



COCOA

SUPPLY CHAIN

ADVANCES AND CHALLENGES TOWARD THE PROMOTION OF DECENT WORK: A situational analysis

International Labour Organization (ILO)
Public Labour Prosecutor's Office (MPT)
Papel Social

COCOA SUPPLY CHAIN

ADVANCES AND CHALLENGES TOWARD THE PROMOTION OF DECENT WORK: A situational analysis

Working Paper prepared for the project "Promotion and Implementation
of Fundamental Principles and Rights at Work in Brazil"

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Introduction

Between July 2017 and June 2018, researchers commissioned and coordinated by the International Labour Organization (ILO) through a partnership with the Labour Prosecutor's Office (MPT) visited the main cocoa producing areas in Brazil, where a series of interviews was conducted with local communities. The research aimed to:

- Understand the dynamics of the cocoa supply chain;
- Identify the key players in the cocoa supply chain;
- Establish links between different players;
- Determine working conditions and identify the possible existence of child labour and slave labour;
- Analyse supply chain monitoring practices by companies involved;
- Identify good practices in promoting decent work;
- Increase the knowledge base on the supply chain;
- Contribute to the design of strategies to promote decent work and eliminate unacceptable forms of work.

According to the research, it appears that fundamental rights at work¹ are not being properly respected in the cocoa supply chain in Brazil. **The research found, among other things, a significant presence of child labour and slave labour. On the other hand, it identified cocoa farms that respect these rights, showing that it is possible to produce cocoa in Brazil in a socially sustainable way.**

¹ For more information, see ILO Declaration on Fundamental Principles and Rights at Work: https://www.ilo.org/public/english/standards/declaration/declaration_portuguese.pdf



A brief historical analysis

Cocoa is a plant native to the Amazon. In 1746, the first cocoa seeds were taken from Pará to Ilhéus, in Bahia, where cocoa became the mainstay of the state's economy.

At the end of the 1980s, the cocoa industry in Bahia (which at the time accounted for approximately 85.2 percent of national production) was affected by a severe structural and conjunctural crisis stemming from the drop in international prices, caused by the euphoric increase in global production and in the stocks of producing countries. This situation, coupled with the onset and spread of witches' broom disease, led to a substantial reduction in national cocoa production.

Cocoa sales plummeted and farmers spiralled into debt. Most of them migrated from the producing region to the urban area to operate in the services sector. Farms were abandoned and began to be managed under "sharecropping" or "partnership"² arrangements by workers who, as shown in the testimonies collected during this research, live in a situation of vulnerability.

² Owners of cocoa farms all over Brazil establish "partnerships" with small farmers or former salaried rural workers. In the cocoa industry, this labour arrangement was introduced after the spread of witches' broom disease (ESTIVEL, 2013, pp. 20-72). Under the "partnership" model, the profits of the activity are split between the two parties, but percentages may vary: more to one and less to the other. In sharecropping, the amount paid to the sharecropper is split in half between the producer and the landowner. That is, every sharecropping arrangement is a partnership but not every partnership is a sharecropping arrangement (NASCIMENTO, 2017). In 2007, Law 11,443 introduced a new regulation on partnership in land legislation prohibiting unpaid work by the Rural Working Partner or the sale of cocoa exclusively to the Owning Partner (NASCIMENTO, 2013, page 46).



Geographical area and spatial delimitation of the cocoa supply chain

In Brazil, cocoa is produced in eight states: Pará, Bahia, Espírito Santo, Rondônia, Roraima, Mato Grosso, Tocantins, and Minas Gerais. **The States of Pará (49.3 per cent) and Bahia (45.1 per cent) are the main producers, accounting for practically the entire national production.**

Currently, the cocoa producing area in Bahia is comprised of 110 municipalities. In the Ilhéus-Itabuna microregion known as the “Cocoa Coast”, 40 municipalities account for 62.4 per cent of the state’s production and hold 70.1 per cent of the cocoa-growing areas. There is no recent data on the number of cocoa farms in Bahia - the latest number, from 2014, indicates that cocoa is grown in about 25,000 farms in the state (SEBRAE, 2014).

Besides production, **Bahia is responsible for about 90 per cent of the initial processing of cocoa beans in Brazil, with three industries located in the municipality of Ilhéus owned by three multinational mills** (GOMES, PIRES, 2015, p. 87).



Although recovered from the crisis that decimated cocoa production in the country, Bahia producers have lost space to producers from Pará. In 2017, cocoa production in Bahia fell for the fourth consecutive year. The drought and lack of rain in the Cocoa Coast region are the reasons cited for the fall in production from 153,300 tonnes in 2015 to 83,900 tonnes in 2017.

With the fall in production in Bahia, **the state of Pará became the largest Brazilian producer of cocoa beans** (IBGE, 2018). The cocoa industry in Pará is estimated to create 255,000 jobs – 51,000 direct jobs and 204,000 indirect jobs (MENDES; MOTA, 2016).

The cocoa area of Pará located along the Transamazônica Highway³ is the state's main cocoa producer, accounting for 62.7 per cent of local production and 25.1 per cent of national production (IBGE, 2017). The 240.2 sq. km area located in the central region of the state comprises the municipalities of Altamira, Anapu, Brasil Novo, Medicilândia, Uruará,

3 Planned to connect the North and Northeast regions of Brazil with the rest of the country, the Transamazônica highway was inaugurated in 1972 and crosses seven states: from Cabedelo port, in Paraíba, to the municipality of Lábrea, in Amazonas, totalling 4,223 km. The paved area of the highway stretches 1,849 km from Cabedelo, in Paraíba, to Brejo Grande do Araguaia, on the border of the states of Tocantins and Pará. Traffic on the other 2,374 km of the highway is impracticable during the rainy season in the North region (October–March). The country's main cocoa production area is located on the banks of the Transamazônica Highway.

Vitória do Xingu, Senador José Porfírio, and (MENDES; MOTA, 2016). The number of cocoa farmers in the region is estimated at about 11,000 (Ibidem).

Pará is a leading cocoa producer but processes only 1 percent of its production⁴ (SILVA, 2017). The remainder goes to the south of Bahia, where the processing industries of large cocoa buyers (mills) are located. Exports flow through the Port of Malhado, in Ilhéus (MENDES, ZUGAIB, 2017).

The municipalities of Ilhéus in Bahia and Medicilândia in Pará are the two main cocoa producers in Brazil. For that reason, the scope of the research was limited to these cities.

In Ilhéus, despite the significant contraction in production in the late 1980s (due to the witches' broom disease), cocoa continues to be the main agricultural crop, accounting for 61.4 per cent of the total value of agricultural production in 2017.

The municipality of Medicilândia, in turn, is currently Brazil's largest cocoa producer, accounting for 35.5 per cent of the total produced in the state of Pará in 2016 and 14.5 per cent of national production (IBGE, 2017).

4 The first large industry to process cocoa products began operations in 2018 with the production of cocoa nibs (roasted and crushed beans) and is preparing to start the second and third stages required for manufacturing other cocoa products.



PONTE ESTREITA
CAP. MÁXIMA DE CARGA



Socio-economic profile of cocoa producing regions

With a Municipal Human Development Index (MHDI)⁵ of 0.660, **Bahia** is a medium-MHDI state, ranking 22nd among the country's 27 states.

With an MHDI classified as "medium" (0.690), *Ilhéus* is the largest city in Bahia's cocoa producing area, ranking 2182nd among the 5,565 Brazilian municipalities.

With the decline in cocoa production, the services sector has become the region's main economic activity. In 2010, 46.67 per cent of the municipality's economically active population was employed in services sector and 14.72 per cent in agriculture (UNDP, IPEA and FJP, 2018).

According to the Development Atlas, 38.74 per cent of the population 18 years or older have not completed primary education and work in the informal sector, without a work contract. Approximately 44.40 per cent of the population of Ilhéus are considered vulnerable to poverty and 22.07 per cent of the population live in households without a toilet and running water.

5 The IFDM (FIRJAN Municipal Development Index) is a composite indicator that addresses, with equal weight, three areas of human development: Employment & Income, Education and Health. The IFDM of a municipality consolidates, in a single number, the level of local socioeconomic development through the simple average of the results obtained in each of the three areas.

Data and estimates of the Unified Register for Social Programmes (CadÚnico) of the Ministry of Social Development (MDS) indicate that 17,540 families in Ilhéus were beneficiaries of the Bolsa Família Program (PBF) in August 2018. **The MDS estimates that without the PBF benefit, some 1,090 families would be in extreme poverty in the municipality.**

In 2010, 75.38 per cent of the population aged 6 to 17 years in the municipality attended regular primary education. The rate of adolescents 15-17 years of age with complete primary education is 42.95 per cent, while 31.95 per cent of 18-20- year-olds have completed secondary education (UNDP, IPEA and FJP, 2018).

Ilhéus has the best social and economic indicators among the municipalities in the Cocoa Coast. The numbers, however, are below the national average.

Pará ranks 24th, with an MHDl of 0.646 (medium range). The municipalities along the Transamazônica highway are characterized by high levels of social vulnerability and low levels of education. The MHDl is low, even for Pará standards, where only the capital Belém is above the national average.

Medicilândia, the largest cocoa producing municipality in both Pará and Brazil, has an MHDl of 0.582, which is considered "low". It also has the lowest per capita income among the four largest cocoa producers in Pará (R\$ 345.44).



In 2010, 63.63 per cent of the population 18 years or older worked in the agricultural sector (UNDP, IPEA and FJP, 2018).

The proportion of children in age group 11 to 13 attending the final years of elementary school was 65.71 per cent. Among 15-17-year-olds with complete primary education the number drops to 37.57 per cent, and is as low as 14.08 per cent in age group 18 to 20 years with complete secondary education (UNDP, IPEA and FJP, 2018).

With respect to occupation, the proportion of the employed population in Medicilândia was 18.61 per cent among 10-14-year-olds and 35.03 percent in age group 15-17 years (UNDP, IPEA and FJP, 2018).

Finally, 63.49 per cent of the population of Medicilândia was vulnerable to poverty. Only 37.87 per cent of the households in Medicilândia have a toilet and running water (UNDP, IPEA and FJP, 2018).

In addition, at 68.57 per cent the proportion of people 18 years or older with incomplete elementary education and in informal employment is the highest in the Transamazônica region.

According to CadÚnico data and estimates, 4,297 families in Medicilândia were beneficiaries of the Bolsa Família Programme in August 2018. The MDS estimates that without the PBF benefit, some 2,703 families would be in extreme poverty in the municipality.

It is observed that cocoa producing municipalities have an MHDl below the state and national averages, thus illustrating the vulnerability of their populations to different forms of exploitation..





Integration of the cocoa industry into the economy

The cocoa and chocolate industry is a global operation with few companies but an annual turnover of US\$110 billion⁶.

The cocoa industry has one of the most sophisticated economic concentrations in the international commodity market (ONDEI, 2016, online).

.....

Approximately 5.5 million small-scale producers are responsible for the global production of cocoa beans (FOUNTAIN, HÜTZ-ADAMS, 2015, p. 37), but **only nine companies (mills) are engaged in cocoa grinding** – the step that precedes the manufacture of chocolate. In 1990 there were 40 mills (TERAZONO, 2014, online). This structure is cited by several interviewees as a decisive factor for the increase in inequalities which, among other things, can lead to disrespect for human and labour rights in the cocoa supply chain.

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⁶ Euromonitor International data.



According to data from the International Cocoa Organization (ICCO) released in May 2018, world production in the 2016/17 harvest was estimated at 4.7 million tonnes. Côte d'Ivoire, the world's largest producer (about 2 million tonnes), accounts for 42.5 per cent of global production. **Brazil is the second largest producer in South America** (behind Ecuador) **and the seventh largest in the world**, with a share corresponding to 3.7 per cent of the world total in 2017.

According to the latest IBGE Municipal Agricultural Production (PAM) survey, in 2017 Brazilian production increased 10.3 per cent in relation to 2016, to 235,809 tonnes. However, it was lower (- 15.3 per cent) than in 2015, when it soared to the highest level since 1998..

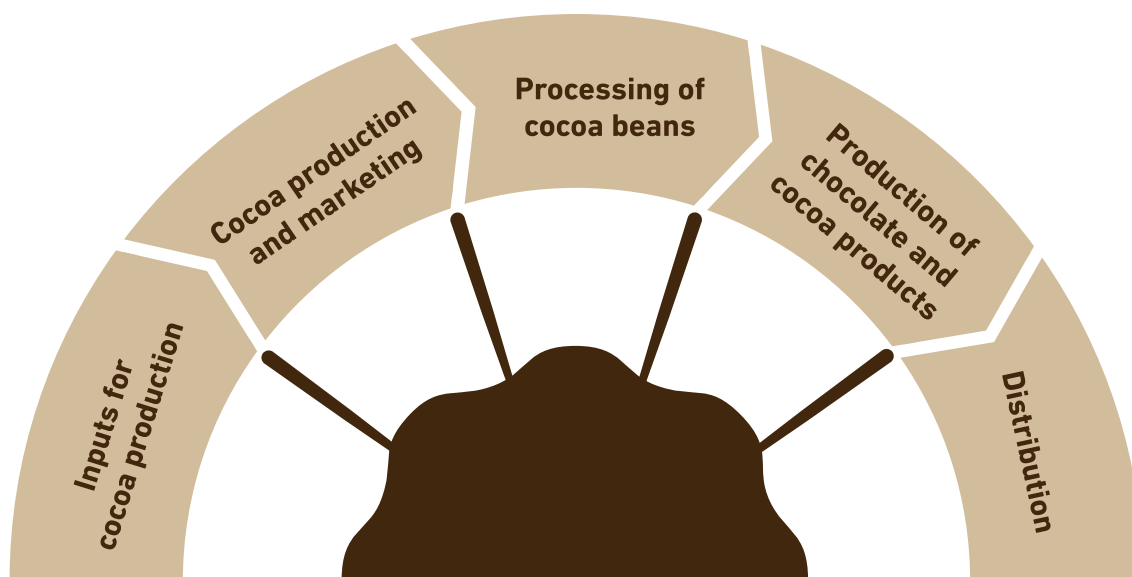




Cocoa production chain operation and flowchart

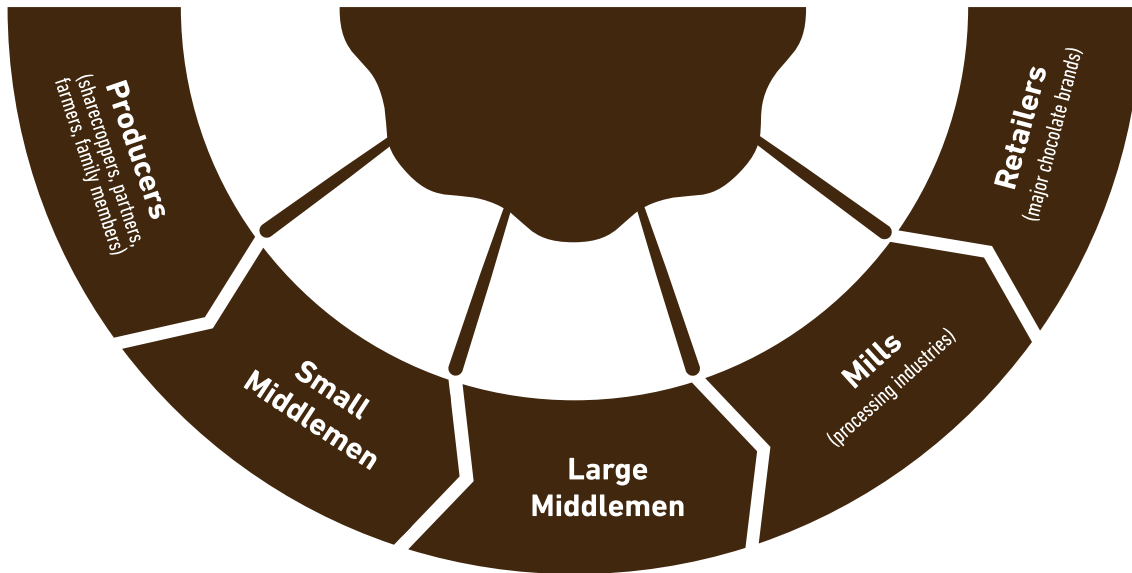
In summary, the structure of the cocoa supply chain can be broken down into five large segments, as shown in the figure below:

FLOWCHART OF THE PRODUCTIVE STAGES



The **initial tier** is formed by suppliers of agricultural inputs (seeds, seedlings, pesticides and fertilizers); machinery; and agricultural equipment and implements.

SUPPLY CHAIN ACTORS FLOWCHART



In the **cocoa production tier**, the structure is quite diverse, as it comprises small- and medium-scale producers who, for the most part, are involved in sharecropping or partnership arrangements with landowners. As it will be seen, **this type of arrangement is what often translates into a process of exploitation that may eventually characterize situations of slave labour.**

According to the 2006 Agricultural Census, more than half (57.4 per cent) of the national cocoa production was concentrated in properties with a total area of less than 100 hectares. This percentage reached 62.5 per cent in Pará and 57.3 per cent per cent in Bahia. **Family farmers were responsible for 39.4 per cent of the cocoa produced in the country**, with 70.8 per cent coming from Pará and 32.7 per cent from Bahia.





When they reach the **processing tier**, cocoa beans, which have already been dried and gone through a primary processing step (harvesting, cracking, fermenting and drying), are ready to become the main product sold by cocoa producers.



This is where the so-called “**middlemen**” (who help with aspects such as production flow and transport of beans to processing facilities) come into the loop. They are also known as grain dealers and act as a bridge between cocoa producers and industry (mills).

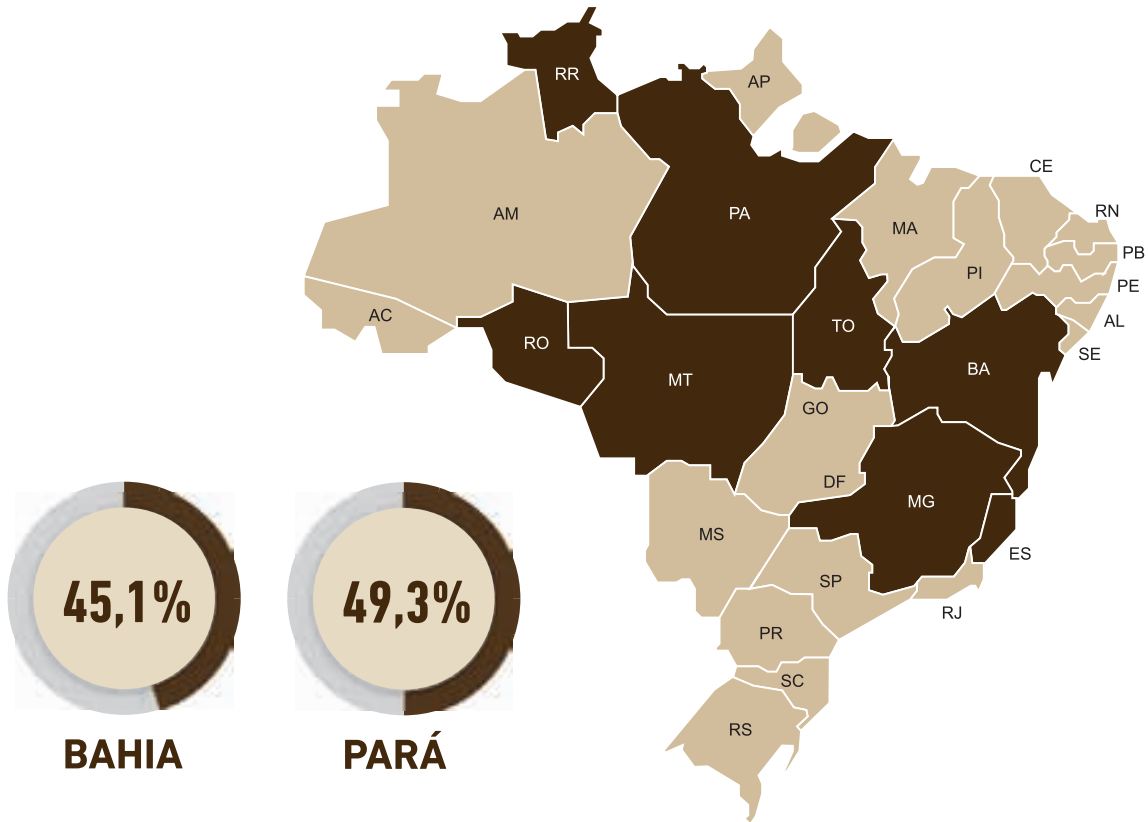
According to the National Association of Cocoa Processing Industries (AIPC), in 2017 four companies (three international and one national) processed **97 per cent of Brazil's cocoa production** in five plants, of which four are located in Bahia (three in Ilhéus and one in Itabuna) and one in São Paulo.

The products of the processing industries (cocoa butter, liquor, powder and cake) are the raw materials for making chocolate and/or chocolate products, sweets, confectionery and mass. Cocoa butter is also widely used in the pharmaceutical and cosmetic industries.



These products are then sent to major retail brands, which are responsible for chocolate sales in Brazil.

MAP OF COCOA PRODUCTION IN BRAZIL



Three major retail brands account for 63.8 per cent of the chocolate sold in the country





Analysis of working conditions found in the cocoa industry

There is no arguing on the **importance of the cocoa supply chain** and its integration into the Brazilian and global economy. This input must be valued as a **source of wealth** that places the country among the world's leading producers of a commodity that has engendered a worldwide passion: chocolate.

However, the production process is not free of problems in the social sphere. Reports of disrespect for fundamental principles and rights at work have emerged in recent times, indicating violations of human rights in the global supply chain⁷.

⁷ Multinational chocolate manufacturers have had their names involved in lawsuits based on documents proving the use of child labour by company suppliers in cocoa-producing countries in West Africa, especially in Ghana and Côte d'Ivoire. In 2010, the documentary "The Dark Side of the Chocolate" by Danish journalist Miki Mistrati showed how the cocoa production chain uses child labour. Following the release of the documentary, industry multinationals involved in the scandal created mechanisms to eliminate this practice and monitor suppliers in Africa.

In Brazil, until a few years ago the problem was still unknown. Because of reports of child labour⁸ and slave labour⁹, in the cocoa production, the Ministry of Labour (MTb) promoted operations aimed at verifying the regularity of working conditions in the chain. Both child labour and slave labour were found during said operations¹⁰.

These events led the MPT and the ILO to commission the present research, with the aim to deepen the knowledge base on the cocoa production chain, and thus overcome existing violations and propose paths towards decent work.

As will be shown below, child labour and slave labour were detected in the cocoa harvesting in the country.



COCOA AND CHILD LABOUR

There are 8,000 children and adolescents working in cocoa fields in Brazil¹¹

The small hands of children and adolescents sitting under cocoa trees skilfully pry open the so-called cocoa “pods” to remove the beans. Stacks of beans are formed by the work of these children – child labour is mostly used at this harvest stage.

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- 8 According to the International Labour Organization, child labour is defined as “work that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development.” The Federal Constitution of Brazil, in Article 7, item XXXIII, prohibits “night, dangerous or unhealthy work for minors of eighteen years of age and of any work for minors under the age of sixteen, except as an apprentice from the age of fourteen.” In Article 227, the Constitution establishes that “it is the duty of the family, society and the State to ensure with absolute priority the rights of children and adolescents to life, health, food, education, leisure, vocational training, culture, dignity, respect, freedom, and family and community coexistence, and in addition to protect them from all forms of neglect, discrimination, exploitation, violence, cruelty, and oppression.”
- 9 Under Article 149 of the Brazilian Criminal Code, modern-day slave labour is characterized as the act of “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.”
- 10 The research team has a vast documentary base that compares the main means for verifying the information provided herein.
- 11 DIAS, Júnior César. O trabalho infantil nos principais grupamentos de atividades econômicas do Brasil. Brasília: FNPETI, 2016. Available at: <https://bit.ly/2NGFyRY>. Accessed 25 July 2018.

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Older children and adolescents also climb the cocoa trees to cut bean pods using an adapted machete with a longer handle, then pick up the pods from the ground and pack them in straw baskets which they carry on their backs. When full, the basket can weigh as much as 20 kg.

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According to data from the National Household Sample Survey (PNAD) conducted by the Brazilian Institute of Geography and Statistics (IBGE), in 2015 there were 2.7 million children and adolescents between 5 and 17 years of age in Brazil. Of these, approximately 500,000 are children and adolescents 5-13 years old and 2.2 million are in age group 14-17 years. Brazilian legislation allows work from the age of 16, except as an apprentice, from the age of 14.

A study based on the 2014 PNAD indicates that at least 7,900 children and adolescents between 10 and 17 years of age work in cocoa plantations in Brazil (DIAS, 2016). There is no accurate data on age group 5-9 years.

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Child labour in cocoa-producing regions increased by 5 per cent between 2000 and 2010, despite the 13.4 per cent downward trend in the use of child and adolescent labour in the total sum of activities (IBGE, 2010).

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COCOA CHILDREN AND ADOLESCENTS AND THE SCHOOL LEARNING DEFICIT

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“There are many families who need (help) but cannot afford it. So, they bring their children with them to the plantation fields, although they know it will hinder their development”, explains a teacher who works a double-shift teaching elementary school: “During the [cocoa] harvest season, students come to school without having done their homework, because they are helping their parents in the fields. Learning for them is a very difficult, very slow process.”

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Homework is not the only issue. Medicilândia was one of the municipalities that joined the More Education program launched by the federal government in 2007 to fund after school educational activities. Project activities range from environmental education to sports, leisure, theatre, human rights, digital inclusion, and learning support. However, the teacher in question says that the only beneficiaries of the More Education program are students from higher household incomes – who tend to perform better in regular classes. The others need to work in the fields and depend on some form of school transport, which not always can take them home.

The set of interviews carried out shows that in the main cocoa producing regions, child labour is accepted as a common practice in the community at large. The differences between the testimonies lie basically in who is held responsible for this practice.



TESTIMONY:

Maria Aparecida Lima Souza

President of the Guardianship Council of Medicilândia

*The need is so great that it forces the families [to use their children as labour]. The income is very tight, very small. We even find it interesting that they [children and adolescents] work, but a job in which they will not be exploited. Sitting on a stool, removing the seed from the cocoa pod ... but we instruct the families not to exploit, not to have the children carry weight. Removing the seeds [cocoa beans] from an already open pod weighs nothing. Sitting by the shade of the cocoa tree, when it is cool outside, and always after doing their homework. **We know it's not totally right, but it's the best. (...) Parents do not want to exploit their children. They just want the best. If they take their children to the fields, it's because they have to.***

TESTIMONY:

*Jonnata de Sousa Arrais*

Coordinator of the Social Assistance Reference Centre in Uruará

*The latest reports point to an increasing rate of child labour in Pará. Parents, especially in a scenario of economic recession, have low purchasing power, and the tendency is to have children and adolescents help them in the field. **To them, this is extremely common.***

Do children want to work in cocoa fields? Educate them, empower them to be the protagonists of their lives, so that they will not live in conditions analogous to slavery. It's inhumane. They don't do it because it's not nice. It's a downside. But anyone familiar with the region knows how difficult it is to live here. Is this cocoa free from irregular labour? Never.

***There are serious violations in cocoa production as regards not only children and adolescents but adults as well.** Because rights are not respected here. So cocoa companies need to look at the region in a different way. If the predatory way in which resources are extracted today continues, the Amazon will not resist for long.*

I would like to invite the shareholders of each company to come here and get to know the region.** There is nothing better than looking at it and seeing the reality that you are helping to foster. People who are in need, people who endure deprivations, who work year after year and are unable to have an income at the end of their lives and have to rely on welfare to survive. **This is not living: this is surviving.

CHILDREN AND ADOLESCENTS IN COCOA HARVEST

According to the families interviewed in cocoa fields, **the low price paid by the middlemen network is one of the determining factors for the existence of child labour.** There are no resources for hiring temporary labour during the harvest season.

Based on their testimonies, parents seem to know that education should be a priority in the lives of children and adolescents, but say they see no alternative. Without the help of their children in the fields, “they are unable to make ends meet”, according to the interviewees.

According to the president of a cooperative that deals in high quality cocoa in the Transamazônica region, **there is a direct relationship between child labour and the low price paid for cocoa.** Farmers confirm the president’s statement.

In turn, one of the oldest cocoa farmers in Pará, who also supplies to middlemen, testifies to the existence of child labour throughout the region, including on his farm: *“If I weren’t in dire straits, my 12-year-old son, who works in the harvest field, would be in school”.*



COCOA AND SLAVE LABOUR

“Partnership” and “sharecropping” are commonly used mechanisms that can hide situations of slave labour.

Cases of slave labour have been found in the main cocoa producing regions of Brazil in recent years¹². In different situations, workers were subjected to debt bondage, degrading housing and working conditions, and exhausting working hours¹³.

In addition, **83 workers were rescued** in three inspection operations carried out in Medicilândia (Pará) and Ilhéus (Bahia). In these cases, it was verified that **partnership and sharecropping rules - which are the very foundation of labour relations in cocoa farming - not only had been violated in various ways, but also helped to conceal serious irregularities, including situations of slave labour in cocoa fields.**

According to labour prosecutors who work in those regions and were interviewed by the researchers, disrespect for the Land Statute **is widespread**. They refer to this situation as a **“false partnership,”** in which workers have no autonomy to choose what to grow, which techniques to use, or who to sell their products to, as provided by law.

In practice, according to the interviews on most farms the workers are employees rather than partners. Although these situations are interrelated in the cocoa chain, fraud in partnership affairs does not, by itself, constitute slave labour, as this would require evidence that the conditions fit the criteria of the law, as found in labour inspection operations described later in this paper.



¹² Find out more at: <http://trabalho.gov.br/fiscalizacao-combate-trabalho-escravo/resultados-das-operacoes-de-fiscalizacao-para-erradicacao-do-trabalho-escravo>.

¹³ Sere Penal Code, Article 149.

FOR BETTER UNDERSTANDING:**SLAVE LABOUR AND DISRESPECT
FOR THE LAND STATUTE**

The Land Statute establishes “the rights and obligations concerning rural property for the purpose of implementing the Agrarian Reform and promoting the Agricultural Policy.” Law no. 4,504, dated 30 November 1964, regulates different types of land agreements such as tenancy and partnership, which determine what labour relations should be like between landowners and workers.

In the case of cocoa, the second type is what interests us, as it is widespread at the base of the supply chain: partnership. Unlike in tenancy agreements, which require paying some kind of rent for the land, **in partnership agreements the remuneration varies and is subject to the risks of the business**: landowners and workers share both the profits and losses of the agricultural activity, in a kind of joint venture.

The “share of the proceeds of the partnership” - in other words, the percentage of profits to which the landowner is entitled - is subject to different criteria and certain obligations. When it is 50 per cent, as is the case of contracts known as “sharecropping”, the owner must deliver the planting area with a basic set of improvements: housing and sheds, land prepared for planting, machines, agricultural implements, seeds, and traction animals. **Sharecropping farmers who get less than the benefits listed should be entitled to a higher proportion of the revenue. Otherwise, the landowner would be breaking the law.**

When signing a partnership contract, workers should have autonomy to choose what to plant, which techniques to use and who to sell their production to. Another common irregularity is found in this case: owners who want to impose these conditions.





As an example of violation of the Land Statute in this situation, the labour prosecutor in Ilhéus, Alessandro Pazoello, cites the case of a farm in the region that controlled the price of cocoa beans and prohibited the sale of cocoa to unauthorized buyers. *"She basically controlled 'who', 'when', 'what', the work methodology, everything that was inherent in the activity,"* said Pazoello.

The set of documents collected during the research, especially infraction notices issued by the Ministry of Labour, shows that the majority of workers rescued from conditions analogous to slavery were sharecroppers and had a relationship of strong economic dependence with both landowners and grain dealers: workers often had debts to both, since they asked for money up front to buy food and medicines, for example, and the corresponding amounts were then deducted, with interest, from their pay in the following month.

What was found, as result of both the inspections and the analysis carried out in this research, is that aim of partnership contracts was - and still is - to hide employment relationships.

According to the Land Statute, the partner is not an employee. Garcia and Garcia (2017) state that:

Fraudulent tenancy, partnership and sharecropping contracts should be considered null and void and have consequences in the labour sphere and, therefore, in the social security rights of workers, in order to ensure their dignity and access to Social Security benefits. (GARCIA, GARCIA, 2017, p. 290)

Even in cases where the partnership is respected, the very nature of this type of land contract usually subjects entire families to poor socioeconomic conditions, thus perpetuating their situation of extreme poverty.



SLAVE LABOUR AND INSPECTION

In the interviews conducted during the research, **the competent authorities recognize that it is difficult for them to assess the size of the problem in the cocoa supply chain.** According to them, the number of workers rescued is high vis-à-vis the low number of operations. This may indicate that the problem is actually much bigger. However, they point out that the continuity of inspections, which are essential to eliminate these practices, is threatened by the lack of structure and budgetary constraints at the federal level. As a result, cocoa producing areas are under-inspected. Unless violations are addressed and stopped, the situation will only get worse.

In the last operation recorded, the Federal Public Prosecutor's Office (MPF) in Ilhéus filed a complaint against two farms. The case dates to May 2018. In all, twelve workers were rescued. They lived with their wives and children in degrading housing, working and hygiene conditions.

In the cocoa supply chain, the inspection agencies identified the use of slave labour in the following farms:

Slave labour in Uruçuca (Bahia)

In September 2017, nine workers were found in unhealthy conditions, being paid unfair wages and coerced to supply their products only to buyers determined by the employers - which also violates the Land Statute that should serve as the basis for labour relations at the site. They had been living on the farm for about a year. As is common in the region, the whole family was involved in production, including children.

Slave labour in Una (Bahia)

Months before the inspection in Uruçuca, a similar situation was found in the municipality of Una, also in the state of Bahia. Three workers were rescued from conditions analogous to slavery in June 2017. The violation of rights had been going on since 2009 on the farm in question.

Two hovels in “very poor maintenance and hygiene conditions”, without electricity, toilets or running water were found on the farm. The two families living there had to fetch water in a stream that was “quite distant” from the houses; the water was carried in used pesticide containers, without any kind of treatment.

.....
This farm was included in the latest edition of the “Register of Employers caught using slave labour” (also known as the “Black List”) released by the Ministry of Labour on 5 October 2018¹⁴.
.....

Slave labour in Medicilândia (Pará)

In August 2013, an operation conducted by the Special Mobile Inspection Group in two cocoa farms in Medicilândia, Pará, rescued 37 people from conditions analogous to slavery. The situations are similar. Indebtedness cycles, fraud in the sharecropping model, serious risks to workers’ health, and poor conditions of the facilities were found in both cases.

¹⁴ Black List (5 Oct. 2018) available at: <https://goo.gl/siQ2kk>. Accessed 30 out. 2018.

TAX EVASION AND IMPACT ON THE REGION

An issue raised by several interviewees is the recurring practice of tax evasion in the cocoa chain, through the sale of cocoa beans “without invoice” or “under the table.”

The sale of cocoa, which in general is not inspected by the State Treasury, interferes with the collection of taxes levied by municipalities and the state.

“A considerable amount of the cocoa produced in the state is sold without proper tax collection and inspection,” says Paulo Augusto Lobato da Silva, a technician from the Technical Assistance and Rural Extension Company (EMATER) in Pará, although he has no precise figures on the problem.

Tax evasion, which hinders the development of producing municipalities, is related to the action of the chain’s intermediaries, such as middlemen, as will be explained later.

In Medicilândia, a grain dealer was sued by the Federal Public Prosecutor’s Office (MPF) for not paying US\$900,000 in sales tax on cocoa sold to a processing company. It is noteworthy that the company responsible for the transaction with the multinational is registered as a microenterprise (ME). The annual turnover of an enterprise established as such should not exceed R\$200,000.00, which would be unfeasible for a transaction as large as the one in question. These figures are an indication of the actual extent of tax evasion in the cocoa supply chain.

It is safe to conclude that despite requiring invoices when buying raw materials, the mills do not seem to check the legal nature of the intermediaries in the cocoa buying process or the origin of the cocoa; this could be considered a good practice¹⁵.

Tax evasion makes it even more difficult to monitor the chain, since it is impossible to determine the origin of the product. Therefore, it contributes to concealing child and slave labour.

15 Decree 9,571 of 21 November 2018 establishes the National Guidelines on Enterprises and Human Rights for medium and large companies, including multinational companies operating in the country, and determines that it is the duty of companies to act in a cautious and preventive manner in their areas of activity, including as regards the activities of their subsidiaries, entities under their direct or indirect control, in order not to violate the human rights of their employees, collaborators, third parties, customers, the community where they operate, and the general population (Article 6, item I).



In his testimony to the MTb, the head of the office of one of the main mills in Altamira, Pará, confirmed the existence tax evasion and cited this practice as a determinant of child labour:

We emphasize the existence of labour exploitation of children under eighteen years of age in production activities. (...) Usually, the relationship between middlemen and producers does not involve the formalization of invoices, which would hinder tracking the origin of the product. (...) Grain dealers [middlemen] resell the product to three large buying companies in the region. (Ministry of Labour, 2016, pp. 8-9).

As shown in the above section “Socioeconomic Profile of the Region”, it can be inferred that **tax evasion has a direct impact on the quality of life of the cities that make up the production regions**: Although cocoa producing municipalities have this great source of wealth, their MHDl is below the state and national averages.

As found by the research, tax evasion also affects the quality of public and infrastructure services offered in the states. In Pará, for example, cities that live of cocoa production lay off some of the teachers from the municipal network during school holidays in the months of July, November, December, January and February. The teachers stay at home, without salary and other benefits, for the duration of the holidays. This practice, which is adopted by several other Brazilian municipalities, is considered illegal¹⁶ and an aggravating factor in the vulnerability scenario of the community and especially of children and adolescents.

¹⁶ Article 9 of the Brazilian Labour Code provides that the acts committed with the aim of distorting, preventing or defrauding enforcement of the provisions contained in the respective legislation shall be deemed to be null and void. In this case, which illustrates the commission of acts of dismissing and rehiring, with the aim to deny labour rights and benefits arising from the employment relationship during school holidays, the principle of primacy of reality also applies, as it emphasizes precisely that what counts is what actually happens in practice and not what is written (for example, dismissal). In this principle the truth of the facts prevails over any formal contract, that is, in the event of a conflict between what is written and what actually occurs, what actually occurs shall prevail.

It is a consensus among the residents of Medicilândia that the city does not enjoy the benefits of cocoa production. *“There will never be chocolate without the raw material, but those who work to make sure the raw material reaches the big industries are not valued,”* says a teacher from the municipal network. She is the wife of a cocoa farmer and lives every day with children and adolescents who work in agriculture: *“Whoever looks at the infrastructure [of the municipality] sees no great benefit, no return. The city is far below the average.”*

TESTIMONY FROM

Celso Trzeciak

Mayor of Medicilândia (Pará)



“I represent the 11 municipalities of the Belo Monte complex that are part of the consortium, in the discussion of the ICMS [Tax on Circulation of Goods and Services] share. Together, these 11 municipalities are able to produce 90 per cent of Pará’s cocoa. However, there is no exporting company in any of them. They are located in the municipality of Altamira, which has a better infrastructure. So, the cocoa goes to Altamira and we have no way of knowing whether an intermunicipal invoice was issued or not in that sale.

But even if it [the invoice] existed, it does not generate ICMS. What generates ICMS is the interstate invoice. That is, it [the product] is sold with an invoice issued in Altamira to Bahia or to other places. The income from cocoa production is concentrated in Altamira. Just to give an idea, last year Altamira collected R\$47 million in cocoa-related taxes while Medicilândia collected R\$39,000. Altamira produces 5,500 tonnes and Medicilândia will produce 51,000 tonnes this year, according to forecasts by CEPLAC (Executive Committee for Cocoa Farming).”

Producing municipalities have the following points in common:

- Lack of enforcement of public policies to combat child and slave labour;
- Teachers in situations of vulnerability;
- Public schools in poor conditions, without infrastructure and sometimes without meals;
- Roads closed during the rainy season, preventing children from getting to the school;
- Large number of children and adolescents working in cocoa fields;
- Low school performance and high dropout rates;
- Low human development index.

THE ACTION OF MIDDLEMEN AND THEIR RELATION TO CHILD AND SLAVE LABOUR IN THE COCOA SUPPLY CHAIN

The presence of middlemen is one the key factors for the existence of slave and child labour in the cocoa supply chain. This is because, due to tax evasion, it is a challenge for the buying companies (mills and retailers) to trace the origin of the cocoa and the working conditions in which it was produced.

As found by the research, companies are aware of the existence of middlemen, who operate on the margins of the law. The facts are detailed in reports produced by government agencies such as the MTb and the MPT.

There are two types of middlemen. In this report, they are referred to as “small” and “large” middlemen. As an illustration, the process of buying and selling cocoa beans in the state of Pará, Brazil’s largest cocoa producer, is described below:

- Small middlemen in the cocoa supply chain have points of purchase and sale along highway BR-230, in the municipalities that make up the Transamazônica cocoa producing region: Pacajá, Anapu, Vitória do Xingu, Altamira, Brasil Novo, Medicilândia, and Uruará;
- Instead of selling the cocoa beans directly to the mills, which have warehouses in the municipality of Altamira, farmers prefer to negotiate with small middlemen, alleging that this system involves less bureaucracy: Payment is made in cash at the

time of purchase rather than through bank transfer. Furthermore, family farmers do not have the organization and financial structure to ship their production directly to the mills. In addition, unlike middlemen, multinationals require invoices and a Corporate Taxpayer Identification Number (CNPJ).

- Large middlemen are the subsequent link in the supply chain, right after small middlemen, and also have buying establishments in Altamira.
- The reasons alleged by small middlemen for not selling directly to the mills are the same as those of farmers.

FACTORS LEADING TO DISRESPECT FOR FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK IN THE COCOA SUPPLY CHAIN

The main conclusions about the production chain that deserve to be further considered, with a view to effectively overcoming the challenges identified are systematized below.

1 **There is a strong inequality between the top and bottom of the chain:** Subjecting cocoa producers to “top-down” pricing in the chocolate supply chain restricts their ability to negotiate with intermediaries and large buyers. This is a determining factor for situations of poverty, child labour, slave labour and social vulnerability found in cocoa farms. The situation is worse for working sharecroppers or partners and small producers with less than 1,000 cocoa trees. Low incomes lead farmers into debt, and many of them are forced to engage their children from an early age in manual cocoa harvesting.

Data from Ecobank, a conglomerate of African banks that monitors the supply chain, shows the impact of market concentration on the lives of farmers worldwide:

- » In the 1980s, the amount paid to farmers accounted for up to 16 per cent of the retail price of a chocolate bar.
- » In 2014, the percentage fell to 6 per cent.
- » Côte d’Ivoire, Cameroon, Ghana and Nigeria, all in the African continent, are the world’s four largest producers of cocoa beans and are among

the 50 countries with the worst HDI in the world, out of a total of 181 countries.

- » Economic vulnerability and lack of access to public policies also affect the cocoa producing regions of Brazil, which is the seventh largest producer of cocoa beans.

In 2016, Brazilian cocoa farms earned R\$1.2 billion (JARDIM, 2018), while many rural workers lived in degrading conditions, without access to basic rights. Testimonies collected in cocoa producing municipalities show that farmers are discontent with the “imposition of top-down prices”. To correct this situation, many of them suggest using a “pricing strategy”.

2 Mills and big brands apparently do not have **efficient mechanisms in place to monitor the supply chain**. Their sustainability reports are generic and do not allow for an effectiveness analysis of monitoring processes or of how due diligence is conducted (*more details are provided in Section 8 of this report - Institutional Analysis of Companies Involved in the Chain*).

The cocoa supply chain in Brazil includes six multinational companies (mills and retailers). As found by the research team, **none of them seems to have an effective monitoring structure in place** that can guarantee the eradication of slave labour and child labour from the base of the production process.

3 **Child labour is a recurring practice**, often seen as “necessary” by parents to meet families’ income generation and production requirements. There is also a chronic lack of attention to childhood in producing municipalities, where teachers dismissed during school holidays and rehired when classes resume expose the weakness of the local school system.

4 **Slave labour** found during labour inspections and by the present research is **concealed by partnership or sharecropping contracts**, which are often defective and in violation of the Land Statute. There is price control by the landowner,

production control and prohibition of sale to third parties. “Cash advances” and “deductions” are used indiscriminately by landowners, in some cases leading to debt bondage.

5 **Middlemen**, who are the main link between producers and millers, **buy cocoa beans without control over compliance with labour rights and the existence of slave labour and/or child labour**. Because of their importance in the chain in its current setup, their role needs to be better defined.

6 In many cases, **the lack of organization of producers** prevents them from strengthening their bargaining power. If this were the case, it is argued that one of the biggest problems faced by producers - production outflow - would be facilitated and they would be less dependent on middlemen.

Producers are the weakest link

According to Estivel (2013) and Mendes (2016), producers are seen as the “weak” link in the cocoa production system, since they are less coordinated and organized than other players in the supply chain: intermediary buyers and milling and chocolate companies. This scenario “accentuates the low bargaining power of the group as a player in the cocoa and chocolate supply chain” (ESTIVEL, 2013, p. 36).





7 Tax evasion is a notorious problem that hinders monitoring of the chain and prevents revenues that should be generated through taxes from being invested in areas such as education and health in producing municipalities.

8 Precarious and inefficient infrastructure and public policies: Cocoa is historically produced in poor and often hard to reach regions. The municipalities do not have a basic infrastructure for providing services in areas such as education, social assistance, improvement of farming techniques, or production flow. Investing in these areas and reflecting on the effectiveness of public policies in these locations seems to be crucial for overcoming existing problems.

The **appalling conditions of the roads** is another factor with negative repercussions for the cocoa production chain. In addition to hampering production flow, it also affects the access of children and adolescents to school, thus opening up the door for child labour.

9 The technical training of producers is scant. This situation reinforces their relationship of dependence on middlemen and large mills. Investments in this area by the companies participating in the chain could yield mutual benefits;

10 Cocoa produced in decent working conditions exists only in production “niches” and does not enjoy differentiated treatment from large mills; it is sold to gourmet chocolate producers, but only a few farmers meet their quality requirements.



Institutional analysis of companies involved in the cocoa supply chain

In order to understand the position of the companies participating in the cocoa supply chain (identified by the research team when mapping existing commercial links), an analysis of their public documents was performed, mainly regarding chain monitoring protocols and strategies to avoid links with situations of disrespect for human and labour rights.

This activity was carried out in three steps:

1. Survey of documents and public positions of the companies involved in the chain;
2. Analysis of documents;
3. Comparison of the analysed documents with what was found in in-situ assessments.

These activities aimed to collect information that enabled finding out whether the actions described in said documents are actually being taken when compared to the reality found in the field by the research team.

The following are the main features common to the public reports of companies participating in the cocoa chain:

- There are no details of how the supply chain is monitored;
- The geographical delimitation of proposed corporate social responsibility actions is vague;
- There is no indication as to how the results are assessed;
- There is no historical data to follow the desired changes;
- The goals presented are ambitious, but the initiatives for achieving them are vague;
- Progress in the fight against child and slave labour are reported in a generic way, without effective actions with monitorable results;
- They do not inform where the general public can access systematized results.

Although the description of actions to combat slave and child labour is a common point in these reports, the data collected shows that the companies are not implementing, in practice, control mechanisms that are effective in assessing the real working conditions in their value chains¹⁷.

¹⁷ The research team conducted a thorough analysis of the documents made publicly available by each of the companies identified in the production chain, but the detailed evaluation should be a working tool aimed to promote dialogue in the cocoa production sector. Here, it was decided to provide only the most general information that translates a point in common to all companies regarding their compliance mechanisms vis-à-vis what was verified in situ by the researchers.





Good practices in the promotion of decent work

Although the scenario is not perfect, it enables identifying practices that can be used as models in the search for the guarantee of rights in the cocoa supply chain.

The researchers selected three farms to conduct in-depth interviews. The aim was to understand the management model and systematize methodologies that prevent violations of fundamental rights and principles at work from occurring, especially slave and child labour. Hopefully this research can contribute to disseminate initiatives that will serve as examples to change the industry's profile, which is still linked to a host of problems regarding compliance with human and labour rights.

Two of the selected farms are in Pará and one is in Bahia.

Agrícola Conduru (Ilhéus/Bahia)

Owner of two farms in Bahia, Conduru is one of the main references for the protection of human rights at the base of the cocoa supply chain.

The company has two farms in Bahia. The farm visited was Luz do Vale, located in Rio do Braço, in the district of Ilhéus. The administrative director of Agrícola Conduru and the field manager agronomist participated in the visit. The conversation was followed by the agronomist Ricardo Gomes from the non-governmental organization Arapyaú Institute, which operates in the region.

The following topics were addressed:

- Working conditions, working hours, hiring system, transportation of workers, benefits and additional perks such as technical courses for workers and their families;
- Area-based production system¹⁸, with bonuses paid to farmers;
- Profile of cocoa production in Bahia and the economic relationship developed with mills and major chocolate brands;
- The difference between Conduru and other farms in the region;
- The economic infeasibility of cocoa in the current production model;
- The search for better quality cocoa as an economic solution for farms;
- Workforce training and farm management in tune with human rights.

Luz do Vale farm employs about 160 people. The hiring system is by **signed contract**, and the base salary is **1.25 minimum wages**. “We never pay the minimum wage, it is always more”, explains the managing director. “This is precisely that step that begins to give hope to the workers and which the ‘neighbours’ look at and say: Hey, I’ll have to follow you, otherwise I’ll be left behind and no one will want to stay here.”

Agrícola Conduru workers, unlike what usually happens in cocoa farming, do not live on the farm. With **fixed working hours** - 44 hours a week, one hour for lunch and fifteen minutes for snacks and Saturdays and Sundays off - they commute to work on a chartered bus, from municipalities and districts located within a 30 km radius of the farm: Uruçuca, Rio do Braço (district of Ilhéus), Itajuípe, Itabuna, and Aurelino Leal. With the exception of Itabuna - the sixth largest city in Bahia - and Ilhéus, all locations have an MHDl below the state average.

¹⁸ The area-based production concept entails dividing the cocoa farm into areas of 5 to 7 hectares, under the responsibility of a single worker, who is paid a bonus according to the “evaluation of his productive efficiency” (SILVA, 1997, page 58). At Agrícola Conduru, the system is two workers per each ten-hectare area.

In addition to salaries above the minimum wage, a signed contract and fixed working hours, Conduru workers receive a **basic food basket** every month. Following the same rationale, **technical and training courses**, open also to outside workers, are offered at the farm.

Agrícola Conduru is committed to increasing productivity, improving working conditions, paying farmers more, and improving the quality of cocoa by adopting the **area-based production system**. In the director's view, this model can be replicated in other farms, in a "win-win" situation for both the employer and the employees.

In this system, which is still in the implementation phase, the farm is divided into blocks of ten hectares each. Farmers work in pairs, always harvesting the same ten hectares.

On the one hand is the safety issue. Joint work reduces the number of accidents from falling branches or bites and stings of venomous animals. In addition, help can come faster. Next to the farm infirmary, which is housed in the administrative building, there was a sign informing that out of a 450-day record, **no occupation accident requiring sick leave had occurred in the farm in the past 216 days**.

On the other hand, the sharing of activities ultimately results in **increased overall productivity** and allows agricultural technicians to more accurately measure the farm's production according to each specific ten-hectare area.

In addition, the area-based system also includes financial incentives: Workers also receive a bonus according to their production level. **The bonus is calculated based not on the volume produced, but on the value sold**. In other words: The better the product the higher the price and, therefore, the higher the bonus. Hence the "win-win" situation of the system mentioned by the director of *Agrícola Conduru*.

Panorama Farm (Uruará/Pará)

Panorama Farm, located at the crossroad of Km 140 North of Transamazônica highway, in Uruará (PA), is currently the largest cocoa producer in the region.

In the early 2000s, the farm had serious problems related to labour inspection. According to the owners, the event was the beginning of the path towards overcoming the problems and was marked by changes on the farm that would further improve its professionalization.

The transformation strategy of Panorama Farm was guided by the ambition to obtain an important international best practice certificate. For the owners of Panorama, the purpose



of the certificate is to serve as a guide for farms that produce cocoa, coffee or tea to comply with legislation, which is not something common in the context of the cocoa production region along Transamazônica highway.

Panorama has up to four years to meet all the requirements of the international certification entity. This timeframe gives the process a progressive character, that is, as each year goes by, the requirements become increasingly stricter. To verify compliance with the protocol, regular audits are conducted without prior notice. Failure to comply with the protocol may be grounds for withdrawing the seal. Another characteristic is what is called “a two-way street”: Certified cocoa can only be sold to buyers who also have the seal.

Tracking and origin are the key words in this strategy: “Europeans want to know if the cocoa they are buying comes from the hands of a child,” says the farm owner.

As regards the workforce, the farm has different hiring systems: Individual microentrepreneur for consultants and service providers, formal work contract for field managers, tractor drivers and other key activities. They also use the day labourers and “partner” systems for production activities involving local farmers.

Dia Lindo Farm (Medicilândia/Pará)

The farm stretches over 100 hectares. It is located close to Km 76, along a paved section of BR-230, in the territory belonging to the municipality of Medicilândia, in Pará, known as the Cocoa Capital.

In March 2012, the farm was notified by the MPT. However, no judgment was entered by the trial court. The owner was denounced for slave labour, but guarantees that today he is in full compliance with the labour legislation. The owner has only one salaried formal worker. In the current harvest season, he is paying R\$70.00 a day to “haulers” (people who carry the cocoa in a basket strapped to their back) and R\$60.00 to those who work in picking, breaking and removing the beans from the pod.

If the cocoa produced on the farm is certified, the cocoa pulp inherits the seal. To obtain the certification, a multinational paid for the consulting services provided to the farm. “They provided technical and bureaucratic assistance. Here in the region, certification is by groups. I am in the group that’s being certified now,” said the owner.

In general, all the cocoa produced on the farm – by both the sharecropper and the owner – is sold together. “They are free, but if they negotiate with me, we get a few extra cents,” explains the owner. He points out that the choices depend on the situation: “There are times when it is still more advantageous to sell directly to a middleman than to a company. To negotiate for the company, I have to pay truck and freight costs. It depends on the time, it depends on the price. The middleman sometimes comes to pick up the products and takes the risk,” he added.

In fact, he says that he does not lose much in his relationship with the middlemen. This is because, in addition to having direct access to the paved section of Transamazônica highway, he uses his sons’ truck and warehouse.



Final considerations

The cocoa supply chain is a wealth that needs to be properly exploited. Decent work conditions need to be promoted and guaranteed through a production process that does not violate the fundamental principles and rights at work - which are so dear to the economy, to the extent that they enable companies to compete in fair conditions.

However, the current setup and operation of the chain seems to be putting pressure on producers, encouraging the use of child or slave labour. It would be important, therefore, to identify changes to be made by all stakeholders in the chain, in order to eliminate these effects.

In this sense, and in the context of recently adopted legislation¹⁹, a plan of action needs to be developed in a participatory manner with stakeholders, including by assigning responsibilities and defining goals, toward an intervention in the cocoa production chain aimed to eliminate both child labour and slave labour.

¹⁹ Decree 9,571, dated 21 November 2018, provides for the National Guidelines on Enterprises and Human Rights and establishes, in Article 9, item II, “the responsibility of companies to develop and permanently improve procedures for controlling and monitoring risks, impacts and violations and to redress negative consequences for human rights that they have caused or contributed to cause.” Article 11, on the other hand, establishes the responsibility of companies to take measures to guarantee active transparency, with the disclosure of relevant information, documents available to interested parties, human rights protection mechanisms, and prevention and remedying of human rights violations in the production chain, with an emphasis on the periodic supplementary disclosure of information through annual reports highlighting the corporate actions carried out, especially as regards compliance with human rights protection rules and prevention and reparation of possible human rights violations. For more information visit: http://www.planalto.gov.br/ccivil_03/_At02015-2018/2018/Decreto/D9571.htm



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