

**Mandate of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences**

REFERENCE: OL  
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18 August 2015

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on contemporary forms of slavery, including its causes and consequences pursuant to Human Rights Council resolution 24/3.

I thank you for the meeting on 1 April 2015 and the good cooperation the mandate has always enjoyed with your Excellency's Government, including in relation to the official country visit by the previous mandate-holder in May 2010.

I would like to bring to your Excellency's Government's attention the information that I have received concerning developments allegedly aimed at reducing the concept of slave labour in the Brazilian legislation and impairing the register of employers caught using slave labour (i.e. "dirty list") as well as the fact that the "dirty list" remains out of the public domain. I would be grateful if your Excellency could bring this letter, conveying some of my concerns, to the attention of all relevant stakeholders.

I was informed that in April 2015, the House of Representatives' Commission for Agriculture and Livestock passed the Bill PL 3842/2012 that proposes to restrict the slave labour concept to forced labour and vigilance and restrictions or impediments to the worker's freedom of movement, hence excluding the mention of exhaustive journey to work and degrading working conditions. The Bill was introduced in the National Congress in May 2012 and is supposed to go through other Commissions, including the Commission of Labour, Administration and Public Service before it is considered in the plenary.

It has also been brought to my attention that the Bill updating the Criminal Code (PLS 236/2012), introduced in the National Congress in July 2012, foresees, inter alia, amendments to Article 149 of the Criminal Code in terms of excluding exhaustive working hours and degrading working conditions from the slave labour definition, hence

restricting it to forced work and debt bondage. I understand that as of June 2015, the Bill was at the Commission of Constitution, Justice and Citizenship.

According to the information received, following the Constitutional Amendment on Slave Labour passed in May 2014 (EC 81/2014), the Bill PLS 432/2013 regulating Amendment, introduced in the National Congress in October 2013, only defines punishment for two out of the four elements that constitute slave labour as per the definition currently in the Criminal Code – forced labour and debt bondage. I understand that the Bill allegedly impairs the “dirty list”, since it only allows publishing the names of individuals and companies, which have been found using slave labour, after the final judicial decision, while the names added to the list currently include those who have defended themselves on the first and second administrative instances.

I am concerned that the aforementioned legislative developments would reduce the Brazilian concept of slave labour, which is progressive as it goes beyond the international legal definition of forced labour as per the International Labour Organization’s Forced Labour Convention, 1930 (No. 29) by covering also the aspect of degrading working conditions. This could undermine the fight against contemporary forms of slavery in Brazil in many sectors, including in the garment and construction industry and sugar cane cultivation, to the detriment of those still trapped in slavery and slavery-like practices.

During our meeting I was pleased to hear about the ministerial ordinance adopted by the Federal Government on 31 March 2015 (Portaria Interministerial MTE/SEDH nº 02) aimed at reinstating the ”dirty list”. I note that the persistence of the Ministry of Labour and Employment, the Secretariat for Human Rights of the Presidency and the Office of the Federal Attorney General, in addition to that of civil society organizations and the financial sector were instrumental in this endeavour.

In this regard, I regret, however, that the “dirty list” has not been published yet. I understand that in order to do so, the Federal Government has asked the Supreme Court to consider the previous federal ordinance, suspended by the Supreme Court President in December 2014 following the action filed by the Brazilian Association of Real Estate Developers (Associação Brasileira de Incorporadoras Imobiliárias – Abrainc), void because a new and updated one had been issued. Pending the decision of the Minister Rapporteur in the Supreme Court, the list continues to be prohibited from being published.

I would like to emphasise the importance of the “dirty list” in terms of combatting slave labour in Brazil and the necessity for the names of individuals and companies using slave labour being made public. The list is crucial for transparency purposes and to allow risk management by private companies and public banks.

While fully aware of the efforts taken by the Government of Brazil to combat contemporary forms of slavery and the exemplary programmes and policies that Brazil has put in place, as recognised also by my predecessor, I would like to call on the Brazilian Government to uphold the standard, including by not reducing the current legal

definition of slave labour in the Brazilian Criminal Code and by re-publishing the “dirty list”.

With the aim to assist your Excellency’s Government in these endeavours, I would be grateful for any further information that you might be able to provide in this regard. Your Excellency’s Government’s response will be made available in a report to be presented to the Human Rights Council for its consideration.

In order to continue the dialogue on the issues related to my mandate with your Excellency’s Government and to be able to provide technical advice and support to the efforts of your Excellency’s Government to eradicate slave labour and ensure victim protection and assistance, I would also like to explore the possibility of an official follow-up visit to Brazil in the first trimester of 2016.

Should you have any questions or require further information, please do not hesitate to contact Ms. Janja Sinkovič, Associate Human Rights Officer, who is supporting the mandate on contemporary forms of slavery at the Office of the High Commissioner for Human Rights (e-mail: [jsinkovic@ohchr.org](mailto:jsinkovic@ohchr.org), tel.: +41 22 928 9356).

Please accept, Excellency, the assurances of my highest consideration.

Urmila Bhoola  
Special Rapporteur on contemporary forms of slavery, including its causes and  
consequences