Brazil Faces Modern Slavery Allegations at Inter-American Commission on Human Rights

Gregory Scruggs

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Brazil Faces Modern Slavery Allegations at Inter-American Commission on Human Rights

by Gregory Scruggs
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Following nearly two decades of alleging slavery-like conditions at a plantation in the Amazon, two human rights groups had their day in court last month, where they accused the Brazilian government of gross negligence.

Since 1998, the Center for Justice and International Law (CEJIL), a legal NGO serving citizens of the Americas, and the Comissão Pastoral da Terra, a Catholic NGO serving the Brazilian Amazon, have filed formal complaints with the Inter-American Commission on Human Rights (IACHR) about the Fazenda Brasil Verde, a privately-owned cattle ranch in Pará. They have argued that the Brazilian government failed to prevent a case of modern slavery through forced labor, despite repeated visits by government authorities to assess conditions at the ranch. Lawyers for the Brazilian government have countered that there were “labor irregularities” but not slavery conditions on the plantation.

The case was finally heard on Feb. 18-19 in the IACHR courtroom in San José, Costa Rica. It was the first time the Inter-American Court of Human Rights formally addressed modern slavery since the judicial body was established in 1979. Three days before the hearings, Brazilian judge Roberto Caldas assumed the presidency of the court, but he did not participate in the proceedings.

The court is expected to hand down its decision in the second half of 2016. If the judges rule in favor of the plaintiffs, the Brazilian government will be expected to launch a full-scale investigation of the Fazenda Brasil Verde. The government will also be compelled to pay compensation to victims and search for the remains of six workers who died or disappeared on the plantation. Finally, Brasília will also be expected to adopt stronger legislation to prevent future incidents.

‘Exploitative labor system’

In a 65-page IACHR brief from 2011, CEJIL and Comissão Pastoral da Terra accuse Brazil of violating the American Convention on Human Rights and the American Declaration on the Rights and Duties of Man. Specifically, the brief alleges that an exploitative labor system operates through rural Brazil, whereby young men, usually of African ancestry and/or from the country’s poorer states, are recruited for manual labor only to discover, upon arrival, that they have incurred debts for their transport to the work site. They subsequently must work to pay off these debts, but their wages are lower than the supposed interest on their debt, which makes effective repayment impossible.

The brief further says that overseers on farms and ranches that use such practices employ intimidation, including death threats, to impede workers from quitting or otherwise leaving the plantation. And it claims that Fazenda Brasil Verde has regularly engaged in this practice since 1988, in violation of Brazilian labor law, in order to operate its 8,544 hectares (1,780 acres). The brief also points out that in 1989, two adolescent workers on the ranch, Iron Canuto da Silva and Luis Ferreira da Cruz, were reported missing, but the Polícia Federal presumed that they had fled the premises and declined to launch an investigation. Complaints were made in 1988 and 1992, but according to the brief, criminal charges were not filed until 1997, and the legal proceedings against Fazenda Brasil

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Verde were halted in 2008 due to a lack of resources (NotiSur, Jan, 22, 1992, March 16, 1993, and Sept. 17, 2004).

According to the brief, the Ministério Público called a 1992 investigation—launched in response to a complaint about labor conditions—“ineffective.” On repeated visits to the ranch since 1989, federal authorities reportedly observed similar conditions but did not issue punitive sanctions or take other corrective measures.

**Brazil responds**

In the same brief, lawyers for the Brazilian government make the case that the actions of a private landowner cannot render a sovereign nation in violation of the hemisphere’s human rights convention or declaration. They also point to the government’s formal recognition of slave labor in 1995, and its intensive efforts to eradicate the practice ever since through ratification of international treaties, amendments to the federal Constitution, and additions to the penal code that specify what constitutes conditions analogous to slavery.

The Brazilian defense argues that the presence of slave labor “has been exaggerated in the country” in the face of the “enormous efforts” that Brazilian institutions have taken to combat the practice. It attests that Brazil is “on an adequate path to confront the problem,” which makes a formal condemnation by the IACHR unnecessary.

With respect to the Fazenda Brasil Verde, the brief claims that investigations by the Ministry of Labor in 1989 and 1993 did not find “slave-like conditions,” but rather “labor irregularities.” Brazil’s defense in the brief does not specify why the working conditions encountered on the ranch did not meet the standard for slavery as laid out by the plaintiffs. It does mention the 1997 investigation, which resulted in criminal charges, but does not acknowledge or address the premature cancelation of those criminal proceedings.

**Legal jujitsu**

Boni de Moraes Soares, the director of the international department for the Procuradoria-Geral da União, the attorney-general’s office, outlined the government’s case to the news agency Agência Brasil ahead of the court proceedings. “Yes, there were violations of labor law, but the [Brazilian] state not only made that finding but also punished the ranchers at the time,” Soares said. “There is no evidence that public officials cooperated in the labor violations. As such, this is why Brazil believes that there is no reason to be held responsible internationally.”

In admitting that there were serious labor violations on the Fazenda Brasil Verde, the government’s defense comes down to legal technicalities. First, Brazil only recognized the jurisdiction of the IACHR in 1998, which means that the court does not have jurisdiction over actions that took place before that date. The brief, meanwhile, relies on accusations dating mostly from the 1980s and earlier in the 1990s.

Second, the international definition of “slave-like conditions” is less strict than that of Brazil’s own penal code. “The verified facts do not constitute slave labor under the American Convention on Human Rights. Under our penal code, which is much more detailed, perhaps a judge would conclude that there was servitude or forced labor,” Soares said. “But it’s necessary to understand that Brazil is not being judged for violating its own penal code. The judgment is based entirely on what the American Convention says.”
But CEJIL and Comissão da Terra hope to establish a precedent that countries in the Americas can, indeed, be held accountable for slavery within their borders, given that the act takes place with relative impunity within national borders. “Of the 2,250 employers found to have used slave labor, none of them have served a prison sentence for this crime,” said CEJIL’s Brazil Program Director, Beatriz Affonso, in a press release.

The United Nations’ International Labor Organization (ILO) estimated in 2008 that 25,000 to 40,000 workers are in conditions analogous to slavery in Brazil. Nevertheless, Brazil has received strong marks from the ILO. “Brazil is an example of the successful combating of slave labor. It has strong control mechanisms,” commented the organization’s Luiz Antonio Machado. According to CEJIL, 50,000 people have been freed from slave-like conditions in Brazil since 1995.

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