federal District.

SIT also has centralized projects in Brasília (the federal capital), for which it defines the target States. They are: slave labour, ports and waterways, infrastructure, slaughterhouses, and administrative resources. The inspection for the eradication of labour analogous to slavery counts on a specific endowment and with a division within the Department of Labour Inspection (DEFIT) of SIT: the Division of Inspection for the Eradication of Slave Labour (DETRAE).

The provision of the position of labour inspector is conducted through extremely competitive public examination, requiring at least the possession of a university degree⁹. After taking office, new labour inspectors go through months of training, at the Regional Superintendency of Labour and Employment (SRTE) where they are allotted and at the SIT, in the federal capital. During this training, special attention is given to topics such as the eradication of labour analogous to slavery. Aside from perfecting their knowledge of the legislation, they learn, for example, about interviewing techniques and security in approaching workers, employers, managers and intermediaries. Furthermore, since the eradication of labour analogous to slavery is a priority of the Brazilian government, the training on this topic is constant, including technical meetings at SIT and frequent encounters with partners and seminars. SIT has also elaborated a detailed proceedings manual with inspection actions specifically tailored to the topic.

The competency attributed to the labour inspection is based mainly on the **Federal Constitution of 1988** and the Labour Inspection Regulation (RIT), updated by **Decree no. 4.552 of 2002**. The Federal

⁸ The publication “Labour inspection in Brasil: for the promotion of decent work”, part of the collection The good practices of labour inspection in Brazil contains more information on the organization and structure of labour inspection in Brazil.

⁹ In the contest held in March 2010, for example there were 54,681 candidates for 234 positions (<http://www.esaf.fazenda.gov.br>)

Constitutions confers upon the Union the competence to organise, maintain, and execute labour inspection (article 21, item XXIV). Decree no. 4.552 grants labour inspectors the ability to, among other things, freely enter workplaces without warning or previous authorization, interview workers and employers, examine books and documents, apprehend materials, equipment or documents, stop construction works, interdict businesses, machines or equipments and issue infraction reports, which can lead to the imposition of administrative fines. Furthermore, they have stability and despite being allotted in the SRTes, they are directly subordinated to the national authority, a factor that guarantees their relative autonomy (Cardoso & Lage, 2005; Pires, 2009a).

The performance evaluation of labour inspectors is centralized in the SIT. Until recently, it was done based on two different management systems, simultaneously competing and complementary (Pires, 2009a):

- The first one is based on individual performance goals (such as the number of workers registered per month) and on individual and territorially circumscribed inspections. Regarding this type of evaluation, the participation in the Special Mobile Inspection Group (GEFM) guaranteed labour inspectors high scores, which served as a functional incentive;
- The second one is based on groups and teams of labour inspectors involved in specific projects such as the fight against child labour and the eradication of slave labour. In this case, the performance is evaluated based on (partial) reports, using quantitative and qualitative data, deciding either to continue the projects or to revise the goals and procedures.

SIT is currently (2010) undergoing a transition period, where the system of evaluation based on the second model is being consolidated in all areas of inspection.

4.2. SPECIAL MOBILE INSPECTION GROUP - GEFM

Once the occurrence of labour analogous to slavery was recognised by the Brazilian government, it became necessary for the Ministry of Labour and Employment to develop procedures that increased the effectiveness of inspection in this area. For this, it created in 1995 the Special Mobile Inspection Group¹⁰, using its own Labour Inspection Regulation (RIT),

¹⁰ The GEFM was established by Ordinance no. 549 and no. 550 of 14 June 1995.

which references the possibility of creating mobile inspection groups¹¹ (Gomes, 2008:15).

The Mobile Group is constituted solely of labour inspectors. The GEFM *operations* are also supported by other institutions. Each team has a coordinator and a sub-coordinator, both labour inspectors dedicated exclusively to the Group. The rest of the team has its normal activities in locations where they are based and are brought in for specific operations. The following institutions participate in the group's operation:

- **Labour Prosecutions Office (MPT):** one labour prosecutor (member of the National Coordination for the Fight against Slave Labour (CONAETE) or a volunteer substitute);
- **Federal Police or Federal Highway Police:** in general 6 members of the Federal Police or of the Federal Highway Police;
- **Federal Prosecutions Office (MPT):** in specific situations, the team also counts on a representative of the MPT.

The first four years of the Special Mobile Inspection Group (GEFM) were especially a period of intense learning and perfecting, during which the mobile group was increasingly better equipped¹² and its procedures standardised. It became clear that it was essential to centralise the command of the teams in Brasília, in order to guarantee uniformity and the security of the participants of the operations.¹³

The labour inspectors who integrate the Special Mobile Inspection Group (GEFM) teams come from different Regional Superintendencies of Labour and Employment. Participation in the group is voluntary and the biggest motivation for members is the belief in the social importance of the work and the gratification that comes from being able to do an effective job. The motivation of members is essential because the group faces adverse conditions, especially in the inspection of more isolated locations. The work also demands a great capacity for adaptation from the team members, due to the unpredictability of what will be found in the field. Many times, the difficulties are much larger than expected based on the complaints and the operations need to be extended or involve facing long distances.

¹¹ RIT article 6, altered by Decree no. 4.870 from 10/30/2003.

¹² The material structure of the GEFM, in general, became superior to that of the SRTEs, including: pickup trucks, institutional mobile phones, and a laptop for each coordinator and sub-coordinator; radios; printers; photographic and video cameras for the collection of evidence. Part of this structure was made possible by resources from the payment of Collective Moral Damages by offenders and by donations from the ILO.

¹³ In September 2010, SIT had five mobile teams.

Box 4: The GEFM operations assemble multiple competencies

The inter-institutional composition of the operations of the GEFM makes interference and corruption difficult, since the members of the (at least) three institutions work together regularly. Aside from that, by functioning in this way, the GEFM assembles the competencies required for effective inspections:

- **The labour inspectors** collect evidence, compile infraction reports, give out work permits, register workers in Unemployment Insurance and interdict locations when necessary;
- **The labour prosecutor**, aside from assisting in the collection of evidence, has the task of proposing immediate action on the legal side (for example, proposing cautionary action to freeze the employer's assets); initiates Public Civil Actions; and signs Conduct Adjustment Terms (TAC) with the offender, wherein he/she promises to pay within a specific timeframe the funds that are owed and cannot be paid immediately; payment of Individual Moral Damages and Collective Moral Damages and/or regularization of local work and lodging conditions;
- **The Federal Police or Federal Highway Police** is responsible for the safety of the group, for the collection of evidence for a possible criminal indictment, weapon confiscation, apprehension of criminals, interdiction of the workplace, and apprehension of the goods produced when dealing with illegal activity.



Photo: Special Mobile Inspection Group / SIT/ MTE



5. Operational strategy

The operations of the Special Mobile Inspection Group (GEFM) are primarily reactive, in other words, predominantly based on complaints. However, there is also inspection action based on the tracing of sectors and regions specifically made by coordinators of the group or labour inspectors involved in rural inspection.

Figure 2: The step-by-step of the most common inspections



5.1. INSPECTION OPERATIONS

5.1.1. Planning and preparing for inspection operations

- Complaints:

As mentioned above, the action of the mobile group is provoked primarily by complaints. For this reason, from its very beginning, cooperation with other actors was essential for the development of a system of capillarity that guarantees that complaints reach the SIT. Mainly in regions where there is a higher level of incidence of labour analogous to slavery, there is a social network made up of organizations with the capacity to deal with complaints, collecting as much relevant information as possible and forwarding it to the SIT, without a breach of secrecy. Most of the complaints are received and forwarded by the Pastoral Land Commission (CPT), but many originate from other civil society organizations, such as the Centre for the Defence of Life and Human Rights (CDVDH), or also

from the MPT, the Federal Police, or the SRTEs.

The cooperation with civil society institutions and labour unions, especially in the initial period of activity of the mobile group, was essential given the lack of trust of the workers in the public power. The whistleblower is generally welcomed and protected by the local civil society institutions until the complaint can be investigated by a mobile team. When possible, he/she is used as a guide to take the mobile group to the inspection location.

- Sorting complaints and defining the operations:

After a complaint is received, the head of the Division of Inspection for the Eradication of Slave Labour (DETRAE) investigates whether the situation can be characterized as a condition analogous to slavery according to the definition in article 149 of the Penal Code. If the irregularities are merely labour code violations, the complaint is forwarded to the respective SRTE. If there is evidence of labour analogous to slavery, an urgent evaluation is conducted, where the complaints are prioritized. Cases where the workers are exposed to serious risks, where there are reports of violence against workers and/or when dealing with economic activity of short duration receive top priority.

After this sorting, the head of DETRAE defines with a representative of the MPT (member of the National Coordination of the Fight against Slave Labour – CONAETE/MPT) which complaints will be attended to by which operations and by which teams.

- Preparing for the operations:

The set of complaints to be investigated (generally around 3) are forwarded to one of the coordinators, respecting the rotation system. At the same time, letters are sent to the Federal Prosecutions Office (MPF), to the Attorney General's Office, and the Labour Prosecutions Office (MPT). The CONAETE/MPT designates a prosecutor to accompany the operation. Another letter is also sent to the Federal Police or Federal Highway Police¹⁴, so that they can designate a police team. Depending on the size of the site and the economic activity to be inspected, the coordinator may invite four labour inspectors, in addition to the sub-coordinator.

¹⁴ Generally preference is given to the Federal Police due to its competence in undertaking federal investigations, in the function of Judiciary Police, responsible for the investigation of crimes judged by the Federal Courts.

Box 5: The National Coordination Office for the Fight against Slave Labour (CONAETE)

CONAETE, created in 2002, is one of the seven coordination offices for the Labour Prosecutions Office. In the beginning, not all the operations of the GEFMs counted with the participation of a labour prosecutor. It was the creation of an internal commission on the issue at the MPT in 2001 and CONAETE the following year that made the participation of labour prosecutors in Mobile Groups systematic.

Each of the 27 federative units has prosecutors that are members of CONAETE. These prosecutors receive and forward complaints regarding labour analogous to slavery, are summoned to participate in the GEFM, and participate in debates on the topic at the regional and national levels.

After the team is set up, the SIT provides transportation and per diems for each member of the group and to the police officers that will support the operation. So that secrecy is maintained, with the exception of the coordinator, sub-coordinator and one of the police officers, the rest of the members of the team do not have access to the complaints until the operation begins.

5.1.2. The beginning of the operation

The operations are guided by the complaints forwarded to the coordinator by DETRAE/SIT. However, the coordinator has certain discretionary power to undertake inspections in other landholdings in the region where the operation takes place, depending on the complexity of the situation and possible new complaints he/she can receive during the course of the operation.

The team responsible for the operation conducts meetings to discuss the complaints and define the action strategy in a city that is nearby to the location where the complaints will be verified. At this time, if the whistleblower is present he/she can be introduced to the group in order to describe the situation. The action strategy depends on the accessibility of the locations where the inspection will be conducted. In the most extreme cases, if necessary, the group will use boats, horses or even helicopters. There are reports of cases in which the teams took over two days to reach their objective.

For safety reasons, the transportation of the group, usually via pickup trucks, is done as a convoy, with three police officers in the first car and three in the last. When necessary, before the entry of the rest of the

group in the site, some police officers in street clothes go to the location to confirm it and assess safety conditions.

When they reach the location, the labour inspectors conduct a preliminary analysis of the situation to verify the condition of labour analogous to slavery, in which case the rescue of the workers demands the following procedures:

- Collection of evidence: photos, video, search for notebooks with information about the workers (such as illegal debts);
- Preliminary interviews with workers;
- Identification of the intermediary recruiter (*gato*) and the foreman;
- Apprehension of weapons and arrest of criminals (when they are caught in flagrant breaking the law);
- (Nominal) identification of all workers and the “*gatos*” and foremen;
- Identification of the employer: owner of the site. They are generally not on the premises and sometimes the low level of formalisation of the properties and economic activities makes identification difficult;
- Contact with the owner.

It is common for the employers, advised by their attorneys, to deny the existence of labour conditions analogous to slavery and to try and exempt themselves from the responsibility, pinning it on the farm manager, or the recruiters or individuals hired for specific activities. However, according to Brazilian legislation, the employer is legally responsible for the all labour relations of his/her business and the rural landowner is responsible for all that occurs on his land (ILO, 2007:32). Furthermore, the composition of the GEFM, with the presence of police officers and a labour prosecutor, aside from the significant number of specialized labour inspectors, helps convince them of the seriousness of the situation.

In the days that follow, there is a thorough collection of information with detailed testimonials from the victims, in case these were not possible on the first day, and the beginning of the negotiation process with the employers.

When the situation cannot be characterized as a condition analogous to that of slavery, the labour inspectors proceed with normal inspection, registering the irregularities and requiring the registration of unregistered workers.

5.1.3. Rescuing the workers

The workers found in conditions analogous to slavery must be rescued immediately. They are then instructed as to why they are being rescued and what they should do and expect from then on. If they are in a situation of high-risk (due to, for example, threats or to the lodging conditions), they are removed from the location immediately.

Aside from guaranteeing the safety of the workers, the most urgent issue is the payment of their rights. The coordinator of the operation presents a spreadsheet to the employer with the details of all the workers; the time of service and the calculations of the labour dues that must be paid (including all their labour rights and individual moral damage calculations, which are determined by the labour prosecutor). At the workplace, the rescued workers are registered (given work permits) and then laid-off in order to receive all labour-related rights. Unregistered workers are registered on the spot and given work permits. It is common to find workers that do not have any kind of identification. For these, the labour inspector can issue a provisional work permit (valid for 3 months)¹⁵. Aside from receiving severance dues, the worker has the right to three months unemployment Insurance¹⁶.

Caution must be used in assuring the safety of the workers after the payment of severance dues because of the visibility that the inspection operation generates in the location and consequent risk of robbery/mugging. If they wish, the workers are escorted back to the location where they were recruited and the transportation costs are the responsibility of the employer.

If the employer refuses to pay the workers, the labour prosecutor can propose cautionary action with a request to freeze the employer's assets. The dispute can be taken to court, when, despite the significant prolongation of the process; it is rare for the worker not to receive what is owed. In case this would happen, until the final judicial decision, the workers only receive unemployment insurance. In cases where the employer refuses to cooperate, the MTE makes resources available from the Emergency Assistance for Workers Victim of Slave Labour, contained in the Multi-Year Plan (PPA), in order to pay for the transportation of the

¹⁵ Based on article 3 of Ordinance SPPE/MTE no. 1 from 28 January 1997 with article 17 of the Consolidation of Labour Laws (CLT).

¹⁶ Law 7.998/1990 (altered by law 10.608/2002) guarantees 3 months of unemployment insurance for the rescued worker (there are discussions in the House and Senate to increase this period to 6, 9 or 12 months).

workers and for their food and housing until they return to their home municipality.

Once the workers' situation is solved, the labour prosecutor proposes the signing of a TAC with the employer, in which he/she commits to paying the workers (Individual Moral Damages) and paying Collective Moral Damages¹⁷, aside from repairing all irregularities before restarting production activities (e.g. adapting lodging conditions, the acquisition of Individual Protection Equipment, etc). The TAC can also be used in the case that the employer does not have the funds to pay severance at once, but commits to paying it within a certain timeframe. Lastly, the labour inspectors file reports corresponding to the infractions found and give instructions to the employer about how to proceed in regularising their business.

5.2. INFORMATION PROCESSING AND SHARING

When the inspection operation is concluded, it is the responsibility of the coordinator to elaborate the **Inspection Activity Report (RAF)**, following the detailed instructions present in the Manual Inspection Procedures to Combat Labour Analogous to Slavery. Copies of the RAF are forwarded to the following governmental organs: Attorney General's Office (for the defence of the infraction reports, that are frequently judicially contested); MPT; MPF; Federal Police; and eventually to the National Institute for Settlement and Agrarian Reform (INCRA) and the Brazilian Institute of the Environment and Renewable Natural Resources (IBAMA).

The most important data of the RAF is inserted in the **Slave Labour Oversight System (SISACTE)**. In 2006, in a partnership with the ILO, the MTE implemented SISACTE, with the goal of registering the action against labour analogous to slavery in a standardized and sharable manner. This system allows the complaints received by SIT to be registered, as well as operational data from the inspection and the main information in the RAFs¹⁸.

¹⁷ Because it is considered a grave violation of human dignity, the crime of reducing someone to a condition analogous to that of a slave inflicts damage on all of society. For this reason, the prosecutor attempts to include the payment of Collective Moral Damages (DMC) in the TAC.

¹⁸ The data from reports previous to its implementation are being gradually digitized to complement the database.

5.3. PUNISHING THE OFFENDERS

5.3.1. Ministry of Labour and Employment: From the infraction reports to the 'Dirty List'

The infraction reports generate administrative processes by means of which the violators are fined if convicted. The resources raised from the fines are for the Workers' Assistance Fund (FAT); a fund linked to the MTE, which funds the Unemployment Insurance Programme, the Salary Allowance and is used to finance Economic Development Programmes.

After the administrative processes are concluded, there is a new analysis at SIT to see if the case was really one of labour analogous to slavery. If it was, the information of the culprit is included in the Employer Offender Registry, commonly known as the 'Dirty List'. The Registry is a public list of natural persons and legal entities caught in flagrant keeping workers in conditions analogous to slavery. It is available on the websites of the MTE and the NGO Reporter Brasil and is updated every six months¹⁹. Since it was instituted in 2004 by Resolution no. 540 of the MTE, the 'Dirty List' has become an important tool in suppressing slave labour, mainly due to the economic consequences of being on the list. The companies and individuals that are on the list cannot receive public financing, a severe punishment for companies that depend on such financing. Resolution no. 3876, of June 2010, of the National Monetary Council, prohibits any rural credit concession to natural persons or legal entities that are listed in the Dirty List.

The inclusion of the names in the list observes the right of the offenders to fully defend themselves. The names are only included after a trial and verdict of the infraction reports that typify work analogous to slavery at all judicial instances and where the accused no longer has the right to appeal.

The employers that are included in the registry are monitored for a period of two years after which their names are removed if: there is no reoccurrence of the crime, all fines are paid and, they settle their labour and tax debts.

¹⁹ Respectively http://www.mte.gov.br/trab_escravo/lista_suja.pdf and <http://www.reporter-brasil.org.br/listasuja.index.php>

5.3.2. The proceedings of the Labour Prosecutions Office

If the employer refuses to sign the TAC, or considers it unsatisfactory (because, for example, it does not include Collective Moral Damages (DMC)), the labour prosecution can initiate a Public Civil Action through which it demands the payment of a DMC (and eventually also Individual Moral Damages (DMI), if this is not paid along with the severance funds). It is interesting to mention also that the labour prosecution has the discretionary power to revert the DMC to benefit society, with activities such as the donation of equipments to be used in inspections, the payment of reinsertion projects for rescued workers, etc.

5.3.3. Advancements within the criminal sphere

Based on the reports of the coordinator of the GEFM and the labour prosecutor who accompanied the inspection, the MPF determines whether criminal charges can be filed. In this case it can contact the Federal Police to open up a criminal inquiry if additional investigation or evidence collection is necessary.

5.4. REINSERTION OF THE WORKER

The main cause of the workers' vulnerability to this type of criminal exploitation is extreme poverty. For this reason, aside from the rescue of the workers and the punishment of the guilty, one of the main concerns is the reinsertion of the victim into the labour market.

As mentioned above, the rescued worker has the right to receive three payments of Unemployment Insurance in the equivalent of one minimum wage each, paid with funds from the Workers' Assistance Fund (FAT). When the labour inspector signs up the rescued worker to receive the Unemployment Insurance, he/she has to file a socioeconomic questionnaire, which will also subsidize other reinsertion efforts. These include, for example, the priority insertion of the rescued worker in the *Bolsa Família* Programme (Family Grants Scheme)²⁰, based on a cooperation agreement between the MTE and the Ministry of Social Development and Fight against Hunger (MDS)²¹.

²⁰ Direct income transfer program that benefits families living in poverty and extreme poverty (<http://www.mds.gov.br/bolsafamilia>)

²¹ There is also the Zero Mark Project of Intermediation of Rural Manual Labour, signed in 2008, that has not been effectively implemented.

5.5. PREVENTIVE ACTIONS

Aside from the actions of repression and reinsertion of the worker, the fight against slave labour undertaken by the Federal Government involves programs to reduce the workers' vulnerability to exploitation and awareness raising campaigns.

The Unemployment Insurance data, along with the socioeconomic questionnaire filled out at the time of rescue, are sent to the Secretariat of Employment Public Policies (SPPE/MTE) so that the foci of the problem can be determined: where the most occurrences of labour analogous to slavery and recruiting occur. Based on this data, the SPPE traces public policies of empowerment, income generation and job creation.

Using the same data, the MTE promotes, in partnership with other government entities and civil society, awareness raising campaigns to inform workers of the risks they run and what to do to bring these crimes to light and to make employers aware of the seriousness of the crime. Some examples of these campaigns are:

- 'Slaves, no way' (Escravo nem pensar) campaign from the NGO Reporter Brasil: teams that include the participation of the labour inspectors and labour prosecutors go to problematic locations to form multipliers. The teams meet with local leaders, professors, etc, to instruct them.
- National campaign launched in October 2003 in the National Congress, coordinated by the ILO with the support of the Federal Government and the National Commission for the Eradication of Slave Labour (CONATRAE). It counted on the voluntary participation of advertising agents and communication vehicles in its production and dissemination, adding up to approximately R\$23 million in donations.

5.6. COORDINATION WITH OTHER ACTORS

The action of the mobile group depends on the cooperation of diverse governmental institutions, as described above. Moreover, cooperation is essential for the preventive actions, for the forwarding of complaints, and for the repercussions of the 'Dirty List'.

With the objective of coordinating and implementing the necessary activities for the repression of labour analogous to slavery, the Executive Group of Repression of Forced Labour (GERTRAF)²² was created in 1995

²² Presidential Decree no. 1538 on June 27, 1995.

along with the GEFM. In 2003 GERTRAF was extinct, with the creation of the **National Commission for the Eradication of Slave Labour (CONATRAE)**, collegiate organ tied to the Special Secretariat on Human Rights (SEDH) of the Presidency of the Republic, and formed by representatives of the Executive, Legislative and Judiciary branches, aside from various other segments of civil society. The creation of CONATRAE was part of the 76 measures of the 1st National Plan for the Eradication of Slave Labour. Its mission is to coordinate the implementation of actions prescribed in the National Plan, to accompany the progress of bills in the National Congress and evaluate the proposals of studies and research on slave labour in the country, among other things. Giving continuity to the first National Plan, the Second National Plan for the Eradication of Slave Labour, elaborated by CONATRAE, was launched in 2008.

Furthermore, coordination with other actors is essential for the effects of the Dirty List, which depends on actions performed by the public sector, civil society groups and the private sector:

- In 2004, the NGO Reporter Brasil, in partnership with the ILO, conducted the **Study on the Productive Chain of Slave Labour**, that identified the productive chains of farms that are part of the Dirty List, with the objective of informing and alerting Brazilian society of the existence of workforce in conditions analogous to slave labour in the production chain of many goods that are commercialized within and exported by Brazil.
- Based on the results of the Reporter Brasil study, companies were invited to a dialogue coordinated by the Ethos Institute of Business and Social Responsibility, the ILO and Reporter Brasil, giving origin to the **National Pact for the Eradication of Slave Labour**, launched in 2005. The initiative in 2010 counted with approximately 130 companies, commercial associations and civil society groups that together have a net revenue of around 20% of Brazil's GDP.



(1)



(2)



6. Results

Between 1995 and September 2010, as can be seen in the table below, 1009 inspection operations for the eradication of labour analogous to slavery were conducted, resulting in the rescue of 38,031 workers and the payment of R\$ 58,876,132.43 in labour rights.

*Table 1:
Inspection Operations for the Eradication of Slave Labour between 1995 and September 2010*

N.º of operations	N.º of inspected establishments	N.º of rescued workers	Labour rights paid*	N.º of infractions recorded
1,009	2,703	38,031	58,876,132.43	29,711

Source: SIT/MTE, updated on 17/09/2010.

However, the impact of the action of the MTE against labour that is analogous to slavery is not entirely explained by these numbers. The symbolic and educational impact of the actions is also an important part of the result. The Special Mobile Inspection Group (GEFM) managed to take the State to isolated regions. This contributes to an increase in confidence in public power and, as a consequence, brings about a change in attitude for the workers and employers throughout the country.

Aside from this, the visibility given to the topic through the inspection operations and awareness raising campaigns have contributed to the increase in importance in the public agenda to combating labour analogous to slavery.

The work in Brazil has been recognized internationally. The ILO global reports on forced labour published in 2005²³ and 2009²⁴ highlight the Brazilian experience on the combat against slave labour. Likewise, in 2010, the Special Rapporteur on Contemporary Forms of Slavery of the Human Rights Council of the United Nations cited Brazilian policies as an example.²⁵

* Data from 2000 to September 2010; refers to labour rights owed to workers, including salaries owed, vacation time, Christmas bonus, among others. Does not include collective or individual moral damages stipulated by the MPT.

²³ ILO (2005). *A Global Alliance against Forced Labour. Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and rights at Work 2005*. Geneva: International Labour Office. International Labour Conference, 93rd meeting.

²⁴ ILO (2009). *The Cost of Coercion. Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*. Geneva: International Labour Office.

²⁵ Shahinia, G. (2010). *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences – Mission to Brazil*. New York: Human Rights Council, United Nations

7. Innovation

The conception of the GEFM represents an innovation in terms of inter-institutional cooperation.

By centralizing the coordination in Brasília and gathering inspection agents in different regions of the country, the Special Mobile Inspection Group (GEFM) was able to simultaneously minimize risk for its members and guarantee the secrecy of action, while avoiding interference from local powers.

Furthermore, the mobile team took the State to places where it was rarely present. Even in the most isolated areas of the country, infraction reports are filled out, TACs are signed, workers are registered and labour rights are paid, including moral damage payments. There is also the possibility of issuing work permits on location and including workers – many of whom have never had any form of documentation – in the Unemployment Insurance Program. Thus, the group takes the State and, consequently, citizenship to a group of historically marginalized people.

8. Lessons learned

As far as the inspection operations of the GEFM, it is interesting to note a few lessons learned:

- An important point to be observed during the operations is how to approach the worker, which must be done in a manner that he/she understands the situation and his/her rights. The majority of rescued workers are completely illiterate or have functional illiteracy. Therefore, during the operation, it is essential that they understand at least three things: why they are being rescued, their rights, and how they should proceed to receive funds related to their labour rights. This is not an easy task and demands great ability from the members of the mobile team.
- It can be verified that the SISACTE is a very useful tool that could be utilized as an instrument to integrate information from state institutions and NGOs involved in the eradication of labour analogous to slavery.

In more general terms, an obstacle for the efforts towards the eradication of labour analogous to slavery in Brazil is the criminal impunity of the

guilty. Despite the success of the administrative sanctions and public civil actions presented by the Labour Prosecutions Office that have been deferred by the Labour Justice, labour inspection, especially in the first years, rarely resulted in criminal convictions, perpetuating the cycle of impunity and indifference. This has started to change, with an increase in the number of cases and conviction in the first instance in the criminal sphere. However, this change has been slow. In this sense, the MTE and its partners are searching for ways to inhibit the exploitation of labour analogous to slavery, by the imposition of sanctions that affect the offender economically. In this sense, the high level of fines imposed by the MPT in the form of Individual Moral Damages and Collective Moral Damages and the impossibility of obtaining loans when listed in the 'Dirty List' have been successful.

Aside from the punishment of the guilty, the Brazilian experience has shown the importance of reinsertion projects for the rescued workers, to avoid relapses, and employment creation projects, to diminish the workers' vulnerability. The inspections are not enough, and must be complemented by an integrated approach from different actors. This point reinforces the need for a quadripartite dialogue that involves the government, workers' unions, employer associations and civil society.

9. Sustainability

The sustainability of this practice depends on its constant development. The offenders have adapted, finding ways to make inspection difficult, like reducing the permanence of each worker in the farms, fragmenting the work so as not to keep a large number of workers in the same location, constructing "showroom" lodging establishments to show inspectors, while keeping workers in hidden locations. Thus, the actions of the GEFM should adapt to this new reality and its punctual action must be complemented by a perfecting of the routine inspections (especially in rural areas) and by a gradual reduction in the vulnerability of the worker.

In this sense, SIT has invested in the strengthening of rural inspections conducted by the SRTEs. Two Superintendencies, in Mato Grosso and Pará, have local projects for the eradication of slave labour. Many other states, despite not having specific projects in this thematic area, keep rural inspection groups that undertake routine actions in the field. Given the incentive policy of the MTE, this type of inspection in the SRTEs has

developed to a point where today the actions of the rural groups of the SRTEs represent more than 50% of inspections against labour analogous to slavery²⁶.

For greater sustainability in the rescue part of the inspections, it is also important to strengthen the programs of reinsertion of the worker and employment creation in regions that export the most workers (see box 1). Thus, the coordination with other actors through CONATRAE and the effective implementation of the National Plan for the Eradication of Slave Labour become fundamental.

10. Replicability

The labour inspection experience in Brazil in the fight against labour analogous to slave labour can be interesting for developing countries that also have a limited number of inspectors and of resources, aside from:

- having vast areas of its territory with little to no presence of the State given the difficult access and limited resources;
- facing difficulties caused by local power interference, especially in isolated areas;
- having extreme forms of labour exploitation within its territory, whose repression involves a high level of risk for inspection agents;
- facing difficulties to criminally punish the guilty.

The standardization of procedures and the processing of information can contribute significantly to increase capacity, the effectiveness of the operation, and the coordination between different institutions. The information produced in the inspection operations, when processed efficiently, can be used for actions in many governmental and non-governmental institutions, including the private sector and workers' unions.

The experience of the Special Mobile Inspection Group (GEFM) has been replicated in different ways within and outside of Brazil. The success of the model of a mobile inspection group with inter-institutional participation has been replicated in another area of labour inspection in Brazil, in the maritime sector. At first it was implemented specifically in ports and subsequently in merchant shipping, contributing to the harmonisation of procedures in different Brazilian ports.

²⁶ Rural inspections conducted today by the SRTEs are overseen by Normative Instruction no. 76 of the SIT/MTE from 05/15/2009.

Outside of Brazil, the experience of the GEFM has generated interest in different countries. Peru and Brazil, for example, signed a technical cooperation project with the goal of replicating the mobile inspection teams for the fight against forced labour, helping society and the Peruvian government to have the necessary tools to diagnose and fight forced labour in their country.



Photos: Special Mobile Inspection Group / SIT/ MTE



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INTERNET PAGES

- **Employer Offender Registry / 'Dirty List'**
http://www.mte.gov.br/trab_escravo/lista_suja.pdf
- **National Commission for the Eradication of Slavery Labour – CONATRAE**
http://www.presidencia.gov.br/estrutura_presidencia/sedh/conselho/combate_trabalho_escravo
- **Comissão Pastoral da Terra (Pastoral Land Commission)**
<http://www.cptnacional.org.br>
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<http://www.mds.gov.br>
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- **Ministério Público do Trabalho: CONAETE (Labour Prosecutions Office: CONAETE)**
<http://www.pgt.mpt.gov.br/atuacao/trabalho-escravo>
- **Ministério do Trabalho e Emprego (Ministry of Labour and Employment)**
http://www.mte.gov.br/trab_escravo
- **International Labour Organisation**
http://www.oit.org.br/prgativ/in_focus/trab_esc.php
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INTERVIEWS

- **Débora Tito Farias:** labour prosecutor; CONAETE coordinator/ MPT
- **Camilla Bemergui:** Labour inspector; member of the GEFM
- **Fernando Antônio de Araújo Lima Jr.:** coordinator of the Inspection Division for the Eradication of Slave Labour (DETRAE/SIT)
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- **Klinger Moreira:** labour inspector; coordinator of the GEFM
- **Luiz Carlos Santos Cruz:** labour inspector; member of the GEFM
- **Luiz Machado:** coordinator of the technical cooperation project: "Combating Forced Labour in Brazil" of the ILO
- **Marcelo Gonçalves Campos:** advisor to the Secretary of Labour Inspection; responsible for the Employer Offender Registry ('Dirty List'); former coordinator of the GEFM
- **Márcio Guerra:** labour inspector; member of the GEFM

12. References

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