

Forced labour in the agricultural sector in Argentina

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Introduction

Inspections by the Argentinean Ministry of Labor, Employment and Social Security and the Argentinean tax agency AFIP during 2011 confirmed the existence of forced labour at rural estates hiring seasonal workers. The cases of forced labour that were uncovered received considerable attention due to the appalling conditions in which the workers were working and living. The conditions represent the absolute opposite of the concept of decent work envisaged by the International Labour Organization (ILO): work carried out in conditions of freedom, equity, security and human dignity. In December 2011 a new Law N° 26.727 on agricultural work was passed in Argentina, substituting the Law N° 22.248 passed in 1980. The new legislation is an attempt to improve working conditions and its implementation would constitute an important step towards eradicating forced labour in Argentina.

International legal framework

The first ILO convention on forced labour, No. 29 from 1930, defines forced labour 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’. The convention sets out that forced labour should be punishable as a penal offence, and that penalties imposed should be strictly enforced.¹ Convention No. 105 adopted by the ILO in 1957 supplements No. 29 prohibiting forced labour in five specific cases including as a punishment for an individual’s political views or for having participated in a strike, as a means of discipline in the workplace, or as a means of discrimination.²

In addition, article 8 of the International Covenant on Civil and Political Rights affirms the right not to be subjected to slavery, servitude or forced labour.³

With regard to voluntary guidelines for companies, the UN Global Compact’s principle four sets out that ‘businesses should uphold the elimination of all forms of forced and compulsory labour’. A similar requirement can be found in the OECD Guidelines for Multinational Enterprises, which state that companies should take steps to ensure that forced or compulsory labour does not exist in their operations.

National legal framework

Argentina ratified the two ILO conventions concerning forced labour in 1950 and 1960 respectively.

The criminal offence of subjecting someone to servitude or analogous conditions is established in article 140 of the Argentine penal code: ‘anyone holding a person in slavery or in a comparable condition or receiving a person in that condition for the purpose of keeping him or her in slavery shall be punished with three to fifteen years of imprisonment’. At the regional level, the province of Santa Fe has adopted legislation regarding forced labour as a result of human trafficking in rural areas.⁴

The Law N° 26.727 passed in December 2011 establishes minimum conditions for accommodation, food, safety and hygiene, working hours and remuneration for agricultural workers in rural areas. It is worth noting that the law prohibits provision of labour by companies

offering temporary employment services as well as by employment agencies. Another important change is that working hours are limited to eight hours per day and forty four per week.⁵

In April 2011 the National Commission for Agricultural Work adopted the resolution 11/2011 with the aim of regulating working conditions for seasonal workers.⁶ Apart from establishing detailed requirements regarding accommodation and food, the resolution sets out that the employees should be guaranteed freedom of movement, including the right to leave and enter the premises when the working day is over. The employer is also required to inform the workers about the geographic location where the work will be carried out. Furthermore, the employer is prohibited from selling merchandise to the workers unless it has been voluntarily requested by them.

The characteristics of forced labour in the agricultural sector in Argentina

According to data from the Argentinean tax agency AFIP for 2010, the number of wage-earning rural workers in Argentina amounts to 335 000.⁷ It should be pointed out that a large part of the labour force is informal and remains unaccounted for in the statistics. It is common that rural workers take jobs in other provinces than those where they reside. The number of migrant workers taking part in harvests and other agricultural activities throughout the country has been estimated to 50 000.⁸

In late 2010 and during 2011 the Argentinean Ministry of Labor, Employment and Social Security (MTEySS) and AFIP carried out several inspections at rural estates where conditions akin to forced labour were found. The workers were mainly male migrants from the provinces Santiago del Estero and Tucumán. A recently published report by the ILO highlights the vulnerability of migrant workers from Santiago del Estero, the province with the largest number of seasonal workers in the country.⁹ Many of the workers belong to marginalized groups; farmers, indigenous peoples and unemployed. At the destination they often live and work in social and geographical isolation which makes it difficult to join a trade union, increasing the risk of exploitation. The workers are usually housed on the property where the work is carried out, far from towns and transport routes. The fact that the sites are located in remote, often inaccessible areas also hinders inspections by labour authorities.

Publicly available data on forced labour in the agricultural sector in Argentina is scarce. The following is a compilation of information published by MTEySS, AFIP and in the press regarding cases of forced labour detected between January 2011 and January 2012.

In January 2011 labour authorities found 62 people subjected to servitude at the estate Santa Celestina owned by the company Satus Ager SA in the province of Buenos Aires. The majority of the workers originated from Santiago del Estero and Tucumán. 17 were housed in corrugated iron shacks and carried out their tasks without any safety measures in place. 45 of the workers stated that they had gone without food for the last 24 hours and that they lacked access to medical care.¹⁰

In another case detected in January 2011 the company Nidera was accused of having employed 130 people in conditions akin to forced labour in San Pedro, province of Buenos Aires. The workers were primarily from Santiago del Estero and were hired to detassle corn. The workers claimed that they had not been informed of the terms for their remuneration and assumed that they would be paid the whole sum at the end of the season. The working hours were extensive, 11 hours or more Monday to Sunday. If a worker expressed a wish to leave his

job, the supervisor would allegedly threaten to dismiss all the members of the team to which the worker belonged.¹¹

In a case of alleged forced labour reported in February 2011, the employer was accused of deducting costs for damaged corn plants from the workers' wages on terms not known to the workers. Furthermore, the workers were not allowed to leave the estate before the end of the season.¹²

In March 2011 six managers at Southern Seeds Production SA were accused of having subjected migrant workers to servitude. The workers were hired to detassel corn at the properties in San Pedro and Capitán Sarmiento in the province of Buenos Aires. The living conditions were reportedly subhuman and the remuneration inadequate.¹³

In June 2011 allegations emerged in the press that a company retained the identity documents of its employees, restricting their ability to leave the estate where they were harvesting lemons.¹⁴ More recently in January 2012 a company was reported to have withheld the salaries of its workers. In addition, the company was accused of requiring the employees to purchase their food at the estate at prices significantly above the market rate.¹⁵

A report published in October 2011 regarding migrants working with cultivation of potato seeds in the province of Buenos Aires concluded that the working conditions amounted to slave labour. According to the authors, it is very common that the workers are only paid when the season has ended and they have returned to their homes.¹⁶ The withheld payment hinders the workers from leaving a workplace with precarious conditions. The new law concerning agricultural work passed in December 2011 regulates when and where the workers should receive their remuneration and could eradicate such practices.¹⁷

Initiatives to combat forced labour

The inspections at rural estates by agencies of the national and provincial government and the legislative reform last year are important actions to protect rural workers. Nevertheless, it will be difficult to evaluate the impact of these measures, due to the lack of available data on the prevalence of forced labour in the agriculture sector in Argentina. According to a 2011 study by the ILO, the governmental control of working conditions for temporary workers during the harvest season is ineffective. When non-compliance with regulations is found, the process of sanctioning the employer is rarely terminated before the season is over, and in consequence the working conditions remain the same and the worker is not compensated.¹⁸

In Brazil, which has assumed leadership in Latin America in the fight against forced labour, the Special Mobile Inspection Group created in 1995 composed of labour inspectors, labour prosecutors and Federal Police officers has been a key instrument for the enforcement of the prohibition of forced labour. The group investigates complaints of slave labour in situ, frees enslaved workers and prosecutes the owners of the properties.¹⁹ The establishment of a similar mechanism in Argentina could end the situation of impunity which currently prevails for employers in rural areas.

The Argentine Union of Rural Workers and Stevedores (UATRE) has intervened in several cases of alleged forced labour. However, UATRE has also been criticized for being inefficient in decreasing the share of informal employment in the sector.

By comparing the initiatives in Argentina and Brazil it can be concluded that Argentina lacks an initiative with active participation by the business community. In Brazil, the National Pact for the Eradication of Slave Labour has been signed by approximately 200 companies.²⁰ The pact is a voluntary commitment with the aim of dignifying and modernizing labour relations in production chains.²¹ The Argentinean Association of Seed Producers²² (ASA) or the Institute for Ethics and Quality in agriculture²³ (EticAgro) could be forums for launching a similar initiative in Argentina. The business community should take advantage of the momentum gained by the passing of the new law on agricultural work to coordinate a joint effort to achieve decent working conditions in the agricultural sector.

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