

The Impact of ILO standards on the international scene

University Paris 1 Panthéon Sorbonne - 24th of September/2019

Organized by the CIELO Laboral Network and the Network for the study and diffusion of the impact of the new ICT in the company

Brazil and Argentina: Fighting against the slave labor based on the ILO Convention 81



Angela Tavares de Castro Bittencourt angelatcb@gmail.com

Researcher (Universidade Federal do Rio de Janeiro-UFRJ) and Labor Law Lawyer Specialist in Labor and Human Rights (Universidad de Castilla-La Mancha, Toledo, Spain)



(Photo by Brazil's Ministry of Labor and Employment)

ILO CONVENTION Nº 81 (1947)

There are four Governance Conventions. They relate to, and are important for, the functioning of the international labor standards system and are considered the most important instruments from the point of view of governance. As a result, the ILO encourages member States to ratify them as a matter of priority. Labour Inspection Convention No. 81 is one of them.

Brazil's ratification: 11 Oct 1989 (In Force)
Argentina's ratification: 17 Feb 1955 (In Force)

The main goals of C81 to guarantee power of labor inspectors to carry out inquiries freely, to enter any workplace liable to inspection and to give warning and advice or institute or recommend proceeding, are:

PRELIMINARY CONCLUSIONS

A central element in the informal labor market is the role of the State and its ability to regulate and prevent violations of labor standards in the garment industry. There is consensus in the literature that the lack of control by the State is a necessary condition for the increase in the number of sweatshops and informal labor in the clothing sector.

An explanation for Brazil to fight against contemporary slave labor, unlike Argentina, is the existence of a set of factors that triggered the development of public policies, especially from 2003, that allowed the country to make Zara sign such terms of conduct, especially regarding the structure of labor inspection, as established by the ILO Convention No. 81.

Besides the existence of a Public Labor Prosecution Office in charge of keeping and supervising Labor Laws in Brazil, other reasons for labor inspectors be free from political pressure are the fact that the labor inspection structure is federal and the public career provides financial stability. All these elements contribute to the outcome involving the Zara case in Brazil.

*The fact that Brazil and Argentina have recently dissolved their Ministries of Labor due to cutting government spending poses a threat to labor supervision and the fight against all forms of undignified labor.

REFERENCES:

Arbex, Alexandre, Galiza, Marcelo, Oliveira, Tiago. *A Política de combate ao trabalho escravo no período recente*. <http://repositorio.ipea.gov.br/handle/11058/8385>.
Lieutier, Ariel. *Esclavos: Los trabajadores costureros de la ciudad de Buenos Aires*. Buenos Aires: Retorica Ediciones, 2010.
Navarro, Marcelo Julio. *Policía del Trabajo: Actuación de la Administración Pública en el ámbito de las relaciones de trabajo*. Buenos Aires: Rubinzal-Culzoni, 2010.

ABSTRACT

The present study investigates public policies that fight against contemporary slave labor in Brazil, comparing evidence found in the work of Zara's employees in Brazil and Argentina in 2011 and 2013. In 2011, a group of 67 workers was rescued from unlicensed factories in Sao Paulo, Brazil, where clothes with the Zara label on were being produced through outsourcing contracts. Bolivian and Peruvian immigrant workers, one of them being just 14 years old, were living in dangerous and unhygienic conditions, forced to work 12-hour shifts for between € 59 and € 100 a month, at current exchange rates.

In 2013, the same company was involved in another scandal for using slave labor in their factories in Argentina. Immigrant workers, including children, were found sewing garments in "degrading" sweatshops, investigators said. Most Bolivian workers claimed that they had to work more than 13 hours a day and were prevented from leaving the factories without permission.

The Brazilian government and Zara signed two agreements to adjust conduct to legal requirements in which Zara had to commit themselves to provide better working conditions to their employees. The money originating from the payment of fines would be used to invest in inspection and prevention of slave labor. On the other hand, the Argentine government did not act the same way towards Zara' working conditions. The NGO *La Alameda* filed an accusation, but Zara was not proven guilty. The NGO reports that Argentina does not have adequate public policies against slave labor.

Article 4

1. So far as is compatible with the administrative practice of the Member, labor inspection shall be placed under the supervision and control of a central authority.

Article 6

The inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences.

Article 7

1. Subject to any conditions for recruitment to the public service which may be prescribed by national laws or regulations, labor inspectors shall be recruited with sole regard to their qualifications for the performance of their duties.



"Cooperative federalism": The Ministry of Labor, Employment and Social Security of the Nation* plays the role of central authority in labor inspection and social security, while the 23 Argentine provinces and the Autonomous City of Buenos Aires (CABA) are constituted as autonomous federal jurisdictions that manage their own functions of labor inspection services.

The state inspection has permanent and temporary inspectors (the assignment of positions depends on eminently political factors). In some provinces, administrative emergency laws have been enacted, which in practice facilitates the hiring and dismissal of new labor inspectors.

To guarantee the effective access of Brazilians to all rights provided for, the Federal Constitution, in its art. 21, XXIV, assigned to the Federal government competence to organize, maintain, and execute the labor inspection.

The labor inspector is a federal public official with a State career. To be a public servant, it is required to take an entrance exam and have a bachelor's degree. The fact that labor inspectors are public servants protects them from political interference in their activities.