The Political and Moral Economy of Combatting Labor Exploitation: A Study of Brazil's Policy Evolution

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THE POLITICAL AND MORAL ECONOMY OF COMBATTING LABOR EXPLOITATION: A STUDY OF BRAZIL’S POLICY EVOLUTION

By
Menaka Mahajan

A DISSERTATION
Submitted to the Faculty of the University of Miami in partial fulfillment of the requirements for the degree of Doctor of Philosophy

Coral Gables, Florida
May 2015
UNIVERSITY OF MIAMI

A dissertation submitted in partial fulfillment of
the requirements for the degree of
Doctor of Philosophy

THE POLITICAL AND MORAL ECONOMY OF COMBATTING LABOR
EXPLOITATION: A STUDY OF BRAZIL’S POLICY EVOLUTION

Menaka Mahajan

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Although slavery was formally abolished in most countries decades ago, labor exploitation persisted without notable governmental efforts to address it. However, some countries have recently begun to adopt policies to reduce labor exploitation. This study investigates influences on policy change in the case of Brazil, a country that experienced drastic policy evolution in a short span of time. For years, the Government had denied the legitimacy of slave labor allegations. However, beginning in 1995, the Government of Brazil changed course, adopting policies that are now emulated abroad. This remarkable transformation is rather surprising considering the country’s history and reputation regarding both traditional and contemporary forms of slavery. What influenced this break with the past? To answer this question, I examine the processes leading to two policies that form the basis for Brazil’s characterization as an example for other countries to follow: the Special Mobile Inspection Units and the Dirty List, implemented in 1995 and 2003, respectively. I argue that the decisions to implement these policies reflected the confluence of normative and material pressures applied from above and below. However, the relative importance of each pressure varied at different stages: normative pressure was more important in early stages, whereas material pressure had a greater impact in later stages. Normative pressure, anchored in the domestic arena, served as a crucial
precursor. By changing Brazilian notions of acceptable behavior, it shifted the context in which subsequent material pressures operated. The salience of external economic pressures thus increased when they intersected with broader national acceptance of norms condemning exploitative labor. I also offer four main mechanisms to explain how these factors influenced policy adoption and implementation in Brazil: norm sensitization, encouraging accountability, activating reputational concerns, and targeting economic vulnerabilities. Operating through these mechanisms, normative and material pressures jointly generated the conditions for policymakers to move Brazil from violator to champion in the fight against labor exploitation.
For my parents, D.K. and Madhur Mahajan
ACKNOWLEDGEMENTS

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Finally, I am especially appreciative for the unconditional and fierce belief in me shown by my parents, Dattatray and Madhur Mahajan, and closest friend, Angie Mendez. They were there at every step of the way to provide love and encouragement, and I am eternally grateful.

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<tr>
<td>ABECITRUS</td>
<td>Brazilian Association of Citrus Exporters (Associação Brasileira dos Exportadores de Cítricos)</td>
</tr>
<tr>
<td>ABRINQ</td>
<td>Brazilian Association of Toymakers (Associação Brasileira dos Fabricantes de Brinquedos)</td>
</tr>
<tr>
<td>AFL</td>
<td>American Federation of Labor</td>
</tr>
<tr>
<td>AGITRA</td>
<td>Gaucha Association of Labor Inspectors (Associação Gaúcha dos Auditores Fiscais do Trabalho)</td>
</tr>
<tr>
<td>ASI</td>
<td>Anti-Slavery International</td>
</tr>
<tr>
<td>AW</td>
<td>Americas Watch</td>
</tr>
<tr>
<td>BCN</td>
<td>Labor Credit Bank (Banco de Crédito Nacional)</td>
</tr>
<tr>
<td>BDC</td>
<td>Beneficiary developing country</td>
</tr>
<tr>
<td>BGMEA</td>
<td>Bangladesh Garment Manufacturers and Exporters Association</td>
</tr>
<tr>
<td>BSR</td>
<td>Business for Social Responsibility</td>
</tr>
<tr>
<td>CAS</td>
<td>Conference Committee on the Application of Standards</td>
</tr>
<tr>
<td>CEACR</td>
<td>Committee of Experts on the Application of Conventions and Recommendations</td>
</tr>
<tr>
<td>CEB</td>
<td>Christian Base Communities (Comunidades Eclesiais de Base)</td>
</tr>
<tr>
<td>CEJIL</td>
<td>Center for Justice and International Law</td>
</tr>
<tr>
<td>CIESP</td>
<td>Center of Industry of the State of São Paulo (Centro das Indústrias do Estado de São Paulo)</td>
</tr>
<tr>
<td>CLAT</td>
<td>Latin American Central of Workers (Central Latino Americana de Trabalhadores)</td>
</tr>
<tr>
<td>CLDA</td>
<td>Child Labor Deterrence Act</td>
</tr>
<tr>
<td>CNA</td>
<td>National Confederation of Agriculture (Confederação Nacional da Agricultura)</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Description</td>
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<tr>
<td>--------------</td>
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<tr>
<td>CNBB</td>
<td>National Conference of Bishops of Brazil (Conferência Nacional dos Bispos do Brasil)</td>
</tr>
<tr>
<td>CONATRAE</td>
<td>National Commission for the Eradication of Forced Labor (Comissão Nacional para a Erradicação do Trabalho Escravo)</td>
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<tr>
<td>CONTAG</td>
<td>National Confederation of Agricultural Workers (Confederação Nacional dos Trabalhadores na Agricultura)</td>
</tr>
<tr>
<td>CPI</td>
<td>Parliamentary Inquiry Commission (Comissão Parlamentar de Inquérito)</td>
</tr>
<tr>
<td>CPT</td>
<td>Pastoral Land Commission (Comissão Pastoral da Terra)</td>
</tr>
<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
</tr>
<tr>
<td>CSO</td>
<td>Civil Society Organization</td>
</tr>
<tr>
<td>CSR</td>
<td>Corporate Social Responsibility</td>
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<tr>
<td>CUT</td>
<td>Central Union of Workers (Central Única dos Trabalhadores)</td>
</tr>
<tr>
<td>CVRD</td>
<td>Freshwater River Valley Company (Companhia Vale do Rio Doce)</td>
</tr>
<tr>
<td>DRT</td>
<td>Regional Labor Offices (Delegacias Regionais do Trabalho)</td>
</tr>
<tr>
<td>ECA</td>
<td>Child and Adolescent Act (Estatuto da Criança e do Adolescente)</td>
</tr>
<tr>
<td>EO</td>
<td>Executive Order</td>
</tr>
<tr>
<td>FCM</td>
<td>Florida Citrus Mutual</td>
</tr>
<tr>
<td>FDI</td>
<td>Foreign Direct Investment</td>
</tr>
<tr>
<td>Forum DCA</td>
<td>National Permanent Forum of Non-Government Entities in Defense of Children’s and Adolescents’ Rights (Forum Nacional Permanente de Entidades Não-Governamentais de Defesa dos Direitos da Criança e do Adolescente)</td>
</tr>
<tr>
<td>FS</td>
<td>Union Power (Força Sindical)</td>
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<tr>
<td>FTAA</td>
<td>Free Trade Area of the Americas</td>
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<tr>
<td>FUNABEM</td>
<td>National Foundation for the Wellbeing of Children (Fundação Nacional do Bem-Estar do Menor)</td>
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<tr>
<td>Acronym</td>
<td>Full Form</td>
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<tr>
<td>FUNDACENTRO</td>
<td>National Foundation for Safety, Health and Occupational Medicine (Fundação Jorge Duprat Figueiredo de Segurança e Medicina do Trabalho&lt;sup&gt;1&lt;/sup&gt;)</td>
</tr>
<tr>
<td>GATT</td>
<td>General Agreement on Tariffs and Trade</td>
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<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td>GEFM</td>
<td>Special Mobile Inspection Group (Grupo Especial de Fiscalização Móvel)</td>
</tr>
<tr>
<td>GERTRAF</td>
<td>Executive Group to Eradicate Forced Labor (Grupo Interministerial para Erradicação do Trabalho Forçado)</td>
</tr>
<tr>
<td>GSP</td>
<td>Generalized System of Preferences</td>
</tr>
<tr>
<td>HRW</td>
<td>Human Rights Watch</td>
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<tr>
<td>IACHR</td>
<td>Inter-American Commission on Human Rights</td>
</tr>
<tr>
<td>ICFTU</td>
<td>International Confederation of Free Trade Unions</td>
</tr>
<tr>
<td>IFPAAW</td>
<td>International Federation of Plantation, Agricultural, and Allied Workers</td>
</tr>
<tr>
<td>ILC</td>
<td>International Labor Conference</td>
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<tr>
<td>ILO</td>
<td>International Labor Organization</td>
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<tr>
<td>ILRF</td>
<td>International Labor Rights Forum</td>
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<tr>
<td>IO</td>
<td>International Organization</td>
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<tr>
<td>IPEC</td>
<td>International Program for the Elimination of Child Labor</td>
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<tr>
<td>IPC</td>
<td>Pro-Child Institute (Instituto Pró-Criança)</td>
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<tr>
<td>ITUC</td>
<td>International Trade Union Confederation</td>
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<tr>
<td>MDA</td>
<td>Ministry of Agrarian Development (Ministério do Desenvolvimento Agrário)</td>
</tr>
</tbody>
</table>

<sup>1</sup> FUNDACENTRO, or Fundação Centro Nacional de Segurança, Higiene e Medicina do Trabalho, was created in 1966. The acronym for the organization is based on the original name. However, in 1978 the name was changed to Fundação Jorge Duprat Figueiredo de Segurança e Medicina do Trabalho.
MIRAD  Ministry of Development and Agrarian Reform (Ministério do Desenvolvimento Agrário)

MNC  Multinational Corporation

MOU  Memorandum of Understanding

MPF  Prosecutor General (Ministério Público Federal)

MPT  Public Ministry of Labor / Labor Prosecutor / Labor Prosecution Office (Ministério Público do Trabalho)

MST  Movement of Landless Rural Workers (Movimento dos Trabalhadores Rurais sem Terra)

MTE  Ministry of Labor and Employment (Ministério do Trabalho e Emprego)

NGO  Non-Governmental Organization

OAB  Order of Attorneys of Brazil (Ordem dos Advogados do Brasil)

OAS  Organization of American States

OECD  Organization for Economic Co-operation and Development

PEAC  Child-Friendly Company Program (Programa Empresa Amiga da Criança)

PGC  Great Carajás Program (Programa Grande Carajás)

PND  Brazilian Privatization Program (Programa Nacional de Desestatização)

PNRA  National Agrarian Reform Plan (Plano Nacional de Reforma Agrária)

PSDB  Brazilian Social Democracy Party (Partido da Social Democracia Brasileira)

PTB  Brazilian Workers’ Party (Partido Trabalhista Brasileiro)

RTB  Race to the Bottom

SEDH  Special Secretariat on Human Rights (Secretaria Especial dos Direitos Humanos)
<table>
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<tr>
<th>Acronym</th>
<th>Description</th>
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<tr>
<td>SIT</td>
<td>Secretary of Labor Inspection (<em>Secretaria de Inspeção do Trabalho</em>)</td>
</tr>
<tr>
<td>TAN</td>
<td>Transnational Advocacy Network</td>
</tr>
<tr>
<td>TIP</td>
<td>Trafficking in Persons</td>
</tr>
<tr>
<td>TVPA</td>
<td>Victims of Trafficking and Violence Protection Act of 2000</td>
</tr>
<tr>
<td>TVPRA</td>
<td>Trafficking Victims Protection Reauthorization Act of 2003</td>
</tr>
<tr>
<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
</tr>
<tr>
<td>UDR</td>
<td>Democratic Rural Union (* União Democrática Ruralista *)</td>
</tr>
<tr>
<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
</tr>
<tr>
<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
</tr>
<tr>
<td>Uni-FACEF</td>
<td>University Center of Franca (* Centro Universitário de Franca *)</td>
</tr>
<tr>
<td>UNODC</td>
<td>United Nations Office on Drugs and Crime</td>
</tr>
<tr>
<td>UNTOC</td>
<td>United Nations Convention against Transnational Organized Crime</td>
</tr>
<tr>
<td>USDHS</td>
<td>United States Department of Homeland Security</td>
</tr>
<tr>
<td>USDOL</td>
<td>United States Department of Labor</td>
</tr>
<tr>
<td>USDOS</td>
<td>United States Department of State</td>
</tr>
<tr>
<td>USTR</td>
<td>United States Trade Representative</td>
</tr>
<tr>
<td>WHO</td>
<td>World Health Organization</td>
</tr>
<tr>
<td>WTO</td>
<td>World Trade Organization</td>
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Chapter 1 - Introduction

...Brazil has been addressing the problem with vigour and determination. It has done so in many ways, involving different government agencies, employers’ and workers’ organizations, civil society, the media, academic organizations and others. Many of the measures taken are creative and unique, reflecting the need for extraordinary steps to deal with a severe human rights problem...

...All these initiatives, regardless of the difficulties and obstacles encountered in implementing them, have transformed Brazil into an example to be followed in the fight against slave labour...

-International Labor Organization, 2009

Although slavery was abolished in most countries around the world more than a century ago, modern forms have persisted. Since the establishment of the International Labor Organization (ILO) in 1919 and the United Nations (UN) in 1945, numerous international conventions have bound signatory member states to address exploitative labor practices, “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.”

Ratification of these conventions was common. However, the policies and practices of most signatories changed little, if at all. Reports of forced and child labor around the world continued to surface, reflecting the serious deficiencies in member states’ application of conventions.

Frequently cited in these reports, Brazil was long criticized for its failure to

---


3 Definitions are discussed in greater detail later in this chapter.

4 In 1980 there were 144 ILO member states. Of these, 117 had ratified the Forced Labor Convention (C029) and 104 had ratified the Abolition of Forced Labor Convention (C105). Convention 138 (C138) relating to child labor had just been made available in 1973 and 22 countries had signed as of 1980. Brazil did not sign it until 2001. A fourth fundamental convention was offered in 1999 (Convention 182 o the Worst Forms of Child Labor, C182). Conventions are discussed further in Chapter 3. See Appendix B for data on country ratifications of fundamental forced and child labor conventions.
appropriately address this issue and its response was considered “lackadaisical at best, complicitous at worst.”\(^5\) However, beginning in the mid-1990s, the Government of Brazil drastically shifted its position. Today, Brazil is regarded as “one of the most progressive countries” in terms of its efforts to combat forced labor, and its policies are exported and emulated abroad.\(^6\) This remarkable transformation is rather surprising considering Brazil’s history and reputation regarding both traditional and contemporary forms of slavery.

First, it was the largest importer of slaves, with the longest history of slavery (1538-1888), and the last country in the Western Hemisphere to abolish traditional slavery.\(^7\) Brazil ended its participation in the international slave trade in 1850 by declaring the traffic in slaves to be a form of piracy.\(^8\) However, the Land Act (\textit{Lei de Terras}) of 1850, passed shortly after the slave traffic halted, “ensured that labour relations remained similar to those existing in the period prior to the abolition of slavery, and the end of slavery did not improve the quality of life for many rural workers.”\(^9\) The


institution of slavery was abolished on May 13, 1888 through the Golden Law (Lei Áurea), which removed the right of ownership of one person over another.\textsuperscript{10} However, exploitation of workers persisted, in part due to the concentration of land in the hands of the rich, which tied former slaves to the owners of large estates. Thus, workers could no longer be ‘owned,’ but the government’s policies did not prevent their continuing exploitation.

Second, just a few decades ago Brazil was named as one of the worst offenders in terms of contemporary forms of labor exploitation. A 1982 report to a UN human rights committee, the Working Group on Slavery, estimated that more than 3 million children in Brazil from ages 10 to 14 were working. The report specifically cited the state of São Paulo’s “500,000 abandoned children” working in such industries as textiles, steel, footwear, and food.\textsuperscript{11} A few years later the Chief of the World Health Organization (WHO) placed Brazil in a group with some of the worst offenders in terms of child labor. Dr. M.A. El Batawi, chief of WHO’s Office of Occupational Health, said that around 150 million children in the world are “used like animals” and “Colombia is the worst, but it’s also bad in Brazil, Ecuador, all of black Africa…Children pull crates of coal out of underground mines with a rope tied around their waists.”\textsuperscript{12} In addition, at the United Nations (UN) World Conference on Human Rights, Brazil was highlighted for continuing

\textsuperscript{10} Patricía Trindade Maranhão Costa, Fighting Forced Labour: The Example of Brazil, Special Action Programme to Combat Forced Labour (International Labour Office (ILO); Special Action Programme to Combat Forced Labour, 2009).
\textsuperscript{12} “Children ‘Used like Animals’ in Industry,” Daily Breeze, June 4, 1985. This statement was made in a speech to 200 delegates at the International Conference on the Health of Miners in Pittsburgh.
slavery practices, along with eight other countries, the majority of which had ratified the relevant ILO conventions.  

Finally, until the mid-1990s, the government indicated in various statements before the ILO that combatting forced and child labor was not a priority, and even denied its existence. A Brazilian governmental representative claimed that alleged forced labor cases were unsubstantiated, politically motivated, or violations of labor law instead. In another statement, the governmental representative explicitly stated that forced labor did not exist in Brazil and reports suggesting otherwise were “regrettable and baseless.”

Thus, one would not expect this country to be a leader in this issue area. However, contrary to expectations, Brazil has taken concrete, meaningful steps since the mid-1990s to acknowledge and confront labor exploitation. Its efforts have been identified as a model for other countries: “The Brazilian model in fighting forced labor is exportable.” It represents a successful case of norm internalization, and has gone a step further by taking the initiative to share its best practices with other developing countries from Latin

---

13 “ONU Critica Existencia de Trabalho Escravo,” Folha de São Paulo, June 18, 1993. The other highlighted countries were the Dominican Republic, India, Mauritania, Pakistan, Peru, and Sudan. Every one of these countries had ratified Convention 29, and all but India and Mauritania had ratified Convention 105.

14 Governments are expected to submit reports on a regular basis to the Committee of Experts on the Application of Conventions and Ratifications (CEACR) – a technical body tasked with monitoring states’ application of ratified international conventions. The CEACR compiles annual reports for submission to the Committee on the Application of Standards, which selects a small number for public discussion in the International Labor Conference (ILC). These statements were made in the ILC session.


16 International Labour Conference, “Record of Proceedings,” in Seventy-Ninth Session (Geneva, 1992). Public comment by Mr. Carmelito de Melo, government representative for Brazil. The government’s comments, as well as the monitoring structure of the ILO, are explained in greater detail in Chapter 3.

Accolades for the Government of Brazil generally concentrate on two policies: the Special Mobile Inspection Units and the Dirty List. This project examines the processes and influences that culminated in the adoption of these policies, in order to explain the following: Why did the Brazilian government break with the past in 1995 to confront the existence of labor exploitation? What influenced it to adopt policies that are now globally renowned? What explains its progression from serious offender to global champion?

In answering these questions, I focus on two processes of policy change. Thus, the empirical analysis of this project is structured according to the two waves of action preceding the adoption of these exemplary policies. I draw upon and contribute to literature on sources of policy change including global markets, power, norms, and domestic politics. Offering a nuanced argument that builds on insights from these bodies of literature, I argue that policy change in Brazil reflected the confluence of normative and material pressures applied from above and below. The relative importance of these pressures and sources varied at different stages: normative pressure was more important

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19 Although the country’s practices are considered exemplary, labor exploitation has not been eliminated in Brazil.

20 This division into two waves or periods is supported by two sources. First, President of the Board of Directors of the Network for Social Justice and Human Rights and Professor at the Federal University of Rio de Janeiro, Ricardo Rezende Figueira, identified three periods: 1985-1994 as a period of “frustrated hopes”; 1995-2003 in which the Mobile Group was formed; and 2003-2009 when the government aimed at eradication of slave labor. Second, the current Project Director of the ILO in Brazil, Luiz Machado, called 1995 and 2002/2003 the start of the first and second waves of action, respectively.

in early stages, whereas material pressure had a greater impact in later stages. Initially, normative pressures were crucial to changing notions of acceptable behavior within Brazil. United Nations agencies had condemned labor exploitation for years, but this alone did not produce a change in the Government of Brazil’s behavior. However, the mobilization of domestic civil society increased public awareness, promoted acceptance of internationally recognized labor standards, and exposed the gap between Brazilian governmental practices and obligations under international law.

By altering notions of acceptable behavior, this stage of normative conditioning was crucial for material pressures to have an impact. Material pressures had been applied for over a decade preceding the policy change of the first wave, but the Brazilian Government had paid little attention. However, the exertion of normative pressures in early stages, anchored in the domestic sphere, shifted the context in which subsequent material pressures operated. Thus, when increasing U.S. efforts to promote global improvements in labor rights – through the linkage with trade benefits – intersected with greater national acceptance of norms condemning exploitative labor practices, external economic pressures became more salient.

I also offer four main mechanisms to explain how normative and material pressures influenced policy adoption and implementation in Brazil: norm sensitization, encouraging accountability, activating reputational concerns, and targeting economic vulnerabilities. Normative and material pressures, operating through these mechanisms, jointly generated the appropriate conditions for governmental actors to institute two cumulative and exemplary policies, the Special Mobile Inspection Units and the Dirty List.
Contemporary Forms of Labor Exploitation

At this point, a brief discussion of the phenomenon of labor exploitation and associated terminology is in order. Contemporary forms of slavery are different from traditional slavery in two key ways. First, a dramatic increase in the world’s population after World War II has produced a large supply of labor that may be purchased at a low price. This population growth has occurred in areas where slavery and trafficking are most prevalent today and makes the trade in human beings much less of a financial investment than it had been in the past, changing the dynamics between victim and exploiter. From a narrow economic perspective, these individuals might be considered disposable if they are no longer able to work; because of increased supply, the cost of replacement has plummeted. Secondly, rapid social and economic change in developing countries has affected socioeconomic structures as well as possibilities for subsistence, as traditional societies are brought into a modern economy based on cash crops. The loss of land and livelihood of many in developing countries has encouraged migration in search of work and created greater vulnerability to trafficking and enslavement.\(^{21}\)

Countries, institutions, and non-governmental organizations discuss labor exploitation using various terms – including forced labor, debt bondage, child labor, and human trafficking – often interchangeably. The interpretation of these terms is neither universal nor immutable, but the common, persistent element is the exploitation of the labor of human beings. Labor exploitation can occur in the public or private sphere, in licit and illicit sectors. Although the trade in persons itself is illicit and commonly associated with organized crime, the purposes of such transactions may be part of legal

product supply chains, such as agriculture, textiles, footwear, sporting goods, automobiles, minerals, and tea leaves.\textsuperscript{22}

Forced labor is defined 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” and consists of three elements: work, menace of penalty, and consent.\textsuperscript{23} Work may occur in any industry or sector, public or private, and in the formal and informal economies. Various forms of coercion may be exercised: criminal penalties, physical or psychological abuse, or the withholding of rights, privileges, or personal documents.\textsuperscript{24} One tactic is “the manipulation of credit and debt”: workers may receive wages, but are bound to their employers by debts for costs such as recruitment or transportation, housing, and food.\textsuperscript{25} The debts are so outrageous that the wages are negligible in comparison and the employment relationship is not truly at-will. Furthermore, workers do not offer themselves voluntarily, for the full duration of employment or some part thereof (for example, when a worker initially agrees to enter an employment relationship but is not free to leave it later).\textsuperscript{26}

Whether someone is considered a “child laborer” depends on a variety of factors, including his age, working conditions and hours, and type of work. Some forms of work – such as household chores – fall outside the category of child labor that is targeted for elimination. While policies vary across countries and industries, the general definition of

\textsuperscript{25} International Labor Organization, \textit{The Cost of Coercion} (Geneva, 2009).
\textsuperscript{26} “Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation.”
child labor is “work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.”\textsuperscript{27} The “worst forms of child labor” include enslavement and trafficking, use in armed conflict, prostitution, pornography, and production and trafficking of drugs.\textsuperscript{28}

Although human trafficking is popularly understood as the sale of women and children across national borders for sexual exploitation, this is a narrower interpretation than is required by international standards. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children\textsuperscript{29} guides member states to adopt a definition of trafficking that includes three main elements: the act (recruitment, transportation, transfer, harboring or receipt of persons), the means (threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim), and the purpose (for the purpose of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labor, slavery or similar practices and the removal of organs).\textsuperscript{30} Many instances of human trafficking would fall under forced labor; thus the ILO considers labor trafficking to be one form of labor exploitation, along with slavery and similar practices, as well as debt bondage and servitude.\textsuperscript{31} Others, such as trafficking for the removal of organs, would be outside the scope of this project.

\begin{itemize}
\item \textsuperscript{31}“Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation.”
\end{itemize}
In Brazil, forced labor is denoted by the term slave labor (*trabalho escravo*).

Slave labor conjures up images of chains and shackles, but the modern variant—sometimes referred to as “modern slavery”—does not necessarily utilize such methods of imprisonment. The Brazilian definition encompasses “conditions analogous to slavery.”

The exploitation of child labor may be subsumed under this definition, and Brazilian law also has special provisions to protect children. Human trafficking, however, is legally separate from slave labor. Brazil’s anti-trafficking law is much narrower than what international standards prescribe: it concentrates on trafficking for the purposes of sexual exploitation and requires movement of individuals as a necessary element of the crime.

This project will focus on the broader category of slave labor.

**Brazil’s Policy Evolution**

Brazil had almost no labor legislation when it signed the Treaty of Versailles and became a founding member of the International Labor Organization in 1919. During the next few decades, it made an attempt to address deficiencies, creating institutions, adopting legislation in the areas of labor and social welfare, and increasing its

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32 Código Penal do Brasil, Section 149 (Brazilian Penal Code).
33 See Chapter 3 for additional discussion regarding Brazilian law.
34 Article 231 of the penal code prohibits the movement of individuals for the purpose of sexual exploitation (Decree 2848/40). See http://www.jusbrasil.com.br/topicos/10609197/artigo-231-do-decreto-lei-n-2848-de-07-de-dezembro-de-1940.
36 The term “forced labor” is used interchangeably with “slave labor” in this project. “Child labor” denotes the practice of subjecting children to “conditions analogous to slavery.”

Since at least the 1950s, the Federal Supreme Court had held that reproduction in national law was not necessary for treaties to take effect. Brazil follows the theory of juridical monism: “an international standard becomes part of national law at the moment the ratification of an international instrument takes effect.” Thus, in legal terms, the ratification of ILO instruments represented an important step for Brazil.

The Constitution of 1988 was the next significant step forward in terms of labor rights. It established human rights, social values of labor, building a free and just society, and reduction of poverty and inequality as founding principles and fundamental objectives of the Republic of Brazil. This constitution, like its predecessor of 1967, provided for equality of all Brazilians before the law and the inviolability of rights to life, liberty, equality, security, and property. Individuals were also guaranteed protection against inhumane or degrading treatment. Labor was addressed in the Constitution under individual and social rights. Workers were ensured the right to practice any work, trade or profession freely and afforded rights related to wages, working hours, safe and hygienic working conditions. In addition, the Brazilian Penal Code had long prohibited acts that would be considered labor exploitation or elements of the act, including

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38 Roett, *The New Brazil.*
40 Ibid.
41 Sussekind, “The Influence of International Labour Standards on Brazilian Legislation.”
42 Constitution of 1988, Title I, Articles 1 and 3.
44 Constitution of 1988, Title II, Chapter I, Article 5.
45 Constitution of 1988, Title II, Chapter I, Articles 5 and 7.
“reducing someone to conditions analogous to slavery,” restricting workers’ freedom, and moral coercion.\(^{46}\)

Article 227 of the Constitution granted children and adolescents additional protections, and established the responsibility of the family, society, and state to protect “the right to life, health, nourishment, education, leisure, professional training, culture, dignity, respect, freedom and family and community life, as well as to guard them from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.”\(^{47}\)

The Constitution also determined a minimum age of 14 years to enter the working world, subject to the provisions of Article 7, 33 that prohibited “night, dangerous, or unhealthy work for persons under eighteen and any type of work for persons less than fourteen years of age, with the exception of apprenticeships” for adolescents twelve and older.\(^{48}\)

Although some of these legal protections were already in place, reports as early as the mid-1980s reflected official documentation of slave labor. The Ministry of Development and Agrarian Reform (MIRAD) produced a report in 1986 documenting situations of forced labor in deforestation (Amazon), sugar cane and orange plantations (São Paulo), tea gathering (Paraná), sugar cane and alcohol distilleries (Pernambuco, Paraiba, Alagoas, Rio Grande do Norte, and São Paulo), coffee (Bahia), carbon production (Minas Gerais), and gold mining and rubber-tapping.\(^{49}\)

The government was also discovered to have indirectly contributed to increases in slave labor through economic development policies. In the 1950s and 60s the government

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\(^{47}\) Constitution of 1988, Title VIII, Chapter VII, Article 227.


had provided financial incentives to large businesses for development of the Amazon region for agriculture. Tax cuts of up to 50% were offered to large financial and industrial groups – including national banks and multinational corporations – provided that two-thirds were invested in projects in the so-called “Legal Amazon.” Since the provision of resources was linked to land size, the projects financed large estates. This was exacerbated during the “lost decade” of the 1980s, when Brazil held large foreign debt balances and struggled with its currency. To cope with these economic challenges, the government provided additional incentives to stimulate exports.

Furthermore, much of the labor force in Brazil was in the informal sector. In 1990, nearly two-thirds of the Brazilian labor force was in the informal sector, and informality increased further during the 1990s. The intensification of labor subcontracting, including in the agricultural industry, brought an acceleration of slave labor complaints.

Thus, ease of land ownership, cheap labor, and subsidies led to rapid occupation, high land concentration, impoverishment of many residents in these areas, rural violence,

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52 Roett, The New Brazil, 76.
and slave labor.\textsuperscript{56} Instances of child and forced labor were frequently documented in the national and international media, as well as reports to international organizations.\textsuperscript{57}

However, governmental efforts to curb violations were relatively weak before 1995. The government had not only failed to address the fundamental vulnerability factors leading to slave labor, but was actually contributing to it. Despite the contradiction between policies to stimulate economic development and existing legal protections for individuals, attempts to combat labor exploitation were half-hearted. In 1992, in response to domestic and international denunciations of forced and child labor in Brazil, the government of Fernando Collor signed a decree to create the Program to Eradicate Forced Labor (PERCOM), bringing together Ministries of Justice, Labor, and Agriculture to work in conjunction with NGOs. The program failed to generate the desired results, because “the necessary political will to confront the problem never materialized.”\textsuperscript{58} The government’s stance on combatting labor exploitation was best portrayed by its public statement before the International Labor Conference in the same year that PERCOM was created. The Brazilian Government representative emphatically denied that forced labor violations existed in the country, characterizing allegations as unsubstantiated, politically motivated, or violations of labor law instead.\textsuperscript{59}

This changed in 1995, when Brazil deviated from the past by confronting the historically tolerated and ignored practices of child labor and slave labor and laying the institutional framework for concerted, effective government action. Then-President

\textsuperscript{56} Ministério do Trabalho e Emprego, \textit{Trabalho Escravo No Brasil Em Retrospectiva: Referências Para Estudos E Pesquisas}, 2.


\textsuperscript{58} Ministério do Trabalho e Emprego, \textit{Trabalho Escravo No Brasil Em Retrospectiva: Referências Para Estudos E Pesquisas}, 5.

\textsuperscript{59} Ibid.
Fernando Henrique Cardoso officially recognized and condemned these practices in a radio address before the nation. The Cardoso Administration created the Special Mobile Inspection Group (Grupo Especial de Fiscalização Móvel, GEFM), started a program called “Combating Slave Labor,” and brought together representatives from seven ministries in the Executive Group to Eradicate Forced Labour (GERTRAF) “to fight slave labor” through increased cooperation among various governmental bodies.

Performing the critical first step of inspection, “the GEFM forms the basis for all strategies to combat slave labor, because such a wide range of actions arise from its effectiveness in identifying instances of the crime of reducing workers to conditions analogous to slavery.”

Media reports often criticized the impunity of large landowners – and sometimes politicians – who were known to employ forced labor but received no punishment. Having determined that local landowners had too much influence over inspection forces, which were locally organized and controlled, the Cardoso government drew upon the powers of the Labor Ministry to restructure the inspection program to centralize command in Brasilia instead.

A second wave of action involved the private sector in order to attack labor exploitation from within supply chains. In 2003, the first Lista Suja (Dirty List), a register of employers who were caught exploiting slave labor, was released. Once a complaint was filed, the mobile inspection group was mandated to conduct an investigation of the site and send slave labor charges to the Ministry of Labor and Employment for administrative processing and determination of fines. The Dirty List is updated every six

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60 Fernando Henrique Cardoso, “Palavra Do Presidente.”
61 Costa, Fighting Forced Labour: The Example of Brazil, 77.
62 Ibid, 79.
63 “Employers” may refer to persons or legal entities.
64 Ibid, 88.
months and companies on it are not permitted to receive credit from state-owned banks. The companies remain on the list for at least two years and must stop using forced laborers and pay all wages owed to workers in order to be removed from the list. The development of this initiative directly motivated the study on supply chains and the National Pact. The Pact involved the private sector in efforts to combat forced and child labor. As this project aims to explain Brazil’s adoption and implementation of notable policies to combat labor exploitation, I focus on policy successes.

The policies I concentrate on in the two waves of action are interrelated. The figure below demonstrates how these policies formed a chain. First, the mobile inspection units served as a fundamental starting point for other strategies to combat slave labor, by investigating reported cases and identifying others. Employers caught using slave laborers were then added to a register – the “dirty list” – which was displayed on the Ministry of Labor website. The dirty list prompted additional actions. Though the decree establishing the list did not impose penalties on violating employers, it did provide for the communication of the list to public institutions and recommendations that public credits not be granted to violators. Furthermore, subsequent research on supply chains was conducted based on the first two version of the list, which increased knowledge about the pervasiveness of forced labor throughout a variety of industries. Finally, the list provoked

65 List of Goods Produced by Child Labor or Forced Labor, 33.
66 Ibid, 33.
67 Xavier Plassat, Interview by author, September 8, 2014.
“Scholars might adopt this strategy of deliberately selecting only one extreme value if they are analyzing an outcome of exceptional interest and wish to focus only on this outcome, in hopes of achieving greater insight into the phenomenon itself and into its causes. Alternatively, they may be dealing with an outcome about which previous theories, conceptualizations, measurement procedures, and empirical studies provide limited insight. Hence, they may be convinced that a carefully contextualized and conceptually valid analysis of one or a few cases of the outcome will be more productive than what they would view as a less valid study that compares cases of its occurrence and nonoccurrence.”
69 Costa, Fighting Forced Labour: The Example of Brazil.
a response from the private sector itself, through the National Pact, which set up a framework for greater business involvement in the fight against slave labor.\textsuperscript{70}

**Figure 1.1: Policy Linkage\textsuperscript{71}**

Methods

The objective of this project is to explain the processes and the underlying mechanisms by which normative and material pressures provoked policy change in Brazil. My analysis is structured according to a “conceptual framework that focuses attention on some theoretically specified aspects of reality and neglects others.”\textsuperscript{72} Thus, I conduct “theory-guided case studies,” applying a conceptual framework to two historical episodes of policy change, prioritizing analytical depth over generalizability or theory generation.\textsuperscript{73}


\textsuperscript{71} This is an adaptation of the figure on Slide #20. Beate Andrees and Aurelie Hauchere Vuong, “Webinar: Eradicating Forced Labour from Supply Chains” (ILO Special Action Program to Combat Forced Labor, 2011).


\textsuperscript{73} Ibid.
The processes leading to each policy outcome are presented in the form of historical, thematic narratives. “A narrative does more than recount events; it recounts events in a way that renders them intelligible, thus conveying not just information but also understanding. They therefore contribute to explanation. The purpose of a narrative is to render various series of events into an intelligible whole…”74 In order to recount the events leading to each policy, I have drawn boundaries around certain processes. Taken together, the processes outlined in each chapter tell the story of the complex and often chronologically overlapping events that led to the adoption of the two exemplary policies. These narratives trace the interactions between important actors, tactics employed, and consequences.

By looking at a single country, Brazil, I am able to control for other factors that tend to vary across cases. The single-country design removes the “difficulty of finding two cases that are similar in all respects except the variable to be tested.”75 This allows examination of the variables being studied, while minimizing the possibility that other unstudied factors are the real causes of policy change.

The analysis relies upon a variety of data sources. Media sources provided insight regarding trends in the national conversation around various events and identified important actors and initiatives. I examined coverage from 1979-2005 in the Folha de São Paulo and Jornal do Brasil, two widely circulated national newspapers in Brazil.76

initially concentrating on articles mentioning certain key words\textsuperscript{77} and subsequently pursuing additional lines of inquiry that these articles uncovered. I also referred to U.S. and European press to gather information about specific events.

For information about actors’ motivations, viewpoints, and relationships with one another, I conducted interviews and gained access to transcripts of published speeches and interviews, statements made in legislative bodies, and quotes from interviews conducted by journalists. Sources included Brazilian officials from the Presidency of the Republic and Ministries of Labor, Foreign Affairs, and Labor Inspection; U.S. Government officials from the Departments of Labor and State, the Office of the Trade Representative, and Congress; non-governmental organizations (NGOs) in Brazil and in the U.S.; Brazilian industry associations; the International Labor Organization; think tanks; a private firm involved in trade policy and negotiations; and the Organization of American States.

Reports by the ILO’s Committee of Experts on the Application of Conventions and Recommendations (CEACR) and Committee on the Application of Standards (CAS)\textsuperscript{78} provided information about complaints that had been filed, the government’s perspective on compliance with international conventions, and the government’s responses to international inquiries. I also utilized unclassified written communications, academic journal articles, Brazilian laws, U.S. laws, U.S.-Brazil trade data, Brazilian

\textsuperscript{77} Search terms included direitos de trabalho, trabalho infantil, exploração de crianças, mão-de-obra infantil, trabalho escravo, escravidão, trabalho forçado, boicote, EUA, Estados Unidos, Harkin, GSP, exportes/exportação, Cardoso, Barelli, ILO/OIT.

\textsuperscript{78} The CEACR is the ILO body that regularly monitors member states’ application of ratified Conventions and forwards its comments to the CAS. The CAS falls under the auspices of the International Labor Conference, a sort of international labor parliament. The CAS then selects a small number of comments for public discussion.
government documents, U.S. government documents, published ILO reports, and NGO reports.

Table 1.2: Summary of Data Sources

Newspaper articles
- Jornal do Brasil
- Folha de São Paulo
- U.S. and European media
- Years 1979 – 2005

Interviews
- Conducted by researcher
- Gathered from Government of Brazil archives in Library of Congress
- Published in academic journals and on NGO websites

Speeches
- Gathered from Government of Brazil archives in Library of Congress
- Found on government or NGO websites

Legislative records
- Câmara dos Deputados
- Senado

Reports
- Government of Brazil agencies
- Brazilian NGOs
- U.S. Government agencies
- International NGOs
- International Organizations

ILO reports on the application of conventions and recommendations
- ILC Summary of Reports on Ratified Conventions (1958-1987)
- Observations, direct requests (1987 – 2005)\textsuperscript{79}
- Convention Nos. C029, C105; C138, C182; C081\textsuperscript{80}

\textsuperscript{79} CEACR and CAS reports prior to 1987 are unavailable in the ILO’s publicly accessible information system, Normlex. Sonia Sanchez, email to author, December 8, 2014.

\textsuperscript{80} Conventions 29 and 105 pertain to forced labor; Conventions 138 and 182 pertain to child labor; Convention 81 pertains to labor inspection.
Significance and Scholarly Contribution

Global attention to child labor, forced labor, and human trafficking has increased over the past three decades, largely prompted by the efforts of non-governmental organizations (NGOs) in the 1980s and 1990s. These issues have inspired blockbuster films, documentaries, and celebrity campaigns. They have captured the attention of national and local media around the world, whose reporting has further encouraged public awareness and interest. They have also climbed the agenda of international organizations and governments, which have held international conferences dedicated to the topic and propagated new international legal instruments.

Sex trafficking receives the greatest amount of attention in academic literature, as well as in mainstream media and civil society. In the area of forced labor, however, research and theoretical advances are still limited, though the labor dimension of trafficking has recently attracted more attention. Much of the existing research has been conducted by international organizations NGOs, and is empirically focused, estimating prevalence or providing descriptive accounts of national policies.

The project contributes to scholarly debates and the policy-making community in three ways. First, existing theoretical discussions related to policy-making in this issue

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81 The term “civil society” refers to “non-governmental and not-for-profit organizations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations. Civil Society Organizations (CSOs) therefore refer to a wide array of organizations: community groups, non-governmental organizations (NGOs), labor unions, indigenous groups, charitable organizations, faith-based organizations, professional associations, and foundations.” World Bank, “Defining Civil Society,” 2013.

82 The International Labor Organization uses a typology of forced labor that distinguishes between state-imposed and private-imposed forced labor. State-imposed forced labor includes that exacted by the military, forced labor for public works, and prison labor. For the purposes of this study, only privately imposed forced labor will be considered. Utilizing the ILO typology, this includes commercial sexual exploitation as well as other forms of economic exploitation. This project will adhere to this distinction and concentrate on all forms of private-imposed forced labor.

83 Lars Thomann, Steps to Compliance with International Labour Standards (Germany: VS Springer Fachmedien, 2013).
area are extremely limited. Existing studies generally fall into one of the following categories:

- Anecdotal, emphasizing individual stories of exploited persons (popular media portrayal, portions of international organizations’ reports, and some scholarly research).
- Abstract mathematical models to determine profits, estimate prevalence or study the actors (traffickers and the exploited).
- Geographical, distinguishing major source and destination countries for human trafficking, countries in which severe internal trafficking/exploitation exists, as well as type of work performed.
- Economic, theorizing the push and pull factors contributing to the supply and demand for slaves/trafficked persons.
- Descriptive policy evaluations, identifying whether labor exploitation has been approached as a crime control or human rights issue, comparing the severity of penalties across countries, and judging whether national legislation meets the basic requirements of the UN Protocol and ILO instruments.
- Descriptive enforcement reports regarding number of victims found, criminals caught, and prosecutions.

Second, my project develops an analytical framework of the key influences on Brazilian policymaking in the area of labor exploitation. The analysis draws upon and contributes to theoretical explanations related to markets, power, norms, and domestic politics that have not been collectively evaluated in this issue area, as they have been in
others such as monetary policy and human rights in a broader sense. My project therefore presents a new application of some of the insights and predictions of these theories. My findings on Brazil might be tested elsewhere to explore whether the framework sheds light on other countries’ successes and failures in developing national policy programs to grapple with widespread labor exploitation. In addition, the project contributes empirically to the study of labor policy through the detailed history of each policy’s origins. The empirical work of this project focuses on two waves of policy change that have been identified by others but not closely studied in this manner before.

Finally, the research findings are expected to be practically useful in devising strategies for state and non-state actors seeking to leverage the appropriate influences to advocate for positive policy change and to inform sound policy decisions. By understanding which influences were critical to generating positive policy change in the model case of Brazil, actors can be more effective and strategic in their advocacy efforts. International agencies under the United Nations umbrella have paid increasing attention to this issue in recent years and are working in partnership with national governments to provide resources and expertise. These international agencies and some national governments (including Brazil) also recognize possible linkages between development policy and labor exploitation, but lament the scarcity of actionable data to inform possible changes in future programs. This project has illuminated this negative connection between economic development policies and labor exploitation, as well as the conditions under which Brazil has taken steps to counteract these undesirable effects. For example, media and societal actors discovered a disturbing pattern: when visiting properties on which slave labor was suspected, they would pass signs at the property entrance claiming
that the project was funded by the Government of Brazil. This was particularly common in the Amazon, where the Brazilian government, as well as foreign governments had heavily subsidized development projects.\textsuperscript{84}

**Limitations**

As George and Bennett acknowledge, data access issues present a significant challenge to scholars attempting to “reconstruct the policymaking process.”\textsuperscript{85} The content of private deliberations and internal government documents that could shed insight into the beliefs of key decision makers are often inaccessible to the researcher. Furthermore, some of these individuals have retired and are no longer available for interviews. I adapted to these constraints by gathering video interviews and interview transcripts published online, in books, and in academic journals. I also gathered information on the viewpoints and actions of inaccessible actors from media sources and government archives.

Furthermore, in conducting a detailed analysis of a single country case and issue area, a natural tradeoff concerns the generalizability of these findings to other countries. My conclusions explain the process in Brazil, but further testing is necessary to determine whether findings may be generalized to other countries and issue areas.

**Outline of Chapters**

In Chapter 2, I discuss explanations of policy change from the literature and present my analytical framework. Chapter 3 provides historical information on the legal

\textsuperscript{84} Xavier Plassat, Interview with author, September 8, 2014.

instruments that existed prior to the adoption of the Mobile Inspection Units. Chapter 4 analyzes the development of the Mobile Inspection Units and Chapter 5 considers the creation of the Dirty List. Finally, I present conclusions and directions for future research in Chapter 6.
Chapter 2 – Governments’ Responses to Labor Exploitation: International and Domestic Influences

In less than two decades, Brazil has undergone a remarkable transformation in its efforts to combat labor exploitation. Whereas in the early 1990s it was known for its failures to properly confront the issue, it receives accolades today for its innovative policy approaches, which are emulated abroad. Considering the country’s history with slavery, legacies of inequality, and relatively recent stance of inaction, this is somewhat surprising and thus presents an interesting puzzle. Why did the government abruptly change tack in the mid-1990s to acknowledge the existence of and commit to eliminating labor exploitation? What precipitated the adoption of its globally renowned policies?

In this chapter, I begin by considering the explanatory leverage of four perspectives from the International Relations, Political Economy, and Comparative Politics literatures on the causes of policy change: Markets, Power, Norms, and Domestic Politics. An abundance of theoretical explanations exist within each of these categories, of which I select and evaluate the merits of a limited set that are relevant to my study. Naturally, some perspectives have been excluded to allow for closer examination of others. Complex arguments have been placed into distinct categories to highlight certain key differences among them. This division is not without issues, but provides for a clearer presentation.

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86 This categorization is adapted from John S. Odell’s study, U.S. International Monetary Policy: Markets, Power, and Ideas as Sources of Change, which employs these explanatory categories to analyze three shifts in United States monetary policy. In his study, Odell maps out the political economy literature landscape, much of which is relevant for my project. One major difference between my review and Odell’s is the omission in my study of “organizational politics and internal bargaining.”
Theoretical complexity is restored in the final section of the chapter, wherein I lay out an analytical framework that builds upon previous scholarship, highlighting influences that provide the greatest explanatory power in this study. I argue that policy change reflected the confluence of normative and material pressures applied from above and below. Norm entrepreneurs at the global and domestic levels played a crucial initial role by promoting the internalization of norms condemning labor exploitation. Next, external economic pressures helped catalyze the adoption of new policies, by producing material incentives for a change in behavior. CSOs played a central role in stimulating mobilization at the domestic level, as well as leveraging external normative and material pressures. These factors jointly facilitated the adoption by committed policy makers of the two exemplary policies highlighted in this study. In addition, in order to explain how normative and material pressures influenced policy outcomes, I offer four mechanisms: norm sensitization, encouraging accountability, activating reputational concerns, and targeting economic vulnerabilities.

**Markets**

Market explanations of policy change are based on the premise that governments make economically rational policy decisions, adapting to market signals.\(^{87}\) For the purposes of this study, the main market signals that matter to governments pertain to investment and trade. Developing countries want foreign direct investment and export opportunities. Two rival arguments are considered here; they predict different market signals. The first posits that market pressures would discourage the Brazilian government

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from pursuing aggressive policies to combat labor exploitation. If the market were primarily concerned with efficiency, it would signal to governments that policies should maximize efficiency. In the case of labor rights, this should yield low regulation. The second predicts the opposite, that markets (and more specifically, market actors such as multinational corporations, MNCs) incentivize stronger social protections. For example, MNCs may be concerned about reputation or have greater need for skilled workers, signaling increased regulation. Figure 2.1 below summarizes the pathways to each policy outcomes, and detailed explanations follow.

**Figure 2.1: Market Signals and Labor Regulation**
Globalization and the “Cheap Labor Advantage”

The first argument is based upon the idea that globalization creates a set of pressures that encourage labor exploitation. At the state level, deepening globalization has intensified competition among developing countries for foreign direct investment (FDI) and export markets for domestically produced goods. The well-known “Race to the Bottom” (RTB) hypothesis posits that developing countries compete with one another through low standards in a variety of areas, including human rights, environmental standards, and labor rights. Some states view their abundant, inexpensive labor supply as a comparative advantage that should be leveraged to advance economic development.88 Consider India’s reaction to a suggestion by U.S. President Bill Clinton that trade could be linked to international labor standards in the future. The cabinet minister representing India, Murasoli Maran, charged, “The Western world, the industrialized world, wants to take away our comparative advantage. It is a pernicious way of robbing our comparative advantage. The developing countries consider it as a maneuver by wealthy nations to force our wages up, to undermine our competitiveness.”89

States may allow firms to exploit this advantage because of lack of political will, pressure from powerful firms or industries, corruption or other weaknesses in law enforcement and the judicial system, and limited financial and institutional resources. Policymakers in developing countries may also believe that raising labor standards will

88 Jens Lerche (2007) argues that neoliberal globalization has created a “new international labour-unfriendly regime.” Giving the example of India, Lerche claims that this regime – combined with domestic factors such as class relations, structural inequality, and a labor surplus – has a number of undesirable effects, such as domestic policies that fail to protect labor or deprioritize labor rights, leading to “proliferation of new neo-bondage.” Jens Lerche, “A Global Alliance against Forced Labour? Unfree Labour, Neo-Liberal Globalization and the International Labour Organization,” Journal of Agrarian Change 7, no. 4 (2007): 425–52.
hurt the poor in their country if foreign firms decide to relocate production facilities or seek out cheaper subcontractors in another less-regulated country to fulfill the needs of their supply chains. In the words of Paul Krugman, “Bad jobs at bad wages are better than no jobs at all.”

At the sector and firm level, consumer preferences for low-price products and corporations’ desire to increase profit margins generate incentives for firms to make use of the “cheap labor” advantage. Take, for example, Wal-Mart, which represents 2 percent of the United States’ economy and is frequented by 100 million Americans each week. It is (in)famous for its commitment to offering the cheapest products around, which then pressures its suppliers to produce everything more cheaply. This requires suppliers to be much more efficient or to manufacture overseas. Furthermore, the “pressure at Wal-Mart is unrelenting…they are constantly dissatisfied” and never stop pushing to make things less expensive, which requires reductions in the cost of inputs, such as raw materials and labor.

Accounting for even more of the price tag than raw materials, labor represents one of the largest expenses for businesses; to be cost competitive in a global market while maintaining or increasing profits, suppliers may find ways to reduce labor costs. Forced laborers are by definition the cheapest labor a supplier can employ. This is particularly

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91 Lars Thomann, Steps to Compliance with International Labour Standards (Germany: VS Springer Fachmedien, 2013), 230.
true in labor-intensive activities. However, some multinational corporations, especially those from advanced industrialized countries, have fallen under public scrutiny for their use of cheap or forced labor. They are therefore under pressure to behave in a socially responsible way, or at least appear to do so. This has contributed to the growing informality of labor markets:

A part of the growing ‘informalisation’ of employment may be attributed to the globalization process of the economy. This is because enterprises tend to respond to competitive pressure in resorting to mixed-mode labour arrangements, in which observance of labour regulations for some workers is combined with the use of non-standard, atypical, alternative, irregular, precarious, etc. types of labour or various forms of subcontracting.

By outsourcing or subcontracting to local producers in developing countries with weak laws and enforcement, MNCs are able to take advantage of low labor costs while plausibly denying involvement in substandard practices. They pass the low-cost labor burden onto local producers, who are in intense competition with one another for a place in global supply chains. The local suppliers find ways to keep wages below national legal levels and maintain flexibility to hire and fire workers according to changing demand by maintaining them in the informal sector and therefore not subject to legal protections.

The ILO aptly described this connection between supply chain pressures and labor exploitation:

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94 This applies to low-skilled, labor-intensive industries, but not to knowledge-based / high skilled and luxury industries.
96 “The basis used for distinguishing informal jobs is that they are outside the framework of regulations either because (a) the enterprises, in which the jobs are located, are too small and/or not registered, or (b) labour legislation does not specifically cover or is not applied to atypical jobs (such as casual, part-time, temporary or home-based jobs) or to subcontracting arrangements in production chains (such as industrial outwork), so that the jobs (and, therefore, their incumbents) are unprotected by labour legislation. In order for most labour law to be implemented, it is necessary to recognise the existence of an employment relationship between employer and employee. Informal jobs, however, include forms of employment for which there is no clear employer-employee relationship.” Hussmanns, Defining and Measuring Informal Employment, Bureau of Statistics Paper, 2004.
It is now clearer that competitive pressures can have an adverse impact on conditions of employment and, at their extreme, can lead to forced labour. With global pressures on suppliers to reduce costs by every available means, retailers and intermediaries can take advantage of the intense competition between suppliers in order to squeeze profits out of them. Many suppliers are paid a product price which barely allows them to break even. If they wish to make a profit, they have to reduce labour costs yet further. Suppliers with just a little lower than average cost efficiency are liable to bankruptcy, and a small reduction in labour costs can have a large effect on profit realization…Suppliers can pass on the burden to labour contractors, demanding that they provide workers at a cost so low as to make the use of coercive methods more likely. There is indeed some evidence that this is happening, in that contractors are accepting fees per worker so low that it would be impossible to comply with the provisions of national labour law.97

The tendency towards weaker labor protections in subcontracting arrangements finds empirical support in research on the effects of global economic participation in developing countries. A study by Layna Mosley pays particular attention to the effect of multinational production on labor rights in developing countries, disaggregating multinational production to consider the varying degrees of MNC involvement: direct ownership versus subcontracting. She finds that the latter “seem[s] to generate increased violations of workers’ union-related rights.”98

Finally, research has shown that forced laborers are nearly always the vulnerable: children, the impoverished, women, and migrants.99 The vulnerability of these individuals enables employers to supply low wages, no wages, or negative wages (in the case of debt bondage situations), while extracting production from them. Workers continue to find

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98 Layna Mosley, Labor Rights and Multinational Production (New York: Cambridge University Press, 2011), 66, 138, 238, 242. The primary causal mechanism is the firm’s mode of production (direct ownership is measured by new FDI flows and total FDI stock; trade openness serves as a proxy for subcontracting activity), but other factors are also considered, including the role of international advocacy groups, norm diffusion, and domestic factors.
themselves in these situations of exploitation, knowingly or unknowingly, because of extreme financial need and lack of alternative employment opportunities. The International Labor Organization called labor-related traffic the “underside of globalization.” Another study examines human trafficking for forced labor in the wider context of human rights and migration, arguing that globalization increases poverty, which in turn increases vulnerability. Therefore, globalization increases “slavery.”

In summary, globalization creates a chain of pressures and incentives to reap the material benefits of labor exploitation. This chain extends from the global economy down to the individual worker. The next logical question to ask is whether states – the key actors in terms of policy formation and allocation of resources for implementation – succumb to globalization’s negative pressures in practice. Although empirical studies in other issue areas – such as environmental regulation – have reached diverging conclusions, numerous reports of forced labor in supply chains and a trend toward subcontracting suggest the hypothesis’ relevance in modified form in the area of labor exploitation. If this hypothesis were unconditionally true, we would expect to see exploitation of the cheap labor advantage in all countries with high labor endowments. In practice, however, the actions of governments in this issue area vary.

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100 Stopping Forced Labour (Geneva: International Labour Organization, 2001), 47.
102 A Global Alliance against Forced Labour, 52.
103 Furthermore, studies of the connection between globalization and labor rights often concentrate on the formal sector and/or labor standards as written into law rather than in practice.
104 For example, a 2005 ILO report laid out major national differences in terms of penalties, convictions, victim protections, etc. among countries like India, Nigeria, Myanmar, and Japan. The same report highlighted the Brazilian experience for its legislative changes and improvements in investigations and prosecutions.


Globalization Improves Host Country Standards

Under certain conditions, globalization may promote a “climb to the top.”\textsuperscript{105} Prior research points to the positive effects of economic development and foreign direct investment (FDI).

First, globalization may improve labor standards indirectly, through economic development rather than through market signals. In this line of argument, economic development reduces the incidence of forced labor, which in turn renders policies to protect against labor exploitation irrelevant. Robert Flanagan finds that the mechanisms of globalization – trade, migration, and multinational production – are each associated with better working conditions and labor rights.\textsuperscript{106} Furthermore, regulation of labor standards plays a limited role in the improvement of labor conditions. Forced labor diminishes with economic development. Rising per capita income through free trade and freer migration remove the supply-side conditions that support forced labor. Flanagan’s research emphasizes the policies related to trade, migration, and MNCs that he argues would lead to improved labor conditions – including the elimination of forced labor – but not the forced labor policies themselves, which would no longer be necessary.

\textsuperscript{105} Mosley, Labor Rights and Multinational Production, 51.
Second, trade and investment appear to be beneficial for labor rights when developed country MNCs transmit practices to suppliers in developing countries. The literature points to two main reasons for this: MNCs’ preference for a better labor force and concerns about reputation. When multinational corporations have high involvement in the host country through direct ownership of production facilities (in contrast to subcontracting, discussed above), it

...is likely to be associated with improvements in collective labor rights, as MNCs have incentives to bring best practices (or, more generally, a standardized set of corporate practices) to host countries. These MNCs also tend to hire from the top of local labor markets, generating material incentives for them to attract and retain (via the provision of collective labor rights as well as the maintenance of good working conditions) employees.\(^\text{107}\)

Matthias Busse and Sebastian Braun (2003) reverse the direction of causality, examining the impact of higher forced labor rates on investment.\(^\text{108}\) They find a strong

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\(^{107}\) Mosley, *Labor Rights and Multinational Production*, 238.  
\(^{108}\) Matthias Busse and Sebastian Braun, “Trade and Investment Effects of Forced Labour: An Empirical Assessment,” *International Labour Review* 142, no. 1 (2003): 49–71. Busse and Braun also examine the relationship between forced labor and comparative advantage. They cautiously note a weak positive relationship, suggesting that forced labor may increase a country’s comparative advantage. If forced labor increases comparative advantage but does not attract FDI, a possible explanation is “that transnational corporations do care where they invest.” Comparative advantage in unskilled-labor-intensive goods may instead be exploited by domestic companies, which are not as likely as MNCs to attract the attention of international campaigns.
negative relationship in terms of openness, measured by FDI: nations with higher forced labor rates attract less FDI.\textsuperscript{109}

MNC’s concerns about reputation may also contribute to improvements in labor standards through trade and investment. Empirical research also shows that stringent labor standards in destination markets positively influence labor standards in the exporting developing countries. Trade thus can serve as “a conduit for norms and practices regarding labor rights,” contingent upon the capacity and political will of the exporting country.\textsuperscript{110} The rapid spread of codes of conduct since the 1970s is one indication that MNCs were becoming increasingly aware of ethics in business practices abroad.\textsuperscript{111} Multilateral agreements have also been developed to govern foreign investment.\textsuperscript{112}

As discussed above, MNCs may respond to criticism by subcontracting operations

\textsuperscript{109} This study focuses heavily on quantitative analysis, using dummy variables (occurs or does not occur) to capture the \textit{number of types} of forced labor that occur, without addressing the extent or prevalence of each type (due to poor data availability) or explanations of national policy choices and implementation.


\textsuperscript{111} A notable example was the Sullivan Principles, a “voluntary set of standards for firms to follow to pressure the apartheid government of South Africa to improve the living conditions of black workers, their families, and their communities,” which was later passed as U.S. law. \textit{Foreign Corrupt Practices Act, 1977}; James K Jackson, \textit{Codes of Conduct for Multinational Corporations: An Overview} (Congressional Research Service, 2013).

\textsuperscript{112} The first version of the OECD Guidelines for Multinational Enterprises, adopted in 1976, aimed “at encouraging the positive contributions of multinational enterprises to economic and social progress and minimising or resolving difficulties that may result from their activities, through internationally-agreed guidelines, inter-governmental consultations and review mechanisms.” E Van Lennep, “Foreword,” ed. Organisation for Economic Co-Operation and Development, \textit{Declaration by the Governments of OECD Member Countries and Decisions of the OECD Council on Guidelines for Multinational Enterprises}, 1976. It is worth noting, however, that these guidelines called for MNCs to “give due consideration to those countries’ aims and priorities with regard to economic and social progress,” while holding such firms accountable only “within the framework of law, regulations, and prevailing labour relations and employment practices, in each of the countries in which they operate.” Updates to these guidelines made important modifications to add a responsibility to adhere not just to national laws but also to “international labour standards” including “Contribute to the effective abolition of child labour, and take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency” and “Contribute to the elimination of all forms of forced or compulsory labour and take adequate steps to ensure that forced or compulsory labour does not exist in their operations.” Organization for Economic Co-Operation and Development, \textit{2011 Update of the OECD Guidelines for Multinational Enterprises: Comparative Table of Changes Made to the 2000 Text}, 2011.
to local producers, enabling them to plausibly deny involvement in exploitative practices. Another alternative is that criticism (potential or realized) may encourage better business practices. Perhaps the best-known example is Nike: dishonored in the 1990s for its employment practices and initially rejecting any responsibility, it eventually capitulated after suffering additional reputational damage and profit losses.\textsuperscript{113}

\textit{Limitations of the Market Explanation}

The hypotheses discussed above fail to explain the creation of the Special Mobile Inspection Units and Dirty List. First, FDI remained relatively low from the end of military rule until 1995, when regulation of labor standards was weak. FDI spiked \textit{after} the Special Mobile Inspection Units were created.\textsuperscript{114} Thus, FDI trends contradict the expectations of a Race to the Bottom argument, which predicts higher FDI in a less-regulated environment, and vice versa. Brazil’s pre-1995 lack of attention to labor exploitation was not an attractor for MNCs.

The opposing hypothesis that FDI is associated with better host country standards is also insufficient. FDI did in fact increase after the creation in 1995 of the Mobile Inspection Units.\textsuperscript{115} However, labor conditions had not yet experienced a dramatic

\textsuperscript{113} Doug Guthrie, “Building Sustainable and Ethical Supply Chains,” \textit{Forbes}, March 9, 2012, http://www.forbes.com/sites/dougguthrie/2012/03/09/building-sustainable-and-ethical-supply-chains/. – Nike was one of the pioneers of overseas manufacturing, driven by the desire to cut assembly costs. It was one of the first American companies to insist that because manufacturing was outsourced – and thus not within the walls of Nike factories – the company was not responsible for the activities of independent contractors. However, Nike soon became embroiled in a “public relations nightmare.” The company created a code of conduct for its suppliers to outline best practices and suppliers certified that they were in compliance. Nike’s reputation remained damaged, however, because the code was not monitored and practices such as child labor in its factories were widely publicized. Nike’s earnings fell 69 percent in 1998, partially due to the Asian currency crisis. Once the company felt the stress of profit loss, the CEO of Nike admitted that the brand had been tarnished by abusive practices, and began to implement social responsibility policies.

\textsuperscript{114} See Appendix C.

\textsuperscript{115} See Appendix C.
improvement proportionate to this FDI increase (for the hypothesis that MNCs prefer to invest where labor standards are protected) and MNCs had not yet had the opportunity to bring best practices (for the argument that MNCs contribute to policy change by bringing best practices). FDI flows were more likely tied to improved economic conditions and a massive privatization program that began in the 1990s.\textsuperscript{116}

Finally, globalization creates pressure to remain competitive in terms of exports and participation in supply chains (measured by exports as a percentage of GDP). A decline in exports should signal to the government that its industries’ efficiency is declining. The economically rational response would be to relax regulations. The government did not seem to heed market signals, and the market did not appear to punish Brazil for strengthening labor regulation.\textsuperscript{117}

In sum, the market explanation – in its various forms – offers little insight regarding the Brazilian government’s decision to implement policies in 1995 and 2003 to reduce forced labor. Therefore, another explanation is needed. I now consider the role of power.

\textsuperscript{116} Brazilian Development Bank (BNDES) and Ministry of Development Industry and Foreign Trade, “Privatization in Brazil: 1990-1994 / 1995-2002” (Presentation, 2002); Regis Bonelli, A Note on Foreign Direct Investment (FDI) and Industrial Competitiveness in Brazil (Rio de Janeiro: Instituto de Pesquisa Economica Aplicada (IPEA), 1998); Aldo Musacchio and Sergio G Lazzarini, “State-Owned Enterprises in Brazil: History and Lessons,” The Working Party on State-Ownership and Privatisation Practices, OECD, 2014. The Brazilian Privatization Program (PND) was initiated by Law No. 8.031 (December 4, 1990), when privatization became an “integral part” of the government’s economic reforms. During that time, efforts “concentrated on the sale of productive state-owned companies, tied to strategic sectors.” Between 1990 and 1994, 33 state-owned companies were privatized, earning US $8.6 billion. Taking into account the US$3.3 billion in debt transferred to private sector, the total was US$ 11.9 billion. However, in the period of privatization there were few foreign investors, which explains why FDI remained low prior to 1995. In 1995, with the start of the Fernando Henrique Cardoso administration, privatization increased dramatically. From 1995-2002, Brazil privatized 132 enterprises, representing a total of US$ 78.6 billion. Foreign investors comprised a much larger portion in the 1995-2002 period, representing 53% of the total sales. See Appendix C for graphs and tables regarding privatization.

\textsuperscript{117} See Appendix C, which displays trends in exports from 1990-2008.
Power

Twentieth-century theorizing about international relations and state behavior began with a focus on understanding the causes of war and means of avoiding it. After World War II the field came to be dominated by realism, whose various strains share the core tenet that “[t]he central concerns of the state are its national interests as defined in terms of military security and political independence.” It follows from this that “power and power relations play the major roles in international affairs.” However, “power” is a disputed term. Scholars define power based on its effects (i.e., getting others to do what you want them to do), agenda-setting (i.e., getting others to care about the same things you care about), consent (i.e., making others want what you want), and capabilities (i.e., the ingredients of power, regardless of whether power is actually exerted).

In the realm of labor rights, it is difficult to imagine a scenario in which military force – the conventional understanding of power – would be relevant. Furthermore, increased economic integration calls for reconsideration of the ingredients of power. For

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greater explanatory power in understanding Brazil’s policy choices to combat labor exploitation, I focus on the economic aspects of power. In discussing the “powerful,” I focus on the United States, which was the unequivocal global superpower throughout the period under study. It had the material resources and political leverage to push its priorities on weaker states, to design and lead a regime in this issue area, to influence the regime’s underlying principles and institutions, and to compel other states to agree with its terms.

Powerful states may coerce the relatively weak through two main tactics. The first involves direct economic coercion through unilateral market access conditionality: a powerful state may block imports or withhold preferential trade benefits from weaker countries that do not adopt certain policies (e.g., patents, environmental protections, and labor rights). The second involves the exercise of power through rankings published in annual reports that “grade” countries’ efforts to combat trafficking.

*Power in a Globalized World: Trade and Worker Rights*

First, powerful states with large home markets may compel the relatively weak to accept discussions of regulatory issues such as labor rights as a condition for trade. The more economically dependent the latter is upon the former, the greater the vulnerability. Weak countries must decide whether to accept unwanted regulation, or risk jeopardizing the trading relationship. “The more other countries need trade

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123 I focus on the United States here to limit scope. The European Union was another possible choice for evaluating the imposition of economic power and will be explored in future research.

124 Emilie M. Hafner-Burton, *Forced to Be Good: Why Trade Agreements Boost Human Rights* (Ithaca, NY: Cornell University Press, 2009), 24. This is just one element of Hafner Burton’s argument, which combines preferences, institutions, and power politics: “The argument here is that trade policy outcomes reflect policymakers’ preferences, but they also reflect the institutions through which they compete for decision-making influence and countries’ relative market power.”
cooperation, because their markets are small or their industries are dependent on exports, the harder it will be for them to reject the issue out of hand; many developing countries are thus particularly at a disadvantage in this process.”

Research suggests that in some cases “sanction-based labour provisions are a potentially powerful instrument.” Sanctions attempt to disincentivize the use of exploitative labor by reducing demand for products, thereby altering the behavior of other states. The U.S. has used trade to improve worker rights abroad through legislation that blocks imports as well as through its trade preference program, the Generalized System of Preferences (GSP), explained in Chapter 4.

The United States Trade Representative (USTR) is responsible for evaluating compliance with worker rights provisions in the U.S.’s trade preference programs. From 1985-2007, the USTR investigated 57 petitions (from external sources or USTR-initiated) under the labor provisions of the United States’ GSP trade preference program. Of these petitions, thirteen resulted in full or partial suspension of countries’ benefits, five of which were reinstated. Thirty-four were resolved by efforts by the country in question to correct violations. These results suggest that being subjected to scrutiny under the GSP program is associated with improvements in labor rights.

However, additional factors must be considered. In a study of petitions to revoke GSP eligibility, Kimberly Ann Elliott finds that conditionality produces mixed results on its own, but “GSP leverage is more likely to contribute to improved labor rights:

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• when a human rights group is involved;
• when the target is relatively more politically open;
• when less politically sensitive labor standards are emphasized;
• the more dependent the target country is on the US market; and,
• the target country has greater capacity to implement promised changes.”

An example from Bangladesh lends support to Elliott’s nuanced findings. Senator Tom Harkin’s legislative efforts during the 1990s – specifically, the Child Labor Deterrence Act (CLDA) that is discussed in Chapter 4 – had an acute effect on Bangladesh’s garment industry. Bangladesh’s garment industry earned more than $1.2 billion, half of total exports, in 1993. Of the total exports of garments, half went to the United States. Thus, the CLDA (also referred to as the “Harkin bill”) threatened the garment industry as well as having negative implications for foreign exchange holdings. Following the introduction of the bill, factory owners banned child employees. “Fearing the imminent passage of the Child Labor Deterrence Act, … garment employers dismissed an estimated 50,000 children from the factories in the fall of 1993, approximately 75 percent of all children in the industry.” The New Internationalist Magazine confirmed the dismissal and referenced a press release from garment employers:

[None of the] child workers I have interviewed have ever heard of Senator Tom Harkin. All they know is that pressure from the US, which buys most of Bangladesh’s garments, has resulted in thousands of them losing their jobs at a stroke. According to a press release by the garment employers in October 1994:

131 U.S. Department of Labor, By the Sweat and Toil of Children: A Report to Congress.
‘50,000 children lost their jobs because of the Harkin Bill.’ A UNICEF worker confirms ‘the jobs went overnight’.  

In addition to the drastic reaction above, the Harkin bill stimulated action among the government, the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), the ILO, UNICEF, and other actors looking to generate alternative and more productive activities for children displaced as a result of the industry’s attempt to comply with the provisions of the proposed bill.  

While the industry clearly took the threat from the Harkin bill seriously, the 2013 Rana Plaza factory collapse exposed the continuing deficiencies of labor rights protections. In the face of continuing trade-related threats – including suspension of GSP benefits in June 2013 – the country has made limited advancements over the past two decades.

Power through Comparative Rankings

Second, powerful countries may use shaming as a coercion tactic. Forced labor and human trafficking command a great deal of public attention. In the U.S., for example, “opinion market individuals such as American college students are far more familiar with trafficking than with any other genre of human rights abuse, except genocide.” This is quite likely due to the United States’ global role in efforts to end human trafficking. Reputational coercion by the United States is a potent incentive for other governments to cooperate: “The status of the United States as the sole superpower reflects on the

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133 Feldman and Larson, “Bangladesh.”
condemnations it issues against governments failing to meet standards of appropriate behavior. Since their source is the U.S. government, such condemnations are more likely to receive attention and serious consideration.”

Beginning in the mid-1980s, trafficking had received increasing attention from NGOs, gaining visibility as a human rights and women’s rights issue. After the Cold War ended, human trafficking surged, accompanied by a “surge in NGO formation and mobilization, media coverage, and policy measures by both international organizations and (mostly receiving) states.” However, despite the frames of civil society groups who elevated the profile of the issue, rather than treating human trafficking as a human rights violation, international legal instruments were designed to deal with human trafficking as an issue of international crime control. In 2000, United Nations Member States passed the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol or Protocol), in an attempt to address this issue through international cooperation. This Protocol explicitly linked the fight against human trafficking to the issue of organized crime by making it an optional supplement to the UN Convention Against Transnational Organized Crime (UNTOC).

Just two months before, the United States passed comprehensive domestic

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legislation that included an international enforcement component, the Victims of Trafficking and Violence Protection Act of 2000 (TVPA). Like the Protocol, it approaches human trafficking as a law enforcement issue. However, it does much more than that. The TVPA is “one of the most comprehensive pieces of domestic anti-trafficking legislation in the world.” As part of the TVPA’s mandate, the U.S. State Department publishes the Trafficking in Persons Report (TIP Report) every year, in which it ranks countries based on compliance with the standards set forth in the TVPA. The State Department’s evaluation is based primarily on the law enforcement aspects of combating human trafficking and forced labor. The TVPA also establishes a sanctions regime that allows the President to withdraw certain forms of foreign aid to states with a Tier 3 ranking.\footnote{Tier 1 ranking is the best, while Tier 3 is the worst. See Appendix D for a complete description of each tier.}

Performance indicators such as the TVPA rankings have been found to affect national policies.\footnote{Judith Kelley and Beth Simmons, “Politics by Number: Indicators as Social Pressure in International Relations,” \textit{American Journal of Political Science (forthcoming)}, 2013.} The rankings are an exercise of U.S. power. The U.S. must expend considerable resources to complete the research, analysis, and publication of the reports on an annual basis. Furthermore, the production of the reports by a state actor – the U.S. presupposes that the U.S. has some special status in the international community of states.\footnote{Ibid.} Kelley and Simmons find that the TVPA rankings can potentially influence other states’ policies because they are easily understood, involve regular monitoring procedures, and produce comparisons among countries that “stimulate competitive status concerns domestically and internationally and enhance shaming by drawing a bright line under socially acceptable behavior.” The final mechanism may also lead to domestic
action by mobilizing social actors or prompting action by government officials who are responsible for the subpar rankings.

This explanation does not illuminate Brazil’s decisions to implement policies to fight forced and child labor. First, the TVPA rankings were first published in 2001, six years after the Government of Brazil established the Special Mobile Inspection Units. Second, Brazil’s policy changes do not appear to correspond to changes in rankings. Brazil has consistently ranked Tier 2, except in 2006 when it was dropped to Tier 2 Watch List. The main policy actions under consideration in this project occurred before the demotion to Tier 2 Watch List. Finally, Brazil is not heavily dependent upon the U.S. for foreign aid, and would therefore not be expected to feel the pressure of material losses. Therefore, it is reasonable to conclude that the U.S.’s global campaign against human trafficking has not significantly influenced Brazil’s policy evolution.

Power explanations related to the trade and labor rights linkage are relevant, but are not able to independently explain Brazil’s policy changes. As I demonstrate in Chapters 4 and 5, U.S.’s initiatives were clearly felt by the Government of Brazil. However, this exercise of power operated in conjunction with normative influences, to which I now turn.

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145 Brazil was categorized as a Tier 2 country from 2001-2012, except in 2006 when it was ranked as a Tier 2 Watch list country. Tier 2 Watch list is a middle category between Tier 2 and Tier 3. See Appendix D for a complete description of each tier.
146 Furthermore, because Brazil’s strongest efforts to combat forced and child labor are not named as “anti-trafficking” initiatives, they do not signal to the U.S. that these efforts warrant promotion to Tier 1. Brazil has instead preferred to deal with violations of “slave labor,” and “trafficking” is kept legally separate under the law.
Norms

Norms are “collective expectations for the proper behavior of actors” that may define identity, prescribe proper behavior, or both. Norms influence state behavior in a three-stage process. Norm entrepreneurs – “agents having strong notions about appropriate or desirable behavior in their community” – play a critical role in the first stage by drawing attention to and framing issues in a way that demands attention from the broader public. After the norm is adopted by a “critical state” or a critical mass of states, it is said to have reached a tipping point. During the “norm cascade” stage that follows, norm leaders socialize other states to accept the norms. This generally requires institutionalization of the norm in international law and organizations. Institutionalization clarifies the norm, including what it means to violate it and the penalties for doing so. At this point, various actors – especially international organizations and transnational advocacy networks, which are discussed below – pressure “targeted actors to adopt new policies and laws and to ratify treaties and by monitoring compliance with international standards.” Finally, if a tipping point is reached where norms are widely accepted, they may become internalized through institutionalization and habit. Internalized norms are no longer controversial and states conform without much further thought. The table below summarizes actors, motives, and dominant mechanisms in each of the three stages.

149 Ibid., 896
151 Finnemore and Sikkink, “International Norm Dynamics and Political Change.”
International organizations and transnational activist networks played an important role in promoting the spread and internalization of norms related to forced and child labor in Brazil.

**International Organizations**

International organizations may be used as platforms to produce and promote norms, and they may themselves serve as norm entrepreneurs. They derive their influence and effectiveness in spreading norms from “rational-legal authority” that makes them powerful in their own right, separate from the states that created them. The ILO, for example, promotes norms of decent work throughout the world, institutionalized in conventions that are offered for signature by member states. Such conventions serve an

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152 Ibid.
153 Ibid.
important symbolic function, by moving policies from “the realm of zero-sum, partisan politics and into the realm of fundamental, universally recognized rights.” However, signing conventions does not necessarily lead to policy implementation. ILO conventions form and express an international regime regarding labor standards.

Its monitoring body is technical rather than political, and its adjudicatory functions are impartial and independent. Thus, its counsel is often more palatable to governments that are not yet in compliance with conventions, and the body is therefore able to socialize states to accept new norms, values, and perceptions of interest. A related tactic is proactively offering expertise and information to states. In addition to monitoring the application of conventions, the ILO provides technical assistance and information to states through meetings with government officials, workshops and seminars, and assistance in drafting legislation to comply with their obligations under ratified conventions. Thus, the ILO may serve as a teacher of norms.

International organizations also provide forums for discussion in which states learn new forms of behavior through formal and informal interaction with other members.

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156 Ibid.
159 Finnemore and Sikkink, “International Norm Dynamics and Political Change.”
161 Finnemore, “International Organizations as Teachers of Norms: The United Nations Educational, Scientific, and Cultural Organization and Science Policy”; Finnemore, “Norms, Culture, and World Politics: Insights from Sociology’s Institutionalism.” The role of international organizations as teachers of norms is a counterpart to theoretical explanations about “learning,” in which the impetus comes from within the state itself.
that may have different values and practices. In the case of labor rights norms, ILO monitoring of ratified conventions and requests for government comments may provide the iteration needed to gradually bring state behavior and policy into conformity with international standards. International organizations’ meetings also serve as a “coral reef” for transnational activists, where they come into contact with one another, apply pressure to states, share information, and build alliances.

_Transnational and Domestic Activists Unite: The Boomerang Effect_

Transnational advocacy networks (TANs) are another important producer and promoter of norms. They proliferated during the second half of the 20th century, addressing a variety of issue areas. TANs are comprised of activists committed to the promotion of “causes, principled ideas, and norms.” They advocate “policy changes that cannot be easily linked to a rationalist understanding of their ‘interests.’” Thus, those who are part of a TAN are motivated by “principled ideas and values” and information exchange. While NGOs are central to these networks, a variety of other actors may play important roles: local social movements, foundations, media organizations, churches and unions, consumer groups, the academic community, parts of intergovernmental organizations, and parts of the executive or legislative branches of government.

TANs are most likely to emerge around issues in which communication channels between domestic groups and government are blocked or ineffective, when activists

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165 Ibid., 1–9.
166 Ibid., 9.
actively promote them, and when advocates have increased contact with one another in international forums. When domestic groups are unable to force the government to change policy, they may seek recourse in the international arena. The boomerang pattern of influence highlights the interaction between transnational and domestic actors to generate national policy change. Societal mobilization in the area of human rights generally involves pressure on the government from above (the international level) and below (the domestic level). Governments grant rights, but they are also the main violators of these rights. For example, governments committing human rights abuses are not likely to be responsive to the demands of domestic actors. These actors thus seek allies in the international arena to draw attention to the issue, and a boomerang pattern of action commences, linking global and domestic actors. The utility of the model is not limited to human rights, however. In other issue areas where the claims of domestic groups resonate in the global space, even if their governments are inattentive, linking with international contacts can “amplify the demands of domestic groups, pry open space for new issues, and then echo back these demands into the domestic arena.”

168 Keck and Sikkink, Activists Beyond Borders, 13.
Figure 2.3: The Boomerang Pattern of Influence

TANs change the policy-making contexts of states using four main tactics. Information politics involves using the power of information to prompt action by government, media, or individuals. Nonstate actors identify and present information in order to raise awareness among policymakers and media actors. They report this information in a manner that draws attention to the issue of concern. ILO reports on forced and child labor function in this manner and are frequently cited in media reports on the topic. Network actors may also employ symbolic politics, engaging symbols and

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169 Keck and Sikkink, Activists Beyond Borders. Figure 1 from reproduced here.
stories to catalyze the growth of networks by capturing the attention of audiences. Nobel Prize awards, for example, hold great symbolic value. The 2014 Nobel Peace Prize was jointly awarded to Kailash Satyarthi and Malala Yousafzai, a decision that symbolized the linkage between the issues of child labor and educational opportunity. Satyarthi’s nomination came from another member of the network and longtime advocate of policies to end child labor, U.S. Senator Tom Harkin, who had nominated Satyarthi every year since 2005. Groups might use also use initiatives such as public awareness campaigns, lobbying efforts, the submission of petitions in international forums, and protest.

Network actors have relatively less influence when compared, for example, to many international institutions and transnational corporations. Leverage politics increase network influence through powerful institutions and actors. They may employ material leverage by connecting the issue to benefits related to money or prestige or moral leverage by shining a spotlight on the unflattering behavior of target actors, either in the media or in a prominent international forum. Finally, networks use the previously stated commitments of governments to prompt action. Accountability politics involves exposing “the distance between discourse and practice” when governments that have committed to a principle subsequently fail to abide by it.

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170 Ibid.
174 Keck and Sikkink, Activists Beyond Borders.
175 Ibid.
Figure 2.4: The Spiral Model of Human Rights Change

Ibid.
Building upon the boomerang model’s insights, the “spiral model” envisions a series of “boomerang throws” which carry a national government in stages toward a final stage of socialization. In a second stage, the international public becomes aware of the violation, which the norm-violating government denies. The government then puts forth superficial changes, which facilitates the mobilization of domestic actors. Fourth, the norm reaches an acceptance level in which it is no longer controversial. Finally, “norms are fully institutionalized domestically and norm compliance becomes a habitual practice of actors and is enforced by the rule of law.” Over the course of these stages, actors’ preferences shape actions and evolve in response to increased socialization.

International organizations and TANs played an important role in Brazil, and are necessary elements of the explanation. However, the impact of these normative forces was magnified by actors operating in the domestic sphere. The achievement of meaningful, sustained improvements in rights in the long term required that pressure be anchored from “below.” Therefore, we can’t explain policy changes in Brazil without paying attention to two additional domestic level influences.

**Domestic Politics**

In addition to the civil society organizations discussed in the previous section, which joined global activist networks to press for policy change, we must acknowledge two other domestic-level influences that contributed to policy change in Brazil. First, interest groups – more specifically, business and labor – advocated for their interests

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177 Risse and Sikkink do not necessarily assume that the process is continuously forward moving, but rather allow for the possibility of a return to non-recognition of rights at any point.
179 Ibid.
based on the distributional consequences of policies. The second influence recognizes the agency of actors within the state apparatus by considering the role of committed policy makers.

*Interest groups (Labor vs. Business)*

Society-centered explanations view policy as the government’s response to competition among interest groups with varying levels of influence. “The role of the state is to act as arbitrator among competing interests; public officials may register preferences and at times seek to negotiate compromises among divergent interests, but their principal role is to respond to the pressures placed upon them by organized groups in society.”

In this view, policy change comes from “changes in the coalitions of interest groups or in their relative power in bargaining, negotiating, marshaling votes, and otherwise influencing the policy makers.”

Coalitions are expected to form according to the distributional consequences of policy. Thus, these theories may predict preferences (i.e., who would favor or oppose a particular policy) as well as policy outcomes (i.e., whether and how policy changes, according to the relative influence of different interest groups and coalitions).

This explanation has increased relevance in post-authoritarian Brazil. Under military rule, interest groups were “prohibited or heavily controlled.” However, transition to democracy allowed new groups to form and existing interest groups to develop their independence and influence. Brazilian interest groups have historically been

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181 Ibid.
182 Kurt Weyland, *Democracy without Equity: Failures of Reform in Brazil* (Pittsburgh, PA: University of
“organized into umbrella federations at the state level and confederations at the national level...Other businesses are organized as national associations by sector…”

Before the transition, interest groups operated primarily through the executive branch. Once transition became imminent, interest groups began to focus on Congress again.

Lobbying takes on three essential forms in the Brazilian capital: an interest group might send its representatives to the capital according to the legislative agenda; the interest group may retain permanent representatives; or it might hire lobbyists for representation. The main interest groups that will be examined here are industry associations and labor unions. Industry associations would be expected to oppose strong regulations, which are against their material interests (for low-cost labor, higher profits).

Labor unions would favor strong regulation.

Associations representing export-oriented industries would be expected to favor weak regulation, due to concerns about global competitiveness. As discussed in the Market section above, global supply chains can create pressure on domestic suppliers to maintain low labor costs, which makes products cheaper for foreign buyers and thus more competitive. However, the linkage of trade and labor rights by powerful states with large markets – such as the U.S. – changed some groups’ preferences. Certain industries came to support stronger policies because of pressure from the United States. Their exports to the U.S. were threatened by a set of restrictions related to forced and child labor, and these industries thus needed to improve labor rights to regain access to that market.

Labor unions benefit materially from stronger governmental efforts to combat

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184 Ibid.
forced labor. These might include unionized (or non-unionized) workers who are in industries that use forced labor, because those workers are displaced when competing with laborers who are paid little or nothing. Unionized workers are more expensive, and are less attractive to employers that need to keep costs low to compete. Worker’s groups presumably also care about promoting fair working conditions and preventing human rights abuses against all workers. Labor unions, thus, should prefer strong regulations. Strong regulation protects the existing union constituency, and has the potential to increase union membership as exploited workers are moved from the informal to the formal sector. Previous literature has examined the power of labor as an explanation of social policy outcomes.¹⁸⁵ In Brazil, labor unions played an important role in promoting labor rights, as well as monitoring businesses and leveraging external economic threats to force compliance by employers.

*Committed Actors Within Government*

The previous explanations have focused on influences external to decision makers. However, we must also take into account the agency of actors within the state apparatus. Policy outcomes are not simply a reflection of the preferences of powerful societal groups, but also depend on the preferences of political actors.¹⁸⁶ They are collectively shaped by domestic societal influences, state institutions, and the agency and

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¹⁸⁵ Rudra explored the effect of potential labor power (PLP) upon LDC welfare state policies. The measure of PLP was intended to indirectly capture “the bargaining power of labor institutions” in terms of “the capacity of labor to form centralized, powerful labor organizations that are able, in turn, to form alliances with other interest groups, as well as more effectively negotiate with government and business representatives.” Nita Rudra, “Globalization and the Decline of the Welfare State in Less-Developed Countries,” *International Organization* 56, no. 2 (2002): 411–45.

¹⁸⁶ Helen V Milner, *Interests, Institutions and Information: Domestic Politics and International Relations* (Princeton University Press, 1997). Milner concentrates on “the political executive (the president or prime minister), the legislature, and interest groups.”
influence of policy elites.\textsuperscript{187} While “situational factors may explain the rejection of an old policy, the timing of a policy change, or the degree of policy coherence,” they cannot fully explain why one policy is chosen over another.\textsuperscript{188}

Policy elites are influential actors in their own right that initiate reforms by placing certain issues on the government’s agenda. They may shape the debate over the issues and influence the timing and content of reforms. Thus, we must take into account the personal characteristics of policy elites, as well as the broader contexts within which these elites push for policy change, two factors that are particularly important in developing countries, where policy elites are much more critical to the decision-making process than in Western industrialized nations.\textsuperscript{189} In a centralized state like Brazil, the executive has concentrated power and substantial independence from the legislature, and was thus able to enact policies to combat labor exploitation using executive powers. Furthermore, there is significant evidence that policy elites’ personal commitments and the changing context of normative and material pressures played a role in Brazil’s policy changes.

\textit{Other explanations}

Scholars call upon a variety of other domestic political explanations to explain policy change. Policy change can be difficult in countries with a large number of players who have veto power – for example, when the legislature is responsible for passing into

\textsuperscript{187} Grindle and Thomas, \textit{Public Choices and Policy Change: The Political Economy of Reform in Developing Countries}.

\textsuperscript{188} Odell, \textit{U.S. International Monetary Policy: Markets, Power, and Ideas as Sources of Change}.

\textsuperscript{189} Grindle and Thomas, \textit{Public Choices and Policy Change: The Political Economy of Reform in Developing Countries}.
law the executive’s policy recommendations, and has the ability to amend or veto.\textsuperscript{190}

When the party in power changes as a consequence of elections, differences in views or ideologies could lead to policy changes.\textsuperscript{191}

State capacity is another potential condition for policy change.\textsuperscript{192} Here state capacity is relevant as it pertains to the state’s ability to legislate and develop programs regulating labor exploitation through its institutions, as well as its ability to properly implement those policies and programs. The Brookings Index of State Weakness in the Developing World found that Brazil does fairly well, falling in the fourth quintile overall (fifth being the best) in terms of “the quality of a state’s political institutions and the extent to which its citizens accept as legitimate their system of governance” and “how well a state meets the basic human needs of its citizens, including nutrition, health, education, and access to clean water and sanitation.”\textsuperscript{193}

These explanations are worth noting but provide limited insight in this project, either because they did not vary significantly in the time period studied or because they are suited for cross-country comparisons, but not a single-case study.\textsuperscript{194}

**Analytical Framework**

Drawing upon insights from these bodies of literature, I set forth an analytical framework that emphasizes the confluence of normative and material pressures in affecting policy in Brazil. Normative pressures promoted norm internalization (operating

\textsuperscript{190} Hafner-Burton, *Forced to Be Good: Why Trade Agreements Boost Human Rights*, 27.

\textsuperscript{191} Odell, *U.S. International Monetary Policy: Markets, Power, and Ideas as Sources of Change*.

\textsuperscript{192} Susan E. Rice and Stewart Patrick, *Index of State Weakness in the Developing World* (Washington, D.C., 2008). Definitions vary, but the point of agreement tends to be that state strength is the “capacity and/or will to perform core functions of statehood effectively.” This variable would not be expected to have an independent effect, but instead be a factor that operates in conjunction with some other explanation.

\textsuperscript{193} Ibid., 8. The index ranks 141 countries (1 is the weakest state; 141 is the strongest). Brazil ranked 99th.

\textsuperscript{194} Odell, *U.S. International Monetary Policy: Markets, Power, and Ideas as Sources of Change*. 
through the logic of appropriateness), whereas material pressures impacted behavior by altering incentives (the logic of consequences). The International Labor Organization (ILO) was the primary source of international standards related to labor exploitation. Guided by these international standards, a variety of domestic and international actors – including powerful states, international organizations, INGOs, and domestic political groups – influenced policy change and implementation by applying one or both forms of pressure upon the government from above and below. A crucial precursor, normative conditioning altered notions of acceptable behavior and generated the conditions for material pressures to resonate in Brazil. The figure below depicts the relationships between actors in a modified version of the aforementioned boomerang model. Because it is estimated that most forced labor occurs in the private economy, the figure incorporates the private sector as an important actor.

\[195\] Other organizations and instruments provide related or supplementary normative guidance. For example, the UN Universal Declaration of Human Rights (UDHR) lays out principles of human dignity and freedom, including the right to be free from slavery or servitude (see Article 4).

\[196\] Keck and Sikkink, *Activists Beyond Borders*.

\[197\] International Labor Organization, *The Cost of Coercion*. 
I identify four main mechanisms whereby normative and material pressures exerted by these various actors influenced policy adoption and implementation in Brazil. These mechanisms provide greater explanatory power to the framework by explaining how the main explanatory factors altered the behavior of the government and private sector in Brazil.

Norm sensitization involved raising awareness and persuading target actors – society, government, and business – to accept and internalize certain standards of acceptable behavior. Norm entrepreneurs, “agents having strong notions about

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198 The term “norm” is used “to describe collective expectations for the proper behavior of actors with a given identity. In some situations norms operate like rules that define the identity of an actor, thus having ‘constitutive effects’ that specify what actions will cause relevant others to recognize a particular identity. In other situations norms operate as standards that specify the proper enactment of an already defined identity. In such instances norms have ‘regulative’ effects that specify standards of proper behavior. Norms
appropriate or desirable behavior in their community,”199 engaged the media to spread ideas condemning forced and child labor. They also engaged in “framing” by naming or interpreting a particular form of labor as exploitative.200 Through increased exposure to the issue and to the frames, society developed awareness of the problem and negative associations.

A related mechanism, *encouraging accountability*, served to spread awareness and sensitize actors to international norms, but operated somewhat differently. This mechanism derived its effect by attaching responsibility for violations – explicitly or implicitly – to certain actors. Tactics included collecting data on violations, disseminating information about lack of enforcement in the media or through other channels, and reaching out to responsible parties to solicit responses about past or future measures taken. The tactic of “accountability politics” was employed to expose “the distance between discourse and practice” of a government that committed to a principle subsequently failed to abide by it.201 Conventions gave CSOs a legitimate reference point to compare the Brazilian government against and the monitoring mechanism served as an institutionalized forum in which domestic and international CSOs could register complaints of non-adherence.

A third mechanism, *activating reputational concerns*, promoted changes in behavior by rewarding or punishing actors for their practices. The underlying assumption thus either define (or constitute) identities or prescribe (or regulate) behavior, or they do both.” Katzenstein, “Introduction: Alternative Perspectives on National Security.”

199 Finnemore and Sikkink, “International Norm Dynamics and Political Change.” I use the term norm entrepreneurs to indicate any actors – domestic or international – who actively promote norms condemning forced and child labor, including IOs, TANs, and NGOs.

200 Ibid., 897.

201 Keck and Sikkink, *Activists Beyond Borders*. 
is that governmental and private sector actors value a positive public image. This mechanism influenced changes in policy or practice through positive reinforcement, such as public accolades for steps taken to combat labor exploitation. In contrast, violators would be persuaded or coerced with threats to expose their unflattering behavior through shaming. These positive and negative labels were often presented through the media, government reports, or in international forums.

Finally, pressures from above or below triggered policy change by targeting economic vulnerabilities. This involved the linkage of material consequences with policies or practices related to labor exploitation. This engaged rational calculations of government and private sector’s self-interest, by altering incentives. Tactics imposed by external actors included economic sanctions, suspension of foreign aid, and removal of trade preferences for those that violated international norms. However, domestic actors were also able to activate these externally imposed tactics indirectly. For example, a civil society organization could reach out to an external actor with information regarding the government’s non-conformity with international norms, thus triggering an investigation or immediate punishment. In order to have an effect, the target must be vulnerable to such penalties. In other words, it must be sufficiently reliant upon the economic benefits (aid or trade) that a change in behavior becomes necessary.

These mechanisms may be understood through the lenses of two logics: the logic of appropriateness, the logic of consequences, or both. The logic of appropriateness views “human behavior as driven by a commitment to an identity and its rules.”\textsuperscript{202} The logic of consequences “sees human behavior as driven by anticipation of its

consequences and evaluation of those consequences by some kind of utility function that reflects the desires of the actor.”

The first mechanism, promoting norms, involves a shift in widely held views of what is appropriate. The second and third mechanisms rely on both logics. Conferring accountability requires that the party being held accountable share some notion of what is acceptable behavior, and what is not. Being held accountable may also impart material consequences, however. This is connected to the third mechanism of reputation. What is considered a positive or negative reputation depends in large part upon the standards that are being applied. Thus, the logic of appropriateness guides ideas about which standards apply for the judges as well as the judged. The fourth mechanism is more clearly connected with the logic of consequences, as its primary tactic is to generate consequences for norm-inconsistent behavior.

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\(^{203}\) Ibid.

\(^{204}\) Finnemore and Sikkink, “International Norm Dynamics and Political Change.”
Figure 2.6: Underlying Logic of Mechanisms

- Logic of appropriateness
  - Norm sensitization
  - Activating reputational concerns
- Logic of consequences
  - Encouraging accountability
  - Targeting economic vulnerabilities
Chapter 3 – History of Efforts to Fight Labor Exploitation

This chapter provides background on efforts to combat labor exploitation from the time of traditional slavery until just before the first wave of policy change occurred. It begins with a brief account of how traditional slavery was abolished around the world and specifically in Brazil. It then turns to a discussion of the international regime to combat labor exploitation, created in the early 20th century with the International Labor Organization at its core, and Brazil’s participation in that regime. Finally, it details Brazil’s pre-1995 policies and the government’s failures to adequately address the issue.

Abolition of Traditional Slavery

Slavery was an integral part of European colonization. By the middle of the 17th century, the major European empires – Dutch, Spanish, Portuguese, French, and British – had established colonies across the world. In order to take advantage of those colonies’ vast natural resources, they needed labor for crop cultivation and mining. Indigenous populations had sharply declined, in large part due to diseases introduced by the colonizers. Thus, to meet the demand for labor, Europeans imported millions of slaves from Africa. From 1450 to 1850, upwards of 12 million Africans were transported to the Americas, mainly to colonies in Latin America.

Nowhere in the Americas was the slave trade more active than in Brazil. The

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208 Colin, *Human Trafficking and Slavery*.
Portuguese, which had mistakenly landed in Brazil on April 23, 1500, quickly discovered the economic potential of brazilwood and sugar. To increase cultivation, they began importing African slaves in the 1530s, and over the next three centuries more than 4 million slaves were brought to Brazil. Slaves were also used for raising cattle, mining, construction, and as domestic servants. As the Portuguese increased economic production of a variety of natural and mineral resources in the colony, they expanded the territory of Brazil, depending increasingly upon slaves. Brazil’s status as the world’s largest sugar supplier by the beginning of the 17th century, as well as the 18th century gold and diamond booms in Minas Gerais, made the colony integral to the Portuguese empire, which was facing decline. Because these industries depended heavily on slave labor, the institution of slavery itself was central in the growth of Brazil and its economic importance to the Portuguese.

However, global abolitionist sentiments began to take hold in the 18th century, and the slave trade was strongly challenged in the early 19th century. Slavery was formally abolished in the United States and Britain in 1807, and abolitionists secured a legal prohibition on slavery in British-controlled territories in 1833. Brazil, however, continued to import slaves to support its booming sugar, gold, diamond, and coffee industries. In the second half of the 19th century, the institution of slavery was undermined by a combination of external pressure from the U.S. and Britain and

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210 Powell, *Greatest Emancipations: How the West Abolished Slavery*.
211 Roett, *The New Brazil* (Washington, D.C.: The Brookings Institution, 2010). Slaves were also brought to the Americas by other colonial powers, including the British, who became the dominant player in the global slave trade during the 17th century. For comparison purposes, the number of slaves brought to the United States is estimated at 400,000, approximately one-tenth of the number taken to Brazil.
212 Powell, *Greatest Emancipations: How the West Abolished Slavery*.
dwindling internal support. First, the British government exerted pressure upon the Brazilian government to ban the Atlantic slave trade, resulting in the *Eusébio de Queirós* Law that declared traffic in slaves a form of piracy.\(^{214}\) Second, the rise of the coffee industry in Brazil caused an important shift in domestic power that made abolition possible. The rise of coffee and cattle also shifted the center of political gravity to São Paulo and Minas Gerais – the so-called “café com leite” (coffee with milk) states – and away from the sugar-dominated Northeastern states. Furthermore, British capital and engineers facilitated the coffee industry’s expansion through infrastructure development, and helped to spread ideas about modernizing the labor force through European immigration. Domestic abolitionist movements gained strength at the same time, and on May 13, 1888 Brazil became the last country in the Americas to abolish slavery.\(^{215}\) However, the legacies of slavery remained for centuries thereafter, in particular due to the high levels of inequality and concentration of land ownership (discussed in Chapter 4).

**Defining International Norms: Instruments to Address Labor Exploitation**

International organizations played a critical role in defining norms surrounding decent work, including the undesirability of forced and child labor. The ILO institutionalized these norms in a set of conventions, which comprise half of the 8 fundamental conventions. These conventions did not have an independent effect (in other words, they alone did not cause policy change), evident in the lag in time between ratification and policy implementation in Brazil. However, they provided the guidelines that actors/activists would use to promote policy change.

\(^{214}\) Bales, “About Slavery: Slavery in History.”


As the primary international forum in which labor issues are discussed, the International Labor Organization (ILO) serves as the tripartite institutional arrangement for the regime to combat forced and child labor.\textsuperscript{216} It was created to satisfy policy coordination needs relating to an assortment of labor issues, including the issue on which this project focuses. The ILO was born from the Treaty of Versailles in 1919 in the wake of World War I “to reflect the belief that universal and lasting peace can be accomplished only if it is based on social justice.” The leader of the American Federation of Labor (AFL) in the United States chaired the Labor Commission that drafted the constitution in early 1919, along with representatives from Belgium, Cuba, Czechoslovakia, France, Italy, Japan, Poland, and the United Kingdom.\textsuperscript{217} In the post-war context, the organization’s founding reflected “security, humanitarian, political and economic considerations.” States had learned to appreciate “the importance of social justice in securing peace, against a background of exploitation of workers in the industrializing nations of that time.”\textsuperscript{218} Economic interdependence necessitated an interstate, cooperative approach to align working conditions among countries in competition with one another for markets. The institution was a freestanding body until 1946, when it became a specialized agency of the United Nations.\textsuperscript{219} In the post-WWII period (under American Director General David Morse) the ILO experienced enormous growth: in membership,


\textsuperscript{217} Although the United States participated at this early stage, it did not become an official member of the ILO until 1934.

\textsuperscript{218} International Labor Organization, “Origins and History.”

\textsuperscript{219} The United Nations was established in 1945. The UN Charter was signed by 50 countries, including Brazil, on June 26, 1945.
as the number of developing country members surpassed industrialized country members; in budgetary terms, with a five-fold increase; and human resources, with a quadrupling in the number of officials.220

At the first International Labor Conference (Washington, D.C., October 1919), six conventions were adopted.221 With strong momentum under the first Director, France’s Albert Thomas, 16 Conventions and 18 Recommendations were adopted in just two years.222 In 1926, the League of Nations codified the first international convention in the area of slavery. The ILO followed soon after with labor-focused core standards, Conventions 29 and 105.223 Fundamental conventions related to child labor were adopted in 1973 and 1999. During the near-century that the ILO has existed, approximately 200 instruments have been created to coordinate and clarify international labor standards.224 The table below summarizes the eight fundamental conventions, noting those relevant to this study with an asterisk (*).

Table 3.1: ILO Fundamental Conventions225

<table>
<thead>
<tr>
<th>Convention Number – Name</th>
<th>Date adopted by ILO</th>
</tr>
</thead>
<tbody>
<tr>
<td>C029 – Forced Labor*</td>
<td>28 Jun 1930</td>
</tr>
<tr>
<td>Suppression of the use of forced or compulsory labor. Exceptions related to military service, civic obligations, publicly supervised convict labor, and cases of emergency (i.e., war, fire, earthquake). Allows for a transitional period.</td>
<td></td>
</tr>
</tbody>
</table>

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220 Ibid.
221 These conventions related working hours, unemployment, maternity protections, women’s nighttime work, minimum age of employment, and youth nighttime work.
222 Ibid.
225 Summaries drawn from full texts of conventions, available at Ibid.
<table>
<thead>
<tr>
<th>Convention Number – Name</th>
<th>Description</th>
<th>Date adopted by ILO</th>
</tr>
</thead>
<tbody>
<tr>
<td>P029 – Protocol to the Forced Labor Convention</td>
<td>Adopts proposals to address implementation gaps related to suppression of forced labor, including prevention, protection, and prosecution measures.</td>
<td>11 Jun 2014</td>
</tr>
<tr>
<td>C087 – Freedom of Association and Protection of Right to Organize</td>
<td>Right of workers and employers to establish and join organizations without prior authorization. Restricts public authorities from interfering in free functioning of such organizations.</td>
<td>9 Jul 1948</td>
</tr>
<tr>
<td>C098 – Right to Organize and Collective Bargaining</td>
<td>Protection from anti-union discrimination in employment and from acts of interference by workers’ and employers’ organizations against one another. Provides for measures to support collective bargaining.</td>
<td>1 July 1949</td>
</tr>
<tr>
<td>C100 – Equal Remuneration</td>
<td>Promotion of equal remuneration for male and female workers for equivalent work.</td>
<td>29 Jun 1951</td>
</tr>
<tr>
<td>C105 – Abolition of Forced Labor*</td>
<td>Suppression of forced or compulsory labor (politically motivated, for economic development purposes, for labor discipline, to penalize strike participants, and as means of discrimination). Calls for immediate and complete abolition.</td>
<td>25 Jun 1957</td>
</tr>
<tr>
<td>C111 – Discrimination (Employment and Occupation)</td>
<td>Implementation of national policy to promote equality of opportunity in employment (i.e., eliminate discrimination on the basis of race, color, sex, religion, political opinion, etc.)</td>
<td>25 Jun 1958</td>
</tr>
<tr>
<td>C138 – Minimum Age (16 years)*</td>
<td>Ensure effective abolition of child labor and progressively raise minimum age for admission to employment. Guidelines for different scenarios (e.g., 14 years initially in underdeveloped nations, 18 years of age for physically or morally dangerous activities, 14 years for vocational training in school).</td>
<td>26 Jun 1973</td>
</tr>
<tr>
<td>C182 – Worst Forms of Child Labor*</td>
<td>Prioritize measures to eliminate worst forms of child labor (slavery, prostitution, illicit activities, and work that “is likely to harm the health, safety or morals of children”).</td>
<td>17 Jun 1999</td>
</tr>
</tbody>
</table>

The ILO has two main supervisory bodies that deal with forced and child labor conventions: the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the Conference Committee on the Application of
Standards (CAS). In 1926 the CEACR was set up to monitor the application of standards.\textsuperscript{226} Twenty committee members are appointed to the CEACR by the Governing Body to “provide an impartial and technical evaluation” of states’ application of international labor standards.\textsuperscript{227} The CEACR reviews governments’ reports – as well as employers’ and workers’ comments – to determine whether the ratified Conventions are being applied in law and practice.\textsuperscript{228} It makes two types of comments when examining a state’s application of Conventions: direct requests (which pertain to technical issues or requests for additional information) and observations (which deal with fundamental issues in a state’s application). Observations are published in the annual report, whereas direct requests are sent to the governments.\textsuperscript{229} The annual report of the CEACR, which is technical, is adopted in December and submitted the following June to the CAS, a political body under the ILC. The ILC functions like an international labor parliament, by setting international labor standards and serving as a forum for discussion.\textsuperscript{230} The CAS selects a small number of comments out of the hundreds that are produced by the CEACR, those it considers to be the least norm-consistent, for discussion in public. Thus, the two bodies function differently. The CEACR is technical, whereas the CAS is political.\textsuperscript{231}

\textsuperscript{228} Bohning, Labour Rights in Crisis: Measuring the Achievement of Human Rights in the World of Work.
\textsuperscript{229} ILO, “Applying and Promoting International Labour Standards.”
\textsuperscript{231} Bohning, Labour Rights in Crisis: Measuring the Achievement of Human Rights in the World of Work.
Brazilian Policy

When Brazil signed the Treaty of Versailles and became a founding member of the International Labor Organization, with 28 other countries, it had virtually no labor legislation.\textsuperscript{232} Getulio Vargas pointed out Brazil’s lack of labor legislation and its failure to adhere to the standards set forth by the ILO.\textsuperscript{233}

> What little we have in the way of social legislation is not applied, or only to a very minor extent and sporadically, despite the obligations we have assumed as signatories to the Treaty of Versailles and the responsibilities arising out of our membership of the International Labor Organization, whose Conventions and conclusions we fail to observe.\textsuperscript{234}

Under the leadership of Vargas,\textsuperscript{235} Brazil made an attempt to rectify these deficiencies. In 1930, Vargas created the Ministry of Labor, Industry, and Commerce.\textsuperscript{236} The ministry was, in part, created to increase the government’s influence over the urban work force. The state determined which unions it would recognize, and therefore which were legal, chose union leadership, and collected annual union dues, which it distributed among government-approved unions.\textsuperscript{237} Brazil also adopted legislation in the areas of labor and social welfare and ratified many of the existing ILO Conventions.

Brazil has increased its participation in international agreements over time. Brazil ratified its first four ILO conventions on April 26, 1934 under Vargas, 15 years after they had been adopted. Although the General Conference of the ILO had also adopted the Forced Labor Convention along with several others, Brazil limited its initial ratifications. It would not ratify the Forced Labor Convention (C029) for another 23 years, and the

\textsuperscript{233} This statement was delivered in a presidential campaign speech prior to the revolution of 1930.
\textsuperscript{234} Ibid.
\textsuperscript{235} Getulio Vargas served as Head of the Provisional Government from November 3, 1930 until he was elected as President in July 20, 1934, serving in that role until October 29, 1945.
\textsuperscript{236} Roett, *The New Brazil*.
\textsuperscript{237} Ibid.
Abolition of Forced Labor Convention eight years thereafter. Brazil “steadily and regularly ratified Conventions” and this increased in the 1990s, when Brazil ratified 28 instruments. It is currently a party to seven of the eight conventions identified as “fundamental” by the ILO Governing Body, including all four fundamental conventions related to forced and child labor (C029, C105, C138, and C182). The table below summarizes Brazil’s adoption of the fundamental ILO conventions.

Table 3.2: Brazil’s Ratification of ILO Fundamental Conventions (1919-2014)

<table>
<thead>
<tr>
<th>Convention Number – Name</th>
<th>Date adopted by ILO</th>
<th>Date ratified by Brazil</th>
</tr>
</thead>
<tbody>
<tr>
<td>P029 – Protocol to the Forced Labor Convention</td>
<td>11 Jun 2014</td>
<td>n/a</td>
</tr>
<tr>
<td>C087 – Freedom of Association and Protection of Right to Organize</td>
<td>9 Jul 1948</td>
<td>Not ratified</td>
</tr>
<tr>
<td>C098 – Right to Organize and Collective Bargaining</td>
<td>1 Jul 1949</td>
<td>18 Nov 1952</td>
</tr>
<tr>
<td>C100 – Equal Remuneration</td>
<td>29 Jun 1951</td>
<td>25 Apr 1957</td>
</tr>
<tr>
<td>C105 – Abolition of Forced Labor*</td>
<td>25 Jun 1957</td>
<td>18 Jun 1965</td>
</tr>
<tr>
<td>C138 – Minimum Age (16 years)*</td>
<td>26 Jun 1973</td>
<td>28 Jun 2001</td>
</tr>
</tbody>
</table>

The ratification of ILO instruments represents an important step for Brazil, which follows the theory of juridical monism: “an international standard becomes part of

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239 Thomann, Steps to Compliance with International Labour Standards, 297–298.

240 International Labor Organization, “Conventions and Recommendations,” accessed May 10, 2012, http://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm. One of these 8 fundamental conventions was created during the period under study. Before the first wave of policy action, Brazil was party to 5 of the 7 available conventions.

241 International Labor Organization, “Ratifications for Brazil.”

242 Still has not been ratified, as of September 11, 2014. However, freedom of association is protected by Article 199 of the Brazilian Penal Code.
national law at the moment the ratification of an international instrument takes effect.”

Since at least the 1950s, the Federal Supreme Court has held that reproduction in national law is not necessary for treaties to take effect.

The Constitution of 1988 established human rights, social values of labor, building a free and just society, and reduction of poverty and inequality as founding principles and fundamental objectives of the Republic of Brazil. This constitution, like its predecessor of 1967, provided for equality of all Brazilians before the law and the inviolability of rights to life, liberty, equality, security, and property. Individuals were also guaranteed protection against inhumane or degrading treatment. Labor is addressed in the Constitution under individual and social rights. Workers were ensured the right to practice any work, trade or profession freely and afforded rights related to wages, working hours, safe and hygienic working conditions.

Children and adolescents were granted additional protections under Article 227, which established the responsibility of the family, society, and state to protect “the right to life, health, nourishment, education, leisure, professional training, culture, dignity, respect, freedom and family and community life, as well as to guard them from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.” The state’s responsibility was to promote programs attending to the comprehensive health of the child and adolescent, allowing the participation of non-governmental entities. The constitution also determined a minimum age of 14 years to enter the working world.

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243 Sussekind, “The Influence of International Labour Standards on Brazilian Legislation.”
244 Ibid.
245 Constitution of 1988, Title I, Articles 1 and 3.
247 Constitution of 1988, Title II, Chapter I, Article 5.
248 Constitution of 1988, Title II, Chapter I, Articles 5 and 7.
249 Constitution of 1988, Title VIII, Chapter VII, Article 227.
subject to the provisions of Article 7, 33 that prohibited “night, dangerous, or unhealthy work for persons under eighteen and any type of work for persons less than fourteen years of age, with the exception of apprenticeships” for adolescents twelve and older.250

In the 1980s, a great number of children were meninos da rua (street children) as a result of poverty and rural-to-urban migration.251 They lived in an environment that required them to fight for survival, earning them a bad reputation among the better-off segments of the population. Laws and institutions -- Código de Menores (Juvenile Code) and the Fundação Nacional do Bem-Estar do Menor (FUNABEM, National Foundation for the Wellbeing of Children) – existed, but served to reinforce stigmas in Brazilian discourse and actions, rather than to help these children escape street life. Replacing the Juvenile Code, the Child and Adolescent Act (Estatuto da Criança e do Adolescente, ECA) was enacted in 1990 and incorporated into the Brazilian Constitution, reaffirming Article 227.252

The Brazilian Penal Code has long prohibited acts that would be considered labor exploitation or elements of the act, including “reducing someone to conditions analogous to slavery,” restricting workers’ freedom, and moral coercion.253 Table 3.3 summarizes the articles, as they existed in 1995.

Although the “enticement” referred to in Articles 206-207 is similar to “trafficking in persons,” trafficking in persons is legally separate in Brazilian law.

Articles 227-231A of the Brazilian Penal Code are addressed under a separate title of the

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252 Estatuto da Criança e do Adolescente, Federal Law No. 9.069
code focused on sexual exploitation: “Title VI: Crimes Against Sexual Dignity,” whereas the articles in the table below fall under “Title I: Crimes Against the Person” and “Title IV – Crimes Against the Organization of Labor.”

Table 3.3: Prohibition of Slavery and Related Crimes in Brazilian Penal Code

<table>
<thead>
<tr>
<th>Article Number – Name</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>132 – Exposure to direct or imminent danger</td>
<td>Exposing the life or health of another person to direct or imminent danger.</td>
</tr>
<tr>
<td>146 – Illegal constraint</td>
<td>Restricting someone’s freedom through violence, serious threat, or other means of reducing his/her ability to resist.</td>
</tr>
<tr>
<td>147 – Threat</td>
<td>Threatening – through words or symbolic means – to cause someone harm.</td>
</tr>
<tr>
<td>148 – Kidnapping or false imprisonment</td>
<td>Depriving someone of his/her liberty by kidnapping or false imprisonment.</td>
</tr>
<tr>
<td>149 – Reduction to conditions analogous to slavery</td>
<td>Reducing someone to conditions analogous to slavery.</td>
</tr>
<tr>
<td>197 – Attack on the freedom to work</td>
<td>Restricting workers’ freedom through violence or threats</td>
</tr>
<tr>
<td>203 – Moral coercion</td>
<td>Impeding, through fraud or violence, legally-guaranteed labor rights. Preventing a worker from terminating the relationship by inducing debt and/or retaining personal or contractual documents.</td>
</tr>
<tr>
<td>206, 207 – Enticement to emigrate (abroad or internally)</td>
<td>Recruiting workers, through fraud, in order to take them to a foreign territory or to another part of the national territory.</td>
</tr>
</tbody>
</table>

The terms “slave labor” (trabalho escravo) and “child labor” (trabalho infantil) capture the labor exploitation addressed in this project. It is worth noting that Brazil

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254 Código Penal do Brasil. Title VI (Crimes against sexual dignity), Chapter V of the Brazilian Penal Code deals with pimping and trafficking of persons for the purpose of prostitution or other forms of sexual exploitation. See Articles 227 – 231A. Available at http://www.planalto.gov.br/ccivil_03/decreto-lei/del2848compilado.htm#art361


256 Article 149 was amended in 2003 to provide greater detail regarding what acts constituted a violation. This is discussed in Chapter 5.
prefers the term “slave labor” to “forced labor,” distinguishing it from most other countries. This term has been used to refer to contemporary forms of forced labor in institutional discourse within civil society since the 1970s. Over time, the term became more prevalent in governmental texts as well, although official recognition before the international community did not occur until later.

**Government Failures**

“Slavery is illegal in Brazil. It’s a wonderful law. But I’m not aware of anyone ever having been prosecuted.”

James Cavallaro, HRW

Reports as early as the mid-1980s reflect official documentation of slave labor. In 1985, the Jose Sarney administration had created the Ministry of Development and Agrarian Reform (MIRAD), which produced a report in 1986 documenting situations of forced labor in deforestation (Amazon), sugar cane and orange plantations (São Paulo), tea gathering (Paraná), sugar cane and alcohol distilleries (Pernambuco, Paraíba, Alagoas, Rio Grande do Norte, and São Paulo), coffee (Bahia), carbon production (Minas Gerais), and gold mining and rubber-tapping.

The country’s many problems with child and forced labor were documented in the national and international media, as well as reports to international organizations. Examples from the Folha de São Paulo and The Independent, respectively, follow:

“Brazil is one of nine countries in the world with ‘serious’ problems of slavery, according to a report by the International Labor Organization that

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will be released this month, Mauritania, Sudan, Pakistan, India, Thailand, Haiti, Peru, and the Dominican Republic are the others.”

“Americas Watch believes that the failure of the Brazilian government to take meaningful steps to end forced labor, as detailed below, constitutes a violation of its duties under international law. It is simply inadequate for governmental authorities to attempt to avert their responsibility in this area by pointing to the private actors who are more directly liable for the practice. The complete lack of a system to enforce laws prohibiting the functional equivalent of slavery – an atrocity abolished by law in Brazil more than a century ago – results in the responsibility of the Brazilian state for the continued practice of forced labor before the international community.”

However, the government had long ignored many of these complaints, evident in reports submitted by non-governmental organizations to the ILO’s CEACR regarding adherence to relevant conventions on forced and child labor. In the early 1990s, the CEACR noted the following:

In its previous comments, the Committee noted certain allegations to the effect that a large number of children between 6 and 14 years of age were employed in violation of the relevant legislation…in various industries in Brazil, and in particular those in the State of São Paulo.

…the Committee referred to the observations presented in 1986 by the Latin American Central of Workers (CLAT) and the International Confederation of Free Trade Unions (ICFTU) alleging the existence of forced labour and debt bondage in certain regions of Brazil. The Committee also noted the difficulties which the Government stated it was encountering in detecting, preventing and repressing labour law violations, due to the vast dimensions of the national territory and the difficulty of reaching certain regions…

…the allegations of the two trade union organizations concur and that they are amply documented with reports from national trade unions (trabalhadores rurais sem terra; Central Única de Trabalhadores (CUT)), non-governmental organisations, churches and with numerous articles from the national and international press…The allegations concern the

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259 Lins da Silva, “Entidade Denuncia Trabalho Escravo No Brasil.”
situation of thousands of workers, including children and young persons, who are subjected to forced labour in various sectors of the rural economy and in mining.\textsuperscript{261}

According to the Association of Labor Inspectors (AGITRA), “the practice of forced labour, known in Brazil as white slavery (“escravidade branca”) has been denounced on estates and in distilleries in various regions of the country since 1984, especially in the States of Pará and Mato Grosso.” From 1980 to 1991, 3,144 cases of forced labor were discovered on 32 estates in south Pará. AGITRA also cited 8,886 nationwide cases and a number of murders or disappearances in 1991.

The International Federation of Plantation, Agricultural, and Allied Workers (IFPAAW) confirmed knowledge of cases – in remote regions of the Amazon as well as nearer to developed areas of Brazil – since as early as 1979 in its report to the Committee. IFPAAW noted that although most rescued workers reported their situation and informed authorities of the number of workers still on the estates, there was lack of action taken by competent authorities. The Human Rights Committee of the Rio Grande do Sul Legislative Assembly confirmed AGITRA’s allegations regarding slave labor in Rio Grande do Sul. Overall, the Committee noted actions taken by the Government, but states “…the measures taken so far, although they are a first step, must be reinforced and lead to systematic action which is commensurate with the dimensions and gravity of the problem.”\textsuperscript{262}

In 1992, in response to domestic and international denunciations of forced and child labor in Brazil, the government of Fernando Collor signed a decree to create the


\textsuperscript{262} Ibid.
Program to Eradicate Forced Labor (PERCOM), which would bring together Ministries of Justice, Labor, and Agriculture to work in conjunction with NGOs such as the CPT. “The time for ostrich politics has ended. The time has arrived to expose the gaps and social wounds of the nation,” Minister of Labor and Administration, Joao Mellao, declared at the ILO’s annual meeting in Geneva where he announced Collor’s initiative. The program failed to generate the desired results, because “the necessary political will to confront the problem never materialized.”

Furthermore, in the same year, a representative of the Brazilian Government had denied that forced labor violations existed in the country (in response to the IFPAAW allegations):

While in general terms the description by the Committee of Experts of the phenomena of forced labor in Brazil is correct… One should [ ] rely on factual information and should not let oneself be carried away by emotions in order to avoid sterile and hypothetical discussions. The central problem lies in the existence of conditions of work which are repugnant to national conscience. The allegations concerning forced labor are coming from different trade unions, non-governmental or political organizations, and are often repeated by the national and international media; in fact, these allegations rarely result in formal accusations before the police and labor authorities.

The representative considered alleged forced labor cases to be unsubstantiated, politically motivated, or violations of labor law instead. In 1993, Americas Watch questioned the Coordinator of the Federal Police, Geraldo Jose Chaves, who said that while labor laws are often violated, forced labor is virtually nonexistent.

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264 Ministério do Trabalho e Emprego, Trabalho Escravo No Brasil Em Retrospectiva: Referências Para Estudos E Pesquisas, 5.
266 Ibid.
This was compounded by revelations that the government had been indirectly promoting increases in slave labor through economic development policies. In the 1950s and 60s the government had promoted – by providing strong financial incentives to large businesses – development of the Amazon region for agriculture. The government offered tax cuts of up to 50% to large financial and industrial groups, provided that two-thirds was invested in projects in the so-called “Legal Amazon.” Benefits were extended to “national banks such as Bradesco, BCN (Labour Credit Bank), Banco Real, Banco Bamerinduz, and multinational corporations such as Volkswagen, Nixdorf and Liquigaz.” Since the provision of resources was linked to land size, the projects financed large estates.\textsuperscript{268} The example of the automotive supply chain is illustrative.

Labor exploitation is a pervasive feature in many stages of the automotive production chain. The chain begins with tree-clearing operations (which is also the first step in other production chains, such as cattle ranching) and ends in the refinement of iron into steel, a carbon and iron alloy.\textsuperscript{269} The carbon component necessary for steel production comes from charcoal, of either the mineral or wood-based variety.\textsuperscript{270} Most Brazilian charcoal originates from trees in native or planted forests. Trees are processed in sawmills or sent straight to charcoal camps, where they are smoldered to produce charcoal. Coal serves as a fuel to melt the iron ore, as well as a reducer that removes the oxygen from iron. In the reduction process, iron becomes a liquid called pig iron. The pig iron is refined into steel by burning it in a furnace to remove impurities and additions.\textsuperscript{271}

\textsuperscript{269} Alloy is formed by combining metals or by combining a metal and a nonmetal.
\textsuperscript{271} Maurilio de Abreu Monteiro, Metallurgy in the Brazilian Amazon: Alternatives for Activities with Scarce Ecological Prudence, vol. 157 (Belém, Brazil, 2000); Instituto Açô Brasil, “Production Stages”;
Comprising about 40% of the total cost of producing pig iron, “charcoal is a main input for which pig iron producers tend to control to protect their profit margin.”

One method for controlling labor costs in charcoal production has been the use of child or forced labor, which has been reported by the Brazilian Ministry of Labor as well as the United States Department of Labor. Slave labor has been reported in the pig iron link of the steel production chain as well. For example, Viena, the largest and oldest pig iron supplier in the Amazon region, was found to use slave labor in its pig iron supply chain.

Charcoal producing states include Minas Gerais (47.8%), Mato Grosso do Sul (11.6%), Maranhão (11.6%), Bahia (9.6%) and Goias (8.2%). The vast majority (92.3%) of national pig iron production occurs in the Carajás pole (including parts of Maranhão and Pará) and in Minas Gerais. The Carajás region became a key production area in the 1980s as a result of the Great Carajás Program (PGC, Programa Grande Carajás) to encourage small steel and pig iron companies from the southeast of the country to relocate to the Amazon region. With funding from the World Bank, the European Economic Community and the Government of Japan, the Brazilian federal government invested heavily in this industry. The PGC provided tax incentives and

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273 MTE Cadastro de Empregadores…2011. USDOL list of goods 2011
274 Driving Destruction in the Amazon: How Steel Production Is Throwing the Forest into the Furnace, 20.
276 Nogueira et al., “Sustainable Charcoal Production in Brazil,” 37. Percentage of national production is reflected in parentheses.
277 Ibid., 36.
278 Driving Destruction in the Amazon: How Steel Production Is Throwing the Forest into the Furnace, 3.
credit to companies, and planned the development of industry along the railroad corridor. State governments also promoted the industry upon receipt of federal government mega-projects in this period. For example, the state government of Mato Grosso do Sul, which received one of the Brazilian government’s mega-projects to develop the interior of Brazil, encouraged charcoal development to supply steel mills in Minas Gerais.

These inputs supply the automotive manufacturing industry in Brazil – for domestic purchase or export – or are exported to firms producing elsewhere. Pig iron from the Amazon is imported for use as a primary ingredient in the U.S. steel and cast iron industries. Brazil exports 60 percent of the 10 million tons of pig iron it produces using charcoal, earning US$2 billion each year. At the firm level, companies such as Viena Siderúrgica do Maranhão (Viena) export more than 80% of their product to the U.S.: “Between 2001 and 2006, the demand for Brazilian charcoal production rose considerably due to a number of important causes, including the increased value of pig iron in the international market, a point not lost on the Brazilian Companhia Vale do Rio Doce (CCRD), the largest iron ore producer in the world. This demand has also given a perverse impetus to more charcoal production involving forced labor.”

Volkswagen had a history of revelations of slave labor in its supply chains. The

281 Driving Destruction in the Amazon: How Steel Production Is Throwing the Forest into the Furnace, 3.
284 Stanley Gacek, “Prepared Statement of Stanley Gacek, Esq., Associate Director of the International Department AFL-CIO,” in U.S.-Brazil Relations (House of Representatives, Subcommittee on the Western Hemisphere, Committee on Foreign Affairs, 2007), 24.
company had been attracted by the aforementioned tax incentives intended to modernize and develop the Amazon region, was linked to forced labor in a 1983 case filed by the CLAT with the ILO. Two workers had escaped from a cattle ranching farm owned by Volkswagen. Cattle ranching is tied to the steel supply chain through the deforestation process, which provides the input for the production of charcoal. Furthermore, it is thought that some companies use deforestation as a justification for companies to obtain large tax benefits. The workers had denounced working conditions with the local magistrate in Porto Alegre of Mato Grosso state. According to the ILO report, “The local magistrate ordered the subcontractors to compensate the workers but stated that Volkswagen was not responsible for the working conditions imposed by the subcontractors. The regional court declared Volkswagen responsible and the case was submitted to the Santana do Araguaia court where it was filed.” Volkswagen sold the property in 1986. When the farm was sold, several workers were sold to another farm, on which they participated in deforestation activities.

In 1987, Ford and Volkswagen began a joint venture to “link their 15 separate Brazilian and Argentine component and assembly plants under a new joint venture, AutoLatina. Volkswagen will be the dominant partner, with 51 percent.” Industry specialists believed that Brazil was the “next major auto producing country.” This assessment was based on two main factors. First, the companies hoped to combine research, development, and production costs and collectively control a large part of the

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domestic new-car market. Second, they saw Brazil as an alternative to Asian auto-making nations in terms of low-cost automobiles and components, as well as “the advantage of a low-cost labor rate that can add up to hundreds of dollars saved on each small car, even taking into account shipping costs.”

Ease of land ownership, cheap labor, and subsidies caused rapid occupation, coupled with high land concentration, impoverishment of many resident of these areas, rural violence, and slave labor. This was exacerbated during the “lost decade” of the 1980s, when Brazil held large foreign debt balances and struggled with its currency. Foreign debt reached $95 billion, the largest balance in the world, and the inflation rate averaged 428 percent. To deal with foreign currency shortages, the government provided additional incentives – such as tax exemptions, subsidies, and export-oriented tax benefits – to stimulate exports.

Furthermore, much of the labor force in Brazil is in the informal sector. In 1990, only 38% of workers had formal jobs. Thus, nearly two-thirds of the Brazilian labor force was in the informal sector. Informality increased sharply in Brazil during the 1990s due to trade liberalization and stronger labor rights set forth in the 1988 constitution.

The intensification of labor subcontracting, including in the agricultural industry, brought

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289 Ministério do Trabalho e Emprego, Trabalho Escravo No Brasil Em Retrospectiva: Referências Para Estudos E Pesquisas, 2.
291 Roett, The New Brazil, 76.
294 Berg, Laws or Luck?: Understanding Rising Formality in Brazil in the 2000s.
an acceleration of slave labor complaints. These conditions were clearly connected to the continued existence of slave labor, particularly in the Amazon region, which was developed largely using public funds.

“…in 1993, the Catholic Church in Brazil found nearly 20,000 men, women and children in conditions of near slavery. The individual cases reported, often only as a result of escapes, are evidence of a practice spreading throughout the low-cost labor market, including forest clearance, charcoal production and mining. They are not caused by underdevelopment or a few backward landowners, but have been linked to national banks and multinational corporations.”

In conclusion, despite the existence of several legal instruments, governmental efforts to enforce laws were relatively weak before 1995. The government had not only failed to address the fundamental vulnerability factors leading to slave labor, but was actually contributing to it. This chapter has provided the necessary background information and context to understand the changes that occurred in 1995, when the first concrete actions were taken.

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Chapter 4 – Creation of the Mobile Inspection Units

“Normative action is an indispensable tool to make decent work a reality.” 297

Juan Somavia, ILO Director-General, 2001

The year 1995 marked a break with the previous treatment of forced and child labor that was discussed in Chapter 3. This turning point crucially depended on extensive efforts to promote awareness about labor exploitation and provoke a shift in attitudes. During the 1980s and 1990s, domestic and international principled actors concentrated much of their effort on sensitizing society and government to norms around decent work. They mobilized around the issue of rural violence, gradually increasing attention to combatting slave labor. A separate movement formed around children’s rights and also reached a point where labor exploitation – of children – became a key area for action.

These domestic movements reached out to international actors for support. To add strength and legitimacy to its claims, the rural movement leveraged INGOs and IOs to denounce violations and shame the government into complying with its duties under international law. The children’s rights movement, concentrated in the State of São Paulo, drew upon the technical assistance offered by United Nations agencies to promote change. UN agencies were instrumental in the diffusion of norms and policies regarding slavery, forced labor, and human trafficking. In particular, the ILO served as an important normative actor through the propagation of conventions, mechanisms for monitoring the application of those conventions, and the provision of technical assistance.

Once normative conditioning had shifted attitudes regarding acceptable behavior, material pressures began to gain traction. For years, the U.S. had exercised its economic influence by posing the threat of trade-related punishments for the use of child and forced labor. However, these threats became more effective in the mid-1990s, after labor exploitation had been widely accepted as norm-inconsistent behavior. The intersection of these pressures created the appropriate conditions for a small group of committed policymakers to publicly support international norms related to forced and child labor and institute the key policy outcome of this period, the Special Mobile Inspection Units.

**Rural Violence and Contemporary Slavery in Brazil**

The movement to end forced labor in Brazil began in the countryside, where land access, slave labor, and violence against workers were intimately connected. Land ownership in Brazil, as in many other countries, forms the basis for political power. With the end of the slave trade in 1850, rural landowners anticipated the eventual emancipation of still-captive slaves. In order to maintain their political strength they promoted the passage of the Land Act of 1850, which created barriers to land ownership for those with little wealth or political capital. The existing legal framework preserved high levels of inequality of land ownership for many years.

This inequality intensified further in the 1970s and 1980s as the military government tried to deal with economic crises by incentivizing modernization through

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tax incentives and subsidies in the agro-export industry.\(^{301}\) In 1985, 110,000 *latifúndios* (large farms over 500 hectares) constituted less than 2% of the total number of farms but occupied nearly 55% of the total farmland in Brazil. In contrast, the 3 million *minifundios* (small farms of less than 10 hectares) represented 53% of the total number of farms but occupied less than 3% of total farmland.\(^{302}\) Between two million and five million – according to the government and rural unions, respectively – landless families lived “on the margins of the economy and of starvation in rural Brazil.”\(^{303}\) However, land reform was not a political priority and the government was able to pacify mobilization through small measures. One such minor concession occurred in the 1970s, when the military government handed out land titles to the homeless.\(^{304}\)

After the transition to civilian government in 1985, infrastructure investment began to make the land usable and rural conflict intensified.\(^{305}\) The Movement of Landless Rural Workers (*Movimento dos Trabalhadores Rurais sem Terra*, MST), formally established in 1984, stimulated land occupations and attracted public attention.\(^{306}\) The National Confederation of Agricultural Workers (*Confederação Nacional dos Trabalhadores na Agricultura*, CONTAG)\(^{307}\) publicly presented a Proposal for a National Agrarian Reform Plan (*Plano Nacional de Reforma Agrária*, PNRA) in its Fourth National Congress of Rural Workers in May 1985. The proposal advocated

\(^{301}\) Carter, “The Landless Rural Workers Movement and Democracy in Brazil.”


\(^{305}\) Ibid.


\(^{307}\) CONTAG was formed by uniting trade unions with the shared dual purpose of demanding labor rights and land reform.
expropriation as a primary means for land reappropriation. Seven million workers would be resettled within 15 years.\textsuperscript{308}

Around the same time, the category of slavery began to gain legitimacy. The Ministry of Land Reform and Development (\textit{Ministerio de Reforma e do Desenvolvimento,} MIRAD) compiled a report of the documented situations of forced labor in several states and industries within Brazil and advocated for the seizure of rural properties on which slave labor was utilized.\textsuperscript{309} Civil society organizations such as the Pastoral Land Commission (\textit{Comissão Pastoral da Terra,} CPT) pressured MIRAD, the Ministry of Labor, the National Confederation of Agriculture (\textit{Confederação Nacional da Agricultura,} CNA), and the Agricultural Workers Confederation (CONTAG) to sign a Protocol of Intention to “contain the violation of the social and labor rights of rural workers” in the states of Pará, Maranhão, and Goias.\textsuperscript{310} The following month the same organizations signed a commitment to impede businesses using slave labor from receiving governmental benefits such as tax incentives.\textsuperscript{311}

Concerned about the expansion of property rights in the countryside and the corresponding decline of their long-enjoyed economic benefits, large rural landowners organized themselves in the Democratic Rural Union (\textit{União Democrática Ruralista,} UDR) in 1987, which lobbied against land reform.\textsuperscript{312} As a consequence of the UDR’s effective lobbying, the Constitution of 1988 embraced citizens’ rights but failed to

\textsuperscript{308} Ibid., 33–34.
\textsuperscript{309} Ministério do Trabalho e Emprego, \textit{Trabalho Escravo No Brasil Em Retrospectiva: Referências Para Estudos E Pesquisas}, 3.
The MIRAD report was published in 1986.
\textsuperscript{310} Figueira, \textit{Contemporary Slavery in Brazil: 1985-2009}, 66.
\textsuperscript{311} Ministério do Trabalho e Emprego, \textit{Trabalho Escravo No Brasil Em Retrospectiva: Referências Para Estudos E Pesquisas}, 3.
\textsuperscript{312} Skidmore, \textit{Brazil: Five Centuries of Change}, 182, 205.
provide for aggressive land reform.\textsuperscript{313} Conservative legislators also blocked a proposal to expropriate land from large landholders that had not used their land productively.\textsuperscript{314}

One consequence of the struggle for land reform was an expanding and strengthening civil society.\textsuperscript{315} The Church was largely responsible for laying the foundations for this expansion during the military regime. Leaders in the National Conference of Bishops of Brazil (CNBB) expressed their support for workers’ and peasants’ social movements by creating new organizations and providing access to the Church’s facilities (schools, churches, and community centers) in the 1970s.\textsuperscript{316} As the only institution that had not been restrained by the military government, the Church – especially the radical wing called the “People’s Church” – played a crucial role in the growth of human rights organizations. Over 80,000 Christian Base Communities (\textit{Comunidades Eclesiais de Base}, CEBs) were created, which “formed a social base for the emergence of political leaders, social movements, and various popular organizations.”\textsuperscript{317}

In addition, labor unions were maintained under state control during the military regime, but towards the end, independent labor organizations began to appear. The two largest union conglomerates – the Central Union of Workers (\textit{Central Única dos Trabalhadores}, CUT) and Union Power (\textit{Força Sindical}, FS) – were created.\textsuperscript{318} The 1988 Constitution formally removed many of the military government’s restrictions on

\textsuperscript{313} Ibid., 182.
\textsuperscript{314} de Medeiros, “Social Movements, the State and the Experience of Market-Led Agrarian Reform in Brazil,” 33.
\textsuperscript{315} Ibid.
\textsuperscript{317} Ibid.
\textsuperscript{318} Skidmore, \textit{Brazil: Five Centuries of Change}, 197.
independent labor unions. It was not long before domestic civil societal actors from the Church and labor unions began to gain momentum for the movement. According to former Minister of Labor Walter Barelli, the growth of unions assisted with the fight against slave labor by identifying cases and publicizing them:

To the extent that the rural labor movement grew and became organized, most municipalities came to have unions and there was the possibility of complaints. The union leader, protected by the stability of the leader - if not corrupt - had an interest in denouncing, since this is one way to show that he was representing the workers. As the organization of the productive forces in a state increased, as in São Paulo, it became difficult to spot slave labor, which takes refuge in certain places, usually in areas designated as agricultural frontiers, where society is less organized: it is those regions that have news of forced labor.

The Pastoral Land Commission (Comissão Pastoral da Terra, CPT), the first Brazilian non-governmental organization focused on the topic of slave labor, played a key role in taking its local struggle for land reform and workers’ rights and amplifying it to the national and international stage. Founded in June 1975 during the military dictatorship, CPT started working in the Amazon region with squatters, those affected by large dam projects, and the landless. As the organization spread its activities to different regions of Brazil, it remained committed to its core objective of helping rural workers, many of which faced difficulties with organizing themselves and articulating their collective goals. The CPT confronted the challenges faced by rural workers, including salaried employees, day laborers, and workers subjected to conditions similar to slavery. It served as the main record-keeper of documented cases of rural violence and

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319 Berg, *Laws or Luck?: Understanding Rising Formality in Brazil in the 2000s*.
320 “Trabalho Escravo No Brasil: Depoimento de Walter Barelli E Ruth Vilela.”
slave labor, to educate national authorities, IGOs, INGOs, and civil society about incidence and trends. Table 4.1 below shows the increasing complaints registered by the CPT from 1989 until 1994. The increase in the number of people involved is partially due to expanding efforts to identify and document cases of slave labor.

Table 4.1: Complaints Registered by CPT (1989-1994)\textsuperscript{323}

<table>
<thead>
<tr>
<th>Year</th>
<th>Cases Registered</th>
<th># People involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>1989</td>
<td>19</td>
<td>597</td>
</tr>
<tr>
<td>1990</td>
<td>18</td>
<td>1,599</td>
</tr>
<tr>
<td>1991</td>
<td>27</td>
<td>4,883</td>
</tr>
<tr>
<td>1992</td>
<td>18</td>
<td>16,442</td>
</tr>
<tr>
<td>1993</td>
<td>29</td>
<td>19,940</td>
</tr>
<tr>
<td>1994</td>
<td>28</td>
<td>25,193</td>
</tr>
</tbody>
</table>

One of the most influential figures in calling attention to the issue of slave labor, Ricardo Rezende, began working with CPT in 1977. He served as a regional coordinator and vice coordinator until 1978 and was then elected to the National Board of CPT. Since the 1980s, he had been on a hit list calling for his murder.\textsuperscript{324} That didn’t deter him from continuing to keep records and submit information to the authorities regarding rural human rights violations. In April of 1990 he submitted to the Minister of Justice and the Prosecutor General a report exposing the increasing murder rate in Rio Maria, Pará.\textsuperscript{325} He played an important role in making the government accountable to curb the abuses. He brought the murders in the countryside to the attention of international organizations,


succeeded in bringing the federal police to the region to repress violence, and wrote a book to document and raise awareness about rural violence.\footnote{Padre Cobra Repressão À Violência No Campo,” Jornal Do Brasil, November 10, 1992; Ricardo Rezende Figueira, Rio Maria: Canto Da Terra (Petrópolis: Vozes, 1992).}

Rezende testified in March 1991 about the violence in the state of Pará before the Parliamentary Inquiry Commission (Comissão Parlamentar de Inquérito, CPI) created by the Chamber of Deputies to investigate violence in the countryside. He provided the commission with essential information about the murder rate and the current security situation.\footnote{Antônio José, “Pedagogia Do Terror Domina O Pará,” Jornal Do Brasil, March 28, 1991.} According to Rezende, 33 people had already been assassinated that year and “Pará faces, with the negligence and complicity of the police and judicial authorities, a pedagogy of terror.” He also revealed to the commission that in the previous 7 years, 2,974 people had been subjected to slave labor.\footnote{Ibid.}

The CPT was in contact with the Prosecutor and Federal Police in July and August of 1992 to find out the status of 32 slave labor cases reported from 1983 to 1991, involving over 1000 workers, in the south of Pará. It discovered that more than half of the cases had no information and six of the nine police inquiries that had been opened were still in progress (despite the requirement that inquiries be concluded within 30 days). Thus, the CPT and its allies in civil society discovered the futility of reporting cases directly to the Brazilian authorities in this period.

Leveraging International Normative Pressure: Domestic Actors Amplify Concerns on the Global Stage

In the face of unresponsiveness from Brazilian authorities, domestic CSOs turned
to international actors for support. The CPT sought greater visibility for the issue of slave labor with the media, the UN, OAS, and other international forums. Combatting slave labor and the exploitation of labor, especially child and adolescent labor, became part of its primary mission in the mid-1990s.\textsuperscript{329} In February 1992, Ricardo Rezende traveled to Geneva to speak before the UN Commission of Human Rights about “the passivity of Fernando Collor regarding the civil war in rural areas of Brazil.”\textsuperscript{330} He also argued that since 1985 gunmen (pistoleiros) had committed “systematic murder” of more than 500 farm workers that were attempting to escape from slave labor camps in the Amazon jungle.\textsuperscript{331} Rezende’s fame was widely known by that time, having received attention from the media and the UN. Brazilian celebrities even held a concert in his honor to discuss the threats on his life and the fight for human rights of rural workers in southern Pará, a region in which slavery was frequently denounced in the media.\textsuperscript{332}

International NGOs (INGOs) helped spread information about the lack of governmental action.\textsuperscript{333} Americas Watch (AW), a regional division of Human Rights Watch (HRW)\textsuperscript{334}, produced a series of reports documenting slave labor in the early 1990s. These reports discussed the relationship between agrarian reform failures and the occurrence of forced labor, widespread impunity due to the disproportionate political

\textsuperscript{329} Comissão Pastoral da Terra, \textit{A Luta Pela Terra: A Comissão Pastoral Da Terra 20 Anos Depois}, 238–39.
\textsuperscript{331} “500 ‘Slave’ Workers Killed, Priest Says,” \textit{Miami Herald}, February 1, 1992.
\textsuperscript{333} Comissão Pastoral da Terra, \textit{A Luta Pela Terra: A Comissão Pastoral Da Terra 20 Anos Depois}, 238–39.
\textsuperscript{334} Human Rights Watch was established “to monitor and promote observance of internationally recognized human rights.”
influence of large landholders, and the prevalence of slavery in both remote and
developed areas.\footnote{Rone, Forced Labor in Brazil; Rone, The Struggle for Land in Brazil: Rural Violence Continues; Cavallaro, Forced Labor in Brazil Re-Visited: On-Site Investigations Document That Practice Continues.}

Brazil’s representative of Human Rights Watch (HRW) and Center for Justice and International Law (CEJIL), James Cavallaro, visited farms in Brazil to document the occurrence of slave labor in June and July of 1993. He shared with the media that he saw slave labor occurring in plain view in one city, but it was not reported by a developer who “did not want to inconvenience the federal police with mere allegations that are rarely proven.”\footnote{Ronaldo Brasiliense, “Trabalho Escravo No Brasil Assusta Missão,” Jornal Do Brasil, March 13, 1994.} Cavallaro pointed to increasing human rights abuses in the countryside and criticized the government not properly enforcing existing laws: “Across the board, unfortunately, much of what we document indicates the extent of the gulf between Brazilian law or legal theory and the practice thereof...The next big question is why does this lack of enforcement exist? Well, for years we've believed that it's the result of lack of political will. There's just not sufficient interest in ending this problem.”\footnote{Marcelo Irajá de Araújo Hoffman, “Forced Labor in Brazil: An Interview with James Cavallaro” (Solidarity, 1995), http://www.solidarity-us.org/site/node/2558.} Cavallaro also pointed out that despite national and international denunciations, judicial responses “can be generously described as indifferent, and more cynically characterized as complicit” and place Brazil in violation of international law.\footnote{Cavallaro, Forced Labor in Brazil Re-Visited: On-Site Investigations Document That Practice Continues.}

Data, documents, and information on cases were also published in a 1994 book – “Slave labor, a link in the modernization of Brazil today” – a joint effort between the CPT and Anti-Slavery International (ASI).\footnote{Comissão Pastoral da Terra, A Luta Pela Terra: A Comissão Pastoral Da Terra 20 Anos Depois, 239; “About Anti-Slavery International,” accessed December 12, 2014,} Alison Sutton, the author of the book, had
been commissioned by ASI to conduct six months of field research in Brazil. In the course of those six months, Sutton traveled over 15,000 miles throughout the country.\textsuperscript{340} She interviewed over 150 people, including workers who had escaped, their family members, union activists, and authorities.\textsuperscript{341} The book, and its production, earned media attention in Brazil and abroad.

**Promoting Norm Socialization and Accountability: ILO Monitoring Mechanisms**

Societal mobilization was crucially complemented and reinforced by the formal supervision of governmental practices by the International Labor Organization (ILO), which encouraged accountability and activated reputational concerns at the international level. One method by which the ILO maintains regular interaction with governments related to the application of international labor standards is through monitoring. The monitoring and regular reporting has the effect of providing an opportunity for iterative self-evaluation and public expression of the government’s position. Pursuant to Article 22 of the ILO Constitution, each member country must submit annual reports to the ILO on the measures it has taken related to the Conventions it has ratified.\textsuperscript{342} Submissions are expected to include such documentation as legislative texts, court decisions, inspection results, and comments by employers’ and workers’ organizations.\textsuperscript{343}

Brazil ratified the Forced Labor Convention (C029) in 1957 and the Abolition of

\textsuperscript{340} Sutton, “Signing on with the Slave Gang: In Brazil Slavery Is on the Rise Again.”
\textsuperscript{342} ILO, “Applying and Promoting International Labour Standards.”
Forced Labor Convention (C105) in 1965. Recall that when Brazil signs a convention, it is immediately considered part of national law. However, this is just the first step in a process of norm internalization. This is evident in the minimal commitment it displayed in the early years after signing the forced labor conventions, in which the government’s reporting related to those conventions was sparse and incomplete. It submitted limited information in the 1960s, including the text of constitutional and penal provisions related to forced labor, but little or nothing in the way of practical applications of the conventions or statistical information. The ILO continued to request additional information on the application of Conventions 29 and 105, and the Brazilian government slowly began to improve the content of its reporting. Beginning in 1992, the CEACR shifted focus to privately imposed forced labor and its reports became much more detailed. In the 1993 report to the ILO on Convention 29, worker and employer members noted the provision of more detailed information by the government, which was considered “a constructive development compared to the attitude of the Government last year.”

Taking advantage of the right to participate in the ILO’s supervisory mechanisms, an alliance of domestic and international CSOs strategically filed reports to point out the gap between Brazilian governmental practices and obligations under international law. The Latin American Central of Workers (CLAT) referenced numerous complaints that had been previously filed, alleging the Brazilian Government’s non-observance of the

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344 Sussekind, “The Influence of International Labour Standards on Brazilian Legislation.”
Forced Labor Convention (C029) and the Abolition of Forced Labor Convention (C105), both of which had been ratified decades before. CLAT requested a decision from the CEACR and the “constitution of a committee to investigate this situation, which is serious.”

In 1993, the president of the Order of Attorneys of Brazil (Ordem dos Advogados do Brasil, OAB), Marcelo Lavenere, complained to the United Nations, European Parliament, and the ILO about the existence of slave labor in Brazil. His complaint was based on a report by the CPT. The former Brazilian Minister of Labor, Walter Barelli, confirmed the importance of these complaints, which placed the government in a position where it had to respond, or it would appear to be condoning slave labor.

This issue was brought up in the Itamar Franco government with substantial force. After that we had various actions, like the creation of a special group for the eradication of forced labor in the Fernando Henrique government. The big problem confronting us was an international complaint, made by the CPT in Geneva, about slave labor in Brazil. Then, it was necessary to take steps for the eradication of this type of labor, to demonstrate that it was not the character of the Itamar government, nor the Fernando Henrique government, to support these uncivilized forms of labor exploitation.

CSOs also used the regional intergovernmental organization’s human rights supervisory mechanisms. The landmark case of “Ze” Jose Pereira Ferreira’s escape from an estate in Espirito Santo made national headlines and facilitated the direct involvement of international human rights organizations. In 1989 Jose Pereira Ferreira escaped from

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350 “Trabalho Escravo No Brasil: Depoimento de Walter Barelli E Ruth Vilela.”
351 Costa, Fighting Forced Labour: The Example of Brazil, 7.
a rural estate in which approximately 60 workers were forced to work without pay in poor conditions. He subsequently notified the Federal Police, which did not investigate the estate “and only in response to the insistence of human rights activists’ vis-a-vis the central government in Brasília” until a month later. The CPT, together with NGOs Center for Justice and International Law (CEJIL) and Human Rights Watch filed a complaint with on his behalf with the Inter-American Commission on Human Rights (IACHR) and Organization of American States (OAS) in 1994. The IACHR forwarded the complaint to the Government of Brazil on March 24, 1994, which applied pressure on the Brazilian government to respond. These measured served to encourage accountability, and provoked concerns about how the complaints might affect the country’s international reputation.

Civil society and government came together in 1994 when the National Forum Against Rural Violence promoted the first National Seminar Against Slave Labor. The Seminar, titled “Trabalho Escravo Nunca Mais!” took place from August 23-25, 1994 in the Chamber of Deputies in Brasilia. At the meeting, the CPT shared its wealth of experience with slave labor in the countryside. In particular, the CPT conveyed to the Chamber of Deputies and other attendees that it had repeatedly observed that the Regional Labor Offices (Delegacias Regionais do Trabalho, DRT), the local administration of the Ministry of Labor, was under the control of local oligarchs and

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353 Costa, Fighting Forced Labour: The Example of Brazil.
354 Inter-American Commission on Human Rights, “Report No 95/03, Petition 11.289, Friendly Settlement, Jose Pereira, Brazil.” According to the IACHR report, the government responded on December 6, 1994, “arguing that domestic remedies had not been exhausted.” The two sides continued to communicate and exchange information until a settlement (requiring the state to take responsibility, punish the perpetrators, and provide reparations) was reached on September 18, 2003.
355 Comissão Pastoral da Terra, “CPT & Trabalho Escravo No Brasil - 40 Anos de Denúncias.”
could not be relied upon to conduct strong investigations. As a consequence, it proposed the creation of a national, centralized mobile group.\textsuperscript{356} 

These actions, in addition to continued dissemination of CPT annual figures, served to galvanize public opinion regarding the issue: “Brazilians are up in arms about slavery these days, after a wave of international criticism and the recent release of a Roman Catholic Church-sponsored report citing 25,000 complaints of forced labor last year - a 20 percent increase over 1993.”\textsuperscript{357} This reflects increased public awareness and deeper levels of acceptance of norms condemning labor exploitation.

**Changing Attitudes and the Movement to Defend Children’s Rights**

Parallel to the trajectory of the CPT’s actions with its partners – which began with a broader human rights emphasis and later adopted slave labor as a core element of its mission – a similar process unfolded in another region of Brazil, as domestic groups began to mobilize around children’s rights. The two movements would eventually collaborate, but early efforts were generally separate. The division was partially due to differences in prevailing norms. Slave labor was already understood by society as unacceptable and the CPT’s first challenge was to obtain official acknowledgement of its existence. Child labor, on the other hand, was historically viewed as natural or economically productive.\textsuperscript{358} Thus, an initial step of challenging and changing these accepted norms was necessary before domestic mobilization could be effective. The origins of normative change can be traced to increasing global attention to children’s


\textsuperscript{358} *Prevention and Eradication of Child Labor and Protection of Adolescent Workers: National Plan* (Brasilia: Ministry of Labor and Employment, 2004), 23.
rights and child labor as well as domestic mobilization around the issue, which was in part influenced by information coming from the global level.

First, children’s rights, and later child labor, climbed to the top of the global agenda, particularly among developed countries and agencies of the United Nations. This in turn, created strong pressure on member states to eliminate the practice. The UN Working Group on Slavery, which had traditionally focused on the links between apartheid and slavery, adopted women and children as its new focus in the late 1980s. Each year it would select a theme: the prostitution of children and child pornography in 1989; child labor in 1990; and trafficking and prostitution of others in 1991. The UN General Assembly adopted the Convention on the Rights of the Child (CRC) on November 20, 1989, which called for signatories to protect the “full range of the civil, political, economic, social and cultural rights of all children that are vital to their survival, development, protection and participation in the lives of their societies.”

Article 32 of the CRC called for “legislative, administrative, social and educational measures” to ensure that children would not be economically exploited or exposed to work that endangers their health, interferes with their ability to attain basic education, or harms their development (physical, mental, spiritual, moral, and social).

At the domestic level, civil society groups in Brazil challenged prevailing attitudes about child labor. Several ideas tolerant toward child labor were widely held in this period: it was considered natural for parents to teach children their trade; children

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360 Children are defined as individuals under the age of 18
were better off working than being on the street where they might be drawn into criminal activities; work improves the character of children; children should contribute financially to the family.\textsuperscript{363} For example, in the citrus industry, child labor was a deep-rooted tradition, born out of necessity. Most of these families are illiterate. The parents take them to work, instead of sending them to school, because school is only in the morning in Brazil and the parents don't want to leave them alone all afternoon. A father says, ‘Well, my father took me to work when I was so kid, so...’ and there's also a mentality of ‘it's better for them to work than to steal’.\textsuperscript{364}

The dominance of these views first required improving children’s rights generally, and later narrowing the focus to child labor.

The first movements in defense of children had begun in the 1970s and 1980s.\textsuperscript{365} Efforts focused broadly on children’s rights, especially initiatives to help the many children living in the streets – the result of poverty and large-scale migration to cities.\textsuperscript{366} These street children had a bad reputation in society, which often viewed them as criminals, and existing laws and institutions were ineffective. The country had failed so miserably to protect its children that, according to the Ministry of Labor and Employment, Brazil’s image had been tarnished as a result:

> The ‘country of the future’ was replaced by the ‘country with no future’ … whose post-card image was the face of street children in Copacabana or in the Avenida Paulista, or the destitution of children working in sugarcane fields, the wretchedness of informal urban employment, the unacceptable sexual exploitation, the poverty of children in the slums and prisons.\textsuperscript{367}

\textsuperscript{363} Prevention and Eradication of Child Labor and Protection of Adolescent Workers: National Plan, 20.
\textsuperscript{364} Phil Davison, Katherine Butler, and Steve Boggan, “Children as Young as Five Suffer in Picking Fruit for Our Orange Juice,” The Independent, September 29, 1998.
\textsuperscript{365} Sartori, “Trabalho Infantil Em Franca: Um Laboratório Das Lutas Sociais Em Defesa Da Criança E Do Adolescente”; Prevention and Eradication of Child Labor and Protection of Adolescent Workers: National Plan, 23.
\textsuperscript{366} Sartori, “Trabalho Infantil Em Franca: Um Laboratório Das Lutas Sociais Em Defesa Da Criança E Do Adolescente.”
\textsuperscript{367} Prevention and Eradication of Child Labor and Protection of Adolescent Workers: National Plan, 23.
Needing an innovative approach to help street children and eradicate the long-standing stigmas, the National Permanent Forum of Non-Government Entities in Defense of Children’s and Adolescents’ Rights (Forum Nacional Permanente de Entidades Não-Governamentais de Defesa dos Direitos da Criança e do Adolescente, Forum DCA) was established in March 1988. The Forum DCA was designed to organize participation in the constituent assembly and to develop a joint set of actions to address violence against poor children.\textsuperscript{368}

Civil society – including the church, unions, and human rights advocates – lobbied for the inclusion of children’s rights in the Federal Constitution.\textsuperscript{369} The 1988 constitution gave “unprecedented support” compared to previous documents and “was the result of one of the most intense lobbying efforts in the history of the Brazilian Congress.”\textsuperscript{370} Lobbyists representing leftist groups in the Church, the union movement, and the human rights community were especially active.\textsuperscript{371} Replacing the Juvenile Code, the Child and Adolescent Act (Estatuto da Criança e do Adolescente, ECA) was enacted in July 1990 and incorporated into the Brazilian Constitution, reaffirming Article 227.\textsuperscript{372} It was based on the principles of the CRC, which Brazil had signed 6 months earlier.\textsuperscript{373} Until this time, child labor had not received much special attention because of dominant attitudes in society. All these actions served to alter the main attitudes toward child labor within society and governmental actors, and made way for increased mobilization.

\textsuperscript{368} Sartori, “Trabalho Infantil Em Franca: Um Laboratório Das Lutas Sociais Em Defesa Da Criança E Do Adolescente.”
\textsuperscript{369} Prevention and Eradication of Child Labor and Protection of Adolescent Workers: National Plan, 23.
\textsuperscript{370} Cardoso, “Trabalho Infantil No Brasil: Questões E Políticas,” 42.
\textsuperscript{371} Skidmore, Brazil: Five Centuries of Change, 181–182.
\textsuperscript{372} Estatuto da Criança e do Adolescente, Federal Law No. 9.069
Reinforcing Local Capabilities: ILO Technical Assistance

In addition to disseminating new norms about children’s rights and child labor through instruments and annual thematic emphases, international organizations played a crucial role by providing technical assistance. Domestic children’s rights movements sought support from international organizations – especially the ILO and UNICEF. However, it was a different type of involvement than the CPT and its allies had sought. Whereas the CPT and others had called upon IOs to condemn the GOB for its failure to pay adequate attention to labor exploitation – including child labor, though this was generally not highlighted, the children’s rights movement took a different approach. They leveraged the international community through requests for technical assistance from the ILO and its newly-created International Program for the Elimination of Child Labor (IPEC).

In 1990, the German government contributed to the ILO in order to establish a technical program to combat child labor. The International Program on the Elimination of Child Labor (IPEC), as well as the establishment of child labor as an inter-departmental theme, set the stage for a large-scale international campaign. The formation of IPEC was perhaps the most significant international development to deal with child labor. Grounded in the fundamental conventions, the highly decentralized program concentrated on partnerships with national governments and society, beginning a global movement and progressively removing 250 million children worldwide from work. Brazil was the first

374 Unlike organizations like Abrinq, which focused on the labor exploitation of children, the CPT retained a broad perspective of slave labor that included children and adults. They did, however, begin to measure the number of children working on rural estates at some point. Ronaldo Brasiliense, “Trabalho Escravo Cresce No País,” Jornal Do Brasil, May 12, 1995.

Many of the actions in this period occurred in the state of São Paulo. The town of Franca received a great deal of attention and one of IPEC’s first initiatives involved the footwear sector in Franca, São Paulo. Societal mobilization to combat child labor began to increase after an industrial union noticed a rise in child labor in the shoe industry. The Franca shoemakers’ union (\textit{Sindicato dos Trabalhadores da Indústria de Calçados de Franca}, commonly known as the “\textit{Sindicato dos Sapateiros}”) had started monitoring industries in 1989. The union became alarmed upon noticing the increasing utilization of child labor. It publicized “relentless allegations” of child labor in Franca and attempted to bring members of society together to discuss the issue, but could not mobilize the community. Instead, its actions stimulated backlash among entrepreneurs and the public, which saw work as an activity that provided dignity to both child and adult.\footnote{International Labor Organization, \textit{Boas Práticas de Combate Ao Trabalho Infantil.}} This led the union to seek partnerships outside the city and to conduct a preliminary “Case Study of Working Children in the Footwear Industry Franca” which revealed that a large number of children were doing stitching work on shoes without being registered,\footnote{This refers to the work registration.} except those who managed to get authorization from the Children and Juvenile Court. Based on these data, child labor was established as a priority in the trade union agenda agreed upon by the CUT, ILO, and IPEC.\footnote{Sartori, “Trabalho Infantil Em Franca: Um Laboratório Das Lutas Sociais Em Defesa Da Criança E Do Adolescente,” 264.}

With support from UNICEF and IPEC, the union conducted a study of child labor...
in the shoe industry in 1993-94: “Crianças que Estudam e Trabalham em Franca” (“Children who Study and Work in Franca”). The study found that of the 1,561 children ages 7-13 who were interviewed, 73% worked in the shoe industry. The Municipality of Franca confirmed the existence of 1,063 stitching “stalls” that had come about with the rise of outsourcing in the industry. President of the Shoemakers’ Union, Ribens Aparecido Faccirolli, estimated that these stalls are responsible for around 80 percent of all labor costs in the shoe industry. The University of São Paulo’s Schools of Public Health and Nursing, in partnership with National Foundation for Safety, Health and Occupational Medicine (Fundação Jorge Duprat Figueiredo de Segurança e Medicina do Trabalho, FUNDACENTRO), determined that local businesses’ practice of outsourcing shoe production activities to “stalls” was a strategy of avoiding costs for facilities and employee benefits, thereby increasing profits.

Also in the state of São Paulo, the Abrinq Foundation was established in February 1990 to advocate for children’s rights across multiple industrial sectors. Shocked by information contained in a 1989 UNICEF report, “The State of the World’s Children,” a group of 200 representatives from the Brazilian toy industry decided to

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381 The union received support from UNICEF and other organizations.
382 Sartori, “Trabalho Infantil Em Franca: Um Laboratório Das Lutas Sociais Em Defesa Da Criança E Do Adolescente.”
384 FUNDACENTRO, or Fundação Centro Nacional de Segurança, Higiene e Medicina do Trabalho, was created in 1966. The acronym for the organization is based on the original name. However, in 1978 the name was changed to Fundação Jorge Duprat Figueiredo de Segurança e Medicina do Trabalho.
385 International Labor Organization, Boas Práticas de Combate Ao Trabalho Infantil.
386 Associação Brasileira dos Fabricantes de Brinquedos (Abrinq). When I mention “Abrinq,” I refer to the foundation, not the industry association.
create a Board for the Defense of Children’s Rights. The mission of the Foundation was based on principles contained in the International Convention on the Rights of the Child, the Brazilian Constitution, and the Child and Adolescent Statute. Because of the range and scale of its activities, the Foundation became the most prominent conduit for international norms to enter the Brazilian consciousness.

It aimed to defend the rights of children by pressing for public action, strengthening the capabilities of NGOs and governmental agencies to provide services and advocacy, promoting social responsibility, and articulating and constructing the necessary social and political rights for children and adolescents. The Foundation “generated very big pressure in civil society; and garnered media attention. Hoping to advance their international image, political interests also added pressure. And some people in the government took an interest because of their involvement in social issues.” In its first year, it coordinated a Children’s Rights Vigil in Brazil, an international mobilization of more than 70 countries in 2000 vigils worldwide to alert the public about the plight of children.

In late 1992, with support and funding from IPEC, Abrinq launched the Our Children (Nossas Crianças) initiative. The project was designed to persuade the community to support children through financial contributions to selected organizations

390 Ibid.
391 Grajew, “Battling Brazil’s Child Labor Brutality (interview).”
392 International Labor Organization, Boas Práticas de Combate Ao Trabalho Infantil.
and to mobilize society.\textsuperscript{394} It included a “dramatic advertising campaign” that included commercials “feature[ing] an executive in a suit begging for money from passing cars; their shock value was tremendous…hundreds of phone calls started coming in from individuals and associations willing to help.”\textsuperscript{395} This increased public attention, and simultaneously raised the profile of the organization, which added “fundraiser” to its list of functions.\textsuperscript{396} Abrinq supported several initiatives in line with its mission, including the production of a book, “Crianças de Fibra” and a documentary “Profissão: Criança” (“Occupation: Child”) to expose the conditions under which children worked.\textsuperscript{397} Abring played a central role in sensitizing Brazilian society to norms about children’s rights.

U.S. Measures Provoke Economic Concern

Alongside growing awareness in Brazilian society due to the efforts of the various normative actors described above, an economic component was gaining strength. Beginning in the 1980s, labor rights became an issue in U.S. trade policy. First, the preference program for developing countries added a provision related to internationally recognized rights for workers. Second, and more influential, in the late 1980s and 1990s several pieces of legislation that had the potential to harm Brazilian exporters were under consideration by the U.S. Congress.

\textsuperscript{396} Ibid.
\textsuperscript{397} Fundação Abrinq, \textit{Programa Empresa Amiga Da Criança: Uma História de Luta Pela Criança E Pelo Adolescente Em Parceria Com Empresas} (São Paulo, 2007).
U.S. Trade Preferences Linked with Labor Rights

The Generalized System of Preferences (GSP) was first adopted by the United Nations Conference on Trade and Development (UNCTAD) at the 1968 UNCTAD II Conference in New Delhi.\(^{398}\) GSP is a “system of generalized, nonreciprocal and non-discriminatory preferences beneficial to the developing countries in order to increase the export earnings, to promote industrialization, and to accelerate the rates of economic growth of these countries.”\(^{399}\)

The United States had originally tried to improve labor standards through the World Trade Organization (WTO) and GATT, but failed.\(^{400}\) Therefore, it exercised its power through the market by making preferential access to the home market conditional on labor rights.\(^{401}\) The United States Trade and Tariff Act of 1974 was enacted on January 3, 1975.\(^{402}\) The law’s objective was “To promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate fair and free competition between the United States and foreign nations, to foster the economic growth of, and full employment in, the United States, and for other purposes.” The 1984 GSP Renewal Act added respect for “internationally recognized workers rights” to beneficiary developing country’s (BDC) designation criteria,\(^{403}\) marking the start of the connection in

\(^{401}\) The European Union also created a GSP program, but it is outside the scope of this project.
\(^{402}\) Trade Reform Act, Public Law 93-618, 93rd Cong. (January 3, 1975), https://www.govtrack.us/congress/bills/93/hr10710.
\(^{403}\) Omnibus Tariff and Trade Act of 1984, Public Law 98-573, 98th Cong. (October 30, 1984), https://www.govtrack.us/congress/bills/98/hr3398. See Title V.
U.S. trade policy between trade and labor rights.\textsuperscript{404} Title V of the Act stipulates that

the President shall submit an annual report to Congress on the status of internationally recognized worker rights within each beneficiary developing country, including the findings of the Secretary of Labor with respect to the beneficiary country’s implementation of its international commitments to eliminate the worst forms of child labor.\textsuperscript{405}

Brazil has been one of the top beneficiaries from the United States’ GSP program for decades. Product exclusions were implemented in 1994 and 1995 for textiles and footwear, respectively.\textsuperscript{406} Thus, certain products of importance to Brazil were barred from receiving GSP treatment. However, the U.S. uses a policy of conditionality, meaning that “the full benefit of the GSP is lost if the recipient country does not respect the labor standards set out in the GSP legislation of the granting country.”\textsuperscript{407} Countries and products are evaluated in response to petitions. None were filed against Brazil in the period under study; thus, no direct threat was posed. However, in a general sense, because of its reliance on U.S. GSP benefits in other product areas, it was in Brazil’s overall interest to abide by this eligibility requirement.

Prohibiting the Fruits of Child Labor

In August 1987, the Child Labor Exploitation Prevention Act was introduced\textsuperscript{408} in the House of Representatives to prohibit the importation of items made by child labor in violation of internationally recognized rights. In addition, the proposed bill would have

\begin{footnotesize}
\textsuperscript{407} Holly Cullen, \textit{The Role of International Law in the Elimination of Child Labor} (Leiden, The Netherlands: Koninklijke Brill NV, 2007), 216.
\textsuperscript{408} Introduced by Representative George Miller (D-CA)
\end{footnotesize}
required the Secretary of Treasury to maintain a list of such products and to notify foreign manufacturers subject to the ban, granted U.S. district courts additional jurisdiction in civil actions related to the importation of these banned products, and would have required the Secretary of State to discuss the status and enforcement of internationally recognized child labor rights by country in its annual human rights report.\(^\text{409}\)

The Child Labor Deterrence Act of 1989 would have gone a step further. The Act advocated for the inclusion of a worldwide ban on trade in goods produced with child labor as part of the Convention for the Rights of the Child, on top of the prohibition of U.S. importation of such products. It also would have required the U.S. Secretary of Labor to identify countries that do not prohibit (through passage of laws and enforcement) child labor in manufacturing and that have exported products of child labor to the U.S. Any person would be authorized to file a petition with the U.S. Department of Labor (USDOL) and the USDOL would provide a report to Congress regarding foreign country laws and practices to control the commercial exploitation of children.\(^\text{410}\) The bill died in committee, as did a later version of the same bill introduced on November 4\(^{\text{th}},\) 1991.\(^\text{411}\)

Senator Thomas Harkin introduced the Child Labor Deterrence Act of 1992 in the upper chamber on August 5\(^{\text{th}},\) 1992 with 7 co-sponsors. This version urged the President of the U.S. to seek agreements with trading partners to ban imports of products made

\(^{409}\) Child Labor Exploitation Prevention Act of 1987, H.R. 3112. https://www.govtrack.us/congress/bills/100/hr3112#summary/libraryofcongress


with child labor. As in the aforementioned House bills, the 1992 Act would have required identification of foreign countries that have exported products of child labor continuously to the U.S., along with the authorization of any person to petition for the inclusion of a foreign industry and its host country, and a prohibition on the importation of products of child labor. The bill died in committee, but Senator Harkin reintroduced the bill in 1993 and in 1995. 412

One bill did pass. In the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act of 1994, Public Law 103-112, the Appropriations Committees of U.S. Congress mandated the Secretary of Labor to review foreign industries and host countries to identify products exported to the United States that have been made using child labor through the establishment of an International Child Labor Study. 413 The Senate Appropriations Committee report of September 15, 1993 defined the mandate as follows:

The Committee notes that in many developing countries children represent a substantial portion of the work force and can be found in such industries as glass, metal works, textiles, mining, and fireworks manufacturing. According to UNICEF and the International Labor Organization hundreds of millions of children worldwide under the age of 15 are employed.

The Committee understands that child labor laws in many countries around the globe are often not enforced or are circumvented by foreign manufacturers. The Committee also understands that many products made by child labor are being imported into the United States. The Committee believes that (1) since the passage of the Fair Labor Standards Act in 1938, Congress’ intent has been to keep streams of commerce undefiled by the products of child labor; (2) American consumers do not want to provide a market for goods produced by the sweat and toil of children; and

412 Child Labor Deterrence Act of 1992, S.3133, 102nd Cong. (August 5, 1992), https://www.govtrack.us/congress/bills/102/s3133. It was also introduced in 1997 (with 5 Democratic co-sponsors), and in 1999 (with 6 Democratic co-sponsors).
413 Public Papers of the Presidents of the United States, William J. Clinton, By National Archives and Records Administration, Office of the Federal Register, William J. Clinton; U.S. Department of Labor, By the Sweat and Toil of Children: A Report to Congress.
that (3) adult workers in the United States should not have their jobs imperiled by imports produced by child labor in developing countries. The Committee also believes, however, that more information is needed about the extent of the problem and what foreign industries are exporting products made whole or in part by child labor to the United States.

The Committee, therefore . . . directs the Secretary of Labor to undertake a review to identify any foreign industry and their host country that utilize child labor in the export of manufactured products from industry or mining to the United States. In making this review, the Secretary is directed to utilize all available information, including information made available by the International Labor Organization and human rights organizations.\(^{414}\). . .

The USDOL then sent an unclassified telegram to overseas embassies on October 30, 1993 to gather initial information on the extent of child labor in manufacturing and mining exports to the U.S. Of the 165 posts, 135 responded and 34 countries were identified for further study, including “20 industries in 11 countries in which the use of child labor in the production of exports to the United States was ‘clearly established’ and another 18 industries in 14 countries in which it was ‘probable’ or ‘highly possible.’” The study staff also solicited information from 700 individuals and NGOs worldwide; USDOL officials traveled to 13 countries\(^ {415}\) for field visits and commissioned 11 country studies, including one in Brazil.\(^ {416}\) Such an extensive effort to collect data would have achieved multiple effects. The U. S. signaled the importance of child labor as a policy item, raised awareness among actors, and perhaps engaged and connected other actors in combatting labor exploitation.

A public hearing was held on April 12\(^{th}\), 1994 at the Department of Labor office

\(^{414}\) Ibid., 168–69.  
\(^{415}\) Bangladesh, Cote D’Ivoire, Egypt, India, Indonesia, Lesotho, Morocco, Pakistan, Philippines, Portugal, South Africa, Thailand, and Zimbabwe.  
\(^{416}\) Other commissioned studies took place in Bangladesh, El Salvador/Guatemala/Honduras, China, Colombia, India, Indonesia, Mexico, Morocco, Nepal, and Pakistan.
in Washington, DC to provide an opportunity for all interested individuals to offer additional information to the International Child Labor Study. The hearing was listed in the *Federal Register*, and hundreds of telegrams and letters were sent to U.S. embassies, foreign governments, organizations, businesses, and individuals. Testimony was received from Senator Tom Harkin, Representative Bernard Sanders, representatives of the ILO, International Labor Rights Education and Research Fund (ILRF), and many others.

The product of the country studies was the release of a USDOL report – grimly titled “By the Sweat and Toil of Children” – denouncing the use of child labor in products imported by the United States. This report stood out in Brazil, and even garnered a response from the Minister of Labor, Marcelo Pimentel. Pimentel took note of the report and admitted the inefficiency of the state in monitoring and suppressing child labor exploitation. He lamented the shortage of inspectors and resources. For the entire country, there were only 1500 inspectors, some of which did not even have their own vehicles to travel to the work sites. Pimentel criticized the judiciary, rural unions, and the Catholic Church for failing to do enough. Furthermore, social actors either recognized the report as a “serious offensive against the problem of child labor…[or] as a strategy to implement protectionist measures.” In both interpretations, the Brazilian economy appeared to be under threat.

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417 The Federal Register is the United States Federal government’s daily newspaper; it provides a variety of information for the public. See http://www.archives.gov/federal-register/the-federal-register/about.html for more information.
418 This name was later shortened to “International Labor Rights Forum” (ILRF). See http://www.laborrights.org/about/history
419 Ibid., 175. The USDOL noted receipt of written submissions from the Governments of Bangladesh, Colombia, Jamaica, India, Pakistan, and Thailand – but not Brazil.
The failed bills played an important role. Initiatives to prohibit imports produced with child labor prompted concern in the public and private spheres. According to a high-ranking USDOL official, there was a “widespread perception that at some point the trade tools being discussed could have a negative impact on trade.” In some ways, Brazil “overstated” and “overestimated” the impact such bills might have if passed, the likelihood of them passing, and the ability of the U.S. to properly enforce them.\(^{422}\) Thus, the impact of these bills was largely about the anxiety they created rather than any actual legal result and enforcement. Human rights advocates confirmed the impact of the failed bills: “Brazilian employers are more worried about the Harkin bill\(^ {423}\) than Article 227 of their own country’s constitution” because employers believed that while Brazilian agencies could not enforce such laws, the U.S. would.\(^ {424}\)

According to Sociology Professor Joel Orlando Bevilaqua Marin of Universidade Federal de Goiás, the proposed Harkin bill had far-reaching international effects, by raising the profile of child labor within the context of international trade and forcing exporting states to add the issue to their national agendas:

The proposition of a bill authored by Tom Harkin, submitted to the U.S. Senate in August 1992, provoked great international uproar. The Harkin Bill proposes sanctions for exporting countries that employ child labor in some stage of the production chain. The immediate effect of this law was to put the U.S. Government on the front line of the fight against child labor. That law sparked a long debate that merged with the insertion of social clauses in international trade... [and] provoked a real international shock, in that it forced exporting states to include in their political and economic agendas the issue of child labor ...The novelty of the law was to focus on child labor within the context of the globalized economy.\(^ {425}\)

\(^{422}\) Anonymous interview, U.S. Department of Labor, Summer 2014.

\(^{423}\) “Harkin bill” refers to the Child Labor Deterrence Act (CLDA) discussed above.

\(^{424}\) Epstein, “Child Labor Puts Brazil in Spotlight.”

\(^{425}\) Marin, “O Agronegócio E O Problema Do Trabalho Infantil .”
In summary, the U.S. took several actions during the 1980s and 1990s that were perceived – perhaps even to the extent of an overreaction – as a threat in Brazil by NGOs, business, and governmental officials. The Harkin bills were important because of their “bark” rather than their “bite.” The U.S. Congress’ persistence in reintroducing failed bills and introducing new bills with slightly different provisions meant that during this period, meant that there was a nearly constant flow of new U.S. legislation – on top of the existing GSP conditionality – that had the potential to punish Brazilian industries employing child or forced labor. Brazil’s increased economic integration thus presented new vulnerabilities and incentives to improve policies related to forced and child labor. The bill found its way into Brazilian national media, as a potential boycott, which contributed to awareness within society of the child labor issue.

The Government of Brazil signaled its concern regarding trade-related pressure from the United States in June 1995. In a radio address to the nation during his first six months in office, President Fernando Henrique Cardoso expressed his deep concern about the existence of child labor in the shoe industry, as well as its potential economic ramifications:

There are many denouncements against businesses. Denouncements that cannot be proven, because children work in their own homes. This is completely illegal, inhumane, and prejudicial to the country’s economy. The United States, for example, has already advised that it will not buy shoes anymore from industries that use child labor.

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427 Epstein, “Child Labor Puts Brazil in Spotlight.”
428 Fernando Henrique Cardoso, “Palavra Do Presidente.”

The GSP worker rights provision was not invoked against Brazil through the petition process, and footwear had already been excluded from the GSP program on January 1, 1995 (See Yager, page 37, GAO-08-443). Therefore, it can reasonably be inferred that Cardoso’s statement was in reference to the Harkin bills.
The Role of Committed Policy-makers

The final factor to be discussed is the role of a few central decision-makers. The federal government began to take note of slave labor during the Itamar Franco administration, evident in statements by then-Minister of Labor Walter Barelli emphasizing the importance of inspections:

The Ministry of Labor, through inspections, with political will, has the means to act to solve this problem. And this has been occurring at least since October of 1992. Any stain caused by slave labor is a stain against Brazil. On the occasion of Collor’s impeachment, the Itamar government demonstrated political will, expressed and manifested, that this stain should be removed from our history.429

The change in administration, bringing Fernando Henrique Cardoso into office, increased support at the federal level. Fernando Henrique Cardoso (often referred to as “FHC”) was born in 1931 to a “political and military middle-class family with progressive tendencies.” His great-grandfather was “involved in the emancipation of the slaves and the proclamation of the republic. His father, Leonidas, had taken part in several rebellions since the 1920s, became a general, and was a Brazilian Workers’ Party (Partido Trabalhista Brasileiro, PTB) deputy close to the Brazilian Communist Party.” He wrote his thesis on the economic legacies created by slavery in Brazil, and thus had a particular interest in the subject.430 Prior to his bid for the presidency, Cardoso had been a sociology professor, a Senator for São Paulo, and Itamar Franco’s Minister of Foreign Affairs and later Minister of Finance. His party, the Brazilian Social Democracy Party (Partido da Social Democracia Brasileira, PSDB), “represented a liberal, modernizing reaction to the dictatorship that had forced him into exile.”431

429 “Trabalho Escravo No Brasil: Depoimento de Walter Barelli E Ruth Vilela.”
430 Thomann, Steps to Compliance with International Labour Standards, 330.
In his farewell to the Senate prior to taking office, Cardoso expressed his views on the role of the state in an era of globalization:

The role of the state has become much more complex in a democracy. In addition to its classic functions in the areas of law enforcement, health, education, and foreign policy, the state must now meet increasing demands for more equity, for more justice, for a sound environment, for respect for human rights. A more demanding society has to be matched by a more sophisticated state. A well-organized and efficient state will be in a better position to meet those demands, many of them springing from globalization itself.\footnote{Cardoso, “Despedida Do Senado.”}

Cardoso believed in the responsibility of the state to provide protection from the possible negative consequences of globalization. Combatting slave labor was thus a logical component of his policy agenda. Furthermore, he selected and empowered ministers to promote these objectives.

Labor Inspection Secretary Ruth Beatriz Vasconcelos Vilela played an integral role in bringing the policy proposed in the aforementioned 1994 “Trabalho Escravo Nunca Mais” seminar into fruition.\footnote{Xavier Plassat (Comissão Pastoral da Terra), interview by author, September 8, 2014.} Vilela had served as a labor inspector for about two decades and was hand selected by Cardoso to serve as the Secretary of Labor Inspection (Secretaria de Inspeção do Trabalho, SIT). At the start of Cardoso’s term, then Minister of Labor Paulo Paiva had been tasked to take over coordination of actions to combat child and slave labor. He transferred this task to Vilela, to determine which fiscal and police actions had been taken in the past and if none had been taken, to find out what impeded such action, as well as to identify the legal fundamentals for generating new investigation strategies. Vilela found that a few actions had been taken in Pará to investigate, but findings were inconclusive. Investigators’ actions had been virtually invisible.
nonexistent because of several difficulties in investigation: complete lack of support from regional authorities (tied to political parties), high risk of retaliation and violence at the local level (because investigations would involve large landowners, economic groups, politicians, and other influential figures), a lack of structure and logistical support needed to perform rural inspections. Furthermore, Vilela had been sensitized to child labor by the Convention on the Rights of the Child (CRC).  

Combining her own experiences with the insight gained through the 1994 seminar, Vilela created the mobile inspection units. “Brazil is a world leader in liberating people from slavery...Because of one woman’s leadership.” Vilela discussed her role in creating the mobile inspection units in a video interview she conducted as a recipient of the Free the Slaves Freedom Award:

> I am a public servant and I have the honor to exercise this position for several years during 3 different governments. The first actions looked like an Indiana Jones movie. It was an adventure, surrounded by improvisation...The truth is I feel a little bit like a mother of this work because I really created this particular form of work.

The former Director of the ILO Office in Brazil confirmed Vilela’s centrality to the creation of the GEFM.

**Creation of the Mobile Inspection Units**

On June 27, 1995, in a radio address to the nation, Fernando Henrique Cardoso issued the first public recognition of the existence of forced/slave labor by the

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434 Anonymous (ILO), interview by author, Fall 2014.  
435 Vilela, “Brazil: A Global Leader in Fighting Slavery, (video Profile of Ruth Vilela).” Note: interviewees from the CPT and ILO confirmed Vilela’s centrality to the development of this policy.  
436 Ibid.  
437 Armand Pereira (former Director of the ILO Office for Brazil), email to author.
Government of Brazil. Cardoso also announced measures that would be taken immediately to curb the practice. Decree 1538 created the country’s first inter-institutional body to coordinate the fight against slave labor, the Interministerial Group to Eradicate Forced Labor (Grupo Interministerial para Erradicação do Trabalho Forçado, GERTRAF). GERTRAF was comprised of representatives from various ministries: Labor; Justice; Agriculture; Industry; Commerce and Tourism; Environment, Water Resources, and Legal Amazon. The group’s first mandate was to set stricter penalties for those who enslave Brazilians, and not just legal punishment, but also economic. Cardoso declared that the Government would stop providing loans, subsidies, and debt rollovers to “these unscrupulous farmers and businessmen” and would also prevent them from participating in public bids. According to Vilela, though it was an “important initiative,” GERTRAF lacked the decision-making power and control over resources that was necessary to be effective. Even the MTE admitted in a publicly available report that GERTRAF failed to perform its intended role.

Cardoso’s most significant policy announcement in the speech was Brazil’s hallmark policy of this period, the Special Mobile Inspection Group (Grupo Especial de Fiscalização Móvel, GEFM), the operational arm of GERTRAF. Performing the critical first step of inspection, “the GEFM forms the basis for all strategies to combat slave labor, because such a wide range of actions arise from its effectiveness in

438 Fernando Henrique Cardoso, “Palavra Do Presidente.”
439 Costa, Fighting Forced Labour: The Example of Brazil, 77; Secretaria de Direitos Humanos da Presidência da República, 10 Anos de CONATRAE (Brasília, 2013), 30.
440 Ministério do Trabalho e Emprego, Trabalho Escravo No Brasil Em Retrospectiva: Referências Para Estudos E Pesquisas, 7; Fernando Henrique Cardoso, “Palavra Do Presidente.”
441 Fernando Henrique Cardoso, “Palavra Do Presidente.”
442 Secretaria de Direitos Humanos da Presidência da República, 10 Anos de CONATRAE, 30.
443 Ministério do Trabalho e Emprego, Trabalho Escravo No Brasil Em Retrospectiva: Referências Para Estudos E Pesquisas.
444 Ibid.
identifying instances of the crime of reducing workers to conditions analogous to slavery.” Complaints were usually received from workers who were able to escape from a property and report the experience to civil society organizations like the CPT or to the authorities. In cases where a complaint is received – either by the escaped worker or from the community – an inspection team comprised of labor inspectors, labor prosecutors and federal police officers visits the property. They look for a series of indicators of slave labor: “indebtedness; presence of armed guards; evidence of ill treatment or degrading working conditions, generally associated with lack of hygiene in workers’ living quarters; lack of work safety; very low wages; and long hours.” The purpose of the teams was to investigate complaints, rescue workers, and prosecute employers. Therefore, in some cases labor judges may also be present in order to provide for immediate prosecution.

Vilela made use of an existing decree, the ordinance for the inspection of working conditions. Its terms were ones that were internationally recognized, already envisioned the possibility of establishing what would come to be called ‘flying squads,’ charged with inspections. “No one had ever used that article. On top of that I think that no one had even noticed it. Thus it was somewhat interesting, since, truth be told, I didn’t have to create a thing. I could use a legal provision that was already on the books.”

The new structure made key changes that increased the effectiveness of inspection activities. In the past, the inspection groups had been under the supervision of each state’s

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445 Sislin and Murphy, *Approaches to Reducing the Use of Forced or Child Labor: Summary of a Workshop on Assessing Practice*.
446 Costa, *Fighting Forced Labour: The Example of Brazil*, 79.
447 Sislin and Murphy, *Approaches to Reducing the Use of Forced or Child Labor: Summary of a Workshop on Assessing Practice*.
Regional Labor Directorate, which was often beholden to local interests. “In Mato Grosso do Sul, for example, when we would arrive at a particular company or farm to make a check, and learn that the owner was already waiting for us. This meant that we could not rely on those structures of the Regional Labor Delegates.” Inspectors were subject to heavy pressure from local large landowners.

However, the new inspection group was under the control of the federal government and based out of Brasilia. This suppressed the influence of powerful rural interests, which had historically held considerable political power. By creating mobile inspection teams to operate in the whole national territory – rather than local-level groups – and centralizing coordination in the Ministry of Labor, the investigators were separated from powerful local influences. The GEFM was also authorized to request that the violator’s bank accounts be frozen, in cases where severe violations have occurred or if the landowner is uncooperative, by refusing to pay the ordered fines or inhibiting the inspectors’ work. The centralization of organization and secrecy around operations are highlighted by the ILO as Brazil’s best practices in the area of inspections.

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450 Secretaria de Direitos Humanos da Presidência da República, 10 Anos de CONATRAE, 32.
451 Ministério do Trabalho e Emprego, Trabalho Escravo No Brasil Em Retrospectiva: Referências Para Estudos E Pesquisas, 24.
452 Costa, Fighting Forced Labour: The Example of Brazil, 79.
Table 4.2: Mobile Inspection Operations (1995-2005)\textsuperscript{454}

<table>
<thead>
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<th>Year</th>
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<th># Estates Inspected</th>
<th># Workers Freed</th>
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<td>11</td>
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</table>

Conclusions

Normative pressures played a crucial role in creating the proper conditions for material pressures to have salience in Brazil, and for policy change to subsequently occur. Domestic actors in two concurrent movements initially focused efforts on raising awareness within society and government (see “A” on Figure 4.1 below). Civil society actors mobilizing around rural violence and land inequality issues took up the cause of forced labor and began denouncing slave labor to the authorities. Domestic CSOs committed to improving policies related to children began to focus on the issue of child labor and launched a series of initiatives designed to increase public awareness and promote local acceptance of international norms. Brazil went through a dramatic change in attitudes toward forced and child labor during the 1990s.

International organizations had, for years, provided normative guidance by offering conventions and subsequently monitoring adherence to these instruments (see “B” on Figure 4.1 below). This served a few purposes. Conventions served to promote

\textsuperscript{454} Quadro Comparativo Da Fiscalização Do Trabalho: 1990 a 2008 (Ministério do Trabalho e Emprego, Secretária de Inspeção do Trabalho, 2009).
norm acceptance by state actors and give CSOs a legitimate reference point to compare the Brazilian government against. The monitoring mechanism served as an institutionalized forum in which domestic and international CSOs could register complaints of non-observance of the conventions’ obligations. INGOs also offered support to these local movements, by pressuring the government from above and offering technical assistance to domestic actors. Having little success in prompting change at the federal level, domestic CSOs sought recourse in international monitoring mechanisms (see “C” on Figure 4.1 below). The CPT and its partners took their grievances to the international arena, bringing pressure to bear on the Government of Brazil.

Following the internalization of norms, material pressures gained traction and catalyzed policy change. The U.S. supplied the material pressures needed to stimulate economic anxiety and make action necessary (see “D” on Figure 4.1 below). The U.S. Congress considered a series of bills designed to ban imports produced with exploited labor, especially child labor. In conjunction with a series of initiatives that zeroed in on a few industries in Brazil, these bills caused worry among Brazilian employers, and the President of the Brazil acknowledged the potential economic consequences in a speech to the nation. As moral repugnance intersected with the seeming inevitability of economic repercussions, a few committed government officials were able to push policy change through. 455

The Special Mobile Inspection Units established the framework for concerted action to detect and punish those who profited from slave labor. By centralizing command in Brasília, these units were disassociated from the powerful local interests that had prevented proper functioning of inspection services in the past. Furthermore, they

455 Xavier Plassat, interview with author, September 8, 2014; Anonymous interviews, ILO officials.
served as a building block for another landmark policy change, the implementation of the Dirty List in 2003, which is analyzed in the following chapter.

**Figure 4.1: Pattern of Influences: Creation of the Special Mobile Inspection Units**
Chapter 5 – Implementation of The Dirty List

“With the list, nearly all those on it have suffered from a market reaction due to the involvement of their names with cases of contemporary slavery. Is this because the market is good and wants to protect the workers? No, the issue isn’t moral but strictly business. Being on the list makes you a risky investment. It gives you a track record of public and private banks restricting your business. It has opened you to lawsuits, international trade restrictions and reputational damage on the international market.”

Leonardo Sakamoto, NGO Reporter Brasil

This chapter addresses the influences leading to the establishment of the Dirty List (Lista Suja). Material pressures played a dominant role during this wave of policy change, as societal actors turned to the tactic of applying pressure on supply chains, using a combination of positive and negative incentives. They leveraged external economic pressure to alter the behavior of the private sector, which responded with industry codes of conduct. During this same period, U.S. legislators had relatively more success in passing measures to restrict imports made with child labor, which provided additional focal points for Brazilian actors’ efforts. Negotiations for the Free Trade Area of the Americas (FTAA) provided a broader context of international normative pressure – as well as the potential for additional material pressure – for Brazil to improve labor protections. As a result of strengthened domestic capabilities, IOs and INGOs fell into a more supportive role in this period, but continued to promote deeper levels of norm internalization, mainly through technical assistance. The outcome of these efforts was a public list of violators, the Dirty List.

Leveraging Material Pressures: Civil Society Targets Supply Chains

Civil society actors began to take a new approach beginning in the mid-1990s focused more on material pressures. Now that the government had finally acknowledged the existence of slave labor and established a more effective, centralized system to investigate complaints, the institutional basis for increased denouncements was in place and the immorality of the practice had been articulated at the highest level. In addition to this, the proposed Harkin bills – though they did not become law – had stimulated discourse within society, the media, and the government. Perhaps the most prominent marker of the bills’ discursive impact, the President of Brazil had framed the nation’s call to combat slavery in both moral and economic terms: “This is completely illegal, inhumane, and prejudicial to the country’s economy. The United States, for example, has already advised that it will not buy shoes anymore from industries that use child labor.” Cardoso noted that legal punishment would not be enough: “It is necessary to get these people in the pocketbook. It’s only in the pocketbook that they feel it.” Cardoso called for a stop to government financial benefits – loans, subsidies, and public bid eligibility – for “unscrupulous” firms that benefit from slave labor.

Societal actors adopted this tactic of targeting the “pocketbook” of businesses by linking economic outcomes with supply chain practices in another manner. They sought to separate the labor-friendly businesses from the violators in a very public way, in order to invoke a negative market reaction against violating firms. These efforts collectively served to increase pressure on the private sector to deal with labor exploitation in supply chains, or face economic consequences. A few CSOs were particularly active in

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457 Fernando Henrique Cardoso, “Palavra Do Presidente.”
458 Ibid.
459 This was implemented later and is discussed at the end of this chapter.
promoting increased corporate accountability for labor exploitation. The Abrinq Foundation retained its focus on children, but began to target the private sector more methodically, often focusing on industries. The Ethos Institute was established during this period to promote corporate social responsibility in general. Finally, NGO Reporter Brasil was created by a network of journalists and academics to promote information sharing and take preventative actions against the violation of Brazilian workers’ rights.  

From its inception, the Abrinq Foundation saw itself as a mobilizer of social forces – especially business actors – to act on behalf of children, rather than simply a solicitor of funds. Thus, beginning in the mid-1990s, the Foundation increased its activities throughout the country, organizing many of its initiatives around industrial sectors. As a result of strategic planning seminars, the Foundation established child labor as one of its primary themes and political action as its first strategic focus. According to Joao Carlos Alexim, former Director of the ILO in Brazil, “The Abrinq Foundation for Children’s Rights opened up significant communication channels between businesspeople and society at large, setting the ground for highlighting the production chains within the strategy of struggle against child labor.”  

It launched its “most important initiative in the fight against child labor,” the Child-Friendly Company Program (*Programa Empresa Amiga da Criança*) in April of 1995, with institutional backing from the ILO and UNICEF. Companies that committed to the fundamental tenets of the program would earn the Child-Friendly Seal. Those commitments were:

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462 The seminars were held in June and November of 1995. Ibid, section 4.4 and 5.1.  
463 Ibid, 5.4.2
• To refrain from employment of child labor,
• To promote policies among suppliers to prevent employment of child labor, and
• To advocate protection and support of children.464

The seal was meant to distinguish firms committed to child-labor-free supply chains, and was accompanied by a media campaign in Brazil’s top newspapers, magazines, radio and TV channels to inform customers of the social labeling program and ask them to give preference to participating companies. The agreements were enforced by NGOs and social organizations, but unions also participated, in part because of their interest in replacing children with adult workers who could become members and thus increase the unions’ influence through stronger numbers.465

Furthermore, Abrinq’s efforts to increase corporate social responsibility in the area of child labor contained some of the shaming elements that would later be found in the Dirty List. In December 1995, to incite investigation of child labor, Abrinq included an editorial in an issue of the journal Atenção: “Nossas crianças: a sucata do progresso” (Our children: a waste of progress).466 The Foundation began publicizing the names of companies alleged to use child labor in their production chains.467 The idea behind creating this list was to hold companies accountable and to pressure them to commit to ending the use of child labor in their supply chains. Abrinq focused on two products—coal and alcohol—that Brazilian and multinational companies purchased, and that the Foundation had identified as using the greatest proportion of child labor. The objective of

464 Ibid.
465 Grajew, “Battling Brazil’s Child Labor Brutality (interview).”
467 Grajew, “Battling Brazil’s Child Labor Brutality (interview).”
the article was to gain international attention, and it was successful in this regard.\footnote{Criança, \textit{A History of Action 1990-1997}, 5.4.2.}

Nearly every company responded. Those that were export-oriented and feared that their inclusion on the list might affect sales – because of international attention to the issue – responded even more quickly.\footnote{Grajew, “Battling Brazil’s Child Labor Brutality (interview).”}

Abrinq used a similar tactic of shaming to improve the government’s purchasing policies. Oded Grajew, the founder of Abrinq, approached President Cardoso and Clóvis Tavaris, the President of Petrobras\footnote{Petrobras is a “publicly traded corporation, the majority stockholder of which is the Federal Government (represented by the National Treasury),” which is involved in various sectors of the energy industry: “exploration and production, refining, marketing, transportation, petrochemicals, oil product distribution, natural gas, electricity, chemical gas, and biofuels.” Petrobras, “Profile,” accessed November 15, 2014, http://www.petrobras.com.br/en/about-us/profile/.} to propose that government vendors and public bidders be required to refrain from using child labor. Recognizing that this would be difficult to implement legislatively, Grajew and Abrinq organized a protest outside the President’s office, the Palacio de Planalto. The protest was timed to coincide with National Alcohol Program\footnote{The National Alcohol Program (PROALCOOL) was created in 1974 (Decree 76.593) to stimulate alcohol production for fuel. The government provided subsidies and tax breaks for sugar cane cultivation, conversion into ethanol, and the design of ethanol-fueled automobiles. Petrobras “the sole distributor of ethanol for Brazil’s domestic and export markets” under the Proalcool program. World Resources Institute, “Brazil: National Alcohol Program (PROALCOOL) Decree No 76.593,” accessed November 15, 2014, http://projects.wri.org/sd-pams-database/brazil/national-alcohol-program-proalcool.} negotiations between Congress and the owners of alcohol and sugar mills.\footnote{Fundação ABRINQ pelos Direitos da Criança, \textit{A History of Action 1990-1997}.} “Here we exposed the government/s inaction to the public – we threw a spotlight on it.” On March 20, 1996, a group of businessmen, the media, and congressmen held a banner that said “Shame! The government subsidizes child labor.”\footnote{Another source lists the slogan as “National Shame: Pro-Alcohol finances Child Labor.” Ibid.}
The next day, the government agreed to include a clause for purchases and bids to prohibit child labor.474

The Foundation’s strength and support increased quickly during this period. Table 5.1 below lists key figures.

**Table 5.1: Growth of Abrinq’s Capabilities (1990-1997)**475

<table>
<thead>
<tr>
<th>Year</th>
<th>Budget (US$)</th>
<th>Supporting Members</th>
<th>Children Assisted</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>88,692</td>
<td>ND</td>
<td>ND</td>
</tr>
<tr>
<td>1991</td>
<td>98,131</td>
<td>ND</td>
<td>ND</td>
</tr>
<tr>
<td>1992</td>
<td>132,168</td>
<td>ND</td>
<td>ND</td>
</tr>
<tr>
<td>1993</td>
<td>156,675</td>
<td>60476</td>
<td>6,747</td>
</tr>
<tr>
<td>1994</td>
<td>1,222,137</td>
<td>110</td>
<td>14,467</td>
</tr>
<tr>
<td>1995</td>
<td>2,308,260</td>
<td>313</td>
<td>17,115</td>
</tr>
<tr>
<td>1996</td>
<td>3,745,255</td>
<td>367</td>
<td>196,028</td>
</tr>
<tr>
<td>1997</td>
<td>5,248,181</td>
<td>518</td>
<td>364,424</td>
</tr>
</tbody>
</table>

Oded Grajew also expanded the scope of his activities beginning in 1997. He began to take on globalization more broadly, envisioning a new form of globalization that challenged the dominant view of the relationships between people and the economy, becoming “one of the world’s leading advocates for corporate social responsibility and a champion of people’s ability to create change.”477 A critical step in this direction was the establishment of the Ethos Institute, which was founded on the principle that the market should be used ethically and businesses, looking for ways to stand out, had the potential to generate huge benefits for society as a whole.478 Grajew had taken a sabbatical, during which time he met with a variety of individuals concerned with corporate social

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475 Ibid., sec. appendix.
476 This represents the number of supporting members for 1990-1993. Annual data was not available.
responsibility (CSR) in France and the United States. He invited some of his colleagues from the Abrinq Foundation to join him at the Business for Social Responsibility (BSR) meeting in Florida. Upon returning to Brazil, five of these businessmen created the Ethos Institute, with Grajew at its helm. Initially, about a dozen companies joined, but this quickly grew and at the Institute’s first conference, during the same year, approximately 100 members participated. Ethos’ mission was to mobilize “companies to manage their businesses in a socially responsible manner by organizing knowledge, facilitating exchange of experiences, and developing tools for enabling ethical relationships with employees, customers, suppliers, community, shareholders, public power, and the environment.” It aimed to develop partnerships in the private sector to build a sustainable and just society. As the “first circle for the diffusion of new ideas and practices” related to CSR, this organization played an important role in devising the character of Brazilian societal initiatives to combat labor exploitation. Its early initiatives focused on increasing public awareness about CSR by publicly evaluating.

480 Emmanuel Raufflet, “Creating the Context for Corporate Responsibility: The Experience of Institute Ethos, Brazil,” The Journal of Corporate Citizenship 30 (2008): sec. 100; Grajew, “In His Own Words: A Conversation with Oded Grajew (interview, March 2005).” By 2005, 800 companies from various industries and areas of Brazil, representing 29 percent of Brazil’s GDP and employing over 1.5 million workers, had become members. Today, Ethos has a membership of approximately 850 companies, whose sales amount to 35% of Brazil’s GDP. http://www.synergos.org/globalgivingmatters/features/0409mattar.htm
481 Grajew, “In His Own Words: A Conversation with Oded Grajew (interview, March 2005).”
companies. A business magazine in Brazil released a special issue on “good corporate
citizenship,” naming some of the best companies in this regard.\textsuperscript{484}

Another important actor that promoted a supply chain focus was NGO Reporter
Brasil, which was created on October 9, 2001 under the leadership of Leonardo
Sakamoto.\textsuperscript{485} It brought together a group of “journalists, social scientists and educators in
order to promote reflection and action on the violation of the fundamental rights of
people and workers in Brazil.”\textsuperscript{486} In 2001-2002, the ILO office in Brasilia, working with
governmental agencies and civil society, contracted Reporter Brasil to conduct research
on forced labor in Brazilian supply chains. According to the former ILO-Brasilia
Director, Armand Pereira, the research “raised sensitive issues with a difficult choice
between going public with the findings versus using them as a possible leverage to
engage the concerned companies in a positive joint effort.” The latter option was
selected; companies, several of which had been previously unaware of the existence of
forced labor in their supply chains, were invited to discuss solutions in closed-door
meetings. Some of the findings were later released to the public, but only after positive
engagement had been achieved with the concerned businesses.\textsuperscript{487}

In the meantime, the CPT and its partners continued the critical work of exposing
businesses that employed slave labor – of both children and adults – which served to
increase awareness regarding the extent and patterns of labor exploitation. Table 5.2
below summarizes the number of cases registered by the CPT from 1995 to 2005. The

\textsuperscript{484} Helio Mattar, “Helio Mattar -- A Catalyst for Corporate Social Responsibility in Brazil” (Global Giving
\textsuperscript{485} Brasil, “ONG Repórter Brasil.”
\textsuperscript{486} Reporter Brasil, “ONG Repórter Brasil,” accessed November 26, 2014,
http://reporterbrasil.org.br/quem-somos/.
\textsuperscript{487} Armand Pereira, email message to author, January 14, 2015.
number of people involved varied due to the varying size of the workforce on different properties that were investigated. A single farm could employ thousands of workers, counting as a single case but involving a much larger number of individuals. The number of cases displayed a considerable increase beginning in the early 2000s.

Table 5.2: Complaints Registered by CPT (1995-2005)\textsuperscript{488}

<table>
<thead>
<tr>
<th>Year</th>
<th>Cases Registered</th>
<th># People Involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>21</td>
<td>26,047\textsuperscript{489}</td>
</tr>
<tr>
<td>1996</td>
<td>19</td>
<td>2,487</td>
</tr>
<tr>
<td>1997</td>
<td>17</td>
<td>872</td>
</tr>
<tr>
<td>1998</td>
<td>14</td>
<td>614</td>
</tr>
<tr>
<td>1999</td>
<td>16</td>
<td>1,099</td>
</tr>
<tr>
<td>2000</td>
<td>21</td>
<td>465</td>
</tr>
<tr>
<td>2001</td>
<td>45</td>
<td>2,416</td>
</tr>
<tr>
<td>2002</td>
<td>147</td>
<td>5,559</td>
</tr>
<tr>
<td>2003</td>
<td>238</td>
<td>8,385</td>
</tr>
<tr>
<td>2004</td>
<td>293</td>
<td>7,260</td>
</tr>
<tr>
<td>2005</td>
<td>382</td>
<td>9,635</td>
</tr>
</tbody>
</table>

The CPT also continued to publicize cases in international forums, bolstered by the new connections inside and outside of Brazil. It filed a new complaint with the IACHR regarding the government’s negligence in investigating a case of slave labor and continued to push for resolution of the Jose Pereira Ferreira case.\textsuperscript{490} It also began a


\textsuperscript{489} Some cases of slave labor involved a high number of workers on a single property.

\textsuperscript{490} Comissão Pastoral da Terra, “CPT & Trabalho Escravo No Brasil - 40 Anos de Denúncias.”Compliant filed in 1998 by CPT and CEJIL regarding slave labor on the Brasil Verde farm in the South of Pará. In 2001, CPT, CEJIL, and Americas Watch gave additional information to the IACHR regarding the Jose Pereira Ferreira case.
national prevention campaign to provide information to the potential victims and to the public and began a partnership with the NGO Reporter Brasil.\footnote{Ibid}

Unions – domestic and international – also played a role in promoting action to eliminate forced labor violations within supply chains. They used their resources to collect data on companies and subsequently communicated this information to the authorities. They also worked through media outlets to attract greater public attention. For example, in the citrus industry, union leader Walter Hipolito played an important role in gathering information about child-labor abuses in the Catanduva production area of São Paulo state. Because of his prominence, the newspaper listed his number, rather than the government’s labor office, to receive complaints. The information he collected triggered local authorities to set up roadblocks in the area to search for children on buses coming to and from the orange groves.\footnote{Matt Moffett, “Citrus Squeeze: U.S. Child-Labor Law Sparks a Trade Debate Over Brazilian Oranges. Teamsters Seize on the Issue Despite Local Advances Toward Curbing Abuses Paying to Keep Kids in Class.,” \textit{Wall Street Journal}, January 1999.} Unions also disseminated statistics and industry-specific information to the media. For example, UK newspaper \textit{The Independent} published an article on labor exploitation in the Brazilian citrus industry, which opened with an alarming and provocative statistic: “150,000 children work as pickers for up to 12 hours a day in extreme heat during the six-month picking season.”\footnote{Davison, Butler, and Boggan, “Children as Young as Five Suffer in Picking Fruit for Our Orange Juice.”} The ICFTU worked to bring economic pressure to bear on violators. It began an investigation of forced and child labor in the Brazilian economy, aiming to collect video and other documentation “to pressure the EU to withdraw trade preferences from Brazil.”\footnote{Ibid.}
Private Sector Responds with Codes of Conduct

Globalization encouraged both foreign companies and domestic exporters to keep costs low by subcontracting child labor, in order to remain globally competitive. Abrinq was the most aggressive proponent of involving the business sector, based on Grajew’s belief that “if companies are part of the problem, they are also part of the solution.” Thus, he sought to reshape firms’ calculation of their interests, by using the threat of potential international economic repercussions as a tool to promote increased vigilance within industry.

The previously proposed U.S. measures to block imports made with child labor became powerful weapons of Brazilian societal actors, due to the international discourse they stimulated, as well as the possibility that a ban might eventually pass. The strategy was the “power of the double carrot,” Grajew’s version of the carrot and the stick strategy. For companies involved in international trade, Grajew would present two basic options: protect children’s rights, which could elevate the company’s reputation in the future, or “if you don’t comply and you perhaps happen to fall into the hands of the international media, revealing that you use child labor in your production chain, then the international market will shut its doors to you.” Firms, recognizing the threat to their profits and reputation, responded rationally to this strategy by developing codes of conduct to promote better policies in-house, as well as among suppliers.

Early supply chain initiatives targeted a few major industries – including

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495 Grajew, “Battling Brazil’s Child Labor Brutality (interview).”
497 Grajew, “In His Own Words: A Conversation with Oded Grajew (interview, March 2005).”
automobiles, shoes, and citrus – that had received significant attention from the media and were identified as priorities based on complaints from NGOs and unions. These are not the only industries that utilized forced or child labor, nor were they the only sectors targeted by civil society. However, they are important industries in Brazil and I use them here as illustrative examples of private sector reactions to material pressures. In the following paragraphs, I highlight domestic CSOs’ strategy to leverage external pressure in these three industries, and the responses of Brazilian business actors.

The Automobile Industry

Child and forced labor had been documented multiple stages of the production chain of automobile manufacturing, including deforestation, pig iron, and steel production. Charcoal is produced by smoldering trees from native or planted forests. The charcoal serves as a fuel to melt iron ore and provides the necessary carbon component. It also removes the oxygen from the iron, turning it into pig iron. Pig iron is refined into steel, a carbon and iron alloy, by burning it in a furnace. In July 1995, the Ministry of Labor reported that at least 8,000 adults and 2,000 children in Mato Grosso do Sul charcoal production facilities were subjected to conditions similar to slavery. The

498 This supply chain included deforestation, charcoal farms, pig iron, and steel.
499 Grajew, *Como Influenciar Políticas Públicas*; International Labor Organization, *Boas Práticas de Combate Ao Trabalho Infantil*, 87; U.S. Department of Labor, *By the Sweat and Toil of Children: A Report to Congress*, 30–33; International Labor Organization, “Observation (CEACR) - Adopted 1995, Published 83rd ILC Session (1996); Forced Labour Convention, 1930 (No. 29) - Brazil (Ratification: 1957).” Sugar, the fourth sector identified by Grajew, was discussed in the previous section. A Parliamentary Inquiry Commission identified coal production, alcohol, sugar, cotton, brachiaria and yerba mate as critical areas. The 1994 US Department of Labor report, “By the Sweat and Toil of Children,” highlighted the footwear, textiles, tin industries, but also mentioned wood pulp, handicrafts, electronics, leather processing, gold mining, and charcoal. The CPT also documented numerous cases of slave labor in deforestation and charcoal. CLAT, in a 1993 observation submitted to the ILO, claimed that slave labor is concentrated in the charcoal industry.
500 Charcoal producing states include Minas Gerais (47.8%), Mato Grosso do Sul (11.6%), Maranhão (11.6%), Bahia (9.6%) and Goiás (8.2%). Percentage of national production is reflected in parentheses. Nogueira et al., “Sustainable Charcoal Production in Brazil,” 37.
charcoal industry in this region had received so much negative attention that one company reported being “bombarded” by the media and began referring calls to the president of the national association of coal producers.\textsuperscript{501}

Grajew explained that he “had difficulties here in Brazil.” Therefore, he engaged external actors – parent companies and diplomats from the U.S. and Europe – in order to force action at home.\textsuperscript{502} He sent a letter to the National Association of Automobile Manufacturers to involve the U.S. and European automobile industries.\textsuperscript{503} “When the parent company participated, there were good results… and we were truly able to influence the automobile industry in Brazil.”\textsuperscript{504} Grajew also contacted the U.S., Italian, Swiss, and German embassies. His objective in doing so was two-fold. First, he wanted to mobilize diplomatic officials abroad so the governments would hold responsible their auto manufacturing companies with subsidiaries in Brazil.\textsuperscript{505} This strategy led American-based multinational automakers to contact their Brazilian suppliers, informing them that they would no longer buy goods and services produced with child labor. General Motors was the first to sign a commitment to eliminate child labor in April 1996. Volkswagen of Brazil, Ford Brazil, steelmaker Mannesman, and Mercedes-Benz followed suit within two months.\textsuperscript{506} Second, Grajew aimed to amplify domestic denouncements of child labor in supply chains to the international stage. In addition to engaging foreign governments and MNCs, the Abrinq Foundation spoke with foreign media and translated into English

\textsuperscript{502} Grajew, “In His Own Words: A Conversation with Oded Grajew (interview, March 2005),”
\textsuperscript{503} Rodrigues dos Santos, “Mobilização Empresarial Pela Erradicação Do Trabalho Infantil No Brasil.”
\textsuperscript{504} Grajew, “In His Own Words: A Conversation with Oded Grajew (interview, March 2005),”
\textsuperscript{505} Rodrigues dos Santos, “Mobilização Empresarial Pela Erradicação Do Trabalho Infantil No Brasil.” He contacted them in December 1995.
\textsuperscript{506} Ibid., 38–39.
reports detailing the situation of child labor in Brazil and the MNCs that benefited from
the use of child labor.\footnote{Vivarta, \textit{Crianças Invisíveis: O Enfoque Da Imprensa Sobre O Trabalho Infantil Doméstico E Outras Formas de Exploração}, 32.}

\textit{The Shoe Industry}

The shoe industry of Franca even established its own association, focused on
children’s rights, to protect themselves from the threat of economic repercussions from
the United States.\footnote{The charcoal industry did this in 2004, by forming the Citizen’s Charcoal Institute to address slave labor.} Grajew reached out to his contacts in the industry, carefully
explaining the situation and imploring them to “take some responsibility and act
accordingly.”\footnote{Grajew, “In His Own Words: A Conversation with Oded Grajew (interview, March 2005).”} He assured business leaders that “that they could count on our help, the
help of UNICEF and the ILO, the Council of Child and Adolescent, and of many other
partners, who would get the child laborers out of work and put them into schools.”\footnote{Ibid.}

With assistance from Abrinq, a new organization was founded in November 1995 to
Institute (\textit{Instituto Pró-Criança, IPC}) through the city’s shoe industry union, the local
commercial and industrial association, and the regional office of the Center of Industry of
45 firms joined, openly expressing their reasons for doing so: “to defend their interests
against child labor charges and any subsequent U.S. efforts to restrict market access.”

Elcio Jacometti, the former president of Abicalcados and Sindifranca, confirmed the importance of U.S. trade threats in mobilizing the footwear industry:

In the 1980s and 90s, there was that complaint of child labor. We were going to have retaliation in exports to the USA, and it became an issue here. What we did was found this institution. It was the salvation of Franca, founded inside the union itself … It was what saved exports in that period.

Furthermore, Abrinq’s Child-Friendly Company staff provided assistance to IPC, whose first undertaking was to create its own social labeling program. IPC encouraged the mobilization of regional entrepreneurs by creating a product seal with the phrase “This product did not use child labor in its manufacture.” Like the PEAC seal, the IPC seal was only affixed to a product after the business signed a commitment to abstain from the employment of children under 14 years or the contracting of third parties that employ children and to support the development of social programs aimed at assistance and education of children at risk. In addition, Pro-Child Label businesses committed to contribute to the Institute, to accept verification audits and put in place regular audit procedures for suppliers, and to include child labor as an agenda item in meetings with employees and service providers. The Institute increased its efforts over subsequent years to improve monitoring of large manufacturers’ supply chains. It began a campaign to register subcontractors and an auditing component in partnership with University

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514 Janaina Alves, email to author, April 28, 2014. Abicalcados advocates for the interests of the shoe industry, and is concerned with national and international issues that impact the sector’s activities.
515 Catarine Palmieri Pigangui Tizziotti, “A Fragilidade Do Ambiente Organizacional Do Arranjo Produtivo Local Calcedista de Franca-SP” (UFSCar, 2013).
517 Heitor Klein to Sandra Polaski, June 14, 2010. Translated “Pro-Criança” Label commitment form accompanied letter.
Center of Franca (Centro Universitário de Franca, Uni-FACEF). According to the Executive Director of Abicalcados, Heitor Klein, the time and expense required to participate in the program, as well as the fact that NGOs conducted regular inspections of all registered facilities to ensure businesses adhered to their commitments, made it irrational for companies to go through the approval process, “only to use outsourcing that guarantees disqualification.”

The Citrus Industry

Abrinq also convinced citrus industry leaders to collaborate with the Foundation by dangling the threat of lost exports. Significant friction had existed in the U.S.-Brazil citrus trade for decades. Thus, Brazilian citrus-growers were sensitive to this threat and willing to work with civil society to implement safeguards against labor violations.

Brazil is the largest orange producer and orange juice exporter in the world, exporting three times more than the second-largest producer, the United States. Brazilian production is concentrated in São Paulo – which is responsible for almost 75% of the annual Brazilian orange output and “virtually all orange juice processing and exports.” American growers had encouraged the development of the Brazilian orange industry in response to weather-related shortages in Florida and the conversion of land in São Paulo.

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from coffee-cultivation into orange groves was a form of “insurance against future freezes.” Brazil quickly expanded its market share due to its lower vulnerability to freezes and “cheaper land and labor,” becoming the largest producer by the 1990s. Within another decade, the number of orange trees exceeded the human population and approximately 400,000 Brazilians made their living in the orange industry. Inevitably, the surge in Brazilian production and exports came to be seen as threat to the “$9 billion economic engine to Florida.”

Florida Citrus Mutual (FCM) had taken various measures over the years to safeguard citrus tariffs for Florida growers, a key part of its organizational mission. In the 1960s and 70s, “amid rising competition from Argentina and Brazil,” FCM prevented the reduction of tariffs on citrus imports. In the 1980s, FCM convinced the U.S. Customs Service to rule in its favor when Brazilian processors attempted to bypass a tariff on imported juice by converting frozen concentrated orange juice after arrival at U.S. ports. The continued resistance of the American citrus industry to reducing tariffs on imported citrus products is the source of strained trade relations: Brazilian trade officials claim that U.S. “levies on juice are protectionist, plain and simple, just like similar duties imposed on rolled steel, shoes, and other goods from Brazil.”

Given the strength of the Florida citrus lobby, as well as rising global attention to child labor, the citrus industry – which commonly employed children in the groves – was

523 DePalma and Romero, “Orange Juice Tariff Hinders Trade Pact for U.S. and Brazil.”
526 DePalma and Romero, “Orange Juice Tariff Hinders Trade Pact for U.S. and Brazil.”
in a precarious position. The Associação Brasileira dos Exportadores de Citricos (Brazilian Association of Citrus Exporters, Abecitrus) was founded in 1988 to influence policy and protect the industry’s international reputation. Abrinq approached the association in the mid-1990s to compel it to take action against child labor. According to Oded Grajew, “…we talked to them using the strategy of the carrot – essentially a strategy of fear – saying that Brazil was one of the biggest exporters of orange juice and that if this information leaked, the international community would close its doors.” The strategy was effective:

Yielding to pressure from Mr. Grajew, the Brazilian Association of Citrus Exporters in 1996 publicly pledged that the industry would refrain from employing child pickers, both on company-owned lands and on the much-larger tracts owned by independent growers. Minneapolis-based Cargill Inc., Coinbra Frutesp SA and Citrovita, juice companies that made special contributions to children's causes, got the right to stamp their products with Abrinq's "Child Friendly" seal, complete with the grinning face of a youth.

Abecitrus, with support from the ILO, UNICEF, Abrinq, and the local children’s rights council sponsored a seminar called “A Child’s Place is in School,” which culminated in the Araraquara Pact, signed in São Paulo on May 28, 1996, to establish the terms of a partnership between business and community. Signatories included representatives of Abecitrus, the Regional Labor Delegate, UNICEF, the Ministry of Social Welfare, the state’s Department of Agriculture, Abrinq, the Brazilian Association

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527 Davison, Butler, and Boggan, “Children as Young as Five Suffer in Picking Fruit for Our Orange Juice.”
529 Grajew, “In His Own Words: A Conversation with Oded Grajew (interview, March 2005).”
531 The Pact contained commitments related to eliminating child labor from the supply chain, encouraging school attendance, and support of children’s rights in general. (Arruda 2004, 253)
of Citrus Growers, the ILO, and the National Forum for the Prevention and Eradication of Child Labor.\textsuperscript{532} Ultimately, the President of Abecitrus, Ademerval Garcia became “a model. He went very much beyond expectations and if they could, they would build a monument for Fundação Abrinq.”\textsuperscript{533}

**U.S. Prohibitions on Imports made with Forced and Child Labor Provide Focal Points for Domestic Mobilization**

The sections above concentrated on legislation that failed to pass U.S. Congress, but that still provided a foothold for civil society to put pressure on the business sector. In the late 1990s and early 2000s, those footholds were strengthened. A few important initiatives were successful in the U.S., increasing the opportunities for normative actors – both domestic and transnational – to apply material pressure.

Pursuant to Section 307 of the Tariff Act of 1930 (P.L. 71-361 / 19 U.S.C. § 1307), “all goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited.”\textsuperscript{534} Beginning in the late 1990s, a series of legislative efforts cumulatively ensured that child labor was explicitly covered under the Act’s prohibited forms of labor.

In the wake of public outrage over child labor in foreign subcontracting operations of Nike and Wal-Mart, Representative Bernie Sanders (I-VT) attached a rider

\textsuperscript{532} Arruda, “Child Labour in the Brazilian Citrus Sector: The Case of Cargill’s Double Effect.” 260-61
\textsuperscript{533} Grajew, “In His Own Words: A Conversation with Oded Grajew (interview, March 2005).”
to the 1998 Appropriations Bill for the Treasury Department (P.L. 105-61). Termed the Sanders Amendment, this rider provided that “None of the funds made available in this Act for the United States Customs Service may be used to allow the importation into the United States of any good, ware, article, or merchandise mined, produced, or manufactured by forced or indentured child labor, as determined pursuant to section 307 of the Tariff Act of 1930.” Such a provision had not yet been approved in the Senate, and faced some resistance, but was ultimately pushed through quietly by Harkin and Sanders in the Appropriations bill. Its passage “clearly indicated…that forced or indentured child labor constitutes forced labor under section 307 of the Tariff Act of 1930.” Because it was widely understood as an actual amendment to the Tariff Act of 1930 that banned “forced or indentured child labor,” it captured significant public attention and mobilized civil society.

The International Brotherhood of Teamsters (Teamsters) in Tampa quickly seized

536 According to legislative information available on the Library of Congress’ THOMAS database, this was Amendment no. 5 to H.R. 2378: “H.AMDT.368 to H.R.2378 An amendment, printed as amendment No. 5 in the Congressional Record of September 9, 1997, to prohibit funds appropriated in the bill for the U.S. Customs Office from being used to allow the importation into the U.S. any material mined, produced, or manufactured by forced or indentured child labor.” See http://thomas.loc.gov/cgi-bin/bdquery/D?d105:34:./temp/~bdM4yO::
538 Steven Greenhouse, “Measure to Ban Import Items Made by Children in Bondage,” New York Times, October 1, 1997. Quiet passage was desirable because of the congressional cost of living adjustments also contained in the bill.
the Sanders Amendment as a method to ban Brazilian orange imports made with child labor. They held a photo exhibit in Washington, highlighting child labor in Brazil’s orange industry and flew a Brazilian union leader to Tampa to deliver speeches on the topic.\footnote{Moffett, “Citrus Squeeze: U.S. Child-Labor Law Sparks a Trade Debate Over Brazilian Oranges. Teamsters Seize on the Issue Despite Local Advances Toward Curbing Abuses Paying to Keep Kids in Class.”} CUT leader Nelson Morelli appealed to U.S. buyers of Brazilian citrus products to increase accountability in orange juice supply chains. For example, he visited the Coke headquarters in Atlanta, Georgia and asked the corporation to cooperate with an independent monitor to ensure that their products were free of child labor.\footnote{International Brotherhood of Teamsters, “Wholesome, Florida-Made Orange Juice Is Pulp Fiction,” PR Newswire, 1998, http://www.prnewswire.com/news-releases/teamsters--wholesome-florida-made-orange-juice-is-pulp-fiction-76216232.html.}

Furthermore, the Teamsters partnered with the International Labor Rights Forum (ILRF) to conduct research on child labor in the citrus industry. During a December 1997 research trip, the ILRF uncovered evidence of child labor. They sent a letter to the acting commissioner of the U.S. Customs Service, complaining that the practice was prevalent in Sergipe and São Paulo states, where 95% of Brazil’s exported orange juice concentrate was produced. In March 1998 the Teamsters sent Terry Hollingsworth of the ILRF to conduct a second investigative mission, lasting 17 days, threatening to file a complaint with the U.S. Customs Service if child labor was found.\footnote{Mike Schneider, “Teamsters Eye Child Labor in Brazil,” Associated Press, March 18, 1998, http://www.apnewswire.com/1998/Teamsters-Eye-Child-Labor-in-Brazil/id-1c8149d10396cf7579a82e8f329bce88.} In January of the following year, the Customs Service investigated Brazil’s farms to determine whether it was “pervasive enough to trigger the ban on its juice exports to the U.S.”\footnote{Moffett, “Citrus Squeeze: U.S. Child-Labor Law Sparks a Trade Debate Over Brazilian Oranges. Teamsters Seize on the Issue Despite Local Advances Toward Curbing Abuses Paying to Keep Kids in Class.” The results of this investigation could not be found.}

During this period, the U.S. Customs Service became a more active agent related
to child labor. The U.S. Customs Service, organizationally situated under the Department of Treasury,\textsuperscript{545} is responsible for enforcing Section 307. The Sanders Amendment authorized the U.S. Customs Service to block goods made by children from entering the country.\textsuperscript{546} To enforce this mandate, Customs requested $3 million and seven staffers. This included two special agents, two intelligence research specialists, and three additional special agents to be assigned abroad in areas where child labor was common. Customs also established a 24-hour hotline to record allegations of prohibited/unlawful importations and it conducted outreach programs with trade, government, and non-governmental organizations.\textsuperscript{547} It established a Forced Child Labor Command Center in the Fraud Investigations Branch of the Office of Investigations.\textsuperscript{548} The U.S. Customs Service had attaches stationed in more than 20 countries -- including Brazil\textsuperscript{549} -- to “investigate allegations of forced or indentured child labor, [inform] foreign government counterparts, NGOs and private businesses on Customs’ role in fighting forced and indentured child labor, and conducting seminars and conferences on forced and indentured child labor.”\textsuperscript{550} Thus, Customs had considerable visibility abroad and its various outreach programs served to increase discourse about labor violations, as well as to provide the appearance of possible consequences for exporters that continued to allow violations in their supply chains.

\textsuperscript{545} The U.S. Customs Service was under the Department of Treasury during the period under concern here. It is now mostly under Department of Homeland Security.
\textsuperscript{546} N Talley, \textit{Sweet Oranges?} (TED Case Studies, 1999), http://www1.american.edu/TED/orange.htm.
\textsuperscript{547} Hearing before the Committee on Finance, United States Senate. 105th Congress, Second Session, 3 Sep 1998, 72.
\textsuperscript{549} Mark Mittelhauser, interview with author, August 20, 2014.
\textsuperscript{550} Salaam, Tiaji. "Eliminating International Child Labor: U.S. And International Initiatives." In \textit{Congressional Research Service (CRS) Report for Congress}: The Library of Congress, 2003, 14. However, according to a USDOL official, investigations required authorization by the Brazilian government to look at any facility and were thus limited.
Furthermore, Senator Harkin continued to push for trade-related consequences for exporters. After attempting to pass several bills expressly focused on banning imports produced with child labor, Senator Harkin began to concentrate on a narrower set of imports, those purchased by the federal government. Recognizing the difficulty of implementing broad policy changes in a single swoop, Harkin stated, “Eradicating child labor is not going to happen overnight, but rather, through several deliberate steps that draw attention to this problem and cut down on the use of products made through child labor. Particularly with federal contracting, taxpayer dollars should not be used to further this cruel and unnecessary forced labor.”\textsuperscript{551} The Forced and Indentured Child Labor Prevention Act would prohibit “Federal agencies from acquiring items that appear on a published list of prohibited items unless the item source certifies that forced or indentured child labor was not used to mine, produce, or manufacture the item.”\textsuperscript{552} The proposed bill would have required the Secretary of Labor to publish a list every two years. The list was to contain items identified by the Secretaries of Labor, State, and Treasury that “might have been mined, produced, or manufactured by forced or indentured child labor.” This bill, like the broader import-ban bills proposed by Harkin, died in committee.

However, civil society in Brazil expected it to pass. According to statements by Oded Grajew, in the media, he had received information about the law from USDOL Deputy Undersecretary Andrew Samet. The Senate was expected to approve a bill that would prevented the U.S. Government from purchasing goods abroad that used child labor at any point in the supply chain. According to Grajew, “The American government

\textsuperscript{552} Forced and Indentured Child Labor Prevention Act, S. 373, 106\textsuperscript{th} Cong. (February 4, 1999), \url{https://www.govtrack.us/congress/bills/106/s373}.
seems determined to impose social barriers” and this law would show the private sector in Brazil that child labor would begin to affect their pocketbooks.\textsuperscript{553}

Furthermore, Harkin was not able to gather enough support in Congress, so he collaborated with President Bill Clinton, who used executive branch powers instead.\textsuperscript{554} Clinton signed Executive Order 13126 (EO 13126, “The Prohibition of Acquisition of Products Produced by Forced or Indentured Labor”) on June 12, 1999. EO 13126 “is intended to ensure that U.S. federal agencies do not procure goods made by forced or indentured child labor.”\textsuperscript{555} The EO, like Harkin’s proposed bill, required the USDOL, along with Departments of Homeland Security (USDHS) and State (USDOS), “to publish a list of products, identified by their country of origin, that those Departments have a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labor.”\textsuperscript{556} The list was generated with consideration of the nature, date and source of the information; the extent to which appropriate sources corroborated the information; and “whether recent and credible efforts are being made to address forced or indentured child labor in a particular country or industry.”\textsuperscript{557} Per Senator Harkin’s suggestion regarding the burden of proof once a product is listed, the product would remain on the list “until the three Departments have adequate information to justify removing [it].” Furthermore, the threshold for “reasonable basis to believe” was intentionally low: it did not necessarily mean that forced or indentured child labor had been confirmed in the production process. Instead, “it establish[ed] the need for further

\begin{footnotesize}
\begin{enumerate}
\item \textsuperscript{553} “EUA Impoe Barreriras a Produtos Do Brasil,” \textit{A Noticia}, September 20, 1999.
\item \textsuperscript{554} Harkin, “Harkin: Expanded Product List Will Continue Fight to Eradicate Child Labor.”
\item \textsuperscript{556} Ibid.
\end{enumerate}
\end{footnotesize}
inquiry by a federal contractor who wished to supply the product, in order to make sure that forced or indentured child labor was not, in fact, used.” Federal contractors supplying products on this list had to certify that they had “made a good faith effort” to ensure that forced or indentured child labor was not used. Violations could result in contract termination, contractor suspension, or debarment for up to three years.

The first list, published on January 18, 2001, included the following products, each identified by their country of origin:

<table>
<thead>
<tr>
<th>Product</th>
<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bamboo</td>
<td>Burma</td>
</tr>
<tr>
<td>Beans (yellow, soya, green)</td>
<td>Burma</td>
</tr>
<tr>
<td>Bricks (hand-made)</td>
<td>Burma, Pakistan</td>
</tr>
<tr>
<td>Chilies</td>
<td>Burma</td>
</tr>
<tr>
<td>Pineapples</td>
<td>Burma</td>
</tr>
<tr>
<td>Rice</td>
<td>Burma</td>
</tr>
<tr>
<td>Rubber</td>
<td>Burma</td>
</tr>
<tr>
<td>Shrimp (aquaculture)</td>
<td>Burma</td>
</tr>
<tr>
<td>Sugarcane</td>
<td>Burma</td>
</tr>
<tr>
<td>Teak</td>
<td>Burma</td>
</tr>
</tbody>
</table>

Recall that in the mid-1990s, the USDOL had published the report “By the Sweat and Toil of Children.” The export industries of footwear, textile and garments, and tin were highlighted. Others were mentioned, including wood pulp, handicrafts, electronics, leather-processing, gold mining, metallurgy, distilleries, ceramics, plastics, watches, charcoal, and eyeglasses. These were not included in the 2001 list because the information was not necessarily considered current and efforts had been made (some of

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558 Ibid.
560 U.S. Department of Labor, “Notice of Final List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor Under Executive Order No. 13126.”
which involved the USDOL itself) since then. Thus, even with the relatively low threshold for inclusion, Brazil escaped the 2001 Final List. Although comments were received from several other countries that were set to be excluded, the information was not determined to be sufficient for one or more of the following reasons: they named countries or products, but not both; USDOL must have information on a single product in a single country; and the reports concerned forced labor of persons over 18, which is not part of the executive order. Senator Harkin specifically objected to the failure to include any products from India in the list. One other product and country was accepted for future consideration: the cocoa industry in the Ivory Coast. Comments and information from multiple members of Congress regarding the inclusion of products from Burma were, however, considered sufficient.

A Regional Debate on Trade and Labor Rights

In addition to bilateral discussions between the U.S. and Brazil regarding trade restrictions connected to labor rights practices, a larger conversation about this linkage was occurring within the region, reinforcing the importance of labor rights – in both normative and material terms – and engaging high-ranking Brazilian government officials.

In December 1994, heads of state of 34 democratic countries in the Americas had convened at the Summit of the Americas in Miami, U.S.A. to discuss the construction of

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562 Brazilian charcoal was, however, included in the 2009 list.
563 Sarah Grossman-Greene and Chris Bayer, *A History of Child Labor, Child Rights, & the Harkin-Engel Protocol*, 2009. On September 19, 2001 the Harkin-Engel Protocol was signed by Congressman Eliot Engel (D-NY), Senators Herbert Kohl (D-WI) and Tom Harkin (D-IO), and members of the chocolate industry, the Ivory Coast government, and NGOs (including Save the Children and Free the Slaves).
564 U.S. Department of Labor, “Notice of Final List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor Under Executive Order No. 13126.”
the Free Trade Area of the Americas (FTAA). Negotiations to progressively eliminate barriers to trade and investment were to be completed by 2005. A series of ministerial meetings to “identify possible approaches to negotiations” took place during the preparatory phase (1994-1998) in Denver, U.S.A. (June 1995), Cartagena, Colombia (March 1996), Belo Horizonte, Brazil (May 1997), and San Jose, Costa Rica (March 1998). At the second summit meeting in April 1998 in Santiago, Chile, negotiations officially began. Participants “agreed that the FTAA Agreement will be balanced, comprehensive, WTO-consistent, and will constitute a single undertaking…Furthermore, they agreed that the negotiations should proceed in order to contribute to raising living standards, improving working conditions of all people in the Americas, and better protecting the environment.” After the start of negotiations additional ministerial meetings occurred in Toronto (November 1999) and Buenos Aires (April 2001).

FTAA negotiations reached an impasse over a diverse set of issues, including intellectual property rights, environmental standards, labor rights, and agricultural tariffs. “We are not terribly anxious to negotiate a F.T.A.A.,” Rubens Antonio Barbosa, Brazil’s ambassador to Washington, commented. “We have taken part in all working groups, but this doesn't mean that we are willing to accept everything that the Americans put forward.”565 This section concentrates on disputes over labor rights and citrus tariffs, which generated strong opposition in Brazil.

First, Brazil and other developing countries objected to the inclusion of labor rights in the Buenos Aires Ministerial Declaration.566 One of the most controversial portions of the text follows:

566 Anonymous (OAS), interview with author.
We reiterate that the negotiation of the FTAA will continue to take into account the broad social and economic agenda … with a view to contributing to raising living standards, improving the working conditions of all people in the Americas and better protecting the environment. We reiterate that one of our general objectives is to strive to make our trade liberalization and environmental policies mutually supportive … and to further secure, in accordance with our respective laws and regulations, the observance and promotion of worker rights, renewing our commitment to the observance of internationally recognized core labor standards, and acknowledging that the International Labour Organization is the competent body to set and deal those core labor standards.567

Brazilians had historically opposed the inclusion of labor rights issues in trade negotiations.

Second, Brazilian business groups protested the imperviousness of the contentious American citrus tariffs. Brazil had risen to dominate the global citrus market over the decades, and the United States was Brazil’s largest export market.568 However, the citrus industry had been protected in the United States since the 1930s, with the passage of the Smoot-Hawley Tariff Act. Every gallon of imported single-strength orange juice (concentrate was developed later) was affixed with a 70-cent tax. This duty remained until the 1947 GATT talks in Geneva, when it was reduced for concentrate (35 cents) and for juice (20 cents).569 Florida Citrus Mutual (FCM), the state’s largest citrus industry trade group, was born in 1948 out of the need to stabilize severe price fluctuations in the citrus industry. As a result of FCM’s efforts, citrus tariffs remained in place to protect U.S. growers. Brazilian companies, on the other hand, faced penalties such as

567 Free Trade Area of the Americas, Sixth Meeting of Ministers of Trade of the Hemisphere, Ministerial Declaration (Buenos Aires, Argentina, 2001).
568 DePalma and Romero, “Orange Juice Tariff Hinders Trade Pact for U.S. and Brazil.”
570 It began operating in 1948, but its official date of activation was March 25, 1949.
countervailing duties and dumping charges. The success of the powerful American orange lobby in retaining heavy tariffs on imported orange products from Brazil has long been a source of frustration for Brazilians. According to Regis Arslanian, head of trade policy at the Brazilian embassy in Washington, “When we sit down at the negotiating table with American trade representatives they treat it as a joke and say, ‘We have orange juice here for you today.’ It has become such an emotional issue for us because we really think these tariffs are absurd.” Thus, the orange juice tariff was problematic for both economic and symbolic reasons and reducing it was a prerequisite for Brazil to consider entry into the FTAA.

Furthermore, the two issues intersected when FCM’s executive vice president, Andrew Lavigne, made a series of incendiary statements to defend the U.S. citrus tariffs within broader arguments for the trade-labor linkage, as well as other controversial issues from the Buenos Aires declaration. Lavigne charged Brazil with creating artificial advantages through subsidies, dumping, weak environmental protections, child labor, and currency devaluations to reduce production costs. Furthermore, he openly criticized Brazil’s policies and enforcement, pointing out the impunity of businesses that use child labor and arguing, “Without competition-equalizing tariffs, U.S. orange growers cannot and should not be made to compete with such an exploitative foreign industry.” This rallied domestic business groups, which called upon sympathetic legislators. For example, Ademerval Garcia, who had cooperated with Abrinq to address child labor in

\[571\] Ibid.  
\[572\] DePalma and Romero, “Orange Juice Tariff Hinders Trade Pact for U.S. and Brazil.”  
\[574\] Andrew Lavigne, Written Testimony by Florida Citrus Mutual (Before the Trade Policy Staff Committee, Office of the United States Trade Representative. In the Matter of: Market Access in the Free Trade Area of the Americas Negotiations, 2002).  
\[575\] Ibid.
supply chains, strongly opposed the deployment of child labor complaints in discussions of the orange juice tariff. He reached out to Nelson Marquezelli (PTB-SP) of the Chamber of Deputies, explaining that the complaints were based upon the American’s industry’s protectionist agenda. Marquezelli subsequently called on his colleagues in the government to defend the Brazilian citrus industry.

The orange juice tariff was so contentious in the FTAA negotiations that Garcia went so far as to argue, “Brazil shouldn't sign unless the U.S. makes some serious concessions. This is an American project, not a Brazilian one.” These disagreements, among others, eventually led the negotiations to stall and Brazil turned its attention to reviving the Mercosur trade agreement with southern cone countries instead. However, they increased the discourse within and among interest groups and government regarding the potential economic harm of labor rights accusations, and added to the momentum that was building for greater action to remove forced and child labor from supply chains.

**Continuing Norm Sensitization: The ILO Takes on a Supportive Role**

As civil society actors increased their activities and became empowered through linkages with the international community, the ILO moved into a supportive role. In the past, it had named Brazil as one of the worst offenders. However, the sincere efforts displayed by the Cardoso government allowed the relationship to evolve into more of a partnership. During this period, the ILO encouraged Brazil to ratify fundamental conventions, continued to interact with the government through the monitoring

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577 Ibid.
mechanism, and supplied crucial technical assistance. International labor rights NGOs worked with the ILO to encourage advances.

Norms against the use of child labor were much more accepted in society by this time. Whereas in the 1980s, child labor was seen as economically necessary and a way to keep children off the streets, attitudes shifted as norms diffused through Brazil, a result of international attention and pressure combined with the efforts of domestic civil society. Brazil had benefitted from several years of cooperation with ILO-IPEC and UNICEF and the number of working children in Brazil was decreasing at a rate that was double the world’s average. According to the Brazilian government, “Combating child labor, along with strongly favoring education, has been a priority on the Brazilian national agenda since the 1990s.”

The government ratified two ILO Conventions related to child labor during this period: Convention 138 on Minimum Age and Convention 182 on the Worst Forms of Child Labor. The Minimum Age Convention (C138), offered for signature in 1973, had superseded previous conventions specifying a minimum age for the employment of children. Children below the age designated for completion of compulsory schooling – and not less than 15 years – would not be permitted to work in any economic sector. Children under 18 would also not be permitted in work “likely to jeopardize health,

579 Statistic is based on ILO data. Email to ILAB Staff (Name of Recipient Redacted). 9 Nov 2009.
581 U.S. Embassy, Foreign Labor Trends (São Paulo, 2002).
582 Previous Conventions aimed at the elimination of child labor included: Minimum Age (Industry) (C005); Night Work of Young Persons (Industry) (C006); Minimum Age (Agriculture) (C010); Minimum Age (Trimmers and Stokers) (C015); Minimum Age (Non-Industrial Employment) (C033); Minimum Age (Industry) (Revised) (C059); Minimum Age (Non-Industry) (Revised) (C060); Night Work of Young Persons (Non-Industrial Occupations) (C079); Night Work of Young Persons (Industry) (Revised) (C090); and Minimum Age (Underground Work) (C123). These Conventions are classified as outdated, shelved, or to be revised. However, C138 serves to as a comprehensive standard that addresses the fundamental principles of its predecessors. (UNICEF 2001). Convention status available at http://www.ilo.org/dyn/normlex/en/f?p=1000:12000:160045369824628:::P12000_INSTRUMENT_SORT: 3.
safety or morals.” Brazil had not signed this convention at the start of this wave, but finally ratified it on June 28, 2001.

Table 5.4: Brazil’s Ratification of ILO Fundamental Conventions (1995-2005)\(^{583}\)

<table>
<thead>
<tr>
<th>Convention Number – Name</th>
<th>Description</th>
<th>Date adopted by ILO</th>
<th>Date ratified by Brazil</th>
</tr>
</thead>
<tbody>
<tr>
<td>C138 – Minimum Age (16 years)</td>
<td>Ensure effective abolition of child labor and progressively raise minimum age for admission to employment. Guidelines for different scenarios (e.g., 14 years initially in underdeveloped nations, 18 years of age for physically or morally dangerous activities, 14 years for vocational training in school).</td>
<td>26 Jun 1973</td>
<td>28 Jun 2001</td>
</tr>
<tr>
<td>C182 – Worst Forms of Child Labor</td>
<td>Prohibition and elimination of exploitation of children for slavery, trafficking, debt bondage, and forced labor; prostitution and pornography; illicit activities, such as drug trafficking; and other work that harms children’s health, safety or morals.</td>
<td>17 Jun 1999</td>
<td>02 Feb 2000</td>
</tr>
</tbody>
</table>

Furthermore, in 1996, the ILO proposed that discussion be held regarding a new fundamental convention to protect children from working in some of the most harmful occupations.\(^{584}\) This topic was continued in an October 1997 international conference in Norway, which convened IOs, government ministers, trade unions, employers, and NGOs.\(^{585}\) Convention 182, prohibiting the Worst Forms of Child Labor, was adopted in June 1999 and Brazil ratified it in February of the following year.

The ILO’s monitoring efforts continued, and benefitted greatly from the

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participation of international NGOs such as the International Confederation of Free Trade Unions (ICFTU) and Anti-Slavery International. These organizations supplied critical information regarding the prevalence and patterns of forced and child labor in Brazil. Furthermore, their comments were forwarded to the government, increasing the engagement of government officials in conversations with the ILO. For example, on September 23, 1999 the ICFTU sent information to the ILO about thousands of workers throughout the country that were subjected to situations of slavery. In response to these comments, the Government reiterated the human rights dimensions of the issue and its commitment to eradication.\textsuperscript{586} The ICFTU, based on information from Anti-Slavery International and the CPT, also lodged a complaint with the ILO in 2001, stating that despite the improved inspection capabilities of the Mobile Inspection Units, penalization of perpetrators remained ineffective.\textsuperscript{587}

Furthermore, as part of its reporting to the CEACR, the government expressed difficulties with enforcing Article 149 of the Penal Code, which (since 1940) characterized slave labor as “reducing someone to conditions analogous to slavery.” This presented difficulties in implementation due to the legacy of colonial slavery and the images this conjured. Law enforcement officers with a notion of slavery based on its colonial form would only recognize Africans wearing chains as slavery. Therefore, the old definition impeded understanding of modern slavery in Brazil, which presented itself somewhat differently. The CEACR requested that the Government modify the legislation


in a way that facilitated improved observance of Convention 29.\textsuperscript{588} In November 2001, the Special Secretariat on Human Rights (Secretaria Especial dos Direitos Humanos, SEDH) organized a technical committee to discuss “Contemporary Forms of Slavery.” Seeking to transform these ideas into concrete proposals, SEDH asked the ILO for support. They jointly participated in the “Legislative Improvement to Combat Slave Labor” meeting, held in the ILO’s Brasilia office in June 2002. One of the items under discussion was the modification of Article 149 to properly typify the crime of “reducing someone to conditions analogous to slavery.”\textsuperscript{589}

The ILO served in an advisory capacity, and over the months various members of Congress presented proposals.\textsuperscript{590} Ultimately, with the adoption of Act No. 10,803 on December 11, 2003, Article 149 was amended with the following wording:

Section 149. Reducing someone to a condition analogous to that of a slave, namely: subjecting a person to forced labour or to arduous working days, or subjecting such a person to degrading working conditions or restricting, in any manner whatsoever, his mobility by reason of a debt contracted in respect of the employer or a representative of that employer. Penalty – two (2) to eight (8) years of imprisonment together with a fine, on top of any sentence handed down for violence.

§1\textsuperscript{o} Any persons committing the following offences shall receive the same penalties:

I – retaining workers at the workplace by preventing them from using any means of transportation

II – retaining workers at the workplace by confiscating their personal papers or personal property, or by maintaining manifest surveillance

§2\textsuperscript{o} The prison sentence is increased by half if the crime has been committed:


\textsuperscript{589} Aperfeiçoamento Legislativo Para O Combate Ao Trabalho Escravo (Brasilia: SEDH and ILO, 2002).

\textsuperscript{590} For example, Deputies Zulaie Cobra suggested “One is considered to be in a condition analogous to slavery if he is submitted to the will of another through fraud, threat, violence, or suppression of individual or social rights, or some other means that prevent the person from liberating himself from the situation.” “Aperfeiçoamento Legislativo Para O Combate Ao Trabalho Escravo.” Brasilia: SEDH and ILO, 2002.
I – against children or adolescents
II – on the basis of race, colour, ethnicity, religion or origin

Other legislative recommendations pertained to federal jurisdiction for cases of forced labor, the expropriation of land, and instituting effective fines.

The ILO also aimed to increase local capacity by helping to strengthen and harmonize actions taken by governmental bodies and other key agents, such as the church, trade unions and businesses. For example, IPEC completed its first action program with the CPT in 1996, aimed at research on hazardous working conditions for children. The program focused on the charcoal, alcohol, and sugar cane sectors in 6 municipalities of Mato Grosso do Sul. The CPT and IPEC brought national and international journalists on series of visits to charcoal farms, which generated additional attention. A second IPEC-CPT partnership expanded the scope to 15 municipalities in the state.

The ILO also served as an important partner for the Government of Brazil and CSOs, through a technical cooperation project that began in April 2002. The Project, titled “Combating Forced Labor in Brazil,” contained several elements. To assist with record keeping and diagnosis, the ILO donated a database to the Ministry of Labor to record incidence and recruitment by region, names of perpetrators, economic activities, and re-enslavement. Beginning in 2002, the ILO coordinated the National Campaign

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591 Costa, Fighting Forced Labour: The Example of Brazil, 14–15. Ibid. Translated from Portuguese by ILO.
592 Aperfeiçoamento Legislativo Para O Combate Ao Trabalho Escravo.
594 International Labor Organization, Boas Práticas de Combate Ao Trabalho Infantil, 90.
595 Ministério do Trabalho e Emprego, Trabalho Escravo No Brasil Em Retrospectiva: Referências Para Estudos E Pesquisas. The project was funded by the US Department of Labor.
for the Prevention of Slave Labor with support from the Brazilian government. The first phase of the campaign targeted the public, through print media, television, and billboard advertisements. It profoundly impacted the volume of media attention: in 2003, print articles on the slave labor increased by 1400% from the previous year.

Finally, the ILO helped the Government to produce and launch a multifaceted plan to address prosecution, prevention, and victim support measures, as well as pilot programs to assist rescued workers. The National Plan to Eradicate Slave Labor was prepared during the Cardoso administration by a committee created in early 2002 under the Council for the Defense of Human Rights in the Ministry of Justice, with ILO support. The committee had been comprised of representatives from various ministries – including Labor (MTE), Agrarian Development (MDA), Prosecutor General (MPF), and Labor Prosecutor (MPT) – as well as civil society entities such as the OAB, Association of Federal Judges – and an ILO representative. Though it was conceived during the Cardoso administration, the plan was launched under President Lula da Silva on March 11, 2003. To ensure that the objectives of the Plan were fulfilled, the National Commission for the Eradication of Forced Labor (CONATRAE) was founded on August 1st, 2003. It brought together representatives from the three branches of government, as well as members of civil society. Thus, the ILO supported the Government of Brazil in a variety of ways during this period. It promoted the adoption of new norms and commitments, through Conventions 138 and 182. It encouraged improved

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598 Luiz Machado, email to author, August 27, 2014. The second and third phases occurred outside the scope of this study, beginning in December 2005 and 2007, respectively.
601 International Labor Organization, “Combating Forced Labour in Brazil.”
602 Costa, Fighting Forced Labour: The Example of Brazil.
implementation of previously ratified conventions and promoted dialogue through the
monitoring mechanism. Finally, it helped raise public awareness and support, strengthen
institutional capabilities, and deepen multi-stakeholder involvement in programs to
eradicate slave labor.

The Institutionalization of Supply Chain Monitoring: The Dirty List

This second wave of policy change addressed the economic side of slavery. The
National Plan, Dirty List, and National Pact occurred as part of a cumulative process.
Each step built the foundations for the next one. Along with the GEFM, the so-called
‘dirty list’ (lista suja) is an important means of eradicating slave labour in Brazil, and has
spawned other important activities undertaken by civil society groups and the private
sector, namely the Study on the Slave Labour Production Chain and the National Pact for
the Eradication of Slave Labour.

One of the most significant policy initiatives, for which Brazil often receives
praise, was the federal government’s creation of a register of employers caught
exploiting slave labor. Ruth Vilela, who was discussed in detail in Chapter 4, came up
with the Dirty List. It came as a surprise – an internal process within the ministry and she

603 Xavier Plassat, interview by author, September 8, 2014.
604 Ibid., 88.
605 International Labor Organization, Perfil Dos Principais Atores Envolvidos No Trabalho Escravo Rural
No Brasil (Brasilia, 2011); Terry Fitzpatrick, “Greenpeace Exposes Links between Slavery and
The ILO called the list one of the most effective mechanisms to combat slavery in Brazil. Free the Slaves
cited the Dirty List as an example of how “Brazil has one of the world’s most aggressive anti-slavery
initiatives.”
606 “Employers” may refer to persons or legal entities.
607 Costa, Fighting Forced Labour: The Example of Brazil, 88. The first list was released in November
2003.
didn’t share the idea externally until later.\textsuperscript{608} She had the “blessings of CONATRAE\textsuperscript{609} and the Human Rights Bureau,” as well as the MPT and the Labor Prosecution Office (Ministerio Público de Trabalho, MPT), which played an important role in pressing for the list.\textsuperscript{610} However, it was ultimately the MTE that had to lead the process because only it had the legal authority to do so. The MTE was responsible for identifying illegal practices as a product of its labor inspection activities, and then the MPT would get involved to prosecute those cases.\textsuperscript{611} One aspect that makes this register so effective is that it is public and accessible via the MTE Web site.\textsuperscript{612} Anyone with Internet access can view the employers on the list, which makes it dangerous for businesses that are concerned about their international reputation.

Once a complaint was received, the mobile inspection group was to conduct an investigation of the site and if slave labor were found, it would send the charges to the Ministry of Labor and Employment for administrative processing and determination of fines. The Dirty List is updated every six months and companies on it are not permitted to receive credit from state-owned banks.\textsuperscript{613} The Ministry of Labor and Employment (Ministério do Trabalho e Emprego, MTE) and the Special Secretariat on Human Rights (Secretaria Especial dos Direitos Humanos, SEDH) were given the responsibility of

\textsuperscript{608} Anonymous interview (ILO).
\textsuperscript{609} International Labor Organization, Decent Work Country Profile: Brazil, 2009, 26, 26. CONATRAE, coordinated by the Special Secretariat for Human Rights under the executive branch, was created by a presidential decree on July 31, 2003. It was made up of representatives from the executive branch as well as civil society and formed for the purpose of monitoring execution of the National Plan.
\textsuperscript{610} Anonymous interview (ILO).
\textsuperscript{611} Ibid.
\textsuperscript{612} Sislin and Murphy, Approaches to Reducing the Use of Forced or Child Labor: Summary of a Workshop on Assessing Practice.
maintaining and updating the list. Companies are monitored and remain on the list for at least two years and must stop the use of forced labor and pay all wages owed to workers in order to be removed. The Ministry of Labor’s Decree No. 1234 provided that the list would be communicated to public institutions, and Decree No. 1150 indicated that public credits should not be granted to employers on the list. However, “[w]hat is interesting in this example is that in the decree there are no penalties for the employer except the fact of appearing on that list, but some penalties have been imposed by public and private financial institutions.”

The work of civil society and key decision-makers was complementary and interdependent in the establishment of the Dirty List and National Pact. Civil society actors such as the CPT played an important role in raising awareness among decision-makers by providing data on specific instances of slave labor that they had uncovered. As was previously discussed, government policies to develop the Amazon region were connected to slave labor on the farms benefitting from public funds. Furthermore, “reports on GEFM operations between 1995 and 2006, as well as the ‘dirty list’, show that those operators using slave labour in Brazil are not, for the most part, isolated landowners or owners of old-fashioned estates. They are, in fact, entrepreneurs working

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615 U.S. Department of Labor, List of Goods Produced by Child Labor or Forced Labor, 33; Sislin and Murphy, Approaches to Reducing the Use of Forced or Child Labor: Summary of a Workshop on Assessing Practice.
617 Sislin and Murphy, Approaches to Reducing the Use of Forced or Child Labor: Summary of a Workshop on Assessing Practice.
in agribusiness, many of them using cutting edge technology in the production phase."618

Part of the inspiration of the Dirty List was to “stop the contradiction of the Government of Brazil funding slave labor.”619

After the list was published, civil society actors saw an opportunity to prompt action from the private sector. According to Leonardo Sakamoto, founder of NGO Reporter Brasil,

With the list, nearly all those on it have suffered from a market reaction due to the involvement of their names with cases of contemporary slavery. Is this because the market is good and wants to protect the workers? No, the issue isn’t moral but strictly business. Being on the list makes you a risky investment. It gives you a track record of public and private banks restricting your business. It has opened you to lawsuits, international trade restrictions and reputational damage on the international market.620

Thus, after the MTE began releasing the Dirty List on its website, civil society actors again had a role to play. NGO Reporter Brasil used information from the dirty list to carry out the Study on the Production Chain. Reporter Brasil and the Ethos Institute then coordinated with violating businesses to encourage their participation in a voluntary commitment to target the private sector, the National Pact.621

In 2004, the Special Secretariat on Human Rights (Secretaria Especial dos Direitos Humanos, SEDH) – which coordinates CONATRAE, the body responsible for monitoring the National Plan to Eradicate Slave Labor – requested that the NGO Reporter Brasil and the ILO carry out a study of the employers included in the Dirty List. Eight Reporter Brasil researchers mapped the commercial activities of 100 estates from the dirty list. The result was a network of 200 Brazilian and foreign companies that
purchased products from those estates. The purpose of the Study on the Production Chain was to trace the production chains of violating employers from the first two Dirty List releases (November 2003 and June 2004). The Ministry of Labor and Employment, Public Ministry of Labor, CONATRAE and the CPT were also involved.  

In September 2004, the ILO, Ethos Institute, and NGO Reporter Brasil scheduled meetings with the businesses to make them aware of the use of slave labor in certain stages of production. Some businesses suspended contracts with suppliers as a consequence. Most agreed to conduct research on actions they could take to eradicate slave labor in their production chains. The discussions culminated in the National Pact, which was signed in May 2005 in a ceremony at the Office of the Attorney General. Signing the Pact committed companies to ensure that their operations, and those of their suppliers, were free of forced labor. They also agreed to participate in a monitoring process and to publicly disclose the results of their efforts. Around 80 companies signed the Pact initially.

Conclusions

Civil society’s efforts concentrated on promoting private sector involvement and accountability in this period, by applying material pressures to induce changes in

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622 Ibid, 92.
625 Secretaria de Direitos Humanos da Presidência da República, 10 Anos de CONATRAE, 96; O Instituto Ethos, “Pacto Nacional Pela Erradicação Do Trabalho Escravo,” accessed November 15, 2014, http://www3.ethos.org.br/contudo/projetos/em-andamento/pacto-nacional-pela-erradicação-do-trabalho-escravo/#.VO4Jf3a-q2V. Since then, the number of participating companies has climbed to 250 (Brazilian and multinational), corresponding to about 30% of Brazil’s GDP.
behavior (see “A” in Figure 5.1 below). This approach was largely pioneered by Oded Grajew, the founder of Abrinq and the Ethos Institute. Grajew used his business background and connections to promote a message of responsible globalization and greater corporate accountability. Drawing on international pressure – including threats from the United States to ban imports made with the fruits of forced or child labor – Grajew began to target industries with export vulnerabilities. Thus, international economic pressures increased the leverage of domestic CSOs in discussions with businesses (see “B” in Figure 5.1 below).

With encouragement from Abrinq and Ethos, businesses recognized that being associated with forced and child labor posed a danger to corporate reputation and could subsequently affect profits. They began to respond with codes of conduct. Some industries even developed their own associations and social labeling mechanisms. U.S. measures passed in this period, establishing the legal basis for import bans (see “C” in Figure 5.1 below). This provided additional focal points for mobilization, as domestic CSOs in Brazil partnered with labor organizations in the U.S. Conversations about forced and child labor intersected with FTAA discussions, forcing even greater engagement by government officials on the topic of labor rights. As a result of reporting by domestic CSOs and transnational activist organizations, deficiencies in penalties for violators continued to be exposed in the ILO monitoring mechanism (see “D” in Figure 5.1 below). Furthermore, the ILO moved into a supportive role as the government displayed greater willingness to take action, providing technical assistance, resources, and encouragement for additional policy implementation (see “E” in figure 5.1 below).
Public shaming represented a simple and effective way to hold businesses responsible. It had been discovered that labor violations were occurring on properties financed with public money. Some of these products found their way into complex supply chains in Brazil and abroad. The ILO and Reporter Brasil had uncovered the pervasiveness of forced labor in a variety of supply chains, but had decided to approach businesses directly to develop partnerships. Ruth Vilela, on the other hand, used her official authorities to release the first Dirty List in November of 2003. The Dirty List served to punish businesses caught using slave labor by inflicting reputational damage, as well as economic repercussions through the potential loss of public benefits. Furthermore, the implementation of the Dirty List directly contributed to the creation of the National Pact, which engaged businesses in the process.
Figure 5.1: Pattern of Influences: Implementation of the Dirty List

- IOs / INGOs (E)
- Powerful States
- Government
- Private Sector (B)
- Domestic CSOs

Pressures:
- Leveraging normative pressures (D)
- Leveraging material pressures (B)
Chapter 6 – Conclusions

The purpose of this study was to explain Brazil’s evolution into a model case in terms of its efforts to combat labor exploitation. Why did the government break with the past to confront labor exploitation in 1995 after it had ignored and denied the existence of the problem for so many years? What influenced the government to adopt bold and innovative policies that are now emulated abroad? I have argued that the remarkable evolution of the Brazilian government’s stance towards combatting labor exploitation reflects a combination of normative and material pressures applied from above and below. The traction of each type of influence varied over time. Normative pressures were more important early on, whereas material pressures played a predominant role in later stages. The result was the Brazilian Government’s adoption of two exemplary policies, the Special Mobile Inspection Units and the Dirty List. Chapters 4 and 5 illuminated the processes whereby normative and material influences brought about each policy.

This chapter proceeds in the following manner: I first summarize my findings regarding the role of normative and material pressures, as well as the importance of applying these pressures from above and below. Second, I discuss the potential implications of these findings for other countries, scholarly debates, and related to the broader question of socially responsible globalization. I then discuss limitations and suggestions for future research.

Summary

Brazil is not a country you’d expect to be a model for anti-slavery policies. It was the last in the Western hemisphere to abolish traditional slavery and the legacies of that
era are evident in the country’s present levels of social and economic inequality. Prior to 1995, the country was reputed for high levels of labor exploitation and a government that consistently failed to take appropriate action. Indeed, the government was often criticized in Brazil and abroad for negligence and even complicity. However, it underwent a remarkable transformation from one of the worst offenders to a leader and example to other countries in less than two decades.

The year 1995 marked a turning point. In that year, President Fernando Henrique Cardoso publicly acknowledged the existence of this undesirable practice in Brazil and implemented the first meaningful policy to address the problem, the Special Mobile Inspection Units. Several years later, the Government began releasing the Dirty List, a public condemnation of employers that had been caught exploiting workers. The implementation of these two policies forms the basis for Brazil’s recent characterization as a model case, and its best practices are now shared abroad.

Normative persuasion contributed to bringing about these policy changes. The International Labor Organization supplied this persuasion from above, in the form of monitoring as well as technical support. Brazil signed a number of conventions related to decent work, and the regular monitoring of those conventions promoted norm socialization and accountability. Parallel to this, international NGOs and Brazilian NGOs promoted awareness in society by conducting research and publicizing information, which promoted the acceptance of internationally recognized labor standards.\(^\text{626}\) They also coordinated efforts to detect violations and subsequently leveraged the influence of intergovernmental organizations by reporting violations to the ILO’s supervisory mechanism. This brought the Brazilian government – which had consistently repudiated

allegations of forced labor – under the spotlight in intergovernmental discussions at the International Labor Conference, and prompted reconsideration of its position. It is important to underscore the efforts of domestic CSOs in bringing about these changes. Although the ILO’s work was undeniably important, it was not sufficient without normative pressure at the domestic level. The ILO – and other UN agencies doing work related to labor exploitation, such as UNICEF – had applied pressure upon the Government of Brazil for years. What changed in the mid-1990s was the anchoring of international normative pressures in the domestic arena by Brazilian CSOs.

Pressure from the United States, an important trading partner for Brazil, served to introduce the element of economic consequences. Though U.S. trade policy had linked trade benefits to labor rights since the 1980s, it had failed to produce a change in Brazil’s behavior. However, additional legislation was introduced within the new normative environment of the 1990s. Intersecting with the growing public condemnation of labor exploitation, U.S. threats to connect labor rights violations to trade-related consequences gained traction in Brazil, catching the attention of the President of Brazil as well as business actors who risked losing an important export market.

Furthermore, contextual factors helped generate a more favorable social and political climate, as Brazil experienced democratization and became increasingly concerned with foreign policy and the global economy. As a result of normative and material pressures – as well as these contextual shifts – Brazil was ripe for change when President Fernando Henrique Cardoso assumed the presidency in 1995. Predisposed to support policies to advance social justice, President Cardoso provided unprecedented
levels of institutional support for the policy changes demanded by domestic and international actors.

In June 1995, President Cardoso addressed the nation to announce action to combat labor exploitation, which he considered an issue with moral as well as economic dimensions. The Government of Brazil set up the foundational institutions for beginning to combat slave labor in a meaningful way. Thus, the Special Mobile Inspection Units were formed.

Domestic CSOs began to leverage international material pressures more forcefully around the same time. They became more aggressive in their tactics, pushing the government and businesses to address slave and child labor in supply chains. They used shaming and the threat of economic repercussions – tied to legislative efforts in the United States – to promote actions within vulnerable supply chains. In response, various industries began to set up supply chain monitoring mechanisms and labeling schemes to ensure that their exports would not suffer as a result of potential U.S. import bans. Additional legislative efforts in the U.S. provided new focal points for societal mobilization and increased the momentum behind domestic and international CSOs’ efforts. By the late 1990s, the trade-labor rights linkage had become a major concern in bilateral relations with the U.S., as well as the broader Free Trade Area of the Americas (FTAA) negotiations. Reinforcing these economic incentives, the ILO continued to provide guidance and promote norm internalization through technical assistance, monitoring, and the launch of a large publicity campaign. The ILO also donated a database so that the Ministry of Labor could keep record of trends in forced labor cases, as well as the names of perpetrators.
The following year, the Ministry of Labor began to release – on its website – a list of employers that had been caught exploiting slave labor. The Dirty List was an innovative form of ‘enforcement’ that followed logically from the fresh emphasis on supply chains and imposition of economic consequences that characterized efforts at the end of the first wave of action and throughout the second wave of action.

Implications

As the empirical analysis of this project has demonstrated, pressure was applied upon the Government of Brazil at two levels, domestic and international. Thus, this research supports the claim that a purely systemic or purely domestic focus is insufficient to catalyze policy change. Instead, policy change occurs due to the efforts of actors operating in the international arena (pressure from above) as well as the domestic sphere (pressure from below). This is not an entirely new argument. Other scholars have examined the importance of activities at multiple levels of analysis. For example, Peter Gourevitch argued that, “international relations and domestic politics are therefore so interrelated that they should be analyzed simultaneously, as wholes.”627 Another scholar conceived the “two-level game” metaphor to describe the need for governments to simultaneously reconcile the often-conflicting pressures emanating from the domestic and international spheres of influence. Though the object of study is somewhat different, my research supports this general point. Both systemic and domestic factors condition policy outcomes.

However, this is not to say that both systemic and domestic pressures simply had to be present in order to induce policy change. Normative and material pressures at the international level had previously been applied with virtually no effect on Brazil’s practices to combat labor exploitation. For years preceding the adoption of the first landmark policy, the agencies of the United Nations had provided normative guidance to member states, and the United States had tied its trade policies to the labor rights policies of trading partners. These international pressures were insufficient to bring about the Special Mobile Inspection Units – or a similarly consequential policy – before the 1990s.

It was the efforts of domestic actors, especially CSOs, which gave salience to international influences. Domestic actors encouraged widespread acceptance of international labor rights norms; promoted awareness in society, government, and business; and leveraged external pressures. Put differently, not only did domestic actors facilitate organic mobilization, but they also anchored pressures from the global sphere in a manner that would strongly resonate in the Brazilian political and economic environment.

This project also modifies a two-level framework that is closely related to my research topic. The boomerang pattern of influence describes how a state’s human rights policy can be changed through recourse to international forums when domestic channels are blocked. Stated simply, the metaphor describes how domestic NGOs throw a boomerang out of the domestic sphere and its return course brings international pressure to bear upon the government. The CPT’s recourse to ILO supervisory mechanisms as a strategy for instigating international pressure is a clear example of this dynamic. However, my framework differs from the boomerang model in a few key ways. First, the
boomerang model was designed to explain patterns of influence in a situation in which the state itself is the primary violator of rights. In the issue area of forced labor, the government is called upon to protect constituents from a third party actor, the private sector, which is responsible for most labor rights violations.

Second, my analytical framework goes beyond the international-domestic dimension to clearly distinguish how and when different forms of pressure matter, and their underlying logics. I argue that normative and material pressures appeal to different logics of human behavior and both are necessary to promote policy change. The logic of appropriateness views “human behavior as driven by a commitment to an identity and its rules.” The logic of consequences “sees human behavior as driven by anticipation of its consequences and evaluation of those consequences by some kind of utility function that reflects the desires of the actor.” The example of Brazil suggests that states are concerned with doing what is right in addition to doing what is in their interest. However, an adjustment of what is widely accepted as “right” – and the acceptance of norms within society and government – is necessary in order to activate the logic of consequences.

Stated differently, international norms related to labor exploitation must first be internalized before non-adherence to those norms would pose a legitimate threat of consequences. In Brazil, an initial stage of normative conditioning – through the efforts of CSOs with support from international organizations – preceded the concentrated application of material pressures. Had these pressures operated in a different order, policy change would not have occurred.

628 Keck and Sikkink, *Activists Beyond Borders*, 207–209. Keck and Sikkink discuss the importance of “material and moral leverage” in a related manner, as a characteristic that affects the success or failure of networks.
630 Ibid.
Thus, my research also suggests that meaningful policy change is more likely when normative pressures precede material ones. This order of events makes sense intuitively. Norm sensitization serves to redefine dominant views about which behaviors are acceptable. Thus, when accountability and reputational mechanisms are activated, they can build upon already-established boundaries between right and wrong.

Third, my framework accounts for situations in which pressure comes from abroad, but “bounces” upward to apply pressure on the government and private sector from below. The “carrot and stick” initiatives of the Abrinq Foundation are illustrative. Abrinq harnessed the threat of economic sanctions from the United States as a tool for its own efforts to pressure the government and private sector. It approached various industries in Brazil and encouraged them to bring their practices into conformity with international norms or take the risk that “the international market will shut its doors.”

The aforementioned findings have practical implications for similar efforts occurring around the world. The experience of Brazil can help guide other countries that face challenges in addressing labor exploitation. Domestic CSOs might emulate the strategies that the CPT, Abrinq, and others have used to leverage both normative and material pressures. The project also confirms that the U.S.’s strategy of market conditionality – tying trade to labor rights improvements – is only likely to be effective following concerted actions to facilitate norm internalization. Indeed, the U.S. government has begun to support the normative processes that precede and complement

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Grajew, “In His Own Words: A Conversation with Oded Grajew (interview, March 2005).”
material pressures, through technical assistance and funding for ILO country projects and locally based movements.  

Furthermore, this project is highly relevant in light of current debates about how to promote more socially responsible forms of globalization. Countries around the world are paying increasing attention to the challenge of balancing economic globalization with social concerns. Attention to labor exploitation has grown significantly in the past few decades, from the local to global levels. In the introductory chapter, I mentioned that United Nations agencies had recognized possible linkages between economic development policy and labor exploitation. This linkage was uncovered in Brazil, and the discovery itself helped to prompt policy change. Recall that one of the inspirations for the Dirty List was to “stop the contradiction of the Government of Brazil funding slave labor.”

The examples in this project signal the importance of civil society and private sector collaboration in reducing socially-undesirable outcomes from economic globalization. The evolution of Oded Grajew, one of the most influential principled actors named in this project, is perhaps symbolic of this broader implication. Grajew began his venture into activism with an emphasis on children’s rights and played a crucial role in promoting accountability in supply chains that employed children. Not long thereafter, he established the Ethos Institute based on the principle of an ethical market. He went on to establish a counterpart to the World Economic Forum, the World Social Forum, with the objective of creating “another globalization” which resisted the “merely economic view,

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632 For example, the U.S. Department of Labor has provided funding – through the ILO – to support efforts to transmit best practices from Brazil to Peru. See http://iipdigital.usembassy.gov/st/english/inbrief/2012/12/20121220140303.html#axzz3RmK6zN5v
633 Xavier Plassat, interview by author, September 8, 2014.
as though people were in service of the economy and not the economy in service of the people.”

**Limitations and Directions for Future Research**

The most obvious limitation of this project is its scope. Although the single-country design allowed for deeper analysis that is difficult to achieve in a cross-national study, this also means that the generalizability of findings cannot be confirmed. It would be interesting to test the applicability of the analytical framework to another issue area within Brazil. This would control for variation among countries, but test whether a similar combination of normative and material pressures applied at the domestic and international levels produced similar effects. These findings should also be examined against other countries, including cases in which policy change was unsuccessful, to determine whether the variables I identified as necessary in Brazil behave as predicted by my framework. Other issue areas should also be explored to determine whether a similar combination of forces is effective. One clear candidate would be policy change related to the environment. My research is a first step in uncovering the conditions under which countries decide to counteract economic globalization’s negative externalities. The additional research I propose would help shed light on the balance between states’ moral responsibilities and global economic imperatives.

Additionally, this project faced some constraints concerning access to data. As a result of its opacity, the policymaking process is difficult to trace and thus presents a set of challenges for the researcher. Many conversations and negotiations occur behind closed doors, and records are often classified. In my case, lack of access to key

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634 Grajew, “Another World Is Possible.”
policymakers prevented confirmation of the true motivations behind their decisions. I have attempted to minimize this constraint as much as possible by consulting published statements and speaking to individuals who were close to the policy making process. However, it is still a possibility that some participants in the process withhold their true motivations when speaking publicly.635

Future studies should also examine in greater depth the impact of factors such as international aspirations. Brazil has received increasing attention in recent years as it grows and takes a more active role in regional and international affairs. It has been referred to as an “emerging giant,” a “regional powerhouse,” and a “hegemon.”636 In 2001, Brazil was grouped with Russia, India, and China in “BRIC,” an acronym devised to signify the shift of economic power from the West to a small group of emerging countries.637 As an aspiring global power, Brazil has sought to reform its image to gain legitimacy on the world stage. It is possible that strengthening its social and labor policies, as industrialized countries have already done, was to some extent strategically motivated by its broader ambitions.

Finally, while I have examined how and why policy change occurred in the area of labor exploitation, it was beyond the scope of the project to look at the effectiveness of these policies. Ultimately, the value of Brazil as a model case rests upon the assumption that its exemplary policies actually produce the desired effects. Brazil has not yet eliminated slave labor, and was embarrassed internationally when allegations of slave

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635 For example, multiple sources told me that most Brazilian government officials would be unlikely to publicly concede that U.S. economic pressure played a significant role in motivating policy change.
labor surfaced around construction of its World Cup stadiums. Thus, despite its remarkable progress, additional measures appear to be necessary if labor exploitation is to be reduced or eliminated in the future.

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APPENDIX A
INTERVIEWS

Conducted by author\(^6\)

Carlos Eduardo Abijaodi (Confederação Nacional da Indústria, CNI), September 30, 2014.

Anonymous (International Labor Organization), multiple communications during Fall 2014.

Anonymous (Office to Monitor and Combat Trafficking in Persons, U.S. Department of State), July 15, 2014

Anonymous (private firm specializing in trade policy and negotiations), August 21, 2014

Anonymous (Organization of American States), September 8, 2014

Anonymous United States Department of Labor), multiple communications during Summer 2014.

Anonymous (United States Trade Representative), multiple communications during Spring 2014.

Anonymous (United States Trade Representative), multiple communications during Spring 2014.

Kim Elliott (Center for Global Development), September 2014.


Barbara Kotschwar (Peterson Institute for International Economics), August 21, 2014


Mark Mittelhauser (Department of Labor), August 20, 2014.

Flavia Modell (Free the Slaves), June 24, 2014


Xavier Plassat (Comissão Pastoral da Terra), September 8, 2014

\(^6\) Interviews were conducted in person, over Skype or phone, or via email.
Ieda Siqueira Wiarda (University of Georgia), August 28, 2014

Renato Smirne Jardim (ABIT), September 9, 2014

Pilar Velasquez (Bureau of International Labor Affairs, U.S. Department of Labor), August 20, 2014.

**Published Interviews and Speeches**


Oded Grajew (founder of Abrinq Foundation and Ethos Institute), multiple years.


--“Secretaria Diz Que Acusado Tem Direito a Defesa Antes de Entrar Em Cadastro (entrevista Com Ruth Vilela),” *Folha de São Paulo*, April 2, 2005.


Fernando Henrique Cardoso, “Palavra Do Presidente” (Presidência da República, June 27, 1995).

APPENDIX B

RATIFICATIONS OF INTERNATIONAL LABOR ORGANIZATION
FUNDAMENTAL FORCED AND CHILD LABOR CONVENTIONS, BY COUNTRY

<table>
<thead>
<tr>
<th>Ratifications of Fundamental Conventions by Country</th>
<th>Forced Labor Conventions</th>
<th>Child Labor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Country</strong></td>
<td><strong>C029</strong></td>
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<tr>
<td>Vanuatu</td>
<td>2006</td>
<td>2006</td>
</tr>
<tr>
<td>Venezuela, Bolivarian Republic of</td>
<td>1944</td>
<td>1964</td>
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</tbody>
</table>

**Total: 185 countries (as of 2014)** | 177 | 174 | 167 | 179
APPENDIX C

ECONOMIC DATA

FDI Inflows as a Percentage of GDP (1990-2010)

Exports as a Percentage of GDP (1990-2008)

Source: O Boletim do Banco do Brasil (https://www.bcb.gov.br/?BOLETIMHIST) 640

640 The Boletim was discontinued in January 2010.
### Privatization 1990-2002

<table>
<thead>
<tr>
<th>Period</th>
<th>Sales (US$, millions)</th>
<th>Transferred Debt (US$, millions)</th>
<th>Total (US$, millions)</th>
<th>Percent (per time period)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990-1994</td>
<td>8,608</td>
<td>3,266</td>
<td>11,874</td>
<td>11.2%</td>
</tr>
<tr>
<td>1995-2002</td>
<td>78,614</td>
<td>14,810</td>
<td>93,424</td>
<td>88.8%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>87,222</td>
<td>18,076</td>
<td>105,298</td>
<td>100%</td>
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</table>

### State-Owned Enterprise, Sales by Investor: 1990-1994

<table>
<thead>
<tr>
<th>Type of Investor</th>
<th>Proceeds from Sale (in millions, USD)</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic companies</td>
<td>3,116</td>
<td>36%</td>
</tr>
<tr>
<td>Financial institutions</td>
<td>2,200</td>
<td>25%</td>
</tr>
<tr>
<td>Individuals</td>
<td>1,701</td>
<td>20%</td>
</tr>
<tr>
<td>Pension Funds</td>
<td>1,193</td>
<td>14%</td>
</tr>
<tr>
<td>Foreign Investors</td>
<td>398</td>
<td>5%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>8,608</td>
<td>100%</td>
</tr>
</tbody>
</table>

### Type of Investor, Privatization of 1995-2002

<table>
<thead>
<tr>
<th>Type of Investor</th>
<th>Sales (US$, millions)</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreign Investor</td>
<td>41,737</td>
<td>53%</td>
</tr>
<tr>
<td>Domestic Companies</td>
<td>20,777</td>
<td>26%</td>
</tr>
<tr>
<td>Domestic Financial Sector</td>
<td>5,158</td>
<td>7%</td>
</tr>
<tr>
<td>Individuals</td>
<td>6,316</td>
<td>8%</td>
</tr>
<tr>
<td>Private Pension Funds</td>
<td>4,626</td>
<td>6%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>78,614</td>
<td>100%</td>
</tr>
</tbody>
</table>

---

641 Brazilian Development Bank (BNDES), and Ministry of Development Industry and Foreign Trade.
643 Brazilian Development Bank (BNDES), and Ministry of Development Industry and Foreign Trade.
644 Top countries of origin for FDI in 1996 were: the U.S. (26%), France (13%), Spain (8%), and the Netherlands (7%). Renato Baumann, *Foreign Investment in Brazil and the International Financial Markets* (Brasilia: Economic Commission for Latin America and the Caribbean (ECLAC), 1998), 14-15.
APPENDIX D

U.S. STATE DEPARTMENT TIER PLACEMENTS\(^{645}\)

<table>
<thead>
<tr>
<th>Tier</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Countries whose governments fully comply with the Trafficking Victims Protection Act’s (TVPA) minimum standards</td>
</tr>
<tr>
<td>2</td>
<td>Countries whose governments do not fully comply with the TVPA’s minimum standards, but are making significant efforts to bring themselves into compliance with those standards</td>
</tr>
</tbody>
</table>
| 2 Watch List | Countries whose governments do not fully comply with the TVPA’s minimum standards, but are making significant efforts to bring themselves into compliance with those standards AND:  
  a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; or  
  b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or  
  c) The determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year |
| 3    | Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so |

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\(^{645}\) Source: U.S. State Department website, “Tier Placements,”  
http://www.state.gov/g/tip/rls/tiprpt/2009/123132.htm
APPROVAL

April 17, 2014

Bruce Bagley
305-284-6867
bbagley@miami.edu

Dear Dr. Bruce Bagley:

On 4/15/2014, the IRB reviewed the following submission:

<table>
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<tr>
<th>Type of Review:</th>
<th>Initial Study</th>
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<tr>
<td>Title of Study:</td>
<td>Fighting Forced Labor: An analysis of the political and economic influences on state policy and implementation</td>
</tr>
<tr>
<td>Investigator:</td>
<td>Bruce Bagley</td>
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<td>IRB ID:</td>
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<td>Funding:</td>
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<td>Documents Reviewed:</td>
<td>• Mahajan IRB Consent, Category: Consent Form</td>
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</table>

The IRB approved the study from 4/15/2014 to 4/14/2015 inclusive with a waiver of documentation of consent. Before 4/14/2015 or within 45 days of the approval end date, whichever is earlier, you are to submit a completed Continuing Review to request continuing approval or closure.

If continuing review approval is not granted before the expiration date of 4/14/2015 approval of this study expires on that date.

To document consent, use the consent documents that were approved and stamped by the IRB. Go to the Documents tab to download them.

NOTE: Translations of IRB approved study documents, including informed consent documents, into languages other than English must be submitted to HSRO for approval prior to use.

In conducting this study, you are required to follow the requirements listed in the Investigator Manual (HRP-103), which can be found by navigating to the IRB Library within the IRB system.

Page 1 of 2
Should you have any questions, please contact: Vivienne Carrasco, Sr. IRB Regulatory Analyst. (phone: 305-243-6713; email: vcarrasco@med.miami.edu)

Sincerely.

(This is a representation of an electronic record that was signed electronically and this page is the manifestation of the electronic signature)

Amanda Colies-Rojas, MPH, CIP
Director
Regulatory Affairs & Educational Initiatives


http://www.antislavery.org/english/who_we_are/english/who_we_are/english/who_we_are/frequently_asked_questions.aspx.


———. “CPT & Trabalho Escravo No Brasil - 40 Anos de Denúncias.” records provided by the organization, 2014.


“Secretaria Diz Que Acusado Tem Direito a Defesa Antes deEntrar Em Cadastro (entrevista Com Ruth Vilela).” *Folha de São Paulo,* April 2, 2005.


**Legislation**


Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act of 1994, Public Law 103-112,

Trade Reform Act, Public Law 93-618, 93rd Cong. (January 3, 1975),
https://www.govtrack.us/congress/bills/93/hr10710.

