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A BETTER FUTURE

Making life brighter in Kenya

Michael Sheridan of Catholic Relief Services looks at the work being done in Brazil to combat modern-day slavery

The cost of a coffee

DURING THE SUMMER of 2013, Catholic Relief Services learned quite by accident that 15 coffee estates in Brazil were included in the government's Dirty List, an official registry of farms and firms found to be profiting from what the country's laws define as modern-day slavery.

We turned for insight to a long-time CRS partner in São Paulo called *Repórter Brasil*, a non-profit organisation led by a famous Brazilian journalist that reports on labour issues.

We asked his organisation to help CRS with four aims: understand what constitute slave labour on coffee plantations in Brazil; estimate the scope of the problem; identify root causes and risk factors; and trace coffee from plantations employing slave labour, identifying the specific commercial channels into which coffee grown on plantations cited with slave labour violations is being sold.

The Atlantic slave trade left a ruinous legacy everywhere, but in the Americas, perhaps no country was more affected than Brazil.

During a ghastly period of more than 300 years, estimates suggest that somewhere between four and five million slaves were delivered to its shores by slave traders – more than one-third of all Africans dragged to the Americas.

When Brazil finally abolished slavery in 1888, it was the last country in the Americas to do so. Today it is home to the largest population of Afro-descendants outside the continent of Africa.

So while the “s-word” may painful everywhere, it touches a nerve that is especially raw in Brazil. This is why the government's decision to enshrine the term “slavery” in the country's legal code in 1940 was so powerful, so provocative and so controversial.

Brazil's definition and prohibition of slave labour are established in Article 149 of its Penal Code which identifies four elements of what Brazil calls “conditions analogous to slavery.” They are: Forced labour: people forced to work under threats/acts of physical or mental violence; exhausting work hours: workers subjected to workdays that go far beyond normal overtime and threaten their physical integrity; degrading conditions: people lodged in substandard housing and/or without access to appropriate equipment to protect themselves in handling and applying agrochemicals, decent food or water in the field; and debt bondage: workers are tied to labour intermediaries and/or landowners by

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illegal debts related to expenses on transportation, food, lodging and work equipment.

Employers can be found to be “reducing someone to a condition analogous to that of a slave” if inspectors find evidence of any one of these conditions. But based on our conversations with labour auditors and our review of the inspection reports from coffee farms on the Dirty List, they rarely are.

In all the cases we saw, when Brazil's government cited employers for violating Article 149, there was evidence of at least two of the four conditions, and

often more. Brazil's definition of slavery may be expansive, but it does not seem to be applied capriciously.

The language of Brazil's Article 149 differs in three important ways from that of the definition of forced labour enshrined in the International Labour Organization Convention No. 29, which remains the universal standard in this area.

First, Article 149 uses the provocative term “slave labour” rather than the ILO term “forced labour.”

Second, it is more expansive than the ILO definition, including reference to degrading working conditions and exhaustive work days that do not appear in ILO conventions.

Third, Article 149 does not require evidence of forced labour – an essential element of the ILO definition and most other definitions of modern-day slavery – for an employer to be included in the Dirty List.

These discrepancies do not mean, however, that Brazil's definition is incompatible with ILO standards.

We asked *Repórter Brasil* to conduct research into modern slavery in Brazil's coffee sector. At the time, a significant minority of legislators and a small number of governors – mostly representing rural areas that are home to large landowners – were lobbying to reduce the scope of Brazil's definition of slavery.

They wanted to amend Article 149 to eliminate references to exhausting work hours and degrading conditions, which they regard as subjective, and to bring it into closer alignment with ILO Convention No. 29.

Vanity Fair recently published an article profiling the work of a CRS partner in the fight against slavery in Brazil.

The author suggested that modern



Picking coffee Photo: Laura Elizabeth Pohl for CRS

slavery is endemic to rural Brazil, stating that “slavery fits naturally into the vast and brutal Brazilian countryside.”

He explained: “The landowners protest that...the workers they employ are accustomed to hard lives and grateful for the jobs.”

That may be true. But that doesn’t make it OK to employ people under conditions that are an affront to human dignity.

Quinn Kepes of *Verité* has conducted research into labour conditions in the coffee sector. He characterises farm-workers in the coffee lands of Latin America as “poor, rural, less educated, less connected, less informed, disempowered, accustomed to a traditional role of subjugation and dependent on a small range of employment opportunities, mostly under substandard conditions.”

They are so used to such limited and lousy options, he says, that they are grateful for whatever they can get, even when that work is degrading: “Even workers earning half the minimum wage and working well in excess of the maximum work week will not say they are dissatisfied with their working conditions because they have never known

anything different.”

In other words, the fact that workers toiling under conditions of modern slavery may not necessarily consider themselves slaves doesn’t mean they aren’t.

The story of modern slavery on Brazilian coffee farms often starts in far-flung communities hundreds (or even thousands) of kilometres away from those farms, where workers are recruited by labour brokers known in Brazil as *gatos* – workers who are generally poorly educated young men living in extreme poverty.

In the case of one coffee estate found to be profiting from slave labour, some workers were transported more than 2,000 kilometres from their communities of origin to the farm where they worked.

Gatos often promise one set of wages and working conditions and deliver quite another. So while workers may be “freely accepting” their offers of employment, they do so under false pretences, with a fraudulent understanding of what their work will entail, what it will pay or both.

The moment workers step onto the buses that will take them to the farms, they start incurring debt, since *gatos*

charge workers for the trip to the work front.

And the moment they leave their communities, they are cut off from the social support networks they would turn to in times of need – the distance between the farms where they work and the communities they call home is an important source of their vulnerability.

Brazil’s *gatos* are part of a sprawling global system of labour brokerage fraught with moral hazard: Farm owners pay a flat rate to brokers to manage the entire labour function, from recruitment and transportation to oversight and lodging on the farm.

Since labour brokers take home everything they don’t spend, the system creates dangerous incentives for paying workers less than the minimum wage and cutting corners on investment in lodging, sanitation and food.

And it showed on the farms on the Dirty List, Brazil’s official registry of employers found to be profiting from modern slavery, many of which relied on *gatos* to recruit their labour forces.

That is partly why Brazil’s penal code doesn’t just outlaw slavery in its Article 149, but also prohibits the kind of labour recruitment practices conducive >>> 34

to modern slavery. Article 207 forbids “Enticement of workers, with the aim of taking them from one location to another in the national territory.”

The living conditions on Dirty List coffee farms were squalid: Houses with dirt floors, bedrooms with no beds or any place to store clothes, kitchen with no stoves or refrigeration to store food, houses with no running water, no rubbish bins cans and no system for dealing with solid waste.

Workers cooked over open flames on the floor, slept on thin mats on dirt floors, piled their rubbish on the ground near their houses, walked to fetch water and performed basic biological functions in forests and fields.

Payments were often irregular and frequently less than the amount promised to workers when they were contracted, even without accounting for the deductions for lodging, food, supplies and equipment.

Some workers were not paid at all. And very few were formally registered with the Ministry of Labour as required by law.

Our research also showed evidence of restrictions on worker freedom, meaning workers who realised they’d been swindled and decided to get out couldn’t do so easily.

The research didn’t produce overwhelming evidence of clear root causes of modern slavery in the coffee sector, but it did suggest a few conditions that may be risk factors for modern slavery.

The workers rescued from coffee farms on the Dirty List lived in grinding poverty. With little formal education, they would not have qualified for work that was more rewarding or less grueling. Their best livelihood option – one that many had been choosing for years – was to sell their physical labour.

The existence of abject poverty and large numbers of poorly educated people living in destitution is a leading risk factor for modern slavery – people desperate for opportunity are more easily exploited than those with more livelihood options.

We also learned that modern slavery may be more likely on mid-sized farms than smaller or larger ones. The number of workers rescued from estates on the Dirty List ranged from six to 75. The operations were big but not massive; big enough to generate significant demand for unskilled labour but not big enough to have the kinds of mechanised operations that reduce labour demand. This observation would be consistent with



Coffee grains being dried on a drier

Photo: Oscar Leiva for CRS

similar findings in other agricultural supply chains.

The largest farms don’t just require less unskilled labour because they have some degree of mechanisation, but they are also more likely to be tied into markets that require the kinds of certifications or third-party verifications that mitigate labour risk, and more likely to have built the costs of compliance with global labour standards into their business models.

The global coffee market price was hovering just above \$1 per pound for much of the time Repórter Brasil was conducting its research. The market can’t be blamed for modern slavery, of course. Hundreds of thousands of other farms in Brazil – and millions more around the world – were trading coffee under similar market conditions without resorting to such practices.

The blame for these violations lies with the farmers who employ workers in conditions of modern slavery, or outsource the labour function to brokers without bothering to oversee them.

But a dominant price discovery mechanism that allows prices to get that low and stay there for extended periods of time isn’t helping matters.

With prices at levels that are below cost of production for most farmers, even estate owners who want to do the right thing may find it hard to comply with the dictates of the law (and conscience).

Coffee companies and consumers may not call these practices slavery, but I suspect they wouldn’t call them pretty.

In order to get a better sense of the scope of the problem, we asked Repórter Brasil to help us understand whether those farms contained the full universe of cases of modern slavery in the country’s coffee sector, or whether they were representative of a broader number. Their answer was something like: “We don’t know.”

What we do know is that our collaboration with Repórter Brasil found no evidence to suggest that there is an epidemic of modern slavery in Brazil’s coffee sector.

When we turned elsewhere for insight, we did find evidence to suggest that Brazil has the lowest incidence of modern slavery and the best record of fighting it of any coffee-growing country in the world (outside the United States).

One case of modern slavery in the coffee is too much to bear. By trying to put the 15 cases on Brazil’s Dirty List into some perspective I am not apologising

“**Payments were often irregular and frequently less than the amount promised to workers when they were contracted**

for the practice – I believe zero-tolerance is the appropriate approach to labour conditions that undermine the human dignity of workers.

I am trying to estimate the scope of the problem as part of a diagnostic process: To see whether the proper prescription for the labour ills that ail Brazil’s coffee sector look more like an ounce of prevention or a pound of cure.

Brazil’s fight against modern slavery has been held up as an example by labour rights advocates from Free the Slaves to the US Department of Labour to the UN’s International Labour Organization.

Its effort has been ambitious (the goal is total eradication of modern slavery), courageous (websites have been hacked, activists threatened, inspectors killed), creative (prevention campaigns include radionovelas, comic strips, video games and educational materials for schools) and cross-sectoral (public, private, multilateral and non-profit sectors are all deeply engaged). Most importantly, it has been effective in generating actionable information, preventing new cases of slavery and rescuing workers who have been enslaved. **JM**