

Slavery and Textile Production in Argentina

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The Beginning

During the 19th and 20th of December 2001, Fernando de la Rúa's government collapsed amidst mass demonstrations which took place in Argentina's main cities where, due to repressive police action, 40 people died and hundreds were injured. As a consequence of the adoption of neoliberal economic policies, the Argentinean State had transferred most of its national wealth to multinational corporations, privatised provisional funds, cancelled private activity controls, increased the repressive mechanisms toward the working classes and considerably restricted education, health and living services. The country was immersed in a significant economic, social and political crisis which resulted in, amongst other things, the creation of local assemblies. This phenomenon was especially apparent in Buenos Aires. One of these assemblies, the Avellaneda park assembly, was formed by a group of neighbours who took over a building in the popular neighbourhood of Floresta. This is how the Alameda organization was born. The Alameda created a work cooperative and a communal dining room which continues to provide food on a daily basis to more than 100 people (most of them Bolivian). During the first years, the situation of extreme vulnerability in which many families found themselves came to light. These families had been brought from Bolivia through false promises, escaping from hunger and a total absence of hope, to work in textile sweatshops located in the outskirts of Buenos Aires. Based on this experience, the Union of Textile Workers was formed as a union to bring together textile workers so they could escape the slave-like system of the textile workshops.¹

The System

By working daily with these families, gaining their trust and allowing them to explain their situation, we could establish that a textile production system had been established in the country.² This system benefitted big clothing brands which used illegal migrant labour. These foreign labourers suffered from exhausting working days in the workshops. They not only worked but also lived with their families in deplorable unhygienic conditions harmful to their health, suffering systematic ill-treatment and earning paltry salaries.³ These new forms of slavery are compatible with the capitalist production system to generate greater profits for the brand owners. New forms of slavery are developing under this system of production which treats people as objects with the goal of economic gains. The Argentinean Constitution clearly establishes that no person may be sold or bought, and this act is condemned as a

¹ This union also works in La Alameda. One of its most prominent members is Gustavo Vera; he is one of the plaintiffs of the illegal textile sweatshops lawsuit.

² This system functions not only in the textile system. We are receiving complaints from thousands of people working under the same conditions in different sectors: agricultural labourers, brick oven workers and builders, amongst others.

³ See for example, in the case number 15.803/05 of the Criminal and Detention Centre Court Number 5 in Buenos Aires. On 4 May 2007 several people were prosecuted for the crime of slavery, for violating national migration laws and for being responsible of some textile sweatshops. The judge said he had observed 15 hour working days, pregnant women denied medical treatment, women working immediately after living birth, lack of hygiene, minimum feeding, illnesses like anaemia and tuberculosis, retention of identity cards by the workshop managers, constant threats to reveal their illegal situation to the authorities, underaged children not going to school and working in the sweatshops. In other cases (for example, one under the authority of the Federal Judge Sergio Torres and which started in June 2008 and is still taking place), physical and sometimes sexual aggressions have been denounced

crime.⁴ As Mario Ganora affirms,⁵ the situation of thousands of people in the textile workshops of Argentina is comparable to that of indentured servitude - people who have promised their services, or the services of someone over whom they exercise authority, to guarantee a debt. In these workshops labourers, together with their families, work in exploitative conditions to repay the dealer who sent them to Buenos Aires or the owner of the workshop their travel expenses without a set time limit and without having specified the task at hand. Employers exert complete control over the victimised family nucleus, even over the salaries, which they withhold. After a few months under these conditions, employers accumulate funds equivalent to a few months of work. The workers are obliged to continue working under these conditions, or to leave the workshop losing the salaries retained by the employers. On top of that, the pay received for each tailored garment is miserable.⁶

Judicial Intervention

In October 2005 the first criminal complaints were made about the conditions in the textile workshops in Buenos Aires.⁷ Charges were brought against members of the federal police of Argentina, since by action or omission they allowed the illegal running of the workshops. Charges were also brought against the workshop owners and the brand owners.

The situation became public when a textile workshop burnt down on the 26th of March 2006, causing the death of 5 children and an adult.⁸ After this incident, the situation of the illegal workshops and that of the thousands of Bolivians came to light.

Our first obstacle in the judicial proceedings has been the difficulty of investigating police members and the members of the National Ministry of Migration (“la Dirección Nacional de Migraciones”). The judge⁹ did not accept the victims’ anonymous declarations because he had also received statements from named individuals who were still working under slave-like conditions. By rejecting the anonymous declarations, he dissociated the only people affected by the violation of the national migration laws, and he tried to fragment the investigation. We appealed to Hall 1 of the Federal Appeals Chamber¹⁰ to resolve the unification of all the facts. The Federal Appeals Chamber ordered the trial judge to conduct an integrated investigation of the illegal textile workshop systems existing in Buenos Aires; he had to investigate police and migration agents, as well as the then-consul of the Republic of Bolivia, Alvaro Gonzalez Quint, who acted as a mediator between workshop owners and workers when the former came to the

⁴ Article 15 of the National Constitution establishes: “In the Argentinean Nation there are no slaves; the few ones which exist to this day are set free since the creation of this Constitution...Every contract to buy and sell people is a crime which will hold liable the responsible individuals and the scribe or civil servant who authorises it. And the slaves who are in any way introduced are set free just for stepping the Republic’s territory”.

⁵ Lawyer at the Department of the Public Advocate in Buenos Aires. “What is slavery?”, published in the “Ocho Horas” newspaper, which is edited by the Alameda Foundation.

⁶ According to Ariel Leutier « The economy in the illegal workshops : intervention and cost structure » published in bulletin number 64 at the National Institute of Industrial Technology in the Argentinean market a garment which costs one hundred pesos in the streets has a total cost of twenty pesos, from which the worker only receives one peso and eighty cents. The US dollar is worth three pesos and ten cents. The textile sweatshops are a great business: low-cost; no legal responsibilities: transfers the business risk.

⁷ We made the complaints through the Department of the Public Advocate in Buenos Aires, which received numerous testimonies (many of them under anonymous to protect the witnesses). Alicia Pierini is in charge of The Department of the Public Advocate. She denounced acts of slavery (article 140 of the Penal Code, which says “the person who was responsible for the acts of slavery, or any other analogous act, will be held in prison between three and fifteen years), to the labour laws (number 12.713, which in article 35 establishes “The business man which through violence, intimidation or promise commits acts which offer reduced salaries contrary to these laws (nº 25.871, which in articles 116 and 117 establishes that “The person who promotes, facilitates or promotes illegal transit of people from, within and to the Republic of Argentina will be imprisoned between one and six years... The person who facilitates or promotes illegal transit of people from, within and to the Republic of Argentina with the objective of obtaining directly or indirectly a benefit will be imprisoned between one and six years).

⁸ In this lawsuit only the fire was investigated, and not the illegal conditions at the textile workshop (situated in Calle Luis Viale at Buenos Aires).

⁹ Norberto Oyarbide, who has been in charge of the so called “mega lawsuit”(more than 100 workshops), under the name “Salazar Nina”(which is the name of one of the workshop owners)

¹⁰ Integrated by judges Eduardo Freiler, Eduardo Farah and Gabriel Cavallo.

consulate to complain about their situation. The consul was instrumental in the maintenance of the textile sweatshops because he inhibited the victims from presenting themselves before the Argentinean authorities.¹¹ Since then, the judge prosecuted those who appeared to be responsible for various textile workshops, but he did not continue the investigation of the brand owners. After that, Hall 1 of the Federal Appeals Chambers insisted that the judge should investigate the brand owners.¹²

The Brand Owners and the Cultural Questions

During 2007 we brought charges against the owners of more than eighty clothing brands.¹³ For example, the Soho brand was producing its garments in the sweatshops. The Secretary of Labour for the Buenos Aires City Government conducted inquiries into four workshops, and it was established that the workers' condition was 'abnormal'. In 2007 the public prosecutor Patricio Evers requested that the owners of Gilmer plc, which owns the Soho brand, be tried for the crime of slavery and violating work migration and residence laws. The judge Norberto Oyarbide held them responsible for these crimes but ordered them to be acquitted on a cultural basis which, according to him, justified the situation. Oyarbide was not the first one to use this argument, which had already been introduced by Hall 2 of the Federal Chamber of Buenos Aires¹⁴: "...there was no exploitation of the illegal migratory situation of the people who worked in the workshops, explaining to that effect what are the cultural customs and norms of behaviour of the people originating from the Bolivian altiplano, from where most of the people come...In summary, it has been pointed out that we are dealing with a human group which lives together like an "ayllu" or extended family community originating from the Andean region, which works like a sort of help cooperative benefit society where expenses and earnings are shared."¹⁵ These same arguments were used to benefit the Soho brand owners. We appealed on the basis that the brand owners had economically benefited from the workers' desperate situation and that this slavery system could not be justified by using cultural or anthropological arguments. At Hall 2 of the Federal Chamber we argued that the "ayllu" was a traditional Andean institution, whose principal characteristic is the acknowledgement of the cacique's authority, which is legitimately constituted. "*To mistake the ayllu with any other organisational system is a mechanism which substantially alters the system's basic principles and which should not be used to legitimise other forms of living together. It is inadmissible that an Argentinean judge, without any knowledge of the Andean social systems which regulate and legitimise these forms of social organisation, has used this argument to allow labour exploitation. The institutional system and its day-to-day practices require an anthropological and sociological education which the judge does not have. Using this argument reveals an arbitrary control of other people's cultural principles, which are strongly Occidentalised, but still remain*"¹⁶ This is a fundamental decision in the fight against slavery, and it will determine whether we advance in the inquiries of the owners of the companies, or on the contrary, whether their responsibilities will be curtailed.¹⁷

Political Responses

There is a lot left to do with regard to the protection of the trade victims. The Argentinean State is still not responsible for guaranteeing housing, health and work to the trade victims. It

¹¹ Since Evo Morales' election and the renewal of diplomatic figures, the situation has changed, to such an extent that the present consul, Jose Gonzalez Alvarado has supported the fight against slave work in Argentina, which, amongst other things, Bolivians are subject to.

¹² 30th of November 2007, lawsuit "Salazar Nina" from the Hall 1 of the Federal Chamber of Buenos Aires.

¹³ Amongst these brands we find Kosiuko, Montagne, Lacar, Rusty Graciela Naum, PortSaid, Akiabara, Adidas, Puma, Topper, Yagmour, Duffour, 47 Street, Cheeky, Brugston, Chorus Line, By Simons, Bensimon, Tavemitti, Leed's, Eagle, Le Coq Sportif, Top Design and Soho.

¹⁴ Intergrated by judges Horacio Cattani and Martín Irurzun.

¹⁵ Lawsuit "Guaraschi Mamani, Tito y otros" 20th November 2007, Hall 1 of the Federal Appeals Chamber of Buenos Aires.

¹⁶ Extract from a Document drafted by the Anthropology Department at the Philosophy and Arts Department of the Buenos Aires University.

¹⁷ When this document was drafted, Hall 1 of the federal Chamber had not yet reached a conclusion.

has not complied with its obligation to protect those who have testified as witnesses under a hidden identity. This is what happened at the end of 2006, when we criminally reported the interior minister, Anibal Fernandez because, when he was Chief of the Argentinean Federal Police, he refused to escort a rescued family from the textile workshops after one of the children received a death threat following his parents' testimony. The judge asked for police escort, but the interior minister denied it on the basis that he needed the staff for the street service.

In February 2008 the National Government, through the Employment Minister, and the textile business chambers agreed to maintain the injustice and modify the employment laws to allow brand owners remain unaccountable for their employees' condition. By doing this, the Argentinean government committed itself not to raise the prices, and, in exchange, left free the path towards trade of people.¹⁸

Legislative Responses

The 30th of April 2008, law 26.364, which prevented and sanctioned human trade and offered assistance to victims, was passed by parliament and published in the Official Bulletin. Even though the law has been subject to many critics, it is a step towards making Argentina comply with its international obligations to fight against human trade.¹⁹

The 10th of Jul 2008, the Legislature of Buenos Aires approved a law which established that work or sex exploitation victims who escape or are rescued from the clutches should be assisted. On top of this, authorities are ordered to "generate mechanisms which favour the eradication of person trade cases which take place in Buenos Aires, as well as the identification of these people and of affected family members."²⁰

¹⁸ Diario Pagina 12 from the 15th February 2008.

¹⁹ The law establishes a difference between major and minor trade. In the former there must be deception, fraud, violence or threat. The acts must be offer, reception, transport and /or transfer (inside, within or outside the country), with the objective of exploiting. By exploitation it is meant : a) when the person is retained under slave or servitude conditions (or analogous ones) ; b) when a person is forced to work ; c) when any type of sexual trade is promoted, facilitated or developed ; d) when human organs or tissues are illegally extracted.

²⁰ Diario Página 12th July 2008.