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The rights of workers in the global context:

The theoretical perspective of collective
bargaining and fair trade in the Brazilian context.

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ABSTRACT

As introduced by the title, this thesis examines two cases of reduction into slavery condition for workers in Brazil; the first one concerning the textile industry, more particularly Zara of the Inditex group and the second one inspects the conditions in two coffee farms in Minas Gerais supplying noted brands such as Starbucks. Furthermore, this thesis begins with an introduction of the sustainability theme, which has as a main aim to better conditions for all human beings and according with the cases, there have been taken into consideration two theoretical concepts, precisely the collective bargaining and the fair trade. The question in common of these events is if the headquarter is responsible for all the infraction happened in their productive process since it is not something new to hear workers exploited by multinationals especially in developing countries, due to a wider lack of a working legislation and as a consequence of the transnational dimension where the multinational operates, which correspond to an overlapping of the local legislation and the one of the headquarter. For this reason, there are international and European tools such as the Transnational Framework Agreements in addition to organizations such as the OECD and the United Nations trying to improve the employees' rights and the regulation of working contracts. Regarding the exploitation case in coffee plantations, it is introduced the topic of the fair trade together with the main coffee labels and the one used by Starbucks. Despite the objections by multinationals, experts and the juridical system holds to be true that it is a responsibility of the headquarter to make sure that also suppliers respect their Code of Conduct, which ban the reduction into slavery between other indications and the fact of being unaware of these conditions is just due to a "convenient blindness".

ABSTRACT IN ITALIAN

Come introdotto dal titolo, questa tesi esamina due casi di riduzione in schiavitù nei confronti di alcuni laboratori in Brasile; il primo riguarda l'industria tessile, in particolare Zara del gruppo Inditex e il secondo ispeziona le condizioni in due fattorie di caffè in Minas Gerais che riforniscono brand noti come Starbucks. Inoltre, questa tesi inizia con un'introduzione al tema della sostenibilità, che ha come obiettivo principale quello di migliorare le condizioni di tutti gli esseri umani e in base ai casi, sono stati presi in considerazione due concetti teorici, precisamente la contrattazione collettiva e il commercio etico. La questione in comune di questi eventi è se la sede centrale è responsabile per tutte le infrazioni accadute nel processo produttivo dato che non è cosa nuova sentire di lavoratori sfruttati da multinazionali, specialmente in paesi in via di sviluppo, dovuto ad un'ampia mancanza nella legislazione lavorativa e come conseguenza della dimensione transnazionale dove le multinazionali operano, che corrisponde ad una sovrapposizione della legislazione locale e quella della sede centrale. Per questa ragione, ci sono strumenti internazionali ed europei come gli Accordi Quadro-Transnazionali oltre ad organizzazioni come l'OECD e le Nazioni Unite che cercano di migliorare i diritti dei lavoratori e regolano i contratti di lavoro. Per quanto riguarda il caso di sfruttamento nelle piantagioni di caffè, viene introdotta la tematica del commercio etico assieme alle principali etichette etiche e quelle usate da Starbucks. Nonostante le obiezioni mosse dalle multinazionali, gli esperti e il sistema giuridico ritengono che è responsabilità della sede centrale assicurarsi che anche i fornitori rispettino il Codice di Condotta, che banna la riduzione in schiavitù tra altre indicazioni e il fatto di non essere a conoscenza di queste condizioni è dovuta da una "cecità di convenienza".

INTRODUCTION

The core issue which stimulated the writing of this thesis is the reduction to slavery-like conditions in a system where human beings are considered just as an input in the production system, especially from multinationals, that most of the time have the tendency to exploit the worker as much as possible. Despite the prohibition everywhere in the world, the discovery of certain situations is not so conceivable as it should be, indeed it is still very widespread especially in developing countries being exploited by developed one and trying to keep up with the same rhythm of production and the demand of products at even lower prices. However, nowadays the slavery does not longer refers to the traffic of people and for this reasons scholars such as Bales introduced the term of “modern slavery”, which consists in the reduction to draining working hours at a remuneration level wide below the legal minimum one, in those cases when the workers have been paid and the workers spend their permanence in degrading constructions without basic needs. So far, this definition is not quite far from the usual explanation of slave labour in fact the main distinction is due to the reason leading to these situations, which is no longer the nationality or due to religious reasons but the different financial possibilities of people. As we will see but as we can imagine, the majority of modern slaves are migrants who are already getting into debts even before leaving their country and forced to getting into more debts in order to buy the equipment needed for their work.

In this thesis are taken into consideration two cases of slave labour in Brazil, the first involving the production of clothing with the label of the brand Zara, belonging to the Inditex group and the second one analyzed two cases of slave labour in coffee plantations in Minas Gerais connected to the multinational coffeeshouse chain of Starbucks. Even so, these events provided interesting guidance on two general theoretical perspective, meaning the collective bargaining and the fair trade. The first one is the result of the transnationality of companies due to globalization, which lead businesses to work in an international context and so hiring people worldwide keeping into consideration all the difference of guidelines regulating the relationship between employer and employee. As a matter of fact, employees are considered the weaker part in this relationship and thin inequality is even wider when taking into consideration multinational and workers in developing countries. Here there are not deepened impositions by the government itself in order to attract investments from richer countries and for this reasons there have been established some Transnational Frameworks Agreements (TFAs) together with the commitment of several Institutions and Organizations such as the OECD and others guidelines such as the one provided by the United Nations. Instead regarding the Starbucks case, it has been analyzed the fair trade as a further help to farmers and workers exploited for commodities such as coffee and cocoa, taking into considerations the main labels

characterizing this type of trade but at the same time keeping a critical eye according to the contributions of scholars such as Reynolds, LT in its research “Mainstreaming Fair Trade Coffee: from Partnership to Traceability” and the environmentalist and essayist Fritjof Capra. These experts consider fair trade as “neither efficient or effective”, taking into example the issue of the deforestation of the tropical amazon rainforest in Brazil. Moreover, it is spontaneous to ask themselves how much the headquarter is considered responsible for what it is happening even in the other part of the world, if it something that the company can be effectively unaware or it is just a “convenient blindness”.

As regards to the structure of this work, the thesis is divided into four chapters where the first one provides an overview regarding the concept of sustainability, including an in-dept analysis of the Corporate Social Responsibility and the Sustainable Development Goals together with the two main Social Certifications and an overview regarding the labour system in Brazil. In the second chapter is explained the labour system in Brazil, more particularly how should be this system in normal condition, together with the Brazilian institutions and the meaning of slavery for the country.

The third chapter is divided into two parts, regarding the Zara case providing a brief explanation of the events followed by the sentence and the justifications provided by the multinationals while the second part deepen the theme of collective bargaining considering the international context and all the guidelines provided to better regulate the relationship between multinational and employees concluding with an analysis of the Code of Conduct and Responsible Practices of Inditex, where the group indicates the ethical practices they aim to adopt and what are the convicted actions such as the reduction to slavery of workers.

Finally the last chapter is due to the Starbucks case and even this chapter is divided into two parts, where the first part provides an explanation and clarification of the episodes of slavery-like conditions followed by the second part regarding the theme of fair trade, which is not to be misunderstood with the Fair Trade label, including the characteristics of this type of trade and its goals and critiques, the organizations caring about it together with the certifications and labels used by Starbucks.

CHAPTER I: SUSTAINABILITY OVERVIEW

1.1 THE SUSTAINABLE DEVELOPMENT GOALS

1.1.1 INTRODUCTION OF SDGs

In 2015, all the United Nations Member States adopted seventeen global goals¹ defined by the United Nations General Assembly with the aim to be “a shared blueprint for peace and prosperity for people and the planet, now and into the future [...] which are an urgent call for action by all countries - developed and developing - in a global partnership²” and it will be an important chance for improving the life conditions of 1.3 billion of farmers and workers in the agricultural sector. These SDGs are intended to be reached within 2030, being part of the 70/1st resolution of the United Nations General Assembly Resolution, that means the 2030 Agenda³. Two characteristics of these goals are that are interdependent, that means not being hermetically sealed, but influencing each other and wide ranging; and due to request by the United Nations Development Programme it has been developed a clear and easy- to-understand list of these goals, which follows.

Goal 1. No Poverty

Goal 2. Zero Hunger

Goal 3. Good Health and Well-being

Goal 4. Quality Education

Goal 5. Gender Equality

Goal 6. Clean Water and Sanitation

Goal 7. Affordable and Clean Energy

Goal 8. Decent Work and Economic Growth

Goal 9. Industry, Innovation, and Infrastructure

Goal 10. Reducing Inequality

Goal 11. Sustainable Cities and Communities

Goal 12. Responsible Consumption and Production

Goal 13. Climate Action

¹ Sustainable Development Goals (SDGs).

² UN Sustainable Development Goals, official website.

³ Resolution adopted by the General Assembly on 25 September 2015, General Assembly.

Goal 14. Life Below Water

Goal 15. Life on Land

Goal 16. Peace, Justice, and Strong Institutions

Goal 17. Partnerships for the Goals⁴

The United Nations believes that in order to archive them, there must be proper strategies that will improve conditions of human beings, getting rid of poverty as well as gender inequalities and child and forced labour, but also preserving the environment, such as forests, oceans and biodiversity. Each goal is combined with a series of targets measured by indicators in order to visualize and track the processes made through the accomplishment of the SDGs. In total, the goals count one hundred sixty-nine targets and each of them has between one and three indicators, with two hundred thirty-two indicators able to measure the accomplishment⁵. A main support for the Division for Sustainable Development Goals (DSDG) is provided by the United Nations Department of Economic and Social Affairs (UNDESA) which recognize certain issues, provide tools to reach them and monitors the system of the 2030 Agenda. Due to Fairtrade International, there are eight of this goals that follows, which can help to better conditions of workers in developing countries.

1.1.2 NO POVERTY

The first great challenge of the Sustainable Development Goals is to “End poverty in all its forms everywhere” since according to the World Bank data(2015)⁶ around seven hundred thirty-six million people⁷, which means 20.71 % of global population, still live in poverty; meaning with less than US \$1.90 per day also because of the sudden growth of countries⁸. In this last data estimation (2015) it has been estimated that half of them are children with less than eighteen years old, that reflects in a lack of education and this data in 2013 reached three hundred eighty-five millions of children. The level of the extreme poverty has drop by a half since 1990 but still today the United Nations

⁴ UN Sustainable Development Goals

⁵ SDG Indicators; *Global indicator framework for the Sustainable Development Goals and targets of the 2030 Agenda for Sustainable Development*.

⁶ PovcalNet2019; Distribution of population between different poverty thresholds, World.

⁷ It has been also esteemed by UNICEF that 97% of the examined countries does not provide sufficient data to study the phenomenon.

⁸ United Nations Development Programme.

Development Programme believes that one person out of ten live with less than US\$1.25 per day. Another metric is the global Multidimensional Poverty Index (MPI) established by the United Nations Development Programme (UNDP), which determine the level of poverty in 2019 to be equal to 1.3 billion of people because it takes into consideration also how people perceive poverty. The UNDP Administrator, Achim Steiner, affirms: “To fight poverty, one needs to know where poor people live. They are not evenly spread across a country, not even within a household [...]. The 2019 global Multidimensional Poverty Index provides the detailed information policy makers need to more effectively target their policies”. Thanks to this index, it has been shown that two thirds of poor people, that reach eight hundred eighty-six million, are based on countries with a middle income while an additional four hundred forty million people have their homes in countries with a low-income level; in consequence the country of origin is quite relevant for the condition of their own citizens. Another determinant factor is the age and as we saw, half of poor people were children and this condition leads to malnutrition, low degree of education and damages for their physical and psychological development. Regarding gender, women have higher probabilities to live in poverty, due to the lower income, few own properties and a lower education level also due to pregnancies. However, poverty does not only refer to the lack of resources or money, but the definition includes also the lack of basic human services such as education, healthcare and safety as well as facing social discrimination, hunger and also the elimination of small farmers in the decision process in the productive chain. Since the majority of people living in these conditions are living in developing countries and more precisely in rural areas, fair trade contributes imposing minimum prices as well as a premium price and setting standards for fairer practices so workers and farmers could be supported through trade partnerships and programs, consequently receiving decent incomes.

1.1.3 ZERO HUNGER

Quite connected with the first goal, is the second one that aims to “End hunger, achieve food security and improved nutrition, and promote sustainable agriculture”. According to the United Nations Development Programme, there are eight hundred twenty-one millions of people that until 2017 have experienced undernourishment in consequence of the loss of biodiversity and the degradation of the environment, in fact most of these

cases take place in developing countries. Due to 2030 Agenda, the most effective way to stop hunger will be increasing the agricultural performance by increasing life conditions and incomes of small farmers and workers, who can develop new plantation techniques and can provide a (SFS) Sustainable Food System⁹. Even in this case the gender gap is determinant, since women are the main labour force in agriculture in developing countries however they are owner of only 20% of the lands. According to data provided by UNICEF¹⁰ in April 2018, only twenty-six out the two hundred two members of the United Nations are on a proper path to abide by standards of the second SDGs and about forty of them registered no progress and the rest of them do not provide enough data to identify their potential progresses. According to a report¹¹ of 2013 by the IFPRI (Food Policy Research Institute), the main aim of the second SDG should not be eliminating hunger by 2030 but ending it together with malnutrition by 2025 through three paths. The first one should focus on the agriculture, the second one should be guided by straight intervention in nutrition and social protection and the last one suggests an optimal mixture of both of them.

1.1.4 GENDER EQUALITY

The fifth SDG yearn for “achieve gender equality and empower all women and girls”, since due to the United Nations themselves woman equality is important for societies because “ending all discrimination against women and girls is not only a basic human right, it’s crucial for sustainable future; it’s proven that empowering women and girls helps economic growth and development” and they must be seen as agents of change instead of being considered just as beneficiaries. Due to a speech in June 2019 at a Garden Party, about one hundred forty-three countries have reached an adequate gender guarantee in 2014 while fifty-two countries have not followed this path. The first three targets of the United Nation to reach this goal is the elimination of discrimination against female in every country, ending all kind of harassments and violence in the public but also private sphere like avoiding pregnancy tests before hiring a woman; besides all harmful behaviours also recognized as a basic Standard for

⁹ A Sustainable Food System is a system that aims to supply globally healthy food- that means not only in developing countries- but at the same time assuring sustainable economic, environmental and social systems.

¹⁰ UNICEF; Progress for Every Child in the SDG Era.

¹¹ Eds. Marble, Andrew and Fritschel, Heidi, Global food policy report.

Fairtrade. Considering the public sphere, both UN and Fairtrade aim to recognize the gender pay gap besides all the unpaid domestic and child care. On average, women globally earn seventy-seven cents for every dollar that a man earn for the exactly same work but more precisely, women farm and take care of between sixty and eighty percent of the global food but only 25% of them represent owners of small-farmers. Instead in the private sphere, an additional target of the fifth Sustainable Development Goal is to guarantee the access of all women to a proper reproductive and sexual health, since especially in developing countries there are still nowadays issues like genital mutilation and child marriage, indeed due to an article¹² in the partnerships “girls not brides” there are more than seven hundred million of girls that are married before their eighteenth birthday, data four times higher in the developing countries. Moreover, another SDG target supported by Fairtrade due to reach the gender equality goal is the introduction and adoption of a proper legislation which aims to promote the empowerment of women and girls, in addition to harmonize all the discriminations of social norms, that reflects in the working sphere and also in the legal system.

1.1.5 DECENT WORK AND ECONOMIC GROWTH

Forward to the eight goal, it aims to “promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all” since the highlighted the fact that in 2015 more than two hundred four millions of workers resulted unemployed and the United Nations Development Programme forecasted that this data in 2020 would have been one hundred seventy-four million, but in any case the data is going to decrease despite the heavy influence of the economic global recession of 2008. Notwithstanding even the economy is recovering, the UNDP faced the lack of jobs to better this situation and an increase of inequalities; especially regarding gender in fact it has been registered¹³ that three out of five of the total 3.5 billion workers are men. Regarding the targets of this goal, this are split due to the finish line: some are expected to be reached in 2020 and the others for 2030 and with different priorities. The first one covers the employment of youth workers, pushing it and making it more operational also through the Global Jobs Pact of the ILO but taking also in consideration their education; while within 2025 the UN aims to end child

¹² Girls not brides, “700 million women were married as children”, reveals new UNICEF data.

¹³ United Nation Developing Programme; *Goal 8: Decent work and economic growth*.

labour in every shade. Rather by 2030 the targets of UN stretch from the support of economies of developing countries through “Aid for Trade¹⁴”, to the improvement of sustainable tourism but also request a push to innovation and diversification due to increase and enhance productivity for the SMEs¹⁵. Regardless all of this, a critique moved by the economists of WPC (World Pensions Council) is that this and the ninth goal regarding innovation have not been pushed enough and in a "mediocre ranking [which] defies common sense¹⁶".

1.1.6 RESPONSIBLE CONSUMPTION AND PRODUCTION

The twelfth goal is due to “Ensure sustainable consumption and production patterns”, that means incentivize an eco-friendly together with an ethical consumption, meaning reducing as much as possible the waste and the human footprint in the environment and instead enhance the recycling system. The first target of this goal is to “implement the ten-year framework of programmes on sustainable consumption and production (10YFP), all countries taking action, with developed countries taking the lead, taking into account the development and capabilities of developing countries¹⁷”, which was implemented during the “United Nations Conference on Sustainable Development” and supported by programs such as “One Planet Network”¹⁸. This framework represents a promise to implement a sustainable behaviour in production and consumption both in developed and developing countries. This goal is not only taking into consideration the productive chain and how to digest wastes, but aims to improve also the consumption al welfare of people: still today a wide share of people consume less than what they need and two billion of people go hungry but at the same time, in developed countries the same amount of people are overweight or obese and waist about 1.3 billion tons of food.

¹⁴ Program of the World trade Organization to support countries, especially the one of the developing countries, recognizing the position of Enhanced Integrated Framework.

¹⁵ Small- and medium-sized enterprises.

¹⁶ Firzli, M. Nicolas J. (2016); "*Beyond SDGs: Can Fiduciary Capitalism and Bolder, Better Boards Jumpstart Economic Growth?*".

¹⁷ United Nations Developing Programme; *Goal 12: Responsible consumption and production*.

¹⁸ The One Planet Network defines itself as a multi stakeholder partnership that aims to generate a collective effect thanks to six programmes: Buildings and Construction, Consumer Information, Food Systems, Lifestyles and Education, Public Procurement and Tourism.

1.1.7 CLIMATE ACTION

Close with the previous goal, the thirteenth goal wants to “take urgent action to combat climate change and its impacts by regulating emissions and promoting developments in renewable energy” in addition to protect the biodiversity, fundamental for small farmers since regarding temperature, an increase of 1° C will decrease by average between 3.2 and 3.7% the global rice yield^{19 20}. It is clear for everyone that the one of the climate change is a current hot topic, but still the greenhouse gas emissions are increased than an half compared to the levels of 1990 and it will have heavy consequence not only for the environment but also to human beings safety due to natural disasters related to the climate change, which also have an huge impact on economy. One of the targets related to this goal is “to mobilize US\$100 billion annually by 2020 to address the needs of developing countries to both adapt to climate change and invest in low-carbon development²¹”. Even so, the improvement is only possible with a determined political intervention, besides the exploitation of technological innovations only possible with an increase of investments. In May 2015, in the report “the impact of climate change on the achievement of the post-2015 sustainable development goals²²” it has been recognized that just a deal covering the climate issue could boost both North and South of the world due to reach targets and goals regarding a sustainable development but also to improve economy, by reducing poverty and gender equity since they are tighten. Another important input from institutions, is the twenty first Conference of the Parties (COP21) which is an “universal agreement that covers all countries, developed and developing” with the common aim to follow a path to reduce the rising of the global temperature higher than 2°C. The UNDP support this settlement dragging all countries toward a long-term journey to a sustainable and a zero-carbon environment, by renewable energy and reducing deforestation.

¹⁹ Zhao, Chuang & Liu, Bing & Piao, Shilong & Wang, Xuhui & Lobell, David & Huang, Yao & Huang, Mengtian & Yao, Yitong & Bassu, Simona & Ciais, Philippe & Durand, Jean-Louis & Elliott, Joshua & Ewert, Frank & Janssens, Ivan & Li, Tao & Lin, Erda & Liu, Qiang & Martre, Pierre & Müller, Christoph & Asseng, Senthold. (2017); *Temperature increase reduces global yields of major crops in four independent estimates. Proceedings of the National Academy of Sciences.*

²⁰ Thesis also supported by the report “Global Warming of 1.5 °C” by the IPCC.

²¹ UNDP, Goal 13.

²² Ansuategi, A; Greño, P; Houlden, V. (2015); *The Impact of Climate Change on the Achievement of the Post 2015 Sustainable Development Goals*”.

Furthermore in 2017 the GCEOA²³ Chairman James Donovan during the UN Press Briefing holds to be true that countries more needy of a more effective public-private partnerships (PPPs) in order to respect the guidelines for a sustainable development are the Asia-Pacific countries.

1.1.8 PEACE, JUSTICE AND STRONG INSTITUTIONS

The sixteenth SDG take care of promoting “peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”, which means social stability and human rights in addition to a clean justice system valued by the International Community. Some targets to reach this goal, aims to register all births since due to UN there are around one billion of people considered as “invisible” to society and a quarter of global children with less than five years old are unregistered in 2015. Other human rights that this goal cares are the right to have a name and a nationality, where ten million people are “stateless” in order to have access to social services and to justice, and so recognized by the law. The remaining targets are aiming to reduce all kinds of violence, violations²⁴ and abuses, that can include forced labour and harassment in workplace; but regarding these target the issue is the covering of data, considering the fact that due to UNICEF around 84% of countries does not provide enough information and is understandable that the level of crimes reported will be higher.

1.1.9 PARTNERSHIPS FOR THE GOALS

The last SDG is due to reach all the previous sixteen goals through an international cooperation, more precisely “strengthen the means of implementation and revitalize the global partnership for sustainable development” to reach a sustainable economic growth with a common commitment to farmers, workers, consumers, trade units, business, governments and companies. This partnership includes general improvements to assure that both countries and organizations could manage to cooperate together instead of challenge each other and compete, and the cooperation both between the North and South of the world but also between the South-South PPPs²⁵. This goal is supported by targets divided in the following categories: capacity

²³ Global CEO Alliance.

²⁴ Reduction of financial illicit and corruption.

²⁵ Public-private partnerships.

building, finance, technology, trade and systemic issues. According to the UNCTAD (UN Conference on Trade and Development) in order to achieve all the SDGs around US \$5 trillion are needed, in addition to an amount of US \$7 trillion in investments every year.

1.2 CORPORATE SOCIAL RESPONSIBILITY

1.2.1 DEFINITION OF CSR

There is not a precise definition of Corporate Social Responsibility, however due to scholars²⁶ it is defined as an international private business model of self-regulation that goes beyond the business initiative and is a set of “actions that appear to further some social good, beyond the interests of the firm and that which is required by law²⁷”. The core definition of this concept has not always been the same, in fact once it was considered due to experts²⁸ as an ethic strategy of a business or an internal organizational policy, as a sort of self- regulation²⁹ while nowadays it is more a mandatory scheme at each level. The CSR consists in a voluntary responsibility for businesses to adopt of all the practices, policies and behaviours in favour of the community and society. These corporate policies aim to harmonize the economic goals with the social and environmental ones considering a common sustainability point of view, due to preserve the environmental heritage together with the social and human one not only for the current generations but also for the future ones. Adopting the CRS, the business will only monitoring the impact it has in the environment and society, but in the long term, it will create value and return to the business a competitive advantage and create steady relationship with the stakeholders, defined as stakeholder engagement; since business is considered as “a complex set of relationships between groups of interest with different objectives, each of which contributes to its performance and expects benefits (or at least not to be damaged without compensation) as a result of the business³⁰”.

²⁶ Sheehy, Benedict (2015); "*Defining CSR: Problems and Solutions*".

²⁷ McWilliams, Abigail; Siegel, Donald (2001); "*Corporate social responsibility: A theory of the firm perspective*".

²⁸ N. Malhotra; J. Dann (2009). "*Business Ethics Integral to Corporate Strategy, says Stanford's Malhotra*".

²⁹ Sheehy, Benedict (2012); "*Understanding CSR: An Empirical Study of Private Regulation*".

³⁰ Emilio D'Orazio (2014); "*Gestione degli stakeholders, assets intangibili e leadership etica*".

1.2.2 MEASUREMENT OF PERFORMANCES

Even if the CSR is a self-regulation business model, in literature³¹ two measures are recognized to evaluate the corporate performances: the reputation index and the content analysis. The reputation index rates the business based on different dimensions regarding their social performances. An advantage of this index is that keeps the same criteria for each firm, being internally consistent and since it is a subjective dimension it is useful for this index to not include objectives measures; while at the same time considering a subjective ranking could follow unrealizable results which vary significantly and it will also be an important disadvantage considering the size of the sample taken into consideration. Regarding the content analysis, this second measure has been studied by Beresford, in multiple of his works³² and considers the incidence and quality of the reporting and communication of the CSR measures adopted in all the publications and the annual reports of the businesses. The advantages of the content analysis in contrary to the first index, is the fact that the procedure is quite objective, due to the variable chosen and the independence of the results, thanks to the possibility to include larger and more technical samples. On the other hand, the variables chosen derive from a subjective decision and of course the publications are the results of what the business wants to be known, which not always might reflect the truth.

1.2.3 THE STAKEHOLDER THEORY

Successively to a new awareness from consumers, a business can no longer aim to just to the maximization of profits but it needs to pay attention to the role it plays in the society through the creation of an economic and social value that can satisfy the expectations of stakeholders. As stakeholders, we can consider whoever has an interest, relationship or expectation towards the company, as in example employees, shareholders and clients; however Edward Freeman (1984) provided a clear explanation: “the primary stakeholders, that is the stakeholders in the strict sense, are all those clearly identifiable individuals and groups on which the

³¹ Philip L. Cochran and Robert A. Wood (1984); *“Corporate Social Responsibility and Financial Performance”*.

³² Beresford, D. R. (1973) *“Compilation of social measurement disclosures in Fortune 500 annual reports”*; (1975) *“Social responsibility disclosure in 1974 Fortune 500 annual reports”*; (1976) *“Social responsibility disclosure-1975 survey of Fortune 500 annual reports”*.

company depends for its survival: shareholders, employees, customers, suppliers and government agencies. In a broader sense, stakeholder is every well-identified individual who can influence or be influenced by the organization's activity in terms of products, policies and work processes. In this wider meaning, public interest groups, protest movements, local communities, government bodies, business associations, competitors, unions and the press, are all to be considered stakeholders". Some scholars^{33 34} considered the CSR and the stakeholder theory as a complementarity, others^{35 36} viewed at them as two conflicting concepts while still others³⁷ evaluate one as the sub set of the other. If CSR and the Stakeholder Theory both want to stress the importance of include into business operations also social interests and in general to give importance to communities and societies, these concepts differ in certain aspects. Stakeholders focus more on a reasonable amount of the activities of the company, thus considering most the areas where the communities are located; while CSR broaden the social orientation further, in example helping developing countries with poverty or fighting diseases even if there are no headquarters in that countries. Furthermore, the stakeholder theory considers the core responsibility of the business in the overall point of view and consists in creating value and building relationships with the stakeholders, while the CSR aims to prioritize the orientation of the business through the whole society. Regarding the relationships with customers and employees, the Stakeholder theory recognize the whole responsibility as so vice versa³⁸, while the CSR focus just on respecting labour practices which are considered ethical and the safeguard of the environment, excluding the responsibility towards suppliers and whoever finance³⁹.

³³ Russo, A., Perrini, F. (2010) *"Investigating Stakeholder Theory and Social Capital: CSR in Large Firms and SMEs"*.

³⁴ Kurucz, Elizabeth & Colbert, Barry & Wheeler, David. (2008); *"The Business Case for Corporate Social Responsibility"*.

³⁵ Schwartz, M.s & Carroll, Archie (2003); *"The pyramid of corporate social responsibility: Toward the moral management of organizational stakeholders"*.

³⁶ Wood, D.J. (1991); *"Corporate Social Performance Revisited". The Academy of Management Review"*.

³⁷ Garriga, E., Melé, D. (2004); *"Corporate Social Responsibility Theories: Mapping the territory"*.

³⁸ Multi-directional.

³⁹ Uni-directional.

1.2.4 THE SUSTAINABILITY DIMENSIONS

According to the European Commission (2003), the economic dimension is fundamental for a business which aims to prosperity and boost the economic growth, allowing it to have all the tools to remedy in advances to situations like customer satisfaction and the quality and safety in the whole production chain, and at the same time improving long term interactions with all kind of stakeholders. An indicator to determine the quality of its sagacity for the economic responsibility is determined by the manner in which the company operates and according to literature^{40 41 42}, it allows the business to go further the maximization of profits in the short term, suggesting manoeuvres to have a better performance in the long term but at the same time improving the standards of all the community. The economic dimension of the CSR aims to promote the development and the introduction of products creating value but at the same time reducing the inputs costs and boost the efficiency of production. Business needs to prefer a long-term outlook since an adequate management of the economic capital is required, in order to guarantee “cashflow sufficient to ensure liquidity while producing a persistent above average return to their shareholders⁴³”.

Regarding the social dimension of the CSR, due to the European Commission (2003), it is recognized as “the health, safety and general well-being of employees; motivate the workforce by offering training and development opportunities; and enable firms to act as good citizens in the local community”, having as the core focus the creation of a social cohesion and the equity of stakeholders through the creation of a community and improving the condition in workplace. According to literature⁴⁴, this dimension needs to drag in also the creation of a social dialogue to respect the interest of all the stakeholders in the decision-making process, reaching results which both company and stakeholders can benefit. Some objections from

⁴⁰ Bansal, P. (2005); “*Evolving sustainably: A longitudinal study of corporate sustainable development*”.

⁴¹ Russell, S. V., Haigh, N. L., & Griffiths, A. (2007); “*Understanding corporate sustainability: Recognizing the impact of different governance systems*”.

⁴² Willard, B. (2005); “*The sustainability advantage: Seven business case benefits of a triple bottom line*”.

⁴³ Thomas Dyllick, Kai Hockerts (2002); “*Beyond the business case for corporate sustainability*”.

⁴⁴ Bansal (2005); “*Evolving sustainably: a longitudinal study of corporate sustainable development*”.

scholars^{45 46}, come from the fact that the SMEs ⁴⁷ are facing important difficulties adopting the social dimension of the CSR due to important human resourcing and financial costs when providing a proper training and also supporting the employees and the community.

Considering the last environmental dimension, as some scholars^{48 49} support, it focuses on the environment safeguard, increasing the eco-efficiency and the prevention of pollution with the common aim to reduce as much as possible the business footprint in the ecological system respecting international standards in the whole production cycle. In literature⁵⁰ it is also recognized the need of a proper monitoring system, which can assist businesses to build a credible identity in the eyes of external stakeholders and protecting internal stakeholders. However, also for the environmental dimension some researchers^{51 52} highlight the fact that the one who face more barriers are the SMEs, since CSR requires an integration of certain values and appropriate structures as the case of the recycling system, which require certain tools.

The interaction of these three dimensions is explained by some experts^{53 54 55 56} that a more narrow attention on the economic part of CSR will reflect on a more wide incorporation of the other two dimensions, trend that is also supported by the increasing number of customers that are willing to pay an higher price or a

⁴⁵ Brammer and Millington (2006); *"Firm size, organizational visibility and corporate philanthropy: An empirical analysis"*.

⁴⁶ Gerrans e Hutchinson (2000); *"Sustainable development and small to medium-sized enterprises: A long way to go"*.

⁴⁷ Small medium Enterprises.

⁴⁸ Aragon-Correa (1998); *"Strategic proactivity and firm approach to the natural environment"*.

⁴⁹ Buysse e Verbeke (2003); *"Proactive environmental strategies: A stakeholder management perspective"*.

⁵⁰ Walley e Whitehead (1994); *"It's not easy being green"*.

⁵¹ Rutherford (2000); *"Environmental management and the small firm: An international comparison"*.

⁵² Tilley (1999); *"The gap between environmental attitudes and the environmental behaviour of small firms"*.

⁵³ Becker-Olsen, Karen & Cudmore, B. & Hill, Ronald. (2006); *"The impact of perceived corporate social responsibility on consumer behavior"*.

⁵⁴ Ellen, P. S., Webb, D. J., & Mohr, L. A. (2006); *"Building corporate associations: Consumer attributions for corporate socially responsible programs"*.

⁵⁵ Gielissen (2011); *"Why do customers buy socially responsible products?"*.

⁵⁶ Groza, M. D., Pronschinske, M. R., & Walker, M. (2011); *"Perceived organizational motives and consumer responses to proactive and reactive CSR"*.

premium for products from a business which also respect the social and environmental dimensions, while boycotting the ones with a poor reputation. Some scholars⁵⁷ support the fact that even some suppliers could avoid to deliver inputs to the boycotted firms, since also suppliers are part of stakeholders. Moreover, all those businesses including the environmental CSR, through the offer of knowledge and skills, could attract employees who are highly qualified with the interest to protect the environment and develop tools helping the prevention of the environmental management⁵⁸. Furthermore, to complete the CSR in the environmental point of view⁵⁹, it is also necessary to build awareness and increase the commitment for environmental values, improving all those skills in support of a fair productive chain and this concept is easily connected with the social dimension of the CSR, that includes the involvement of the employees and a proper value-oriented training.

1.3 SOCIAL CERTIFICATIONS

1.3.1 SA8000

The SA 8000 is a verifiable certification multi-stakeholder standard where organization and companies are encouraged to absorb and expand all those practices that aims to improve at worldwide level the workplace conditions^{60 61} and at the same time guarantee an ethical sourcing both for products and for goods. This certificate was introduced in 1997 by the SAI- Social Accountability International⁶², more precisely by an advisory board where are taking part companies, NGOs, trade unions and organizations of societies and it was modelled taking as reference ILO standards, UDHR Universal Declaration of Human Rights and the (UNCRC) UN Convention on the Rights

⁵⁷ Yoon, Y., Gurhan-Canli, Z., & Schwarz, N. (2006); *"The effect of corporate social responsibility (CSR) activities on companies with bad reputations"*.

⁵⁸ Reinhardt (1999); *"Market failure and the environmental policies of firms"*.

⁵⁹ Graafland, J., van de Ven, B., & Stoffele, N. (2003); *"Strategies and instruments for organising CSR by small and large businesses in the Netherlands"*.

⁶⁰ SA8000® Standard.

⁶¹ Boiral, Olivier & Guillaumie, Laurence & Heras-Saizarbitoria, Iñaki & Tayo, Christian. (2017); *Adoption and Outcomes of ISO 14001: A Systematic Review. International Journal of Management Reviews*.

⁶² Once recognized as Council on Economic Priorities.

of the Child, basing all of this on principles of international human rights criteria globally recognized. These criteria⁶³ are eight, which follow: child labour, forced labour, health and safety, free association and collective bargaining, discrimination, disciplinary practices, working hours and finally compensation. This standard is not just requesting businesses and certified bodies⁶⁴ to respect standards but creating a common standard in the welfare context and transparency and the benefits of the SA8000 have been explained in a study conducted by Henkel⁶⁵ in 2005, that are not only the environment in working place but also the communication between workers and managers. These aims do not just concern medium and large companies, but also micro and small ones, following their Codes of Conduct (COC) ^{66 67 68} and due to Maggie Burns⁶⁹ “companies need to implement sustainable solutions that bring positive benefits to workers and also translate into good business sense for both the brand as well as the manufacturer”. Regarding the South of the world, the developing countries are the ones where there is much violation of those laws protecting workers and enhancing a fair workplace, Palley⁷⁰ in his journal, affirmed that the SA8000 could be one important tool to limit them in the whole supply chain and this standard is increasingly demanded by European and American buyers, since it provides more trust and confidence in their relationship with suppliers and there will be less risk of human violations. Due to Stigzelius & Mark-Herbert⁷¹, manager perceive these standards as a long- term investment, expecting benefits in the future but some of them are also

⁶³ SA8000® Standard.

⁶⁴ Stigzelius & Mark-Herbert (2009); *Tailoring corporate responsibility to suppliers: Managing SA8000 in Indian garment manufacturing*.

⁶⁵ Henkle D. (2005). “Gap Inc. sees supplier ownership of compliance with workplace standards as an essential element of socially responsible sourcing”.

⁶⁶ Welford R, Young W. (2002); *Ethical Shopping. Where to Shop. What to Buy and What to do to Make a Difference*”.

⁶⁷ Sobczak A. (2003); “Codes of conduct in subcontracting networks: A labour law perspective”.

⁶⁸ Adam AM, Rachman-Moore D. (2004); “The methods used to implement an ethical code of conduct and employee attitudes”.

⁶⁹ Women Working Worldwide.

⁷⁰ Palley T. (2005); “Labour standards. democracy and wages: some cross-country evidence. *Journal of International Development*”.

⁷¹ Stigzelius I, Mark-Herbert C. (2009); “Tailoring corporate responsibility to suppliers: Managing SA 8000 in Indian garment manufacturing”.

moved by moral reasons and according with the work of Longenecker⁷² in 2006, most of managers demonstrate to consider SA8000 and the other certificates as a demonstration of their business integrity and their commitments in social responsibility issues. As for the revision of the SA8000, the last one it has been done from May 2013 to February 2014 by thirty-three experts in subjects that are part of NGOs and private companies according to the Codes of Good Practice for Setting Social and Environmental Standards of ISEAL.

In 2007, Gilbert and Rasche in an article ⁷³ explored the three main issues of SA8000, which are as first they believe that abide by rules is not a consequence of a voluntary motivation but instead it is a coercion; secondly the justifications regarding these rules are not sufficient in order to be followed and finally they point out the lack of indications and guidelines on how to sketch out the dialogues with stakeholders; this last issue is also gotten again by a study conducted by Stigzelius and Mark-Herbert(2009)⁷⁴, in which is pointed out the difficult to properly communicate all the standards to workers and in consequence they will have a low understanding of them.

1.3.2 ISO26000

ISO 26000 is a voluntary guide for all the types of organizations which aims to bring them closer to corporate social responsibility and provides information regarding definitions, concepts and terms related to CSR, more precisely ISO 26000 “is intended to assist organizations in contributing to sustainable development. It is intended to encourage them to go beyond legal compliance, recognizing that compliance with law is a fundamental duty of any organization and an essential part of their social responsibility. It is intended to promote common understanding in the field of social responsibility, and to complement other instruments and initiatives for social responsibility, not to replace them⁷⁵”. This guide has been developed by ISO beginning at first in 2005 to fill a gap in the field of CSR with the contribution of experts from

⁷² Longenecker JG, Moore CW, Petty JW, Palich LE, McKinney JA. (2006); *“Ethical attitudes in small businesses and large corporations: Theory and empirical findings from a tracking study spanning three decades”*.

⁷³ Gilbert DU, Rasche A. (2007); *“Discourse ethics and social accountability – the ethics of SA 8000”*.

⁷⁴ Stigzelius I, Mark-Herbert C. (2009); *“Tailoring corporate responsibility to suppliers: Managing SA 8000 in Indian garment manufacturing”*.

⁷⁵ Definition by ISO.

ninety-nine Countries which sixty-nine of them are developing ones and forty-two public and private organizations, but this public agreement has been made public only in November 2015. ISO 26000 wants to encourage businesses and organizations to improve their social response and improve their relationships with workers and, in general, to resolve their problems going further than what laws ask. Anyway, there are still contrasting opinions regarding the right approach to an ethical behaviour and ISO 26000 aims to find a balanced compromise between the complete freedom and a straight legislation. However, its main value is the utilization of this as a statement of intention by businesses and CEOs but it is not a management system standard due to ISO⁷⁶ itself. It can guarantee social responsibility defining seven core subjects that follows: organization governance, human rights, labour practices, environment, fair operating practices, consumer issues and community involvement and development, outlined in seven steps scheme⁷⁷. The first clause establishes the scope of ISO 26000 and indicates exclusions and limitations, the following ones provide an explanation of all those key terms that are believed to be fundamental to fully understand the uses of ISO 26000 and the social responsibility. The third clause aims to the understanding of social responsibility describing the concept and how to be applied to companies in addition to all the important conditions and factors that can influence the process. The fourth clause introduces the principles of social responsibility with a proper explanation while the fifth recognize the social responsibility of an organization together with the engagement with its stakeholders. The sixth clause provide an explanation of the core subjects and issues of social responsibility and finally the last and seventh clause indicates a guidance to help organization to put into practice the responsibility, including the communication related to it and a reviewing process. The ISO 26000 guidance differs in three aspects from the other standards. The first difference is that it is a voluntary guidance and does not provides all the requirements needed when the standards aims to be certificated, for this reasons ISO suggest organizations to explain that they used the guidance as a tool to integrate in the

⁷⁶ ISO defined itself as “an independent, non-governmental international organization” that since 1947 connects 164 members creating a Working Group on Social Responsibility (WG SR) that aims to bring together knowledge and experts to develop International Standards to support innovation and sustainability.

⁷⁷ ISO, *Discovering ISO 26000*.

corporate values also the social responsibility. The second difference is that ISO 26000 has been designed to be suitable independently by the sector for all types of organization, including not only corporations and businesses but also schools and hospitals; that can be small or medium-large entities. Finally, the last difference comes from the fact that it has been designed in eight Working Group Plenary Sessions through a multi-stakeholder process⁷⁸ together with additional consultations, where the stakeholder groups were the following: consumer, government, industry, labour, NGOs and SSRO⁷⁹ with a total of five hundred participants and always guaranteeing a balance between developing and developed countries. There are also some critiques⁸⁰ that most of the times involves the lack of a certification system⁸¹ and so the isolation the CSR in an organization or business in addition to some difficulties for the application for small organizations and the fact that can be quickly antiquated and not current^{82 83}.

⁷⁸ According to the definition of the Wageningen University MSP, the multi-stakeholder process is “a process in which diverse actors collaborate to achieve a common goal”. For this process, it is fundamental to be part of the decision-making process and the communication of information at each level. The role of the key stakeholder is to decide the core issues of a business and represent it.

⁷⁹ Service, Support, Research and Others, formed by consultants and academics.

⁸⁰ Schwartz, Birgitta & Tilling, Karina. (2009); *'ISO-lating' Corporate Social Responsibility in the Organizational*.

⁸¹ Even if some experts (E.g., Hahn, R. (2012)) points out different elements in ISO 26000 regarding standards for management system.

⁸²Henriques, Adrian (2012); *"What are standards for? The case of ISO 26000"*.

⁸³ Guertler, Guido (2013); *"Is ISO 26000 Ready for Revision?". Is ISO 26000 Ready for Revision?"*.

CHAPTER II: LABOUR SYSTEM IN BRAZIL

2.1 NORMAL WORKING CONDITIONS

The Brazilian labour law is governed mainly by the Labour Core⁸⁴ introduced in 1943 and by the Brazilian Constitution⁸⁵. These ensure that workers develop their activities without being exploited by the employer, so much so that in case of any doubts, laws have to be interpreted “in dubio pro operário” meaning in favour of workers⁸⁶.

As regards for minimum wages in Brazil, a national minimum wage (salário mínimo) is imposed and regarding skilled workers, a level of wages on a regional basis is provided, which varies according to the sector (piso salarial). However, this last one is fluctuating significantly according to the regions, in fact in rural areas on average wages are lower compared to European one, while in urban areas, workers can receive even a higher amount compared to the European standards⁸⁷.

The employer company is obliged to pay social security contributions, together with health insurance to INSS- Instituto Nacional do Seguro Social⁸⁸, the insurance for injuries in the workplace to the SAT (Seguro Acidente do Trabalho⁸⁹) and the unemployment insurance to the FGTS (Fundo de Garantia do Tempo de Serviço⁹⁰). These charges establish the 40% of the gross nominal wages, a percentage which reaches the 100% if the compulsory social performances, which include among other things, the payment of wages during illness periods, holiday allowance and the thirteen wage⁹¹.

According to the Brazilian law, working hours amount to eight per day, with a maximum limit of forty-four hours per week and normally in the secondary and tertiary sectors, these working hours are divided into five days per week. As regards for holidays, it is a right to have thirty days free each year which can be spent all in once or split in two parts, one of the two of at least twenty days. Furthermore, child labour-

⁸⁴ CLT, Consolidação das Leis do Trabalho.

⁸⁵ CF, Constituição Federal.

⁸⁶ DFAE, Dipartimento Federale degli affari esteri.

⁸⁷ DFAE, Dipartimento Federale degli affari esteri.

⁸⁸ National Social Security Institute.

⁸⁹ Occupational Accident Insurance.

⁹⁰ Service Guarantee Fund.

⁹¹ DFAE, Dipartimento Federale degli affari esteri.

meaning people under fourteen years old- is prohibited while the work of children between fourteen and eighteen years old is allowed only under certain conditions and limits.

2.2 CARTEIRA DO TRABALHO E PREVIDÊNCIA SOCIAL

Each worker is owner of a job record book named Carteira do Trabalho e Previdência Social⁹² (CTPS). This document is representative of the working life of the owner and therefore is mandatory for all those who intend to provide any type of work and service in Brazil. A hypothetical hiring must be registered within forty-eight hours. The CTPS is promulgated by the Ministry of Labour and the corresponding management organs, previously called “Delegacias do Trabalho⁹³” together with PAT (Pontos de Atendimento ao Trabalhador⁹⁴) and some prefectures on the inside and on trade unions.

Whoever do not own this booklet, can be criminally prosecuted with imprisonment for one to three months or with a fine, according to law 5.553/ 68⁹⁵.

2.3 BRAZILIAN INSTITUTIONS

The main Brazilian institution in reference for the working environment is the Public Minister of Work⁹⁶. This has been reviewed by the President Michel Temer thanks to the provisional measure n^o 726 of 2016, later converted into the law n^o 13.341 of the 29th September 2016. However, this Ministry was extinguished starting from the 01st January 2019 under the government of Jair Bolsonaro, decision which was already taken on the 03rd December 2018, due to the government transition.

In this way, the Ministry returned to be a Special Secretariat of the Brazilian Ministry of Economy, in addition to split its activities between the Ministry of Citizenship⁹⁷,

⁹² Employment and Social Security Portfolio.

⁹³ Labor Precincts.

⁹⁴ Worker Service Points.

⁹⁵ Carteira Assinada. 25 de maio de 2018.

⁹⁶ Ministério Público do Trabalho.

⁹⁷ Ministério da Cidadania.

Ministry of Justice⁹⁸ and Public Security⁹⁹. This institution covered several areas, such as regulating the employment of workers and wage policies, as well as their rights and the right for safety in the workplace. Furthermore, for each year of functioning, this institution has published the RAIS (Relação Anual de Informações Sociais¹⁰⁰), meaning an annual report collecting social information that companies had to follow.

Furthermore, nowadays more than eighty thousand workers are part of the “Seamstress Union of São Paulo and Osasco¹⁰¹” which has as its main objective to claim the rights of workers. This union founded in 1942 finds a great support in the National Confederation of workers in the textile, clothing, leather goods and clothing sector Conacovest (Confederação Nacional dos Trabalhadores nas Indústrias do Setor Têxtil, Vestuário, Couro e Calçados¹⁰²) which has contributed to unit several trade leaders with the aim to reach the common goal to improve working conditions, together with the quality of life of the workers themselves.

2.4 MEANING OF SLAVERY FOR BRAZIL

The article 149 of the Brazilian Penal Code identifies four elements which determine the conditions of work similar to the slave one. As a first point, there is the forced labour equal which is equivalent to people forced to work under threats or acts of physical or mental violence. Subsequently, it also defines the debilitating working days, meaning workers that are forced to working hours significantly higher compared to the normal overtime hours and which can harm the physical integrity of the person. The third fundamental point includes the degradation conditions, defined as the lack of personal protection tools, food or water, or inadequate accommodations and workplaces. The final point is the obligation to debts. Most of the times, workers are forced to conditions similar to slavery for contracted debts, such as the illegal introduction into the country and it is related also to other expenses in workplace, such as food, accommodations, work equipment and transportation costs.

⁹⁸ Ministério da Justiça.

⁹⁹ Segurança Pública.

¹⁰⁰ Annual List of Social Information.

¹⁰¹ Sindicato das Costureiras de São Paulo e Osasco.

¹⁰² National Confederation of Workers in the Textile, Clothing, Leather and Footwear Sector.

At international level, this issue is recognized by the ILO Declaration of Fundamental Principles and Rights in Labour and by the Universal Human Rights Declaration and sure enough, slave labour is not just defined as the mere violation of the labour framework of laws, instead it includes all those conditions which make the workplace degradant in addition to physical and psychological humiliation. Particularly, Brazil is recognized as the last country in the Americas to abolish slavery conditions after the economic and moral influence of Britain, considered as an ally of the country, since the abolition of this condition occurred only on May 1888 even if is the first country to admit officially the persistence of slave labour is modern times. According to Bales (2004) the modern slavery issue “do not concern colour [sic], tribe, or religion; they focus on weakness, gullibility and deprivation. (...). The common denominator is poverty, not colour. Behind every assertion of ethnic difference is the reality of economic disparity” in fact, people exploited are considered as just a production input. Unlike the traditional slavery, the modern one implement a short- term relationship with workers, seen as disposable also due to an high glut of grips, however as for the traditional one, additional factors which lead people to slavery conditions are the important level of poverty which implies wide lack of opportunities, other than social exclusion, unemployment and poor education. According to the CPT (Comissão Pastoral da Terra¹⁰³) around twenty-five million people are recognized as slaves and for each person who has been released from this condition, other three remain in that situation even if there is a no reliable proof due to the illegal situation. In the following graph, the NGO Reporter Brazil located the amount of slave labour employed for each activity in the whole country, however these data cannot be considered fully reliable since, as said above, slave conditions are still hard to be identified.

¹⁰³ Pastoral Land Commission.

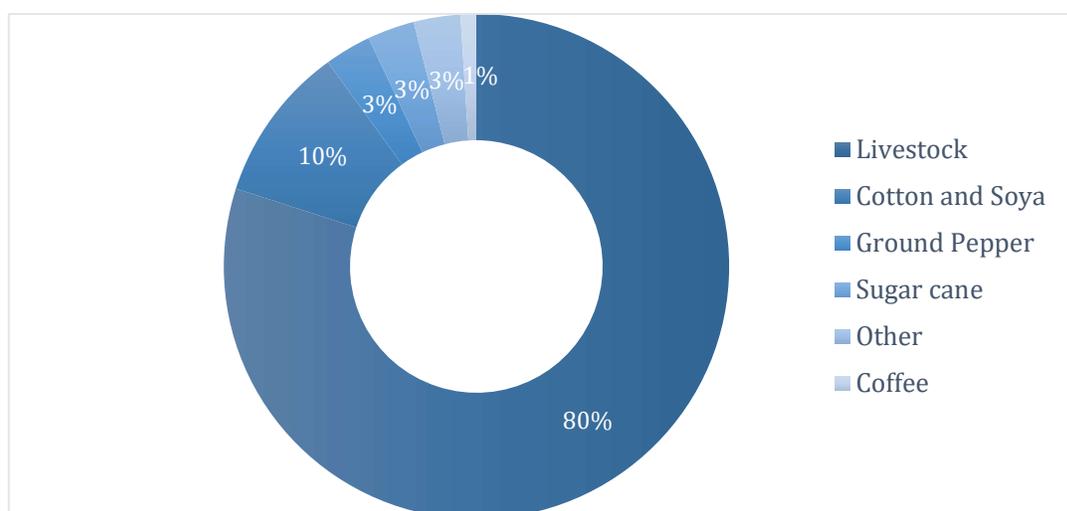


Figure 1- Slave labour per activity

Despite the activity, according to Figueira (2005) the major cause of slavery in Brazil is the debt bondage, meaning that amount of debts that already weight on the worker since the recruitment and whom will increase through costs of food, transportation, medication, hygiene materials and most of the time it is also charged the cost of tools required for their working position. Through this process and the lack of a proper knowledge of their rights, workers are trapped in this system and the employee “becomes a prisoner because of the distance he must travel, his inability to afford any means of transportation, the shame of returning home poorer than he left, or the threats of armed men¹⁰⁴”. The thesis regarding the advantage given from the long-distance from home of workers is also supported by Bales (2004), who claims what follows: “taken far from their homes, the workers are ignorant of the surrounding countryside and cut off from friends or family who could help them. Even if they are able to escape, they are penniless and in debt. They have no way to pay for the trip back to their own state. They will often keep working in the most horrific conditions in the hope of getting some cash that they can use to get home [. . .] Balancing hope against terror, [the gatos¹⁰⁵] lock their new slaves into the work”.

In addition, Bales (2004) is sure that this kind of slavery is temporary since also temporary is the environmental destruction and find a connection between this issue

¹⁰⁴ Figueira, R. (2005); “*A migração e o trabalho escravo por dívida no Brasil [Migration and Debt Bondage Slavery in Brazil]*”.

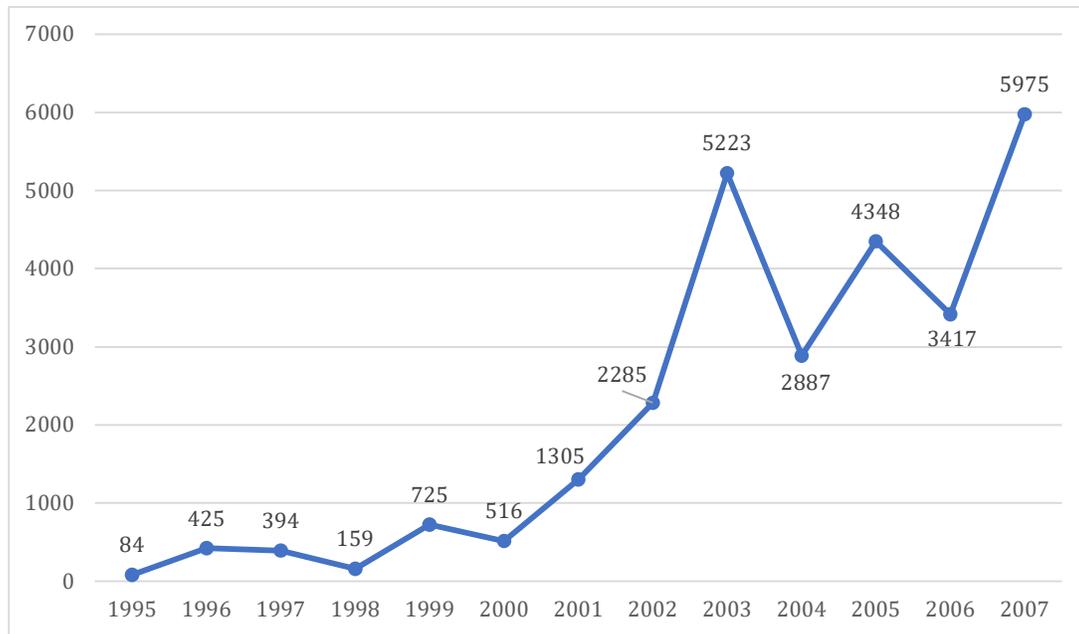
¹⁰⁵ Is the translation of “cats”. This term refers to recruited workers.

and the deforestation of rain forests, affirming that “the space between the old forests and “civilization” is a battle zone Policy Studies where the old rules are dead and the new rules are yet to come into force. The native ecosystem and peoples are uprooted, displaced workers, even the urban unemployed, become vulnerable to enslavement. The people caught up and forced to carry out the destruction of the forests live without electricity, running water, or communication with the outside world. They are completely under the control of their masters”.

In order to slacken this issue, the Brazilian government proposed in 1995 the “Combating Slave Labour Programme” although is clear that it was not consider as a priority until 2003 where under the government of the President Luiz Inácio Lula da Silva, the “National Plan for the Eradication of Slave Labour” has been launched. This program composed by seventy-six actions covering six areas¹⁰⁶, aims to provide held and solutions to those civilians who find themselves involved in this situation, in addition to make public the damages of working in slavery, inspect working places and the safeguard of workers found in slavery conditions. The National Plan for the Eradication of Slave Labour was visibly successful since from the year after until 2007 it was implemented with the “Eradication of Slave Labour” program costed more than R\$27 million, which anyways contributed to the high rate of workers liberated from slavery conditions, data gathered in the following graph.

¹⁰⁶ Six areas of the National Plan for the Eradication of Slave Labour:

- (1) general actions;
- (2) improvement of the administrative structure of the mobile inspection group;
- (3) improvement of the administrative structure of police action;
- (4) improvement of the administrative structure of the Federal Public Ministry and the Labour Public Ministry;
- (5) specific actions of promotion of citizenship and the fight against impunity;
- (6) specific actions of awareness, capacity-building and sensibility (Presidency of the Federative Republic of Brazil 2003).



*Figure 2- Rate of workers liberated from slavery conditions;
Mobile Inspection Reports*

The reason of that high cost was partly due to the compensation payed to those citizens freed from slavery conditions, consisting in a minimum wage for the following three months and in certain circumstances, the “eradication of slave labour” program guaranteed for essentials. However, the main critique to this program is the it takes for granted the wrong consideration of slave labour as the simple disrespect of laws so consequently it considers the inspections as the only action needed and so the problem will never be eradicated from the basis but just buffered. On the other hand, Antero (2007) believes that slave labour could be eradicated in the short term with adequate tools and instead of just rely on inspections, is necessary the promotion of structural and social actions, which promote a sustainable development and an enhancement of policies in the matter and also an improvement in the Brazilian justice system, increasing sanctions, improving the labour legislation and accelerating judgements and bureaucracy. Another core social policy incentivized by the President Luiz Inácio Lula da Silva is the “Family Fund¹⁰⁷” program, which provides a financial aid of around R\$ 95.00 (US\$ 56.00) to families that earn till R\$ 120.00 (US\$ 70.00) per month and whom children attend school and are regularly vaccinated. According to the World Bank

¹⁰⁷ Bolsa Família.

(2008) the program provided help to eleven million needy families and it argues that “the program has made a decisive contribution to the unprecedented reduction in poverty and inequality that has occurred in recent years”.

This positive tendency inspired also the others Latin America countries, in fact the International Labour Organization (2006) certified that “we are now seeing significant steps in other Latin American countries to intensify action against forced labour. Peru has established an Inter-ministerial Committee for the Eradication of Forced Labour to formulate policies and an action plan against it. In Bolivia, the National Commission against Forced Labour was created in December 2004 and has since identified measures to tackle debt bondage in different regions. In Paraguay, the Government recently strengthened its labour inspection in an area with a documented incidence of forced labour and debt bondage”.

2.5 LISTA SUJA

The “Lista Suja”, meaning dirty list, have been introduced in 2004¹⁰⁸ by an ordinance of the Ministry of Labour and Employment in opposition to the direct action from the Supreme Federal Court, which considered it as an unconstitutional tool. The main aim of the dirty list is to provide a list including all those employer¹⁰⁹ who still implement slave labour but at the same time taking into consideration the law about the access to information¹¹⁰. The name of the aforesaid employer, is added to the dirty list after an inspection and the following affirmative authentication of slavery conditions, which reflects to an administrative process. Completed this process, the Secretariat of Labour Inspection (SIT)¹¹¹, proceeds with a further analysis and even if in this case, the situation of exploited is verified, the data of the employer are integrated in the Registry of the Employer¹¹², the democratic name of the dirty list. The result of this procedure is the publicity of the data, which does not allow the above-mentioned to have access to public bank loans and saw cut their relationships with those companies which

¹⁰⁸ By the Ordinance 540 of the Ministry of Labor and Employment, which revoke the Ordinance 1234.

¹⁰⁹ Both natural and legal person.

¹¹⁰ Lei de Acesso à Informação.

¹¹¹ Secretaria de Inspeção do Trabalho.

¹¹² Cadastro de Empregadores.

signed the “National Pact for the Eradication of Slave Labour¹¹³”.

The dirty list is the result of the resort by the Ministry of Labour and Employment to the article 87, sole paragraph, item II of the Citizen Charter¹¹⁴ introduced in 1988, through the ordinance no. 1.234 of 17th November 2003, lead to the biannual referral which questions the employers in front of the following institutions, availing on their competences: Special Secretariat for Human Rights, Ministry of the Environment, Ministry of Agrarian Development, Ministry of National Integration and Ministry of Finance¹¹⁵. According to the article no. 1 of the Ordinance 1150 of the 18th November 2011, the Ministry of the National integration affirms that “the Department of Management of Regional Development Funds of the Secretariat of Policies for Regional Development of the Ministry¹¹⁶, which sends, every six months, to the managing banks of the Constitutional Financing Funds, ditto in relation to the Regional Funds, list of employers and properties rural workers, who subject workers to degrading forms of work or who maintain them in conditions similar to slave labour, whose assessments with administrative decision are of definitive origin, published by the Ministry of Labour and Employment, for the appropriate measures”.

The article no. 2 of the Ordinance 1150, recommend to all the financial actors to refrain each financial concession and any kind of assistance implementing resources managed by the Ministry of National integration¹¹⁷ in favour of both natural and legal people who are included in the cadastre. However the executive power pointed out the fact that the process expected from the Ordinance 1234 of the Ministry of Labour and Employment, represent just an excess of bureaucracy since everything remained in an administrative environment, lacking of transparency and doing nothing concretely to solve the problem in addition to the community to be not aware of these procedures.

¹¹³ Pacto Nacional pela Erradicação do Trabalho Escravo.

¹¹⁴ Carta Cidadã.

¹¹⁵ Secretaria Especial de Direitos Humanos, Ministério do Meio Ambiente, Ministério do Desenvolvimento Agrário, Ministério da Integração Nacional e Ministério da Fazenda.

¹¹⁶ Departamento de Gestão dos Fundos de Desenvolvimento Regional da Secretaria de Políticas de esenvolvimento Regional do Ministério.

¹¹⁷ Ministério da Integração Nacional.

However, in November 2004, the Confederation of Agriculture and Livestock of Brazil (CNA)¹¹⁸ proposed a Direct Action of Unconstitutionality (ADI)¹¹⁹ no 3347/DF with the justification of the Ordinance 540 to violate the dispositions of the article no. 22 of the Constitution of the Republic, which assign the private legislative competence to the Union. The ADI strongly reiterate that the Ordinance 540 offends fundamental rights such as the property right, the presumption of innocence and the regular legal procedure; action following rejected by the Minister Relator Ayres Britto.

As a matter of fact, the normative acts constituting the dirty list does not represent a violation of the right of property, since the same article of the Constitution no. 5 point XXII dictates that “the property will serve its social function”. In addition, the article 184 of the Brazilian Constitution establishes that “it is up to the Union to expropriate for social interest, for agrarian reform purposes, rural property that is not fulfilling its social function¹²⁰”, meaning that all those farmers implementing slave labour are not fulfilling a social function and instead are not respecting what the following 186 article indicates. More precisely, it explains the criteria for the social function to be fulfilled, which among other things dictates the “observance of the provisions that regulate labour relations¹²¹” and the “exploitation that favours the well-being of owners and workers¹²²”. With regard to this, the labour Judge and Professor of Labour Procedural Law João Humberto Cesário (2011) holds to be true that “edit a decree defining the property as of social interest, for the purpose of establishing the expropriation procedure, it will certainly be much more lawful that, through the competent Ministries, publish ordinances which aim to curb the existence of the disgusting servitude practice contemporary, with express prohibition to public financing of private activity unable to fulfil its social function”.

Furthermore, regarding the violation of the principle of presumption of innocence, indicated in the subsection LVII of the article no. 5 of the Brazilian Constitution, this is only applicable in criminal fields and in addition the inclusion of the data of those

¹¹⁸ Confederação da Agricultura e Pecuária do Brasil.

¹¹⁹ Ação Direta de Inconstitucionalidade.

¹²⁰ Compete à União desapropriar por interesse social, para fins de reforma agrária, o imóvel rural que não esteja cumprindo sua função social.

¹²¹ Section III: observância das disposições que regulam as relações de trabalho.

¹²² Section IV: exploração que favoreça o bem-estar dos proprietários e dos trabalhadores.

employer implementing slave labour is due to the monitoring of the Ministry of Labour and Employment. The aim of this procedure is to make public the data of the above-mentioned employers only after a proper final irrevocable administrative decision, unless the employer will appeal to the Magistrate with a favourable outcome until a decision by the Ministry of Labour and Employment itself.

In addition, as said above and according to the article no. 2 of the Ordinance 1.150 of 18th November 2003 of the Ministry of National Integration, these employers are not allowed to receive any financial help using public money. The professor João Humberto Cesário (2011) believes that “it is absolutely valid that the Union, through the action of the Ministers of State, uses administrative criteria to finance the serious and lawful productive activity, to the detriment of that which, in greed for unreasonable profits, crosses the lines of crime, disregarding the fundamentals that constitute the vital centre of the Constitution of the Federative Republic of Brazil. In fact, it definitely does not seem reasonable that serious farmers, who strictly observe labour laws, should dispute public credits on an equal footing with those who mistreat the dignity of the human being, and the Executive Branch has an unbreakable obligation to treat them unequally, since, as is curial, the principle of isonomy, law and fundamental guarantee of society (art. 5, caput, of the CRFB), consists of treating equals equally and unequal unequally, in the exact measure of their inequalities”.

Furthermore, under the social point of view in order to reduce the slavery phenomenon, the reduction of the vulnerability of workers is needed. The inspection conducted by the Special Mobile Inspection Group (GEFM)¹²³ require a strengthen of labour laws and an improve of those programs helping the exploited citizens to be reinsert in the labour market otherwise they will be forced to return to the initial condition.

¹²³ Grupo Especial de Fiscalização Móvel.

CHAPTER III: ZARA CASE

PART I: DESCRIPTION OF THE CASE

On June 2011, a total of fifteen workers have been saved in a workshop, which produced clothes by Zara, who were found in humiliating and in slavery conditions. Furthermore, this case has been retaken in 2015 by the ONG Reporter Brazil.

3.1 WHAT IS INDITEX

Inditex S. A., is an acronym of "Textile Design Industry"¹²⁴ and it is a Spanish multinational dealing with the manufacture and distribution of textile products. Its headquarters in Arteijo in Spain. The brand employs about 150.000 workers and works in more than 7.000 shops in five continents, including the following sub-brands: Zara, Zara Home, Massimo Dutti, Pull & Bear, Bershka, Oysho, Uterqüe, Lefties and Stradivarius¹²⁵.

In 2015, the enterprise charged more than €20.900, projecting in a growth equal to 15.4% compared to the previous year, which represent the major growth of charge registered in 2012. Furthermore, the brand opened about three hundred thirty locals in about fifty-six countries and so in the same year, the enterprises employed around fifteen thousand eight hundred people so that its labour force reached one hundred fifty-two thousand eight hundred fifty-four on global scale¹²⁶. The CEO of the company, Amancio Ortega, according to Forbes is considered as one of the most famous man worldwide¹²⁷.

On 2016, the enterprises established its production chain in the counties listed in the following tab, including the number of suppliers and manufacturers.

¹²⁴ Industria de Diseño Textil.

¹²⁵ Inditex official website.

¹²⁶ El Pais, *Inditex dispara sus ventas hasta los 20.900 millones y gana el 15% más.*

¹²⁷ Forbes, *Inditex ya es la tercera mayor empresa de Europa por capitalización.*

COUNTRY	NUMBER OF SUPPLIERS	NUMBER OF MANUFACTURERS	EMPLOYEES
Bangladesh	81	139	386.916
China	340	1.106	302.816
Turkey	183	748	155.256
India	134	219	131.435
Cambogia	1	68	104.695
Marruecos	106	211	62.333
Portugal	171	887	46.494
Brasil	37	103	18.930
Spain	229	208	6.543
Argentina	64	53	5.505
Angola	51	37	4.203
Mozambique	33	20	3.137.128

Table 1- Data about the productive chain of Zara

3.2 POLEMICS AND CONTROVERSIES OF ZARA

Zara is one of the most profitable brands of the Inditex group in addition to be a retail chain of Spanish clothing with shops in the whole world and it was founded by Amancio Ortega Gaona and by Rosalía Mera in December 1974. This clothing chain gained the first place in the ranking of the best Spanish brands in 2017 according to the strategic consulting firm of the global brand "Interbrand", therefore it is considered the most precious Spanish brand above Movista and the Banco Santander¹²⁹.

However, Zara is not new to polemics, especially the one regarding labour exploitation in fact in 2006, the brand has been involved in a sentence by the judge of Social 4 of Sevilla since Zara dictated in all its hiring contracts, the clause in which its employers should have work compulsorily Sundays and public holydays and such clause determined the sign of the hiring contract. The judge affirmed that "such practice is contrary to the Constitutional rights of trade union freedoms and collective bargaining"^{130 131}.

¹²⁸ Inditex, *Proveedores en el mundo*.

¹²⁹ El Español, *Zara, la marca más valiosa de España según Interbrand*.

¹³⁰ Canarias 7, *Zara condenada por obligar a sus trabajadores a trabajar domingos y festivos*.

¹³¹ Juzgado de lo Social nº 4, 2006

Instead, on March 2013 Zara have been investigated for the discovery of an illegal workshop in Argentina, in Buenos Aires where even in this case the local tailored clothes for the brand, exploiting both adults and child labour subjected to excessive working hours, poor hygienic conditions and inadequate nutrition¹³². In this case, the foundation “La Alameda” promoted a penal denounce towards the owner Amancio Ortega and the president of this organization Gustavo Vera publicly communicated that at that time also eight illegal workshops commercially related to Inditex have been found, in which several immigrants have been exploited.

A further case which has been more important for the brand, took place in summer 2018, when the company has been sentenced by the Italian jurisdiction on behalf on the Italian group OTB for a violation of their intellectual property. Zara had to withdraw immediately the concerning products and had to pay a sanction of €235 for each item sold with the print plagued by the Diesel brand¹³³.

In addition, in 2019 Zara had to pay a compensation to two employed of €6.250 each for a “violation of fundamental worker rights”. In this episode, the company decided to close its shop in the “Mediterráneo” Shopping centre replacing its employees in different shops except for sixteen, which had a work contract with reduced hours, since they were responsible for minor children. Two of these workers, calling for help to the CSIF trade union due to discrimination in workplace¹³⁴ and they won the cause.

Zara, and in general the whole Inditex group, were at the centre of several polemics moved even by the customer themselves due to the models utilized for campaigns and because of their mannequins, considered extremely thin and in unnatural positions, so that it has been even started a petition in Charge.org named “INDITEX: No more anorexic mannequins!” closed in December 2015 with one hundred eleven thousand eight hundred twenty-two favourable signatures¹³⁵.

¹³² Público, *Zara recurre al trabajo esclavo en Argentina*.

¹³³ Marketing Direct, *La justicia italiana condena a Zara al pago de daños y perjuicios a Diesel y Marni por "copiona"*.

¹³⁴ El diario.es, *Zara es condenada por discriminación por sexo a dos dependientas con reducción de jornada por cuidado de hijos*.

¹³⁵ The Local, *Inditex pulls 'anorexic mannequins' after tens of thousands sign petition*.

3.3 DISCOVERY OF SLAVE CONDITIONS

According to an anonymous complaint by a Bolivian worker¹³⁶ in June 2011, the Regional Superintendence of Labour and Employment of São Paulo¹³⁷ together with the Non-Governmental Association "Repórter Brasil" has conducted an investigation with inspections in four laboratories in the Paulist capital and in the suburbs¹³⁸. About fifteen people were found here, including a fourteen-year-old teenager working for a brand supplier in conditions similar to those of slavery according to the "Seamstress Union of São Paulo and Osasco"¹³⁹ ¹⁴⁰. In addition, a few months earlier, about fifty-two workers, mostly Bolivians, were also found in degrading conditions in a laboratory in the city of Americana (SP) while they were sewing products for Inditex ¹⁴¹.

In both cases, the employed working force was forced to work up to sixteen hours in precarious conditions, in an extremely hot environment, in long turns and exposed to chemical materials without proper protection all of this in the inside of structures where these workers were also forced to live, without dorms and bathrooms; lacking were also Sundays breaks and holidays¹⁴². The remuneration paid to workers did not match working hours and it was definitely lower than the minimum requested by the Country, which is \$340 per month, consequently neither norms and rules about hiring contracts were respected¹⁴³.

According to MPT (Ministério Público do Trabalho¹⁴⁴), workers were recruited by a tertiary company and were working in a structure located in the north zone of San Paulo in semi-slavery conditions¹⁴⁵. A Bolivian worker narrated in the television program "A Liga" that the compensation for a pair of jeans designed by Zara, which were sold at \$126, amount to \$1.14 which had to be divided to the seven workers involved in the process. In this manner, workers gained between \$156 and \$290 per

¹³⁶Veja, *Justiça mantém ação contra Zara por trabalho escravo*.

¹³⁷ Superintendência Regional do Trabalho e Emprego de São Paulo.

¹³⁸ O Globo, *Fornecedor da zara é acusado de trabalho escravo em São Paulo*.

¹³⁹ Sindicato das Costureiras de São Paulo e Osasco.

¹⁴⁰ O Globo, *Fornecedor da zara é acusado de trabalho escravo em São Paulo*.

¹⁴¹ Galicia Economia digital, *Las seis crisis que castigan la reputación de Inditex*.

¹⁴² Il Corriere.it, *Lavorano per Zara. I giudici: schiavismo*.

¹⁴³ Dirigentes Digital, *Los 'trapos sucios' de Inditex*.

¹⁴⁴ Public Minister of Work.

¹⁴⁵ Veja, *Justiça mantém ação contra Zara por trabalho escravo*.

month while the Brazilian law established the minimum salary to \$340, as we saw above.

The Brazilian Ministry of Labour claims that around three hundred thousand people across the nation work in conditions of semi-slavery, and the textile industry is among the top three industries with this highest index, in addition to the agricultural and construction sectors. Many of these are migrants, mostly from South America and especially from Bolivia, who illegally enter in the Brazilian territory with the help of traffickers and then these are asked for a ransom and for this reason workers are introduced to this exploitation system.

3.4 RELATIONSHIP BETWEEN ZARA AND AHA

The responsible for this situation is one of the suppliers managed by the multinational brand in the city of Rio, AHA "Indústria e Comércio LTDA"^{146 147}. Here the owner earned R\$7 (about €1,43) for each item, while workers received only R\$2 or R\$3 (about €0,50 on average)¹⁴⁸ and according to investigations, this business produced about fifty thousand items for Zara, then sold in Brazil and Argentina¹⁴⁹.

AHA is an inspirational and fashion brand founded in 1989 by Suzi Lee. Since then it offers different options in line with the Brazilian style for a diversified and demanding clientele¹⁵⁰. This group claims to be constantly updated with the main environmental issues and initiatives, trying to comply with the recommendations on sustainability. Therefore, this groups claims to remain constantly updated regarding the main environmental issues and initiative, in addition to maintain agreements with the major Brazil and international suppliers regarding the fashion industry sector thanks to a proper technological support which allows AHA to positions its work among the most solid companies in the market.

The director of the local trade union of clothing manufacturers, Maria Susicléia Assis, claims to have received about ten complains per week from workers with Bolivian and

¹⁴⁶ AHA industry and Commerce LTDA.

¹⁴⁷ Galicia, Las seis crisis que castigan la reputación de Inditex.

¹⁴⁸ Oglóbo, *Fornecedor da zara é acusado de trabalho escravo em São Paulo*.

¹⁴⁹ First Online, *Brasile, accuse a Zara: lavoratori-schiavi?*

¹⁵⁰ AHA industry and Commerce LTDA.

Peruvian origins against clandestine workshops, involving large retailers with a national presence but it was the first time that they concerned to Zara until that time¹⁵¹.

3.5 THE VERDICT

The judge Álvaro Emanuel de Oliveira Simões, belonging to the Third “Vara” of Labour¹⁵² affirmed that according to the events highlighted by inspections, Zara bought more the 90% of its production from the AHA enterprises and moreover all the rescued citizens were found sawing items for the brand Zara¹⁵³. For this reason, it was considered suspicious that Zara hired AHA as subordinated, probably in order to avoid the connection with its involvement in the bargaining of labour in slave-like conditions. That is why, the General Advocacy of the Brazilian state¹⁵⁴ has come to the conclusion that the business has direct responsibility for the conditions of workers, being part of its production chain¹⁵⁵. This thesis has been confirmed by the labour judge Ricardo Artur Costa Trigueiros belonging to the Fourth Class of the São Paulo Regional Labour Court¹⁵⁶, who claims that “it is not possible to accept the idea that Zara did not know what it was happening in the sewing factors of their goods, in a kind of convenient

¹⁵¹ Oglóbo, *Fornecedor da zara é acusado de trabalho escravo em São Paulo*.

¹⁵² 3ª Vara do Trabalho do São Paulo. This is the first competent institution regarding the Brazilian labor justice, being competent to judge individual conflicts arising in the working system. It is composed of a regular employment judge and a replacement employment judge. The judge Álvaro Emanuel de Oliveira Simões belongs to the second category. Possible disputes will be presented to this institution in the form of a “Worker Complaint” (Reclamação Trabalhista). The third Vara do Trabalho is located in Belo Horizonte, in Minas Gerais.

¹⁵³ Veja, *Justiça mantém ação contra Zara por trabalho escravo*.

¹⁵⁴ Advocacia-Geral da União (AGU). This is an institution that is responsible for taxation, representation and legal control regarding the union and the Federative Republic of Brazil, as well as the protection of public assets against third parties or against government occupants.

¹⁵⁵ Veja, *Justiça mantém ação contra Zara por trabalho escravo*.

¹⁵⁶ Superior Tribunal de Justiça (STJ) is one of the main judicial bodies in Brazil. Its main purpose is to standardize the interpretations of Brazilian federal legislation. This institution is constituted by ministers who are divided into six classes (turmas), grouped into six sections according to the nature of the subject matter. The first section, consisting of the first and second class, judges’ issues regarding public law, in particular administrative law, tax and social security law; the second section, composed of the third and fourth class, deals with Private Law, Civil Law and Commercial Law. Finally, the third section, composed of the fifth and sixth class, deals with cases of criminal law. Only the Special Court (Corte Especial), the highest organ of the tribunal, ranks higher in the STJ.

blindness¹⁵⁷” and that the enterprises only aimed to receive a product at cheap price, through the quarterization process, which in turn entailed further cost reductions which could only be obtained illegally. Furthermore, the judge proceeds claiming that the brand not only ignored what was happening in the production chain such as for the case of AHA, but that it also attempted manoeuvres to prevent a conviction.

The labour attorney Luiz Carlos Fabre, who has followed the case from the beginning claims that “the decision is in accordance with the resolutions of the International Labour Organization (ILO) regarding the responsibility in the production chain¹⁵⁸. The sub-product of slave labour is the proliferation of bags of misery and social illnesses. There is nothing fairer than such urban socio-environmental degradation to be internalized by the holder of the main economic power in a production chain, even if slave labour was spotted in workshops hired by the suppliers of Zara¹⁵⁹”. Another point in favour of this thesis was the fact that the workshops of AHA did not have any sawing machine installed, so the judge believes it is impossible for the group to be unaware of this since the commissions were coming from Spain.

On the other hand, Zara Brazil, claims that the sentence of the Third Vara of Labour of San Paulo¹⁶⁰ erroneously claims that the brand was aware of the situation, reiterating that AHA rerouted the production items to subcontractors obtaining economic profits which never arrived to the brand in question and in general, that the company had never obtained any financial advantages from the irregularities committed¹⁶¹. For this reason, Zara attempted to cancel the acts¹⁶² of the Public Labour Ministry¹⁶³, which took part to the task force in 2011 to release workers in precarious and slave-like conditions, stating that the Ministry was extrapolating from their declarations, which

¹⁵⁷ “Não é possível aceitar a ideia de que a Zara não sabia o que estava acontecendo nas oficinas de costura de suas roupas, em uma espécie de cecità conveniente”.

¹⁵⁸ “A decisão está em conformidade com as deliberações da Organização Internacional do Trabalho (OIT) em matéria de responsabilidade em cadeias produtivas”.

¹⁵⁹ “O subproduto do trabalho escravo é a proliferação de bolsões de miséria e mazelas sociais. Nada mais justo que tal degradação sócio-ambiental urbana seja internalizada pela detentora do poder econômico relevante em uma cadeia produtiva, ainda que o trabalho escravo haja sido flagrado em oficinas contratadas por fornecedoras da Zara.”

¹⁶⁰ See reference no. 148.

¹⁶¹ Veja, *Justiça mantém ação contra Zara por trabalho escravo*.

¹⁶² Appeal made to the regional labor court of the second region of San Paulo.

¹⁶³ Ministério Público do Trabalho (MPT).

is the confirmation that the brand supported the bargaining of workers in conditions similar to slavery¹⁶⁴.

The Spanish multinational Zara was forced to pay about R\$ 5.000.000 (more than €1.300.000) due to a new agreement, that is the Term of Conduct Adjustment (TAC)¹⁶⁵ signed in 2015 with the Office of the General Prosecutor of the Brazilian Republic¹⁶⁶ in order to expand the juridical corporate responsibility with regard to slave labour cases¹⁶⁷ even if during a previous inspection it has been verified a “breach of ancillary clauses¹⁶⁸” without specifying its nature. In particular, with this agreement the brand committed itself to the Brazilian Government in order to improve the conditions of workers in its productive chain; condition which did not happen according the ONG Reporter, which claims that Zara “did not dictate or correct the serious problems that were developing in her network, such as child labour and excessive days¹⁶⁹” continuing with the accusation that the group simply “excluded the sewing workshops which employed migrants, regardless of whether the law was respected or not [...] eliminating the risks to its image”¹⁷⁰. For this reason, Zara is faced to deal with a fine of about €7.300.000 in addition to having to pay two additional fines for €250.000 due to irregularities encountered in eighty-three inspections between August 2014 and April 2015. The amount of this fines is invested in projects for the protection of workers in case of work in slave-like conditions and in case of child labour¹⁷¹. As for Inditex, the group refuses to pay these fines but at the same time it acknowledged the opening of an administrative process to verify the complete fulfilments of the agreement¹⁷². In addition to all this, the labour judge Ricardo Artur Costa Trigueiros, mentioned in the previous paragraph, also imposed the inclusion of the brand name in the “Dirty List¹⁷³”

¹⁶⁴ Veja, *Justiça mantém ação contra Zara por trabalho escravo*.

¹⁶⁵ Término de Ajuste de Conducta.

¹⁶⁶ Fiscalía General de la República de Brasil.

¹⁶⁷ Termo de Ajuste de Conduta entre MPT e Zara amplia responsabilidade em cadeia produtiva da marca.

¹⁶⁸ Ministry of Labour.

¹⁶⁹ “No detectó ni corrigió los graves problemas que seguían produciéndose en su red, como el trabajo infantil y las jornadas excesivas”.

¹⁷⁰ “Excluir a los talleres de costura que emplean inmigrantes, independientemente de si cumplían la ley o no [...]eliminar riesgos para su imagen”, con lo que muchos trabajadores perdieron su trabajo.

¹⁷¹ Veja, *Inditex paga 1,36 millones en Brasil tras una investigación por trabajo esclavo*.

¹⁷² Dirigentes Digital, *Los 'trapos sucios' de Inditex*.

¹⁷³ “Lista Suja”.

thus cancelling the early protection in place to prevent this action.

3.6 RESPONSE OF ZARA

The answer from the company came quickly. The brand justified itself with the Thomson Reuters Foundation by affirming that it was not aware of the condition of the workers in the supplier workshops, also claiming that it was an "unauthorized outsourcing"; rather AHA delegated the work to irregular sewing workshops and that they never got information about them¹⁷⁴.

In addition, Zara claims that it should be taken into consideration the recognition of the constraint imposed by the company on AHA as regards of the conditions of its workers and that AHA itself at the time has admitted to taking immediate responsibility for the regularization of workers when the episode came to light.

Zara has always blamed AHA for violating the Code of Conducts of Manufacturers, which it will be taken into consideration in the chapter three, and for this reason the brand found itself obliged to economically reimburse the exploited workers and it showed its commitment to better working conditions. Furthermore, the company claims that while they were obliged to these clauses, AHA has not been subjected to any sanction and it continues its activity freely. In a statement, Zara has also announced that in addition to pushing the supplier to immediately regularize the situation, it would have interrupted any type of commercial relationship with this¹⁷⁵.

The Inditex group affirms that since the 2000s it has respected their Code of Conduct and Responsible Practices so therefore it does not employ anyone who is at least sixteen years old and that all workers are guaranteed a safe and healthy workplace¹⁷⁶.

Zara Brazil adds that it has been one of the few companies which demonstrated a greater commitment to continuously improve workers' conditions with regards to the textile sector in Brazil. All this takes place in collaboration with multiple institutions, including the Ministry of Labour, through the TAC, an agreement recently renewed to guarantee perfect operating conditions and its transparency.

¹⁷⁴ O Globo, *Fornecedor da zara é acusado de trabalho escravo em São Paulo*.

¹⁷⁵ Dirigentes Digital, *Los 'trapos sucios' de Inditex*.

¹⁷⁶ Dirigentes Digital, *Los 'trapos sucios' de Inditex*.

The band claims to have invested more than R\$ 20 million in collaboration with the Public Ministry of Labour and with the International Labour Organization, not only in order to improve the current conditions, but also to develop training projects for entrepreneurs, which counts more than ninety thousand participants, and also to found the Immigrant Citizenship Integration Centre¹⁷⁷ together with the Secretariat of Justice and Défense of the city of the state of San Paulo and with the MPT.

Furthermore, together with the ILO, ABVTEX (Associação Brasileira do Varejo Têxtil¹⁷⁸), ABIT (Associação Brasileira da Indústria Têxtil e de Confecção¹⁷⁹) and other businesses, Inditex took part to a project named “Parceria Público Privada¹⁸⁰”. This is an attempt to cooperate relationships between publics and privates in order to guarantee public interest services and to build and maintain infrastructures. In support to this cause, Zara contributed with an initial amount of R\$ 500 thousand as well as technical support¹⁸¹.

For this reason, the group wishes to clarify that the case of 2011 does not represent the manufacturing and control system that the company adopts and which will appeal to the Superior Labour Court regarding the decision taken by the Regional Labour Court.

¹⁷⁷ Centro de Integração da Cidadania do Imigrante.

¹⁷⁸ Brazilian Textile Retail Association.

¹⁷⁹ Brazilian Association of the Textile and Clothing Industry.

¹⁸⁰ Public-private Partnership.

¹⁸¹ Economia.ig, *Zara é responsabilizada por trabalho escravo e pode entrar na "lista suja"*.

PART II: GENERAL THEORETICAL PERSPECTIVE: COLLECTIVE BARGAINING

Collective bargaining is a process of a series of negotiations regarding all terms and conditions of employment that involves from one side the employer and from the other a group of employees which are asked to pay for union dues in order to regulate the agreements for a determined number of years. As a result of the internationalization and the deterritorialization of businesses it raises problems in a transnational dimension which involves different sectors and require determined interdisciplinary treatment methods and proper tools. This process of negotiation rules all those agreements that covers the conditions and rights of workers, their salaries, work hours and permissions and all those aspects regarding benefits and compensations, beside the representation of a trade union for workers. The first International framework agreement has been signed in 1988 for the merger of the BSN group and Danone however it has strengthened in the 2000s where the ETUC¹⁸², taking into consideration the database of ILO and the European Commission, claims that more than three hundred TCAs¹⁸³ has been signed and the majority of them (more than 90%) involves European multinationals. Following, a graph which represent the adoption of IFAs and EFAs from 1989 to 2008 where is easily recognizable that even if before 2011 only few Framework agreement existed, IFAs are the most applied except between 1998 and 2002.

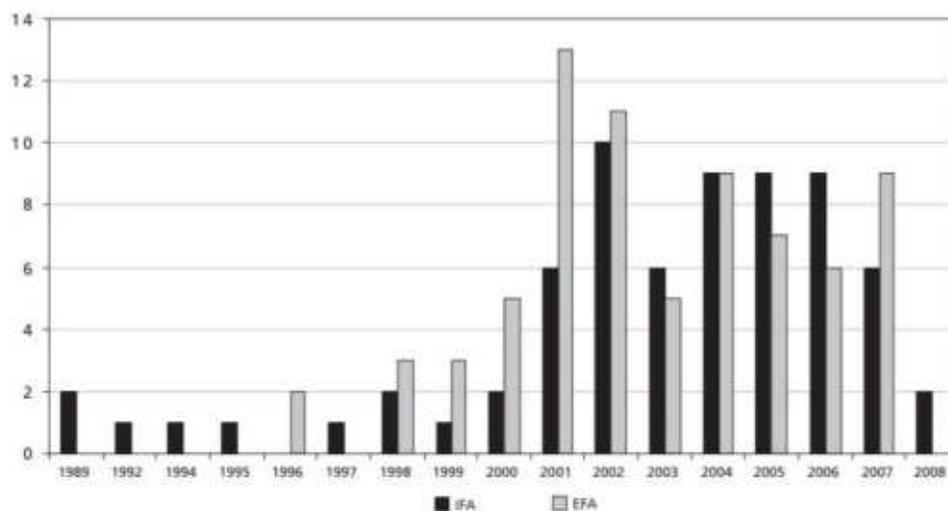


Figure 3-IFAs and EFAs signed each year from 1989 to 2008.

¹⁸² European Trade Union Commission.

¹⁸³ Transnational Collective Agreements.

The main issue when talking about Transnational Collective Agreements is the hybridization of the forms, meaning that it has a private nature but at the same time it rests on public law, and so it is an ensemble of different sources. All the attempts and the attention paid to socially responsible behaviours and the research of reliable paths, aims to improve the CSR and resolve possible disputes, also thanks to the help of the responsibility principle involving large businesses which has been introduced in 2017 by the French law. This principle apt to resolve all the damages from violations of human rights and of the environment protection establish that the mother company has the duty to supervising all the activities of the subsidiaries through an appropriate plan of surveillance and to find proper solutions for possible foreseeable risks, following a behaviour “due diligence”. All the negotiating obligations regarding the respect of fundamental labour rights not only in both the headquarter and in all its subsidiaries, but also in the whole productive and supply chain represent an indirect method to assure the efficiency of the application of International Framework Agreements¹⁸⁴ that for most of the time, due to F. Hadwiger in multiple of its works¹⁸⁵ ¹⁸⁶ is about the 70%, involves also the main suppliers of the business. Most of the times, International Framework Agreements are trying to cover the lack of regulation, due to an absence of a pertinent regulatory framework and in this situation, Santi Romano in 1918 elaborates the theory of the plurality of legal systems; later adopted by Giugni Gino, who in 1960 has completed it with the concept of “inter-union order”. This concept is based on the principle of the collective autonomy which create an own set of rules, tools and remedies in cases of disputes that has the same efficacy of the common law and civil law, since the parts defines all the rules for a proper application and the monitoring system, together with periodic reports and bottom-up logic for complaints which is not only involving the business but also its suppliers and subcontractors.

¹⁸⁴ Daugareilh I. (2017); “*La responsabilité sociale de l’entreprise, vecteur d’un droit de la mondialisation?*”.

¹⁸⁵ F. Hadwiger (2015); “*Accordi quadro globali GFA: gli strumenti per garantire il lavoro dignitoso nelle catene globali di fornitura?*”.

¹⁸⁶ F. Hadwiger (2018); “*Contracting international employee participation global framework agreement*”.

3.7TFAs

According to an Eurofound report¹⁸⁷, Transnational Framework Agreements are “a new industrial relations instrument that encourages the recognition of social partnership across national borders and could lead to new forms of social regulation at global level¹⁸⁸”. It is considered new because of the majority of these type of agreements have been applied since 2000 and for these reasons there is no yet a proper theoretical background, however when related to CSR and with a code of conduct of a business, experts¹⁸⁹ have clear attitude. The codes of conducts are introduced to regulate and make more harmonic the permanence of employees and improve the general management of the company together with the respect of law and trying to avoid risks and violations through rights¹⁹⁰, obligations, internal rules and duties but only circumscribed to the business and not in a global level. However, are considered a valid tool to internationalize enterprises relationships due to the globalization effect on companies that needs a regulation both at local level and also at an international one attracting institutions like International Labour Organization and the European Commission in addition to scholars and experts. In order to face this issue, the TCAs have been subcategorized in International Framework Agreements (IFAs) and European Framework Agreements (EFAs) with the common aim to introduce transnational policies and improve CSR also further than the national context.

3.7.1 IFAS

The European Industrial Relations Dictionary (Eurofound, 2006) provides a clarification about IFAs, defined as “the start of a bargaining procedure at transnational level, since they are by definition bilateral company-related agreements concluded between Global Union Federations (GUFs) and central management” with the aim to “establish an ongoing relationship between a multinational enterprise and a Global Union Federation (GUF) to ensure that the company adheres to the same standards in every country in which it operates¹⁹¹” in addition to stress the difference between

¹⁸⁷ Eurofound (2009); *“European and international framework agreements: Practical experiences and strategic approaches”*.

¹⁸⁸ European Foundation for the Improvement of Living and Working Conditions.

¹⁸⁹ Isabelle Schömann, André Sobczak, Eckhard Voss and Peter Wilke (2008); *“Codes of Conduct and International Framework Agreements: New Forms of Governance at Company Level”*.

¹⁹⁰ Rights to bargain collectively and to endorse or found trade unions.

¹⁹¹ Eurofound, International Framework Agreement.

these International agreements and the codes of conducts of corporations due to improve their unilateral and voluntary commitment to CSR.

The IFAs are not a bunch of regulations but aims to make companies understand the basic principles of human and social rights and all the principles and norms that these rights involve to improve relationships and dialogue with all their stakeholders. Furthermore, Eurofound¹⁹² describe these IFAs as a “partnership-based approach”, which is an important tool for enterprises when dealing with employees and all their stakeholders at a global level, creating a positive environment for both parties. If on one hand the CSR and codes of conducts have a wider application, integrating the concept of corporate ethics, on the other the IFAs regulate in detail the labour relations, referring to ILO principles even if both find a meeting point in principles such as the protection of the environment.

Being developed through negotiations and directives, IFAs are most of the time needy of cascade appropriation processes and incomplete by nature and so the bigger criticalities are met, such as the difficulties to identify trade unions partners especially in developing countries but also in the monitoring process. These poor impositions could push States to not take into considerations these agreements to attract investments, even if Eurofound (2006) consider IFAs as a tool designed to improve legislation standards where the framework in developing countries is insufficient or not appropriate, which proper application represent an important challenge due to the scholar Miller (2008)¹⁹³.

A main characteristic of IFAs is the tight relationship with the Core labour Standards identified by ILO, recognized by the ORSE¹⁹⁴ (2006) such as the elimination of forced and child labour, together with the abolition of discrimination of any type in workplace and so guaranteeing and equal pay and finally the rights to bargain collectively and of association. However, these agreements aim to reach an bigger result by, in example, ensuring to workers a proper and decent wage and a safe and hygienic workplace; and through a wider point of view it is one of the main tools to extend the CSR outside the

¹⁹² Isabelle Schömann, André Sobczak, Eckhard Voss and Peter Wilke (2008); “*Codes of Conduct and International Framework Agreements: New Forms of Governance at Company Level*”.

¹⁹³ Miller, D. (2008); “*The ITGLWF’s policy on cross-border dialogue in the textiles, clothing and footwear sector: Emerging strategies in a sector ruled by codes of conduct and resistant companies*”.

¹⁹⁴ Observatoire de la responsabilité sociétale des entreprises.

home juridical system nevertheless not conflicting with local collective bargaining agreements, but improving chances to bargain both at local and national level.

3.7.2 EFAS

Regarding the European context, the European Framework Agreements (EFAs) are more focused and tangible about issues unlike IFAs and through the EWCs¹⁹⁵ are implemented in a growing number covering issues such as health and safety, social dialogue between business and stakeholders and between stakeholders, data protection and an improved management of work capital with a minor coverage to fundamental social rights, issue exhaustively covered by IFAs. However, the EWCs are not the only body supporting EFAs, in fact these tools are also pushed by the European Trade Union Federation (ETUC) and European Industrial Federations (EIFs). According to Eurofound, fifty-two out of seventy-three EFAs have been signed by EWCs of which forty-two by EWC alone, while ten EFAs have been co-signed together with the EIFs of which five signed by EIFs alone and three co-signed with UN.

Substantial differences between IFAs and EFAs is the level of application, in fact the first ones are applicable in a global level while the second are limited to the European territory, therefore covers different aspects, contents and scopes. Normally, the IFAs are approved by the core management of an enterprise and by the Global Union Federations (GUFs), in representation to workers at a global level and with the scope to improve minimum standards through negotiations.

3.7.3 CONTENTS

TFAs aims to make enterprises go beyond the simple impositions and standards, due to guarantee the same behaviour and approach with workers, sharing the same rights in the whole corporation, independently by local jurisdictional and applicable laws. Possible problems which can rise could be the different economic and financial context, as so the local culture and the feature of the sector, however TFAs cover mostly fundamental rights for workers including the abolition of slave and child labour and all the terms and conditions such as wages and working hours. By the structural point of view, according to B. W. Burkett (2011), the majority of TFAs shares two main characteristics which are the establishment of certain parameters and imposes

¹⁹⁵ European Works Councils, bodies which aims to facilitate the consultation and information of norms and rights accessible to employees in both European enterprises and European groups of enterprises.

themselves with a “indeterminate institutionalized role” as regards the trade unions for multinationals. These characteristics are in line with the OIL Declaration on Fundamental Principles and Rights of the Work, adopted in the eighty-sixth session of the International Labour Conference in 1998 which defines itself four issues: the freedom of association and the right to bargain collectively, the elimination of forced and child labour and the abolition of discrimination in the workplace. These “core labour standards” are the basis of the TCAs adopted not only in the developing countries but also in the developed one, depending on the sector covered.

The freedom of association and bargain collectively bases most of its principles on the OIL convention no. 87 protecting the right to avail on trade unions signed in 1948, in addition to the OIL Convention no. 98 of 1949 about the right to collective bargaining and finally and are characterized by the tendency to also involve the OIL Convention no. 135 of 1971 regarding the worker representants. In general, this first step is due to impose a neutral mood in companies which are committed to abstain from trade unions campaigns in the first place, but also to not adopt any behaviour that can discourage employees to seek help to trade unions, but at the same time maintaining the right to intervene whenever these behave in a way which is not in line with the corporate principles. Furthermore, OIL conventions no. 138 and 182 take care of protecting children from forced labour, determining a minimum age which is above fifteen years old whenever local legislation does not define it. Normally the minimum age corresponds to the one expected for the conclusion of compulsory education, however whenever local laws lower it to fourteen years old despite ILO Convention no. 138, it is admitted only in a safe work place. In any case, the grounding principle is to guarantee children to not see their safety, health and education come less in fact EFAs, despite the reduced number, impose with more precision the promotion of school attendance and in some cases, also an economic support to the family of the children. Even for slave labour, this practice is rejected by TCAs recalling ILO conventions no. 29 of 1930 and the no. 105 of 1957 about the abolition of forced labour with fifty-four IFAs and nine EFAs. In closing, the last group pf TFAs inspects the right of equal treatment, avoidance of discrimination and dignity safeguard. The ILO Convention no. 111 of 1958 against discrimination represent a starting point for several IFAs and EFAs taking into consideration the concept of “diversity” provided by the European Commission: “it is a pro-active approach aimed at fostering a culture in which everybody is valued and

respected. This goes beyond mere compliance with rules. For the first time, the meaning of inclusion for certain specific groups is addressed through a series of targeted measures¹⁹⁶". While most of the IFAs treating this issue give general guidelines, some EFAs provide practical solutions such as the implementation of the principles described in the Lisbon Charter of fundamental rights of 2007 for the assumption of duties. However, TFAs dictate that the assumptions have to be based taking into consideration just abilities and skills of the worker, omitting age, gender, nationality, sexual orientation, political opinions, religion and all other characteristics which can lead to a prejudice. In particular, it is promoted the concept of equal opportunities recognizing that "all people should be treated similarly, unhampered by artificial barriers or prejudices or preferences" especially for women, migrants and disabled people due to the higher number of barriers that can be faced to these categories of people.

3.8 IFA BETWEEN INDITEX AND ITGLWF

A practical application is the collaborative International Framework Agreement signed on 27 June 2005 between Inditex S.A. and the International Textile, Garment and Leather Workers' Federation (ITGLWF) with the aim to implement international working standards in the whole process. This is the result of the implementation of the CSR of Inditex due to apply the Principles and Criteria to improve the fundamental human rights through a guide provided by the ITGLWF, which is a trade union regarding workers at a global level in the textile, leather, shoe and all the other light industries to implement the Code of Conduct for External Manufacturers and Suppliers in force since 2001 taking into consideration the following ILO Convention: no. 29¹⁹⁷,

¹⁹⁶ European Commission (2017); *"A better workplace for all: from equal opportunities towards diversity and inclusion"*.

¹⁹⁷ Forced labour Convention, 1930.

87¹⁹⁸, 98¹⁹⁹, 100²⁰⁰, 105²⁰¹, 111²⁰², 135²⁰³, 138²⁰⁴, 155²⁰⁵ and 159²⁰⁶, as for the Universal Declaration of Human Rights, as well as the UN Conventions and the OECD guidelines for Multinational Enterprises. Under the technical point of view, this agreement becomes operative from when it is signed and it is valid for one year when it is required a demand of an automatic extension of one year unless both parties agree a different way.

In the first place, both parties recognize as fundamental the right to bargain collectively and the freedom of association regulated by the 87th, 98th and 135th ILO Conventions which are valid in the whole supply chain and secondly the multinational highlights its commitment to absorb and observe all the Conventions, Declaration and Guidelines mentioned before. Furthermore, these agreements include all the workers hired by Inditex even if are not represented by ITGLWF, which will help the company to assure that these standards are communicated to the other trade unions. Finally, this IFA mentions the following standards which must be observed by whoever have a direct or indirect relationship with the company, standards that are in accordance to the Code of Conduct for External Manufacturers of Inditex:

1. No Forced Labour.
2. No Child Labour.
3. No Discrimination.
4. Respect for Freedom of Association and Collective Bargaining.
5. No Harsh or Inhumane Treatment.
6. Safe and Hygienic Working Conditions.
7. Wages are paid.
8. Working Hours are Not Excessive.
9. Environmental Awareness.

¹⁹⁸ Freedom of Association and Protection of the Right to Organise Convention, 1948.

¹⁹⁹ Right to Organize and Collective Bargaining Convention, 1949.

²⁰⁰ Equal Remuneration Convention, 1951.

²⁰¹ Abolition of forced labour Convention, 1957.

²⁰² Discrimination (Employment and Occupation) Convention, 1958.

²⁰³ Workers' Representatives Convention, 1971.

²⁰⁴ Minimum Age Convention, 1973.

²⁰⁵ Occupation Safety and Health Convention, 1981.

²⁰⁶ Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983.

10. Regular Employment.

11. Code Implementation

The first standard reflects the position of Inditex of zero tolerance regarding involuntary or forced labour in its supply chain, where suppliers, external manufacturers and subcontractors are not allowed to ask for personal identity documents or a deposit. Another case of zero tolerance is for child labour from suppliers, external manufacturers and subcontractors, which referees to people with less than sixteen years and to people with younger than eighteen years for night shifts or for production processes which are hazardous or dangerous. Whenever cases of child labour are detected both in the internal production chain but also in the production process of suppliers, external manufacturers and subcontractors, protocols and procedures to halt these procedures are applied together with educational programs to assure a proper level of instruction to child involved.

The third standard take into consideration the aspect of discriminations, which are discouraged by the company and take into consideration aspect of a person that can be the age, the nationality, race, gender, sexual orientation, religion and political preferences, physical and mental disabilities. The following one aims to ensure for all workers, included the one working for suppliers, external manufacturers and subcontractors, the right to Collective Bargaining, Union and Association with a collaborative and open attitude and without any encouragement, especially in return for a payment, to not take advantage of this right. Moreover, these impositions must be respected even in countries where the local legislation is inadequate or scarce.

The fifth standard requests that all the employees involved in the supply and production chain must be treated with respect and dignity, without any type of verbal or physical harassment and intimidation, included the abuse of power from supervisors and the following one take into consideration the working environment, which needs to be clean, hygienic and respect all the safety measures, such as fire prevention and a proper ventilation together with clean water and access to hygienic facilities. Regarding the wage standard, Inditex must assure that these respects at least the minimum imposed by law or by agreements of the collective bargaining and guarantee to workers a decent level of life. The employees must be provided to a proper instruction about the conditions of their wages, which are not allowed to be deducted

and must be paid on time. As for above, laws and all the agreements reached by the collective bargaining impose a limit of forty-eight hours a week for work performances and a day off after seven working days while potential overtime must not exceed twelve hours per week and the compensation has to be in line with the premium rate.

While the ninth standard deals with environmental awareness, which is properly regulated by both local and international regulations; the tenth standard comes back to the conditions of worker, covering the theme of a regular employment which takes as reference the local and ordinary laws avoiding all the techniques to avoid the regularization of employment through the renewal of internships, training and subcontracting. Finally, the last standard includes the practices to implement the Code of Conduct providing indications for each aspect.

First of all, taking into consideration the subcontracting process, this must be consecutive to a previous written authorization provided by the Inditex group and the providers of subcontracts, meaning suppliers and external manufacturers are recognized as responsible to the compliance with the Inditex Code. Regarding the system of management, senior managers are recognized as responsible for the implementation and the respect of the Code by whoever has a relationship with the group, included employees and suppliers, subcontractors and external manufacturers, which recognize Inditex as authorized to proceed with audits and inspections to verify the implementation of the Code. About the ethical aspect, these standards aim to push company to adopt preventive adroitness to avoid corruption and extorsions and to not use any type of manipulations or influence to workers. Finally, this last standard highlights the fact that these are just minimum conditions and all stakeholders are invited to do more especially if the local legislation is lacking in the field of rights for workers.

3.9 INSTITUTIONS AND TOOLS

3.9.1 THE EUROPEAN WORKS COUNCILS (EWC)

In the first place, the European Works Councils (EWC) is an authority formed due to directive of the European Commission with the aim to give voice to the opinions and wishes of workers and it is based on the directive no. 38/2009 that is the update of the directive of EWC no. 45/1994. In particular, it supports and strength basics labour

rights like the right of information and regarding transnational businesses, in addition to foster the consultation of representative of employees and the spontaneous creation of Global Work's Councils for extra European subsidiaries and in general to create a peaceful collective bargaining process for transnational companies. The transpositions of the directive coming from EWC create a negotiation framework that can speed the agreements; however, the European Commission suggest to businesses to adapt them based on their own realities. Therefore, EWC directives may differ from one company to the other, in the point of view of composition and methodologies of application and so are hard to compare, however the main proposes remains the rights of consultation and information for workers.

This dialogue between the EWC and business have allowed the development of new procedures that goes "praeter legem", that means beside the laws, especially for European multinationals, which as seen before represent the majority of signatories of International Framework Agreements. However, although EWC boosted international agreements, a new issue emerged and it is still current: who is allowed to negotiate the TCAs on behalf of workers? This question remains open since, due to the different national regulation systems, the negotiating power is in the hands of trade unions for certain countries and other types of representative bodies for the remaining but still, due to some researches²⁰⁷, the TCA procedure is mostly used by multinational with their headquarter in Germany and France.

According to experts²⁰⁸, the success of the TCAs in the European countries is due to a positive and collaborative spirit of dialogue together with the legislative framework that supports social dialogue within companies while in the extra European territory, business is characterized by a strong anti-trade union mood²⁰⁹ and the agreements are reached after long and vacillating negotiation process. However, the EWC defines a series of core arrangements that all states must follow. In the first place, in order to set up the EWC, the business needs to employ about one thousand workers who are citizen of the EU countries and at least one hundred fifty workers each for two-member state,

²⁰⁷ Rehfelddt U. (2018); *"Una mappatura degli accordi transnazionali: quadro di analisi e linee di tendenza"*.

²⁰⁸ Ales E.; Guadagno S.; Moll Noguera R.; Rojas Rivero G.P.; Treu T. (2018); *"La legitimidad negociadora de los agentes sociales a escala transnacional europea: una llamada a su compleción"*.

²⁰⁹ Rosembaum Rimolo J., Smit P. (2018); *"Negociación colectiva internacional. Algunas reflexiones a cerca del impulso y sus frenos en Latinoamérica"*.

and since the EWC is not imposed by any institution workers or the company needs to request the establishment. Once established the EWC it is also necessary the institution of a “special negotiating body” in order to give a proper representation to workers and together with the Core Management, it will create the basis for labour agreements. If these agreements are not reached within three years, some basic disposition for the transposed law are entering into force while if the EWC agreement is reached, it must indicate which legislation is applicable in the event that disputes arise.

3.9.2 THE OECD

The OECD stands for “Organization for Economic Co-operation and Development” and it is an institution in representation of industrialized countries that has been found in 1961 in Paris as a successor of OEEC²¹⁰, which have been found right after the second world war in 1948 to stimulate trades and all the economic processes creating a cooperation system from an economic point of view for the European countries. The main aim of the OEEC was to benefit as well as possible of the economic help coming from ERP²¹¹, known as Marshall Plan, however the OEEC turned into OECD since a proper European integration process was only possible after a revision of the institution in reference. Currently, the OECD is structured in three parts: Council, Committees and a Secretariat.

The Council is the decision-making body of the organization and it is the representation of all member states due to a delegation to an ambassador for each state, which meets every year for the “Ministerial Council Meeting” in order to set priorities and monitor the work done so far, in addition to the discussion about trade and the global economic situation. In addition to this, the OECD is also composed by three hundred committees, who are experts of different areas, usually covered by government such as trade, finance, education, development and environment, proposing solutions and taking action when needed, in example through negotiations due to reach common global goals. Finally, the Secretariat works with policy makers from each country and is led by directorates composed by experts such as economists, lawyers, digital experts and statisticians, that needs to report to the General Secretary.

²¹⁰ Organization for European Economic Corporation.

²¹¹ European Recovery Program.

The OECD is an advisory assembly which create a favourable climate for comparison and discussion, due to solve problems in the better way possible in addition to policy coordination and the identification of considerable trade practices.

In the following table, are listed the member states with the corresponding year of accession so it is easily recognizable the founding members: Austria, Belgium, Denmark, Greece, Ireland, Island, Italy, Luxemburg, Norway, Netherlands, Portugal, United Kingdom, Sweden, Switzerland, Turkey.

MEMBERS	YEAR OF ACCESSION	COLLECTIVE BARGAINING COVERAGE^{212 213}
Australia	1971	59.2
Austria	1961	98.0
Belgium	1961	96.0
Canada	1961	30.3
Chile	2010	20.9
Czech Republic	1995	46.3
Denmark	1961	84.0
Estonia	2010	18.6
Finland	1969	89.3
France	1961	98.5
Germany	1961	56.0
Greece	1961	40.0
Hungary	1996	22.8
Iceland	1961	90.0
Ireland	1961	33.5
Israel	2010	26.1
Italy	1962	80.0

²¹² OECD, Collective bargaining coverage.

²¹³ The collective bargaining coverage is a percentage which describes the proportion of population whose working conditions and term are determined by a collective bargaining.

Japan	1964	16.7
Korea (South)	1996	11.8
Latvia	2016	13.8
Lithuania	2018	7.1
Luxembourg	1961	55.0
Mexico	1994	12.5
Netherlands	1961	78.6
New Zealand	1973	15.9
Norway	1961	67.0
Poland	1996	14.7
Portugal	1961	72.3
Slovak Republic	2000	24.4
Slovenia	2010	65.0
Spain	1961	73.1
Sweden	1961	90.0
Switzerland	1961	49.2
Turkey	1961	7.0
United Kingdom	1961	26.3
United States	1961	12.0

Table 2- OECD, Member groups

Furthermore, there is a list of countries whose membership application is under examination and consideration by the Council, indicating some indexes useful for the evaluation that follows: GDP per capita, Income inequality, but also the Human Development Index (HDI), Fragile States Index (FSI), World Justice Project (WJP), Corruption Perception Index (CPI), Index of Economic Freedom (IEF), Global Peace Index (GPI), Democracy Index.

The HDI is an index between 0 and 1 and it is considered healthy if above 0.800, it is high between 0.700 and 0.799, medium between 0.55 and 0.699 and it is low if below 0.550. Talking about FSI, a state is defined sustainable and stable if equal or higher than 80, it sends warning messages if between 70 and 80 but it is a critical situation if lower than 70. The WJP determine if a country adherence to Rule of Law if 0.6 or high, while it is considered poor if below 0.5. According to the CPI, a country is highly corrupt if between 0 and 10 while it is very clean if between 80 and 100. Due to the Index of Economic Freedom, a country is Free/Mostly Free if higher than 70, moderately free if free between 60 and 69.9 while Mostly Unfree/Unfree if below 59.9. A good GPI index fluctuate between 1.0 and 1.999, it is medium if between 2.0 and 2.3, it is medium- critic if between 2.31 and 2.8 while critic if equal and below of 2.81. Finally, according to the Democracy Index, a country is considered democratic if equal and higher than 6.0, it has a hybrid regime if between 4.0 and 5.99, while it is characterized by an authoritarian regime if equal or below 3.99.

COUNTRY	GDP PER CAPITA	INCOME INEQUALITY	HDI	FSI	WJP	CPI	IEF	GPI	DI
Argentina	20,843	40,6	0.830	46.0	0.58	45	53.1	1.989	7.02
Brazil	15,662	53,3	0.761	71.8	0.52	35	53.7	2.271	6.86
Bulgaria	20,948	37,4	0.816	50.6	0.55	43	70.2	1.607	7.03
Colombia	14,507	49,7	0.761	75.7	0.50	37	69.2	2.661	7.13
Cosa Rica	16,976	48,3	0.795	42.0	0.68	56	65.8	1.706	8.13
Croatia	26,295	31,1	0.837	47.5	0.61	47	62.2	1.645	6.57
Peru	13,772	43,3	0.759	68.2	0.50	36	67.9	2.016	6.60
Romania	26,595	35,9	0.816	47.8	0.63	44	69.7	1.606	6.49
Russia	25,766	37,7	0.824	74.7	0.47	28	61.0	3.093	3.11

Table 3-Countries under OECD examination

3.9.3 THE TRIPARTITE DECLARATION (MNE)

The Tripartite Declaration of principles concerning multinational enterprises and social policy, also known as “MNE declaration is defined as “the ILO instrument that provides direct guidance to enterprises on social policy and inclusive, responsible and sustainable workplace practices” and it is the only tool elaborated and then adopted globally by workers, employers and government, founded taking into consideration the ILO principles and all the obligations that member states have. The MNE Declaration established by the Government Body of ILO in Geneva during the two hundred fourth session in November 1977 and then updated in 2017 according to the tripartite review process in order to include the concept of “due diligence” in the context of contractual relations regarding third-party businesses in addition to the promotion of human rights and decent working condition in the whole global supply chain.

This process aims to improve the development through the inclusion of policies and improved standards proposed by ILO and the Guiding Principles on Business and Human Rights promoted by the council of Human Rights in 2011 in addition to the

adoption of standards of the 2010 Agenda for Sustainable Development. The MNE Declaration is a guide for organizations, multi-stakeholder and national governments with the aim to push their contribution to a sustainable behaviour, regulating the collective bargaining and eliminating as much as possible inequalities and difference in treatments between national enterprises and multinational but also guaranteeing decent working conditions for workers. This declaration aims to stress the relevance of law and its enforcement in addition to the importance of communication and a dialogue between all the parties.

3.9.4 THE UN GLOBAL COMPACT

The United Nations Global compact is a non-binding agreement between United Nations introduced for the first time in July 2000 to push companies to adopt responsible and sustainable choices and respecting certain CSR standards. These standards are indicated taking into consideration ten principles belonging to four dimensions: human rights, labour, environment and anti-corruption and are available also for cities through the application of the Cities Programme. This initiative, according to the data by the UN Global Compact, involves around thirteen thousand participants and stakeholders from more than one hundred seventy countries around the world. Another important goal for this agreement, in addition to the introduction of the ten principles, is to faster all those actions that go in support of the UN goals, such as SDGs and MDGs²¹⁴.

The first two principles dealing with human rights says that “businesses should support and respect the protection of internationally proclaimed human rights” and to “make sure that they are not complicit in human rights abuses”. These principles are demanding to businesses to adopt voluntary actions that go further the minimum level of human rights which help to improve social development, such as investing in communities and a peaceful dialogue with stakeholders, together with the creation of an inclusive and equal workplace. In all of this companies are not left alone, but are guided and supported by the Global Compact which also provide demonstration and solutions, through online forums, documents and all the resources needed.

The following four labour principles indicates that “Businesses should uphold the freedom of association and the effective recognition of the right to collective

²¹⁴ Millennium Development Goals.

bargaining”, “the elimination of all forms of forced and compulsory labour”, “the effective abolition of child labour” and “the elimination of discrimination in respect of employment and occupation”. The aim of this type of principles is to assure a safe a decent working place, eliminating child labour and forced labour but also all the illicit in the whole supply chain not only in developing countries but also in developed ones, especially in the sectors of constructions, manufacturing and mining. The involvement of the UN Global compact is not just imposing the ILO requirements, but also it provides partnerships with employees in order to build a stronger community and improve the relationship between workers and business.

“Businesses should support a precautionary approach to environmental challenges”, “undertake initiatives to promote greater environmental responsibility” and “encourage the development and diffusion of environmentally friendly technologies” are the three principles dealing with the environmental dimension, which is one of the main current issues at a global level. Climate change, preserving biodiversity and adjust water reserves turn out to be great challenges and business are playing an important role. Through these principles, the UN Global Compact aims to educate companies to understand the importance and consequence of a non- sustainable behaviour and the linkage between their business and resources, and a further effort to go beyond what standards demand.

The last anti- corruption principle which suggest that “businesses should work against corruption in all its forms, including extortion and bribery” was introduced only in June 2004 with the first Global Compact Leaders’ Summit according to the UN Convention Against Corruption introduced in 2003. This tenth principle was considered necessary since corruption plays an important role in the whole business dimension, since it can block growth, expose company to reputational and legal risk and also affect negatively to costs. In the long- term, business could see the agreements and partnerships shrink and the loss of interest by stakeholders. However, the prevention of these issues is only possible if there is a solid net between business, which can stand together against corruption adopting anti-corruption measures.

However, the UN Global Compact believes that once a business agrees to support these principles, “this does not mean that the Global Compact recognizes or certifies that these companies have fulfilled the Compact’s principles²¹⁵”.

3.9.5 THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS (UNGPs)

The United Nations Guiding Principles on Business and Human Rights, known as UNGPs is a totality of thirty-one principles established to integrate the UN framework “protect, respect and remedy” regarding the topic of respecting human rights involving not only multinationals but all kinds of companies. The UNGPs were the result of the work of John Ruggie, the Special Representative of the Secretary-General (SRSG) presented in June 2011, who believed that “the Guiding Principles’ normative contribution lies not in the creation of new international law obligations but in elaborating the implications of existing standards and practices for states and businesses; integrating them within a single, logically coherent and comprehensive template; and identifying where the current regime falls short and how it could be improved”. These Principles are the first standard globally recognized linking the consequence of the respect or not of human rights with businesses, providing at the same time a fundamental framework and it represents a non-binding soft law which spreads an atmosphere of dialogue and the promotion of fundamental human rights in businesses also taking advantage of the CSR concept and of International Framework Agreements. According to “the Corporate Responsibility to respect Human Rights”, the UN Interpretative guide regarding, the “entire spectrum of internationally recognised human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the ILO’s Declaration on Fundamental Principles and Rights at Work”.

Furthermore, there have been recognized four considerations that businesses should follow due to respect human rights as for workplace, which can include the rights of trade unions and the right of collective bargaining, which follow. The first is the distinction between what are the commitments of the companies and what are the commitments of the government, secondly is facing the fact that businesses are becoming more capable to avoid all those legal commitments and obligations imposed

²¹⁵ UN Global Compact.

by the employer. Progressively, there is acknowledging the duty concerning businesses regarding the right of collective bargaining for workers and finally recognizing the incidence of fear to workers when dealing with these rights.

These considerations binged to light concepts like the meaning of respect, the “due diligence” topic in the field of collective bargaining and the responsibilities of businesses. In particular, the UNGPs defined the business responsibility as those acts that “avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts where they occur” in addition to “seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts”. In particular, the UN guide²¹⁶ identifies two principles which lead back the impacts to businesses taking also in consideration the four considerations listed previously, where the first indicates that “a business enterprise should not do anything that would have the effect of discouraging workers from forming or joining a trade union”. This first principle highlighted the different weight that the employer and the employees have and referrers to the fear issue described above, which can discourage employees to be part of a trade union but at the same time encourage businesses to be open to unionizations and to bargain even if in the country are applicable laws against these. The other principle is on the same wavelength compared to the first: “a business enterprise should not refuse any genuine opportunity to bargain collectively with workers even where it is not legally obligated to do so”. Even in this case, the principles are not asking to businesses to avoid national framework regulating the collective bargaining or to introduce proper trade unions or collective bargaining, but to protect the rights of workers when the local framework is not suitable and adequate.

Connected to the concept of respect, is the concept of responsibility, which even in this case, is regulated by the UN Guiding Principles, tightly linked to business responsibility, recognizing the impacts of businesses on human rights. The first one recognize the potential negative impacts of businesses, the second one consider the contribution to worse negative conditions while the third one identifies negative impacts coming from all those relationships where the business is involved, more precisely considering all

²¹⁶ The Corporate Responsibility to respect Human Rights.

those relationships with other businesses or entities that is the cause of negative impacts and this third point together with the second one involves the whole productive and supply chain. However, business responsibility goes beyond these three cases, in fact enterprises might cause adverse impacts through the encouragement or the support to other companies to violate human rights. Another important concept highlighted by the UNGPs is the concept of “due diligence”, which is identified as a current path adopted to “to identify, prevent, mitigate and account for how it addresses actual and potential adverse human rights impacts”, since in general enterprises prefer to not have to deal with trade unions and all those institutions protecting rights of workers in addition to bargain collectively.

Those negative impacts, due to an anti- union environment, will cause adverse impacts itself by definition, in example involving relationships created in the supply chains or with stakeholders, and so entering into the merits of the CSR; for these reasons the concept of “due diligence” involves the level and the amount of the risks that deals with businesses and it is not just the identification of adverse impact but covers the whole supply chain and push enterprises to avoid certain behaviours. Precisely, the “due diligence” concept and the right to bargain collectively are the result of a full comprehension of the human rights, which involves all those negotiation activities between companies and the trade unions and all the workers delegates. These negotiations cover the totality of workers’ rights, such as working conditions, procedures and terms, which involves every sector and sizes of companies and, in practice, these negotiations actualize themselves as a written agreement binding both enterprise and workers. However, as said before enterprises are not allowed to discourage the recourse to trade unions by workers nor implement other structures in substituting trade unions or dealing with issues and rights of workers.

When referring to the duty to bargain, this is a right with the main aim to protect workers, and not just bring advantages to enterprises, in fact when a business recognizes the right to bargain collectively to workers, then accordingly will accept its duty to bargain and so all the obligations and conditions, in addition to attempt in a reasonable way to reach an agreement with workers’ rights. This being established, even if the right to bargain collectively is voluntary, this does not mean that enterprises have the right to refuse it, but it means that the outcome must be the result of a

voluntary agreement by both parties, enterprises and workers. To conclude, the UNGPs makes a clear distinction between the state of duty and the business responsibility. The first one aims to protect workers against all types of abuses of their human rights while the business responsibility means the imposition of the respect of human rights, and are two independent concepts. As said before, the duty to respect human rights is not to be intended as the substitution of the State by the enterprise, but the UN principles stress the fact that it is not impossible to build an ethical relationship with workers even if the local government does not have proper tools to protect workers and human rights, in example by giving the possibility to form or to join trade unions in addition to the right to bargain collectively, remaining under the concept of CSR.

Furthermore, the UN Guiding Principles on Businesses and Human Rights recognize three pillars: The State duty to protect human rights, the corporate responsibility to respect human rights and the access to remedy. With regard to the State duty to protect human rights, UNGPs impose the business to protect workers from abuses which take place within their responsibility, meaning both in its territory and in jurisdictions of third parties even if by law, are not explicitly asked to take care of the activities which happens in an extraterritorial ground. However, some States offer different approaches to this issue, through domestic measures which have an extraterritorial involvement such as reports of the global conduct of the whole process or instruments such “Guidelines for Multinational Enterprises of the Organization for Economic Cooperation and Development” which have soft-law and multilateral characteristics.

As for the practical side, States have to adopt certain behaviours due to protect human rights which can be the enforcement of working and human laws since the inaction of States is not convenient for businesses since these failures can directly or indirectly create a legal gap. Furthermore, States should also be careful about all the other laws regulating the behaviours of corporations, which might cause constraints to laws in defence of workers and providing at the same time some guides on how to deal and respect workers and human rights in addition to identifying proper structures dealing with these issues, such as corporate boards. By that, enterprises can face all the positive outcomes and reach adequate methods to reach these goals and are encouraged to implement a proper communication system, especially in more risky sectors of production, helping businesses to clarify the situations in which they operate.

However, the first pillar also takes into consideration State companies and all those private businesses that have some tight relationship with State (such as suppliers) or receive some sort of support by it, requiring the respect of human rights due diligence. Concretely, States can help companies to reach a decent level of human rights especially in the first stages, identifying all the risks related to this issue and a proper solution together with assistance and policies, regulations and legislation to improve the fulfilment of these and also to deny support, assistance or access to all those businesses that are involved in abuses of human rights or all those companies that refuse to apply these conditions.

The second pillar deals with the corporate responsibility to respect human rights, independently to where is their location or the local policies since it is a global policy recognized by the International Bill of Human Rights²¹⁷ and all the principles established by the International Labour Organization's Declaration on Fundamental Principles and Rights at Work. In their own, businesses can respect these obligations avoiding to contribute to all the adverse impacts to human rights coming from their own activities and improving also the one linked to them, suggested by the Guiding Principle nineteenth. The corporate responsibility of human rights is independent from the sector and size of the business even if it is recognized that small and medium enterprises could have less capacities, information and tools in order to respect properly human rights. However, each enterprise should adopt a commitment to policies covering human rights and identify a due diligence process, which should be able to reduce and remedy to possible adverse impacts; while in order to verify if whether the business is in the correct path, companies should rely on quantitative and qualitative indicators and providing feedbacks to stakeholder of both external and internal processes.

These feedbacks are useful to communicate properly a corporate behaviour and clarify possible concerns, especially if the enterprise is working in a risky context. However, in some circumstances, that can be the sector of the conflicting area, could increase the possibility for companies to fall into adverse human rights impacts, so in this case enterprises should deal with them as a "legal compliance issue".

²¹⁷ Universal Declaration of Human Rights.

Finally, the last and third pillar, that covers the access to remedy, is divided in three main areas: the state-based juridical mechanism, the state-based non-judicial grievance mechanisms and the Non-State-based grievance mechanisms. The first one aims to encourage States to adopt a proper juridical equipment to deal with potential human rights abuses and to avoid the rising of barriers which can impede the causes to be brought before the courts. A proper juridical background is fundamental to avoid the rising of legal barriers such as for access to courts of home State and to protect those groups of people excluded from a proper and an equal level of safeguard, but also prevent and reduce the impacts of practical barriers following the previous one such as an elevate cost for claims or a scarce legal representation because of a shortage of appropriate resources.

As for the State-based non-judicial grievance mechanism, States are encouraged to provide appropriate non-judicial mechanisms being part of a system State-based, since all these mechanisms are essentials in implementation of the juridical framework since the juridical path is not always necessary. All the gaps in the solution process needs to be filled by introducing new procedures or to expand the existing non-judicial mechanisms, with the mediation as a core topic but ensuring the respect of the Principle thirty-one criteria. With regard to the effectiveness of the non -judicial complaint mechanisms, these should have the following characteristics: legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning and have to be based on dialogue and engagement.

The legitimate characteristics aims to instil trust to stakeholders through guarantee that corporate won't interfere with grievance processes; while the accessible one expects to reduce all the obstacles and barriers for access such as language, lack of awareness, location and costs. Furthermore, the non-judicial complaint mechanisms needs to be predictable through the supply of a clear and determined schedule where timings needs to be respected and all the information should be public in order to be seen as trustful and needs to be also equitable, meaning that the aggrieved parts needs to be provided with all the necessary sources of information and advices and in case of disparities, these needs to be reduced to give a perception of a fair and equal process.

Another characteristic of these mechanisms is transparent, due to communicate on regular basis the state of the grievances through case studies and statistics in order to

maintain a positive consideration by stakeholders and at the same time the non-judicial complaint mechanisms have to be rights-compatible to ensure that the results reached are in line with human rights. Furthermore, it needs to be a continuous source of learning that, as it explains itself, should provide continuous procedures and policies in order to handle in the best way possible future grievances and also based on dialogue and engagement with stakeholders with the common aim to handle and solve possible grievances. Finally, the non-state based grievance mechanisms determines that States need to take into consideration all the potential ways to facilitate mechanism to resolve grievances taking into consideration the one controlled by enterprises or together with a stakeholders group, the one controlled at regional and international level and all the repairing mechanisms when failures regarding human rights are faced.

3.9.6 THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR)

The Universal Declaration of Human Rights (UDHR) is a document consisting in a set of thirty articles identifying human rights recognized globally however not binding under a legally point of view and it was first adopted after the Resolution two-hundred seventeen of the third meeting of the UN General Assembly on December 1948 in France, recognized by the United Nations themselves as a “common standard of achievements for all peoples and all nations” and “a declaration of basic principles of human rights and freedom” by Eleanor Roosevelt. It received a favourable vote from forty-eight countries²¹⁸ belonging to the UN, while eight countries²¹⁹ abstained and two²²⁰ did not even vote.

This first step towards the elaboration of the “International Bill of Human Rights” is taking a steadfast position against all kind of violations of basic human rights and discriminations together with Human Rights Watch²²¹ and is followed by several

²¹⁸ Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Iceland, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Siam, Sweden, Syria, Turkey, United Kingdom, United States, Uruguay and Venezuela.

²¹⁹ Czechoslovakia, Poland, Saudi Arabia, Soviet Union, Byelorussian SSR, Ukrainian SSR, South Africa and Yugoslavia.

²²⁰ Honduras and Yemen.

²²¹ The Human Rights Watch is an NGO in defense of basic human rights focusing the attention on abuses occurred at international level and constantly inspecting and discovering conditions and situations which needs to be bring to light. Taking the Universal Declaration of Human Rights as a guideline, this

international agreements and treaties as so regional tools adopted in order to make the human rights be respected. The additional documents for the International Bill of Human Rights are “the International Covenant on Civil and Political Rights” (adopted on December 1966 but entered into force on March 1976), the “Optional Protocol” and finally “the International Covenant on Economic, Social and Cultural Rights” adopted on December 1966 but entered into force on January 1976.

According to scholars^{222 223}, despite the non-binding characteristic of the UDHR, since several countries are taking this document into consideration and referred to it in more than the part fifty years, especially in matter of customary international law “the Universal Declaration has itself acquired significant legal status. Some see it as having given content to the Charter pledges, partaking therefore of the binding character of the Charter as an international treaty. Others see both the Charter and the Declaration as contributing to the development of a customary law of human rights binding on all states²²⁴” and “few claim[s] that any state that violates any provision of the Declaration has violated international law. Almost all would agree that some violations of the Declaration are violations of international law²²⁵” due to its heavy moral influence. However, according to the verdict of the Supreme Court regarding a case²²⁶ in 2004, the UDHR “does not of its own force impose obligations as a matter of international law²²⁷” and due to the possibility to be interpreted in different ways, still some liberal and democratically countries are distrustful to consider it as a binding obligation.

A main case of discussion is the disagreement between the US and the Soviet Union when defining the concept of human rights, since America consider human rights to be political rights, meaning in example the freedom to speak, to vote and not to be

NGO carries out studies and researches regarding potential violations of basic human rights since when it was founded in 1988. Before that, in 1978 was introduced under the name of Helsinki Watch in order to monitor the observance and compliance of Helsinki Accords by the Soviet Union due to a proper relationship between the West and the Communism of the Soviet Union.

²²² L. Henkin (1990); “The Age of Rights”.

²²³ Henry J Steiner and Philip Alston (2000) *“International Human Rights in Context: Law, Politics, Morals”*. Oxford University Press.

²²⁴ L. Henkin (1990); “The Age of Rights”.

²²⁵ L. Henkin (1990); “The Age of Rights”.

²²⁶ *Sosa v. Alvarez-Machain* (2004)

²²⁷ Legal Information Institute, *Sosa V. Alvarez-Machain* (03-339) 542 U.S. 692 (2004) 331 F.3d 604, reversed.

detained while the Soviet Union believes human rights to consist in economic and social rights such as the right to work, to receive a proper education and the guarantee to healthcare²²⁸.

Regarding the structure and the content of the UDHR, the aim of the General Assembly was to indicate a common standard for all the nations, promoting the education and the respect among different populations. The first two articles indicate the basic definition of equality, liberty and dignity, however more precisely the first one establishes that “all human beings are born free and equal in dignity and rights” and they should adopt a spirit of cooperation among each other while the second one précises that all humans are “entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind” such as gender, nationality, religion and any kind of opinion as for the equity among the economical and jurisdictional system.

As regards for the following three articles, these incorporate the rights of the individual, more particularly in the third article is imposed the right to life, as the right to freedom and safety; in the fourth one regards the prohibition to slavery while the fifth article repudiate all those degrading, humiliating and cruel treatments and punishments as the torture. The articles between the sixth and the eleventh articles indicates defined remedies for possible violation of fundamental human rights, in facts the sixth ones précis the equal treatment before the law, confirmed by the following article with the additional precision of an equal legal protection in case of discrimination. The eight article provides the right for everyone to resorting to tribunals when facing the violation of human rights and the following one the negation for “arbitrary arrest, detention or exile”. The tenth article guarantee an impartial and independent treatment in tribunal and the last one of this category indicates how to treat a human being when charged with an offence.

The further six articles contains the rights from the individuals towards the whole community, in fact the twelfth article safeguard the right of privacy, reputation and honour, while the thirteenth one protect the right of freedom of movement between countries connected with the following one which allows the right to asylum in case of persecution and finally the fifteenth article defend the right to have a nationality.

²²⁸ The Guardian, The case against human rights.

Furthermore, the sixteenth article remove all kinds of limitations in regards to marriage and when founding a family and the seventeenth ones protect the right to own any kind of property.

The common point of articles between eighteenth and twenty-one are the “constitutional liberties”, more precisely the freedom of conscience, religion and though followed by the freedom of expression and opinion, while the twentieth reaffirms the freedom of association and assembly in a peaceful way and finally the right to take part to the government process. The penultimate group of articles referrers to all the economic, cultural and social rights of an individual from the right to social security to the guarantee to work and be employed, considering the right of an adequate remuneration, to join trade unions and a safe working place and according to the twenty-fourth article the right to rest between working days and have a defined working schedule. The twenty-fifth articles foresee that “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services” including in case of sickness, disability but also motherhood and childhood. The following one imposes the right of a proper education, identifying all the criteria and the twenty-seventh one assures people to be free to have an active participation in the community, having their moral protected. Finally, the last three articles provide instructions for use the rights cited above where the twenty-eighth assure an order both at an international and at a social level but at the same time the following articles remind the commitment and the duties towards the community due to make these rights applicable and finally the last article of the UDHR prohibit any act due to the destruction or the obstruct to the application of these rights by any person, community or even State.

3.10 THE CODE OF CONDUCT AND RESPONSIBLE PRACTICES OF INDITEX

The Code of Conduct and Responsible Practices of Inditex²²⁹ is the actualization and the fusion in just one document of the Internal Code of Conduct²³⁰ and the Internal

²²⁹ Código de Conducta y Prácticas Responsables de Inditex.

²³⁰ Código de Conducta Interno.

Directive of Responsible Practices²³¹ which are approved by the Administrative Council respectively on 2001 and 2006. This Code imposes the group to keep an ethical and responsible behaviour towards the company itself but also toward single employees and it is recognized as a tool to facilitate the recognition and the application of the Code of Conduct of the Inditex group, which aims to fulfil human and social rights. A second point of this Codes affirms that Inditex takes into consideration principles of criminal responsibility, if necessary, towards legal entities in occasion of behaviours that could determine the involvement of the corporate social responsibility. In fact, the Code impose the principle of due diligence for the foresight and detention of irregular conducts.

The Code is based on four principles, where the first aims to assure that all the actions undertaken by Inditex occurs in an ethical and responsibility sphere; which are archived in the most respectful way possible also towards the environment, promoting biodiversity. A third point establishes that the Code has as necessary condition the fulfilment of the legislation in force in each country. Finally, the Code in question expects that all natural and legal persons who come into direct or indirect contact with Inditex, will receive a fair and dignified treatment.

The application of the Code, total or partial, could extent to any natural and/or legal person related to Inditex, when by means of which the fulfilment of its purpose takes place and it is possible for the naturalization of the relationship. The Code will be personally notified to all of its Counsellors, Directors and any person who represents it. The obligation of its fulfilment will be explicitly recognized in the employees' employment contracts, to which a copy will be sent. The exemption of the fulfilment for duly justified concrete cases, can only be authorized by the Ethics Committee²³², which will have to report to the Audit and Control Committee as soon as possible²³³.

Inditex considers people as a core business factor, defending and promoting respect for human and labour rights, engaging in the application of regulations and good practices in terms of working, health and safety conditions in the workplace. According to the Code of Conduct, the Inditex group does not employ anyone who is less than

²³¹ Directriz Interna de Prácticas Responsables.

²³² Comité de Ética.

²³³ Comité de Auditoría y Control.

sixteen years old and no employed in Inditex will be subject to discrimination. In fact, Inditex prohibits all forms of harassment or physical, sexual, psychological or verbal abuse to its employees, as well as any other conduct that could generate an intimidating, offensive or hostile work environment. The workplace must be also verified as safe and healthy and both weekly working hours and overtime will not exceed the legal limit established for the legislation of each country. All Inditex employees must comply with the legislation in force in each of the country in which they carry out their production, distribution and marketing activities and they are guaranteed the right to use trade unions.

According to the Code of Conduct, the selection of suppliers will take place according to the criteria of objectivity and transparency, managing to reconcile the interests of Inditex in obtaining the best working conditions for the group but at the same time, managing to maintain stable relationships with suppliers from the ethical and social point of view. In fact, these will have to commit to respect human and working rights of all the employees hired, as well as to involve and transmit these principles to all their commercial partners. Procurement and supply activities will develop in strict compliance with the rules and procedures in force in the company and all decisions taken in this sector must be accredited, in the sense that they must be justifiable and verifiable in the event of review by third parties or by the control bodies of Inditex itself. The selection of suppliers will be governed by objectivity and transparency criteria, reconciling the interest of the company in obtaining the best conditions, with the convenience of maintaining stable relationships with ethical and responsible suppliers. The manufacturers of products that Inditex markets, are obliged to comply to the Code of Conduct of Manufacturers and Suppliers²³⁴ when it is applicable and the lack of attention requires justifiable, provable and verifiable reasons by the control body if Inditex itself or by third parties.

Regulatory compliance is a necessary condition for this Code. The application of the Code cannot in any case lead to a violation of the legal provisions in force in the countries in which Inditex operates. All Inditex employees must comply with company standards and procedures, Inditex undertakes to make available to its employees all the necessary tool to know and understand internal and external regulations necessary

²³⁴ Código de Conducta de Fabricantes y Proveedores.

for the exercise of their company responsibility. The company has put in place a consultation and notification procedure, which allows any person to be connected and to report confidentially any irregularity, which in their opinion, involves a violation of the Code.

The body responsible for checking the proper application of the Code of Conduct is the Ethics Committee²³⁵, which in turn is composed by a General Secretary and director of the regulatory compliance²³⁶, an Internal Audit director²³⁷, a director of corporate social responsibility²³⁸ and finally a human resource director²³⁹.

The Ethics Committee depends on the Board of Directors²⁴⁰ through the Audit and Control Committee²⁴¹ which has the task of supervising the fulfilment and the internal diffusion of the Code of Conduct for all the Inditex staff and those who come into contact with the group; in addition to receiving all types of written documents related to the application of the Code and its remission.

²³⁵ Comité de Ética.

²³⁶ Antonio Abril.

²³⁷ Paula Mouzo Lestón.

²³⁸ Félix Poza Peña.

²³⁹ Raúl Romero.

²⁴⁰ Consejo de Administración.

²⁴¹ Comité de Auditoría y Control.

CHAPTER IV: STARBUCKS CASE

PART I: DESCRIPTION OF THE CASE

4.1 INTRODUCTION

The Reuters foundation first carried out investigations for six months in the wide zone occupied by the coffee industry, which was not properly checked despite the collective efforts made over the years to try to clean up the sector²⁴².

In August 2018, the reporter Daniela Penha wrote an investigation for Mongabay and Reporter Brazil, where working conditions similar to those of slavery in coffee plantations have been reported, all of this under the certificate of Starbucks and other brands in Minas Gerais in Brazil^{243 244}.

In autumn of the same year, labour inspectors confirmed the connection between Starbucks and one of these farms implementing working labour in humiliating conditions and using unsuitable equipment²⁴⁵.

4.2 THE INSPECTIONS

According to the inspections conducted by the Ministry of Labour together with the Reuters foundations, multiple workplace violations have been brought to light in ten farms certified Rainforest and Certifica Minas.

According to statistics compiled in 2014 by a labour attorney and handed over to the Thomson Reuters Foundation, it has been indicated that one hundred and twenty-one farms have been established in the Minas Gerais region in south-eastern Brazil. Mateus De Oliveira Biondi, regional anti-slavery coordinator for Minas Gerais, says he finds these numbers published by the foundation frightening and is alarmed by the high number of investigations (on average twenty-five investigations per year at the beginning of 2014) in the areas of coffee plantations of the region.

It has been estimated that more than two thirds of the workers on the coffee farms in

²⁴² Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

²⁴³ GreenMe, *Ecco cosa si nasconde dietro al caffè di Starbucks*.

²⁴⁴ GreenStyle, *Starbucks: inchiesta svela sfruttamento nelle piantagioni di caffè*.

²⁴⁵ Rebellion, *Starbucks: Buen café con trabajo esclavo*.

Minas Gerais were employed informally, without a minimum wage, overtime remuneration, indemnities of any kind or state benefits. These conditions were not lacking even in plantations that supplied brands like Starbucks and Nespresso, despite the fact that the coffee was sold with slave-free production seals.

The coordinator of the Articulação dos Empregadores Rurais de Minas Gerais ²⁴⁶ (Adere-MG), Jorge Ferreira dos Santos, who took part in the inspections affirmed that “it is not the first, the second and it will not be the third time that a certified farm is reported for the practice of slave labour and further violations of workers’ rights”.

4.3 EPISODE OF “FARTURA”, CORREGO DAS ALMAS IN PIUMHI

The first case in question took place on the Córrego das Almas farm in Piumhi in the state of Minas Gerais where outside the plantations it is visible a sign of international certifications that claiming that “no slave or forced labour is allowed here”. The farm called “Fartura” has also obtained the UTZ seal from the Netherlands, which certifies sustainable agriculture²⁴⁷ and is owned by Fabiana Soares Ferreira²⁴⁸. The farm employs approximately one hundred fifty-one officials in approximately three million feet (one foot = one tree / plant) of coffee, as well as growing soybeans, beans and raising livestock^{249 250}.

There fifty-nine workers, including a seventeen-years-old teenager, has been found in working conditions similar to slavery. Most of the workers were not documented, they were underpaid and worked with scarce safety equipment compared to those required by law²⁵¹. The labour inspector who coordinated the expedition, Marcelo Campos, claims that the workers realized they were being exploited but, having no rights, they had no other choice²⁵². Often, because of being illegal, workers also accept extreme conditions in order to make money.

²⁴⁶ Articulation of Rural Employers in Minas Gerais.

²⁴⁷ Green Style, *Starbucks: inchiesta svela sfruttamento nelle piantagioni di caffè*.

²⁴⁸ Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo*.

²⁴⁹ Mongabay, *Slave labor found at Starbucks-certified Brazil coffee plantation*.

²⁵⁰ Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo*.

²⁵¹ Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

²⁵² Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

Workers rescued from this condition claim that the working day started at six in the morning and ended at five in the afternoon, without getting paid for Sundays and days off²⁵³. In any case, the only rest was the rainy days. In addition to the degrading conditions, workers lived in precarious collective housing, without sewage networks and drinking water and they were also obliged to pay a rent, gas and electricity bills in addition to their food and water²⁵⁴. Moreover, these degrading conditions attracted small animals such as rats and bats which damaged and ate their food supplies as well as polluting the water.

Furthermore, workers wanted to specify that even the remuneration was fraudulent. The citizens who were rescued said that the remuneration should have been based on the quantity collected, but since the bags of coffee collected had to be weighed the next morning, very often during the night, the harvest disappeared and the workers were humiliated by the exploiters and consequently unpaid²⁵⁵.

Instead, when workers were paid, compensation was equal to R\$ 14, meaning € 2.63, for every sixty kg of grains they collected, which also represented several days of work. In example, during forty-three working days, a woman earned R\$ 672, equal to €126.33, which is equivalent to not even four cents per hour, an amount definitely much below than the monthly minimum imposed by law for the sector, of R\$ 998, which are about €187.60²⁵⁶.

According to the property of the land, it is leased and managed by Fabiana Soares Ferreira. In a statement, her lawyer Amanda Costa said that the owner became aware of the inspections “with shock” slave labour is far from the working philosophy adopted²⁵⁷. Fabiana also wanted to make it clear that “our company has been present in the coffee market for many years and has always tried to satisfy all legal requirements, in order to obtain all the certifications, licenses and awards that impose extremely demanding conditions²⁵⁸”.

For the matter, twenty-seven infringement notifications were delivered to the farm

²⁵³ GreenMe, *Ecco cosa si nasconde dietro al caffè di Starbucks*.

²⁵⁴ Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

²⁵⁵ Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo*.

²⁵⁶ Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

²⁵⁷ Mongabay, *Slave labor found at Starbucks-certified Brazil coffee plantation*.

²⁵⁸ Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo*.

with a payment of R\$ 71 thousand, approximately € 13,109, for the liquidation of the workers^{259 260}.

4.4 EPISODE OF CORREGO DA PRATA IN MUZAMBINHO

A second inspection, again in the state of Minas Gerais but in the city of Muzambinho, brought to light fifteen workers in a similar situation, on a farm managed by Elias Rodrigo de Almeida but owned by Maria Júlia Pereira, a sister-in-law of the federal deputy of Minas Gerais, Emidinho Madeira²⁶¹. In addition, the father of the federal deputy owns two coffee farms which have been included in the "Lista Suja " since April 2018, where about fifteen workers have been saved, including a seventeen-year-old.

In this inspection, workers have been found in conditions similar to those in Piumhi, but in this case workers were also obliged to buy their own work materials, thus contracting further debts with the farm owner between R\$ 2.5 and R\$ 3 thousand even before starting work²⁶².

Besides, to be able to collect the little compensation received, they were forced to pay R\$ 20 for an clandestine bus which would take them to the closest city of the farm in order to collect their compensation, but in doing so they had already lost a lot of money²⁶³ and the workers also claim that these fees were issued by the land owner, Maria Júlia Pereira²⁶⁴.

As for the case of Córrego da Prata, the owner Maria Júlia Pereira through a public note by her lawyer Thiago de Lima Dini, claims that she purchased the farm in late 2016 and that she rented it to Almeida in December of the same year "remaining unaware of what was going on". The lawyer continues by saying that Almeida has outsourced the hiring of workers and that Maria is "a victim as much as the workers²⁶⁵" and at the end of the trial Maria Júlia was not involved.

²⁵⁹ Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo.*

²⁶⁰ Mongabay, *Slave labor found at Starbucks-certified Brazil coffee plantation.*

²⁶¹ Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo.*

²⁶² Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo.*

²⁶³ Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo.*

²⁶⁴ Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo.*

²⁶⁵ Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo.*

The Córrego da Prata farm was sued for thirty-four infringements and it was obliged to pay R\$ 87 thousand (about € 16,064) for compensation the damaged workers²⁶⁶.

4.5 THE RESPONSE OF STARBUCKS

Brands such as Starbucks and Nespresso have been involved in the matter since in the years preceding the scandal, they have used coffee from the plantations where these conditions have occurred. Both companies said they were unrelated to the issue and publicly admitted that, in addition to suspending supplies from these farms, they would work together with producers to improve working conditions and to avoid slavery.

More precisely, since 1994 Starbucks has started some plans regarding its Corporate Social Responsibility and has started collaborating with Conservation International (CI) for the development of the C.A.F.E. Program²⁶⁷.

4.6 THE RESPONSE OF THE BRAZILIAN GOVERNMENT

In the blog of Fair Word Project in Portland, Anna Canning says that the Brazilian government has started taking measures to reduce forced labour, starting with the annual "Lista Suja"²⁶⁸. As we have seen in the first chapter, this list drawn up by the Brazilian government indicates all the entrepreneurs who have employed labour in conditions of slavery, who can no longer ask for loans from Brazilian banks or obtain any type of public money. In one of the last lists, eighteen out of one hundred ninety were coffee farms and thirteen of these were located in Minas Gerais.

There are also institutions to protect workers and prevent these conditions such as Inpacto (Instituto Pacto Nacional pela Erradicação do Trabalho Escravo²⁶⁹) where the director Mercia Silva communicated that "we started a dialogue with the coffee sector in 2016, predicting that the violations of rights, especially slave and child labour, can capture the attention of the world".

²⁶⁶ Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo*.

²⁶⁷ Coffee and Farmer Equity (C.A.F.E) Practices.

²⁶⁸ Rebellion, *Starbucks: Buen café con trabajo esclavo*.

²⁶⁹ National Pact Institute for the Eradication of Slave Labor.

The Brazilian economy minister announced that previous year he began to work with coffee producers in order to improve working practices. As for the coffee sector, in 2018 more than three hundred workers²⁷⁰ in slave labour conditions were ascertained throughout Brazil, the highest data in fifteen years, bearing in mind, however, that the actual value is still unknown. In fact, federal judge Carlos Haddad claims that Brazil is "one of the largest coffee producers and the number of quantified abuses is not proportional to our [Brazilian] production"²⁷¹.

All those farms that do not comply with regulations can be subject to penalties and in particular those who are found to be using slave labour are subject to fines which may exceed R\$ 1 million in legal damages²⁷². The legislator in charge of the Human Rights commission, Helder Ignacio Salomão, is thus committed as part of the congress to carry out legislation and to propose laws to warn Brazil of the issue. Salomao goes on to saying that "either the problem is solved, or more and more workers will lose their dignity; in the meantime, we are losing business opportunities and soon Brazil will have losses because of this".

In the country there are hundreds of thousands of workers in about one hundred nineteen thousand coffee plantations, but are conducted only two hundred forty-five inspections per year. Adriano Santos, a professor of sociology at the local Unifal-MG university, argues that all this is due to the lack of resources, staff and technical support. In fact, in 2017, given the recessions, the Brazilian government decided to cut the funds for a half regarding the inspections in the workplace. According to data from the Brazilian government itself, the workers rescued in 2012 were two thousand six hundred four, data which dropped to one thousand one hundred fifty-four in 2018.

Despite this, the director of CUT, the biggest trade union confederation in Brazil, Jorge Ferreira dos Santos says that "with mechanization, [despite] the number of workers [exploited] has fallen, their situation remains precarious as they adapt to work in any condition they find."

²⁷⁰ Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

²⁷¹ Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

²⁷² Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

4.7 THE COFFEE TRADE

In a statement, Rainforest admitted that "a certification system alone is not enough to achieve the change we want to see on the ground. We need governments, business, and other stakeholders to play a significant role²⁷³". All of this especially in Brazil, the country which provides more than a third of the global coffee supply. According to United Nations trade data, this amount corresponds to about R\$ 18 billion, equivalent to more than €3 thousand. In addition, about 80% of the coffee is grown by small farmers, which reach twenty-five million worldwide.

It is therefore necessary that buyers are also willing to compromise with the conditions required by fair trade. In addition, the Thomson Reuters Foundation and labour inspectors pointed out that consumers have become more attentive to coffee produced under slave-free conditions²⁷⁴ and this attention can prevent the importation of Brazilian goods for fear that the plantations of coffee have not been properly controlled²⁷⁵. According to Genevieve LeBaron, a professor at Britain's Sheffield University "consumers believe that when they pay [US]\$ 2 or more for certified coffee, that amount of money is given to workers, in reality there is little evidence to confirm it²⁷⁶".

A lawyer from the anti-slavery charity Conectas Human Rights, Paula Nunes claims that it is difficult to identify the identity and provenance of workers employed in conditions similar to slavery, therefore it is also difficult that the rights of Brazilian legislation are guaranteed²⁷⁷.

As for the minimum market prices imposed, on average are around US\$ 0.90 and US\$ 1.00 per pound²⁷⁸ of unroasted green coffee. A Catholic Relief Services report regarding working conditions on coffee plantations in Brazil claims that with US\$ 1.00 per pound, few growers are able to meet the minimum standards required by law as well as manage to reinvest what is needed to stabilize the job offer and to promote the

²⁷³ Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

²⁷⁴ Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

²⁷⁵ Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

²⁷⁶ Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

²⁷⁷ Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

²⁷⁸ about 0.45 kg

empowerment of agricultural workers.

Fairtrade International instead imposes a minimum price for the coffee market of at least US\$ 1.6 per pound for the traditional one and at least US\$ 1.90 per pound for organic coffee; while the SPP (Símbolo de Pequeños Productores²⁷⁹) managed by the farmers, sets the minimum at US\$ 2.20. As for Starbucks and its certifications, at the moment it is not clear how much the brand pays for the coffee it sells, but according to their latest report of 2011, the minimum was of US\$ 2.38 per pound²⁸⁰. In addition to the price, another determining factor is the volume. It has been estimated that around 72% of the coffee²⁸¹ from fair trade cooperatives is sold outside the specific market, therefore it is not competitive.

To date, Brazilian farmers are earning the same amount as they were doing twenty years ago, and it would be even less if we consider the increase of production costs²⁸². In conclusion, slave labour is the consequence of a system which has historically extracted everything possible from farmers and workers while allowing only traders to benefit from the gains.

²⁷⁹ Small Producers Symbol.

²⁸⁰ Rebellion, *Starbucks: Buen café con trabajo esclavo*.

²⁸¹ Rebellion, *Starbucks: Buen café con trabajo esclavo*.

²⁸² Rebellion, *Starbucks: Buen café con trabajo esclavo*.

PART II: FAIR TRADE

4.8 DEFINITION OF FAIR TRADE

The “fair trade” is a type of commerce that works everyday with the aim to guarantee the producers and employed in developing countries better conditions, by paying an adequate price and improve their conditions. Whoever supports this type of trade, advocate in the first place to increase the contributions for exporters for their goods, allowing them to rely on a stable income; but at the same time to ensure the safeguard of the environment. This type of trade focuses on goods that are normally imported by developed countries from the South of the World, but also that are consumed by themselves; promoting international partnerships and agreement regarding trade through respect, transparency and dialogue, opposing to the maximization of profits by larger retail chains and large products and traders. Due to Alex Nicholls and Charlotte Opal in their book “Fair trade: Market-Driven Ethical Consumption”, Fair Trade is first of all a development tool that creates fair and long-term trade relationships keeping the focus on “development and technical assistance via the payment to suppliers of an agreed social premium”. In order to be recognized as fair trade, the producer, farmer or cooperative need to obtain proper standards imposed by Europe (see after) and sold at a minimum price in the case the market results oversupplied. In addition to this, cooperatives receive a supplementary 10c per lb as premium, that is intended to increase the welfare of local communities²⁸³.

In most of the cases, cooperatives will put in the market only a third of their production with the fair trade label, due to the lack of demand, selling the rest with a normal prices^{284 285 286}. These organization will follow certain marketing solutions²⁸⁷, that make them believe that the best way to behave is selling products through supermarkets in order to obtain volumes that are worthy for developing countries, since in these consuming countries, the consume of fair trade and non-fair trade coffee

²⁸³ Bowes, John (2010); *The Fair Trade Revolution*, London: Pluto Press.

²⁸⁴ Mohan, S (2010); “Fair Trade Without the Froth – a dispassionate economic analysis of ‘Fair Trade’”.

²⁸⁵ Kohler, P (2006); “The economics of Fair Trade: for whose benefit? An investigation into the limits of Fair Trade as a development tool and the risk of clean-washing”.

²⁸⁶ Kilian, B; Jones, C; Pratt, L; Villalobos, A (2006); “Is Sustainable Agriculture a Viable Strategy to Improve Farm Income in Central America? A Case Study on Coffee”.

²⁸⁷ Ballet, Jérôme; Carimentrand, Aurélie (2010); “Fair Trade and the Depersonalization of Ethics”.

is more or less the same. Nevertheless, in 2002 around sixty thousand tons of fair coffee was purchased by clients in about seventeen countries and in the Journal of International Development²⁸⁸ it is highlighted the fact that almost every year the fair trade face an increase of almost 30%, even 50% in certain countries. This global increase worth more than \$500 million of American dollars in 2004, increased in 2008 with a global amount of sales higher than US\$ 3.5 billion²⁸⁹. This attention to fair trade will lead to two types of impacts²⁹⁰: a direct one and an indirect one. The direct impact helps local communities empowering them and increasing their incomes, in addition to increase opportunities for children to be properly educated, while the indirect one receives benefits through trade relationships established by cooperatives.

4.8.1 MINIMUM PRICE

Fair trade establishes a minimum price that farmers and producers should receive for their goods, that in no case should descend below market price and it should not refer to speculation and stock market trend. This price is calculated by organization together with farmers, to identify necessary costs for a sustainable production and to assure the covering of it. In case the market price would be higher than minimum price, farmers will receive the market price, that means the higher one.

4.8.2 PREMIUM PRICE

Premium price is an amount of money added to the minimum price that buyers pay to farmers or producers for those traded products. It is at the discretion of farmers to decide how to spend this amount of money and this decision is taken democratically and with transparency. Normally, premium price is employed for a thirty-eight percent²⁹¹ of farmers in their business, buying capital as real estate or equipment. The remaining of the premium is invested for the socio-economic development as in example to improve productive techniques or through an investment in the public sector, simplifying the construction of infrastructures and streets or wherever the local government is lacking like in example the electricity system. Furthermore, the public

²⁸⁸ Reynolds, Laura T; Murray, Douglas; Taylor, Peter Leigh (2004), "*Fair Trade Coffee: Building Producers Capacity Via Global Networks*".

²⁸⁹ UNEP (2011); "*Towards a Green Economy: Pathways to Sustainable Development and Poverty Eradication*".

²⁹⁰ Alex Nicholls, Charlotte Opal (2009); *Fair Trade: Market-Driven Ethical Consumption*.

²⁹¹ Linton, April (2012). *Fair Trade from the Ground Up*. University of Washington Press.

investment contributes to the improvement of the scholar system, for the construction of clinics or drinking worker pools for the community as so initiatives to safeguard of the environment. In this case, Nicholls and Opal recognize that this procedure could be seen as paternalistic, but due to their point of view this helps producers and farmers to incentive their commitment to fair trade and helps them with their conditions and consider this premium as one of the main tools of Fair Trade. Due to the annual²⁹² Fair Trade report, farmers and workers have earned an amount of €176.5 million in premium regarding the top seven products.

4.9 THE CHARACTERISTICS OF FAIR TRADE

The peculiar characteristics to recognize fair trade are basically three²⁹³. A first characteristics is the attention to the conditions of workers and their rights, such as for example the right to decent work and the right to lead a healthy life, but also the attention to the protection of the environment, such as in example impose the prohibition of the use of pesticides and chemicals in addition to the usage of renewable raw materials. A second characteristics of fair trade is the short chain, which consists of a short productive-commercial cycle, which makes the production reach the final customer in few steps. These can include the production and distribution, thus allowing the final customer to easily trace the path of the product. The last feature is to ensure guarantees for all, that can reflect in a guarantee of continuity within example prices agreed with producers to allow them a dignified life.

4.10 THE COMMODITIES COVERED BY FAIR TRADE

4.10.1 COFFEE

The first product to be certified with the fair trade label is the coffee because it is one of the commodities from developing countries that is highly requested by the North of the world (and so traded). For coffee to be labelled as sustainable, it must be certified as fair trade, by the Rainforest Alliance²⁹⁴ or as organic; but there are many types of

²⁹² 2018-2019

²⁹³ *Cultura, Fair Trade o commercio equo e solidale: che cos'è?*

²⁹⁴ Check 4.9.3.

classifications based on their commitment in economic, environmental and social standards. The first time that it has been heard of “sustainable coffee” was in 1998 by NAFTA’s Commission for Environmental Cooperation (CEC), the Consumer Choice Council (CCC) and the Smithsonian Institution Migratory Bird Centre (SMBC); and the next year was used in the CCC’s report “Sustainable Coffee at the Crossroads²⁹⁵” while the first time issues of coffee origins was in IMF papers²⁹⁶ and World Bank publications^{297 298}.

Nowadays there are specific criteria that determines if a coffee can be labelled as sustainable. First of all, the coffee has to come from cooperatives of small certified farmers and it must be cultivated respecting the environment. Another criterion is the presence of long-term trade relationships between buyers and farmers; in addition, farmers have to obtain a proper price that will cover the costs of production. According to Max Havelaar²⁹⁹, the minimum price should be 1,24 US\$/lib for conventional certified coffee while regarding the biological one, the price will increase to US\$ 1,39/lib. As seen before, in case that the market price will result higher than the minimum established by Max Havelaar, the producer of farmer has the right to receive the market price, that means the higher one. Regarding the premium, this will be US\$ 0,05 for conventional coffee and US\$ 0,15 for biological one.

This issue was reiterated by David Hallam, the commodity chief of the Food and Agriculture Organization of the United Nations’ (FAO). Regarding the cultivation process, it requires technological innovations even if coffee crops are more manageable, and so the diversity of the forest decreased and coffee plantations became shorter. The next step, meaning intermediate processing and roasting, these procedures take place in the destination countries which transform coffee beans according to the market request and the issue of duties, which are higher for the treated

²⁹⁵ Rice, Paul; McLean, Jennifer (1999); *“Sustainable Coffee at the Crossroads”*

²⁹⁶ Cashin, P., Liang, H. & McDermott, C.J. (1999); *“How persistent are shocks to world commodity prices?”*.

²⁹⁷ Morisset, Jacques (1998); *“Unfair trade? The increasing gap between world and domestic prices in commodity markets during the past 25 years”*.

²⁹⁸ Giovannucci, Daniele; Brandriss, Peter; Brenes, Esteban; Marlene Ruthenberg, Ina; Agostini, Paola (1999); *“Engaging civil society to create sustainable agricultural systems: Environmentally-friendly coffee in El Salvador and Mexico”*.

²⁹⁹ Or the Coffee Auctions of the Dutch Trading Company.

coffee.

4.10.2 COCOA

Cocoa is the second colonial commodity that since the beginning received attentions from fair trade, primarily from countries of the South of the World.

In particular, the African government rely on taxes of cocoa as their main source of revenues but the system is a direct connection between farmers and cooperatives and to buyer countries³⁰⁰. Most of the cocoa comes from small family run farms and consequently receive a very limited access to the market and lead to poverty, but they can rely on agricultural cooperatives that also help to establish a right price for cocoa, as so the respect of the environment and to guarantee dignified life and working conditions for workers. Even in this case, the proper price is not redistributed in a total manner between farmers but it is invested in project for the community, as the implementation of infrastructures, the access of drinking water and improve the educational system. Likewise for coffee, cocoa is treated in the destination country, but unlike this an important issue is the large investment of time since it is the permanent crop, that then it seizes the plantation for long period of time and after every harvest, there is no need to replant the plantations³⁰¹.

The Harkin-Engel Protocol³⁰² is an international agreement signed in September 2001 that represent the main regulation of the cocoa fair trade and it was created with the main purpose to end forced labour³⁰³and the “worst forms of child labour³⁰⁴”. It is a six-article plan³⁰⁵ negotiated for the first time by the U.S. Representative Eliot Engel and U.S. Senator Tom Harkin in response to the vision of numerous articles between 2000 and 2001 and a documentary that were reporting these issues. The first step is the public declaration of the requirement of an action plan, since the cocoa industry recognized the forced and child labour issues and announce the commitment of

³⁰⁰ Michael Barratt Brown (2007); “*Fair Trade’ with Africa, Review of African Political Economy*”.

³⁰¹ Willer, Helga; Yussefi-Menzler, Minou und Sorensen, Neil (2008); “*The World of Organic Agriculture – Statistics and Emerging Trends 2008*”.

³⁰² “Protocol for the Growing and Processing of Cocoa Beans and Their Derivative Products In a Manner that Complies with ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.”

³⁰³ ILO Convention 29.

³⁰⁴ International Labour Organization’s Convention 182.

³⁰⁵ Chocolate Manufacture Association.

“significant resources” in order to make a fix. The second step is the creation of advisory groups at a multi-sectorial level in October 2001 and by December of the same year the formation of an appropriate treatment to address the problem of child labour. The following step is the signature at the ILO of the statement to safeguard of child labour within December 2001 developing also alternatives for children that have been removed from (slave) labour. The fourth step is the establishment by May 2020 of a research action plan³⁰⁶ that will enforce standards and improve research other than exchange of information in order to eliminate child labour. The fifth goal is the establishment of a joint foundation within July 2020, that will develop projects and best practices other than the constitution of a foundation in order to oversee all the efforts with the aim to eliminate the worst forms of child labour. The final step is the constitution of credible standards, where within 1st July 2005 the Chocolate Manufacture Association has as main goal the implementation and development of standards that will certificate that cocoa has been cultivated without any worst forms of child labour.

4.10.3 ARTESIAN, GOLD AND THE OTHERS

Within the framework of the textile sector, the main regulated and safeguarded good is the cotton, since it hails from factories and not farms, as the case for coffee and cocoa. Regarding the textile manufacturing, the main issue is the exploitation of child labour, especially in India, Nepal and Pakistan and most of the time, in the other cases the manufacturing is cared by women. In these countries, women have to manage to wedge in the textile production with domestic responsibilities, the care of children but also with the agricultural work.

Even if in 2015 around seventy-five thousand cotton farmers located in developing countries have gained the Fairtrade certification, the unfair and forced labour involves also developed countries. Worthy of attention are also the commerce of gold, silver and diamonds. Regarding gold and silver, under the Fair Trade certification, there is “Fairgold and Precious Metals “that certifies that people are not exploited in mines, that are receiving a proper wage but also that proper technologies and tools are used. Talking about diamonds, according to researches of the World Diamond Council (WDC), around 24% of the worldwide diamonds are extracted through alluvial sources,

³⁰⁶ Memorandum of cooperation.

that is a practice of collecting diamonds by hand. This of course means a backbreaking work and even here child labour, sometimes also involves five years old children, is employed. For the mayor of the time, these diamond miners are established in Africa where people earn less than a dollar per day and workers must dig for six or seven days per week. In consequence, children are not receiving a proper instruction and this type of work have serious consequences for their physical e mental conditions. “Rapaport fair trade” impose standards and label diamonds as “conflict free” if the diamond journey is certified and can be tracked from the beginning in mines to the final customer and aims to “to provide ethical education for jewellery suppliers, buyers, first time or seasoned diamond buyers, social activists, students, and anyone interested in jewellery, trends, and ethical luxury”.

4.11 THE EUROPEAN UNION

The European Union has put a lot of effort into making it more solid the Fair trade already with the article three point five of Treaty on European Union, where it is written that: “In its relations with the wider world, the Union shall uphold and promote its values and contribute to the protection if its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.” Furthermore, in the Article one-hundred seventy-seven of the EC Treaty regarding development policies, the European Union is pawing for “the sustainable economic and social development of developing countries, and more particularly the most disadvantaged among them, - the smooth and gradual integration of the developing countries into the world economy, - the campaign against poverty in the developing countries”. Important policy framework of the European Union and its support for the cause seems to help to reach the “Millennium Development Goals”.

The commitment to the fair trade movement dates back in 1994, where the European Union Commission drew up the “memo on alternative trade” in which it is committed to strengthen a fairer trade, especially from the South to the North of the world. The parliament, in the same year, adopted the “Resolution on promoting fairness and

solidarity in North-South trade³⁰⁷ to support the regulation of fair trade. Further commitments arrived in 1996, when the Economic and Social Committee of the European Commission introduced the “Opinion on the European „Fair Trade“ marking movement” and in 1998 when the European Parliament adopted the “Resolution on Fair Trade³⁰⁸” followed by the introduction of “Communication from the Commission to the Council on “fair trade”” from the European Commission in November of the same year³⁰⁹. Furthermore, in the 2000s, commitment began for a fairer trade, after the signature of Cotonou Agreement. In 2004, the European Union introduced the “Agricultural Commodity Chains, Dependence and Poverty - A proposal for an EUs Action Plan” referring to the fair trade movement that has “been setting the trend for a more socio-economically responsible trade³¹⁰”. The results were seen in 2005 when these manoeuvres enabled the European Union to achieve the turnover of six hundred sixty million euros, almost two and half times more than in 2001^{311 312}. In June 2006, in fact, the Parliament recognized the benefits of fair trade, proposing a policy in this regard and defining criteria. During a debate, the MEP of the European Green Party, Frithjof Schmidt, affirmed that “this resolution responds to the impressive growth of Fair Trade, showing the increasing interest of European consumers in responsible purchasing” and the EU Commissioner for External Trade, Peter Mandelson followed saying “Fair Trade makes the consumers think and therefore it is even more valuable. We need to develop a coherent policy framework and this resolution will help us”. Nowadays the European Union counts about seventy-nine thousand fair trade selling points and nearly two thousand eight hundred workshops in which there are helping about one hundred thousand volunteers³¹³.

³⁰⁷ OJ C 44, 14 February 1994.

³⁰⁸ OJ C 226/73, 20 July 1998.

³⁰⁹ Communication from the commission, 1999.

³¹⁰ COM (2004) 0089.

³¹¹ Citiny; Il Commercio Equo e Solidale.

³¹² Vladislav B. Sotirović; *The 'Fair Trade' Movement and the European Union*.

³¹³ Citiny; Il Commercio Equo e Solidale.

4.12 THE BRAZILIAN GOVERNMENT

In Portland's Fair Word Project blog, Anna Canning claims that the Brazilian government began to take measures to reduce forced labour, starting with the annual "Lista Suja"³¹⁴. As saw in the chapters above, this list drawn by the Brazilian government indicates all entrepreneurs who have employed labour in conditions of slavery, who can no longer ask for loans from Brazilian banks or obtain any kind of public money. On one of the last lists, eighteen out of one hundred-ninety were coffee farms and thirteen of these were located in Minas Gerais.

There are also institutions to protect these conditions such as InPacto (Instituto Pacto Nacional pela Erradicação or Trabalho Escravo) where the director Mercia Silva communicated that "we started a dialogue with the coffee sector in 2016, predicting that the violations of rights, especially slave and child labour can capture the world's attention".

The Brazilian economy Minister announced that the previous year he began to work with the coffee producers to improve working practices. As for the coffee sector, in 2018 more than three hundred workers in slave labour conditions were ascertained throughout Brazil³¹⁵, the highest data in fifteen years, bearing in mind, however, that the actual value is unknown. In fact, federal judge Carlos Haddad claims that Brazil is "one of the largest coffee producers and the number of quantified abuses is not proportional to our [Brazilian] production³¹⁶".

All the farmers which do not comply with regulations, can be subjected to penalties and in particular, whoever is discovered employing slave labour are subject to fines which can excel R\$ 1 million in legal damages³¹⁷. The legislator in charge of the human rights commission, Helder Salomao, is thus committing as part of the congress to carry out legislations and to propose laws with the aim to warn Brazil regarding the issue. Salomao continues saying that "either the problem is solved, or more and more workers will lose their dignity; in the meantime, we are losing business opportunities and soon Brazil will have losses because of this".

³¹⁴ Rebellion, *Starbucks: Buen café con trabajo esclavo*.

³¹⁵ Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

³¹⁶ Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

³¹⁷ Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

In the country, there are hundreds of thousands of workers in about one hundred nineteen thousand coffee plantations, however only two hundred forty-five inspections per year. Adriano Santos, a professor of sociology at the local Unifal-MG university, argues that all this is due to the lack of resources, staff and technical support. In fact, in 2017, given the recessions, the Brazilian government at the time decided to cut the funds for half of the inspections in the workplace. According to data from the Brazilian government, the workers rescued in 2012 were 2.604 dropped to 1.154 in 2018.

Despite the director of CUT, Brazil's biggest trade union confederation, Jorge Ferreira Dos Santos says that "with mechanization, the number of workers has dropped, their situation remains precarious as they adapt to work in any condition they find."

4.13 ORGANIZATIONS

However, at the moment they do not exist³¹⁸ specific normative neither at European level and neither at international level, that discipline fair trade products, so much that these for the most part are based on voluntary certifications. Nevertheless, there are two main organization that regulate this sector: The Fairtrade Labelling Organizations International (FLO) and the World Fair Trade Organization (WFTO).

The Fairtrade International is a non-profit organization that was founded in 1997 in Germany and is a product certification-oriented group responsible for the "FAIRTRADE®" label formed by multi stakeholders. It has the main aim to change the level of life of farmers and workers through decent working conditions, better prices for farmers and better deals for farmers that will allow the community to develop. This ONG takes care in the first place of products like coffee, cocoa, tea, flowers, bananas and sugar, products that are labelled "Fairtrade" that comes from the South of the word, mainly from Brazil and Africa. Due to the annual (2018-2019) Fairtrade report, this label involves more or less 1.7 million of workers and farmers that develops their production in seventy-three countries and are part of one thousand seventy hundred seven certified producer organizations.

These people have produced goods like coffee, cocoa and cotton that are sold in one

³¹⁸ *Cultura, Fair Trade o commercio equo e solidale: che cos'è?*

hundred fifty-eight countries worldwide and the total amount of retail sales reaches €9.8 million. Furthermore, about two thousand four hundred eighty companies have licensed more than thirty-five thousand products labelled “Fairtrade” in the whole world. This allowed producer to gain a Premium³¹⁹. Their vision is “a world in which all producers can enjoy secure and sustainable livelihoods, fulfil their potential and decide on their future³²⁰” and this could become possible also by informing consumer about their choices and push them to be more sustainable understanding the value of the commodities they buy and what there is behind their prices in the most transparent way. Fairtrade International also rely on three networks that represent farmers and workers of Latin America (CLAC³²¹), Africa (Fairtrade Africa) and Asia (NAPP³²²). In general, Fairtrade International works with producers in order to let them gain the certification and with the trader helping them to widen the trade of these products; in the meanwhile, it supervises all those that already have received it and it is always searching for new developments. Furthermore, it defines and update the Fairtrade Standards that both farmers and workers in the developing countries have to respect, as so traders and all the participant of the trade system and cover more or less three hundred products and raw materials.

The control of the esteem of those standards is entrusted with the institution FLO Cert that operates at worldwide level in a transparent and independent way and that is why it is accredited to the normative quality supervisory body of certification at international level, ISO 17065. To enhance fair trade, FLO work together with international webs like IFAT ³²³ (International Federation of Alternative Trade),

³¹⁹ Check premium price.

³²⁰ Fairtrade.org

³²¹ Coordinadora Latinoamericana y del Caribe de Pequeños (as) Productores(as) y Trabajadores(as) de Comercio Justo.

³²² Network of Asia and Pacific Producers.

³²³ IFAT is a network that develops its commitment at international level with approximately three-hundred fifty members that come from about seventy countries. More or less 65% of members are part of the developing countries like South America, Africa and Asia and IFAT develop its net in three main areas.

NEWS³²⁴ (Network World's Shops) ed EFTA³²⁵ (European Fair Trade Association) that assemble the acronym FINE and they meet periodically to review and re-elaborate strategies at international level.

As regards the second organization, that is World Fair Trade Organization (WFTO) this is a union of four hundred one organizations with the common aim to improve the quality of life of marginalized farmers and workers. Due to the Annual Report of 2017, the WFTO counts members in seventy-six countries, mainly in the fair-trade businesses, whose supply chain have been certified at an enterprise level by a peer review³²⁶ and this is the difference with other systems, like Fairtrade International certifications³²⁷. Other differences are that this certification can only be applied to verified fair trade businesses or the fact that it is run in a democratic way on a “one member one vote basis”.

In addition, this organization, identifies already certified Fair trade Organizations through the FTO Mark³²⁸ launched in 2004 and guarantee that the determined standards are implemented. Their logo shows that the company is 100% committed to the fair trade cause and follow the WFTO's ten Principles of Fair Trade, like transparency, respect of environment and wages, gender equity and decent working conditions. Originally this trade was designed to cover marginalized products by the system of Fairtrade Certification, but due to the complexity of the commodities, it was technically difficult to put in application. The WFTO has as their main mission “to enable producers to improve their livelihoods and communities through Fair Trade” and they want small voices to be heard.

³²⁴ The Network of European Worldshops is a network that cares about the collaboration between all the European worldshops. It represents about two-thousand five-hundred shops in thirteen European countries like Italy, Germany and Spain.

³²⁵ The European Fair Trade Association includes eleven groups of importers from nine European countries that are Austria, Belgium, France, Germany, Italy, Netherlands, Spain, Switzerland and the United Kingdom and has the ultimate purpose of helping member organizations and supports the cooperation among them.

³²⁶ Granville, Brigitte (2014); *The processes and practices of fair trade : trust, ethics and governance*.

³²⁷ Australia, New Internationalist. "What is the difference between the FTO mark and the Fairtrade label? - New Internationalist Fair Trade Shop - Adelaide, Australia".

³²⁸ Accessible to all WFTO members that meets the required standards.

4.14 GOALS OF FAIR TRADE

The main goal of fair trade is the improvement of equality guaranteeing a decent wage, the empowerment and the improvement of population segmentation as women and children, but at the same times adapting itself to climate change. The fair trade organizations work to improve the lives of workers through a decent wage and conditions, pushing companies and any reality that can be understood as simple plantations or larger farms, to meet the standards imposed by Fair trade regarding conditions of the worker, safety and health. For this reason, in 2010 FLO adopted a strategy to review the standards in favour of workers and adopted a Control Committee which includes NGOs, trade unions and activists' groups with the aim to improve the FLO Strategy.

Regarding the empowerment of minorities, the gender inequality remains one of the strongest walls that prevents the global development, in fact estimations suggest that women have less access to resources like land, credit and instruction and that, depending on the sector, they represent the 43% of the working force in developing countries, and are who take care between the 60 and 80% of the food at a global level. Furthermore, these workers are paid less compared to men, but a FAO statistic suggest that levelling the retribution could increase productivity of the whole land of two point five and four percent in addition to reduce the malnutrition by between one hundred and one hundred fifty million³²⁹. In addition to this, fair trade standards prohibit child labour, which is intended for children under the age of fourteen years old³³⁰ and under the age of eighteen years old if the labour interferes with education or the physical, social and moral development of the children. ILO defines this issue as “work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development”.

The child labour in fact corresponds to working practices that result as damaging for the physical growth for children, as so for their mental health and forbid them to receive and adequate education. International laws identify child labour in three levels. The first one is the reduction of the minor in slavery, that lead to the employment of children in illegal activities or their sexual exploitation; the second one defines the work in

³²⁹ The state of food and agriculture 2010-2011.

³³⁰ ILO Convention No. 138 concerning Minimum Age for Admission to Employment.

conditions considered dangerous based on the local legislation of the reference country and finally the use of children under the age established by law. According to FLO data, about 11% of children are forced to dangerous jobs both in a physically and morally point of view, and 60% of this one-hundred sixty-eight million children³³¹ are employed in the agricultural sector. The last goal for FLO is the respect of the environment. Due to the result of a study about coffee³³² proposed by Fairtrade Australia and Climate Institute, it has been estimated that within 2050 half of the territories intended for coffee will fail, forcing producers to move in different areas, which may provoke a serious damage for the environment, causing deforestation and therefore a greater contribution to global warming.

4.15 STARBUCKS CERTIFICATIONS

Starbucks claims that for every reliable evidence of certification violation from suppliers' farms, the company would have taken immediate action after a thorough investigation and took the issue seriously, as these would violate the certification standards which mark their products. The Fartura also had the C.A.F.E. certificate, a Starbucks seal in collaboration with the SCS Global Service. A third certification for the fair production of the Córrego das Almas, comes from the Rainforest Alliance followed by the 4C Association of the Coffee Assurance Services (CAS), a worldwide organization³³³.

4.15.1 UTZ

The UTZ label is present in more than ten thousand products and since 2014 it represents the program for sustainable agriculture for the cultivation of coffee, cocoa and the largest tea worldwide. The program provides standards for farm management, for social and living conditions of workers and respect for the environment. In January 2018, it officially collaborated with the Rainforest Alliance to tackle social and environmental issues such as systematic poverty, non-social equity, climate change

³³¹ ILO. It is also estimated that the number may be higher, since these situations are difficult to identify. It is also assumed that most of these are females, also due to being forced to look after younger siblings, which prevents them from insufficient education.

³³² Fairtrade, *"A Brewing Storm: the climate change risks to coffee"*.

³³³ Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo*.

and deforestation.

UTZ is based on its Code of Conduct, which determines criteria for efficient farm management and responsible practices for their growth. The Code have been implemented in 2014, following the directives of the international ILO Conventions. This Codes is considered applicable for all farmers in the sectors covered by the certificate. The Starbucks suppliers' farmers would display the UTZ denomination, a certification that was suspended after the fragrant discovery by Repórter Brasil.

The Fartuta farm has been certified in 2016, but the company affirms that it has not “purchased or received coffee from this company in recent years, pointing out that it is starting an investigation process to re-evaluate the certification^{334 335}”. From the counterpart, UTZ confirmed that the revision of the farm took place in 2018 while the certificate has been emanated in April³³⁶.

4.15.2 C.A.F.E.

The C.A.F.E. program is the code of corporate social responsibility of Starbucks in collaboration with SCS Global Services. Thanks to this, in 2015 it managed to affirm that the 99% of the coffee used by the brand, was coming from ethical plantations and compliant with standards. Although the Córrego das Almas farm had also obtained this certification, after the question has been brought to light by Reporter Brazil, Starbucks as well as other brands, has denied to having wanted to review this quality certificate³³⁷.

The SCS Global Services partner wanted to make it clear that the inspections and the audit of Fartuta before the emission of certificate, had not highlighted any type of slave labour. “Forced labour is considered a zero-tolerance indicator, so farmers employing slave labour would not be eligible for status in the program³³⁸”.

The control system is based on a system of two hundred forty-nine indicators, based on categories such as social responsibility, commitment to respect the environment and economic accountability for the entire production process. With regard to the

³³⁴ GreenMe, *Ecco cosa si nasconde dietro al caffè di Starbucks*.

³³⁵ Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo*.

³³⁶ Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo*.

³³⁷ Mongabay, *Slave labor found at Starbucks-certified Brazil coffee plantation*.

³³⁸ Repórter Brasil, *Fazenda de café certificada pela Starbucks é flagrada com trabalho escravo*.

indicators of corporate responsibility, among other things, these foresee zero tolerance for whoever does not provide an adequate compensation to workers, a minimum wage, an environment without physical and psychological abuse and no discrimination in it, in addition to the non-employment of workers under the age of fourteen.

Before the event, Starbucks affirmed to have the 90% of their products under the C.A.F.E. certification and the company was working to manage to reach the 100%. The assistant professor Daniel Jaffee of Washington State University considers this system is only a “green wash” practice of Starbucks in order to better the brand reputation and to reassure customers.

Sure enough, C.A.F.E. Practices are characterized by three main difference compared to the other certifications in the fair trade. A first difference is that his certification does not establish a guaranteed minimum price, while by fair trade standards such a requirement exists. A second divergence is the premium funds. Fair trade standards set guidelines for the development of the farming community, while premium funds are administered democratically, which means that communities themselves can decide how to invest these funds. Finally, if at least one annual inspection is normally imposed to guarantee workers' rights, regarding C.A.F.E. Practices these inspections take place every two or three years, based on certain criteria such as the results of the inspections of previous years³³⁹. It is therefore obvious that this Corporate Social Responsibility system is not structurally suitable for the exploited workers, since those who employ slave labour continue these practices by circumventing the rules³⁴⁰.

4.15.3 RAINFOREST ALLIANCE

Rainforest Alliance is a global non-profit organization that labels products coming from the South of the World such as coffee, bananas, cocoa etc. recognized as respectful of defined social and ecological standards, giving for example the slave-free certification to the supplier farms. These standards are issued by the Sustainable Agriculture Network (SAN) directives and are valid for both farmers' cooperatives and plantations. If this brand is highly respected from an ecological point of view, as far as the social sphere is concerned, the guarantee is lower than the other certifications, given that it

³³⁹ Rebellion, *Starbucks: Buen café con trabajo esclavo*.

³⁴⁰ Rebellion, *Starbucks: Buen café con trabajo esclavo*.

does not set a Fairtrade prize or a minimum price³⁴¹.

Rainforest monitors numerous plantations and farms in Minas Gerais using a system of "group certifications" which has been considered "strong and efficient" but the organization itself admits that it is reconsidering their control system, increasing the number of surprise inspections at least once every three years, expanding the surveillance network and checking them independently. Starbucks, however, has decided not to continue commercial relations with farms controlled by this organization after the introduction of some of these farms to the "Lista Suja", farms in which twenty-five workers in slavery conditions were officially found³⁴².

4.15.4 THE 4C ASSOCIATION OF THE COFFEE ASSURANCE SERVICES

The 4C "Common Code for the Coffee Community" Certification System has been introduced after the consultation between stakeholders about coffee cultivation at a global level. The goal of this certification systems is to better gradually the three sustainability fundamentals, meaning economic, environmental and social regarding the production itself, but also for the trade of products. Regarding the economic sustainability, the certification dictates a total of eight principles, five of which are in support to farmers and the other three safeguard coffee business. From the point of view of environmental sustainability, it defines six principles regarding natural resources, three for the use of agrochemicals and finally a principle for the protection of energy. At least, for the social sphere the certification determines seven principles applicable to workers and two for all farmers and their partners³⁴³.

³⁴¹ WWF.

³⁴² Reuters, *Picked by slaves: coffee crisis brews in Brazil*.

³⁴³ 4C Certification system.

4.16 CRITICS TO FAIR TRADE

In literature^{344 345 346 347}, there are a lot of complains regarding the fair trade that involves producers, cooperatives but also all the trade chain. The environmentalist and essayist Fritjof Capra, so as James Bovard, he claimed that the fair trade model is “neither efficient or effective”, taking as example the issue of the deforestation of the tropical amazon rainforest in Brazil, where the terrain remain prolific only for few years. Besides that, in December 2006, the article of Economist “Ethical food, good food?” are detected three main critics to fair trade.

First of all, this article focusses on the fact that certification will be granted only based on political prejudices and advantaging cooperatives to the detriment of small family-run farms. In the book “Les coulisses du commerce équitable³⁴⁸” written by Christian Jacquiau, the author found fault with the fact that fair trade instead of establishing a more autonomous and independent system, develops itself in the current system made by partnerships and multinational corporations but at the same time he finds necessary to respect higher prices due to maximize the most the fair trade effect since an considerable rate of producers sell only a portion of the supply under fair trade. In literature³⁴⁹, it is clear that farmers do not have the chance to sell to whoever offers the finest prices or to change cooperative if this is going bankrupt and “it is clear that the challenge is to identify and create new brands or products that can compete effectively with the brands or products controlled by the multinational enterprises³⁵⁰”.

In fact, there are low entry barriers especially in the market of coffee, which has a highly competitive rate so farmers find themselves obliged to sell in a monopolistic system, which most of the time is corrupt or inefficient. "A key issue is therefore to

³⁴⁴ Reynolds, LT (2009); “Mainstreaming *Fair Trade Coffee: from Partnership to Traceability*”.

³⁴⁵ Reed, D. (2009); “*What do Corporations have to do with Fair Trade? Positive and normative analysis from a value chain perspective*”.

³⁴⁶ Utting, K (2009); “*Assessing the impact of Fair Trade Coffee: Towards an Integrative Framework*”.

³⁴⁷ Valkila, J (2009); “*Fair Trade organic coffee production in Nicaragua – Sustainable development or a poverty trap?*”.

³⁴⁸ Christian Jacquiau, “*Les coulisses du commerce équitable : Mensonges et vérités sur un petit business qui monte*”.

³⁴⁹ Mendoza, R., & J. Bastiaensen, J. (2003); “*Fair Trade and the Coffee Crisis in the Nicaraguan Segovias. Small Enterprise Development*”.

³⁵⁰ Mendoza, R., & J. Bastiaensen, J. (2003); “*Fair Trade and the Coffee Crisis in the Nicaraguan Segovias. Small Enterprise Development*”.

make explicit who possesses the power to define the terms of Fairtrade, that is who possesses the power in order to determine the need of an ethic in the first instance, and subsequently command a particular ethical vision as the truth³⁵¹." This means that the fair trade system is deeply seated by the consumeristic vision of the North of the world and the South is not involved.

A second critics moved by the article of Economist is the fact that the imposition of a minimum price could alter the competition and certain standards could be inappropriate for certain markets, like the case of the quinoa cultivation in Bolivia³⁵² where it is highlighted that "the same price is paid for quinoa to all producers and there is no explicit rule intended to regulate the amount of quinoa purchased from each of the groups or each of the members. The producer who farms manually on the hillsides, and who produces small quantities has, in theory, the same right to sell it as the producer who produces far bigger volumes in a mechanized and extensive fashion in the plains³⁵³". Due to the elasticity of the coffee demand^{354 355}, a little increase of the supply reflects in a considerable fall of market prices, that means if the global market price falls, the first who are damaged are the small farmers.

Finally, the third critique by the Economist is that only the 10% of the final price is destined for farmers while the rest is divvy up between retail distribution and large-scale distribution; as a matter of fact, "expected producer benefits are close to zero when we take into account the output that is certified but not sold as FT[Fair Trade]³⁵⁶." Due to C. Jacquiau it is not even certain that farmers will take benefit from prices; "there are only fifty-four inspectors around the world, working on a part-time freelance basis to check and control a million producers. These checks do not take place on the ground

³⁵¹ Catherine S. Dolan (2008); "*Arbitrating risk through moral values: the case of Kenyan Fairtrade*".

³⁵² Carimentrand, Aurélie & Jerome, Ballet. (2010); "*When Fair Trade increases unfairness: The case of quinoa from Bolivia*".

³⁵³ Maldidier, C., (2006); "*Quelle construction sociale de la qualité "équitable" d'un produit? Vers des systèmes de garanties plus fiables et plus équitables*". Proceedings of the 2nd international symposium on Fair Trade.

³⁵⁴ Marvin Perez and Lynn Doan (2014); *Coffee Cravers ignoring Bean-Price Surge for Caffeine Fix*.

³⁵⁵ Opendotbc; Elasticity and pricing.

³⁵⁶ De Janvry, Alain; McIntosh, Craig; Sadoulet, Elisabeth (2015); "*Fair Trade and Free Entry: Can a Disequilibrium Market Serve as a Development Tool?*".

but in offices, hotel rooms or even by fax³⁵⁷".

Even the premium pass through cooperatives and business and does not manage to reach producer because it is spent in unnecessary outlays like "as a marketing tool attracting customers to shop in an "ethical manner³⁵⁸". Additionally, it is also difficult to understand how much reaches the farmers since foundations of Fair trade are not monitoring the percentage that retailers charge for ethical commodities. This issue came out in three episodes: the first exposed by Kilian, Jones, Pratt and Villalobos where the exporter of coffee obtained just 2% while the retailers of the American Fairtrade was receiving US\$ 5 per lb³⁵⁹; in the second episode, Valkila, Haaparanta and Niemi discovered that in Finland customers were giving their contribute to Fairtrade paying higher prices, but only 11.5% of this amount arrived to exporter cooperatives³⁶⁰ and finally Griffiths found a similar case in the British territory, where a coffee chain was landing only 1% of the extra price to exporters³⁶¹. In the annual report (2009-2010) of Fairtrade Labelling Organizations International it is clear that 40% of the fee destined to developing world have been invested in costs of production and business and used to contain corruption and inefficiency and the residual is invested in social projects instead of being landed to small farmers.

Philip Booth in some scripted³⁶² underlined that some seller and promoter are acting in an unethical and misleading way; bringing to light that it would be more beneficial for fair trade a multi-stakeholder auditing instead of stocking unethical suspect products³⁶³. This approach, due to Julie Guthman³⁶⁴ (2007) could help customers to be more careful and encourage them to be involved in ethical trade also through the strategic usage of labels that also impose sellers to improve practices and offer more fair trade commodities. Another critique is moved by Paola Ghillani, who was for four

³⁵⁷ Hamel, I (2006), "Fairtrade Firm Accused of Foul Play".

³⁵⁸ Booth, P.; Whetstone, L. (2007); "Half a Cheer for Fair Trade".

³⁵⁹ Kilian, B.; Jones, C.; Pratt, L.; Villalobos, A. (2006); "Is Sustainable Agriculture a Viable Strategy to Improve Farm Income in Central America? A Case Study on Coffee".

³⁶⁰ Valkila, J.; Haaparanta, P.; Niemi, N. (2010); "Empowering Coffee Traders? The Coffee Value Chain from Nicaraguan Fair Trade Farmers to Finnish Consumers".

³⁶¹ Speaker, Griffiths, *Why Fair trade isn't working*.

³⁶² Booth, Philip (2009); "Don't bully the faithful into buying Fairtrade".

Booth, P. and L. Whetstone (2007); "Half a Cheer for Fair Trade".

³⁶³ Smith, Sally (2004); "Ethical Trade in African Horticulture: Gender, Rights and Participation".

³⁶⁴ Julie Guthman (2007); "The Polanyian Way? Voluntary Food Labels as Neoliberal Governance".

time the president of the Fairtrade Labelling Organizations, regards the standards, considered weak, “not strictly enforced³⁶⁵” and “not very strict in the case of seasonally hired labour in coffee production³⁶⁶.” For this lack of monitoring, Weitzman³⁶⁷ also draw attention to the fact, that some non-fair trade coffee was sold with the fair trade label.

Finally, due to a study of Linton³⁶⁸ concerning thirty-four farmers of the coffee plantation in Guatemala, emerged that not all the farmers have a clear idea of what fair trade is and so they are in the dark of the possibility to increase their wages and conditions. Indeed, only twenty-two of the interviewed farmers know at least the globally approved definition while nine have a completely different and wrong knowledge of fair trade; finally, only three pointed out a proper definition of the fair trade and so all recognized to have certain responsibilities regarding cooperatives.

³⁶⁵ Moore, G., Gibbon, J., & Slack, R.: (2006); *The mainstreaming of Fair Trade: a macromarketing perspective*”.

³⁶⁶ Valkila, J.: (2009); *“Fair Trade organic coffee production in Nicaragua - Sustainable development or a poverty trap?”* Ecological Economics.

³⁶⁷ Weitzman, H. (2006); *“The bitter cost of ‘Fair Trade’ coffee”*.

³⁶⁸ Linton, April (2012); *“Fair Trade from the Ground Up.”*

CONCLUSIONS

In conclusion, both cases analyzed in this thesis have as a common factor the degrading and unhuman conditions of workers who most of the times are not documented migrants entered illegally in the country, usually through the help of the same employer and for this reason the possibility to escape or complain is quite far. Due to the irregular situation and the distance from their home, these workers accept precarious conditions and a miserable remuneration, which when provided, was fraudulent; in fact, as saw above, workers were also obliged to spend an additional amount of money to be able to collect the salary. Furthermore, these workers in addition to live in precarious structures without drinkable water, lacking of electricity and surrounded by little animals damaging all their food, for the majority of the times needed to buy their equipment themselves leading them to a huge indebtedness towards the employers. The thesis therefore made a clarification regarding the concept of “modern slavery” where these slave workers are considered just an input in the productive process with the need to be exploited as much as possible in a quite short-term relationship. The scholar Bales clarifies also the common denominator that lead people into slavery is not the nationality or the religion of those people but the “weakness, gullibility and deprivation” meaning the economic disparity. Regarding the sectors that most implement slavery-like conditions in Brazil are the agricultural one, especially with regards to coffee and cocoa, the textile production and the building activities.

In this thesis have been taken into consideration two episodes of slave labour in Brazil, more particularly where workers were subjected to precarious conditions, with exaggerated working hours and a remuneration, when happened, under the legal minimum. Regarding the case of Zara and in general the Inditex group, the company has already been involved in polemics regarding not only issues about the productive process but also had a social impact for its mannequins considered problematic for being extremely skinny. According to the brand, these employments took place in a supplier laboratory, AHA, and the headquarter was unaware to these conditions and in addition blame this laboratory to violate their Code of Conduct. However despite the affirmations of not knowing about this “unauthorized outsourcing” the Inditex group has been declared involved since it was defined

impossible for the headquarter to not find out this situation due to the extremely low costs of production but also because Zara had never provided any machinery or equipment required for the production. According to the court, the responsibility of Zara is based on a social responsibility which overall all contractors are encouraged to have regarding the working conditions in their whole supply chain and in addition the brand also had a Code of Conduct where this kind of situations were considered not acceptable. Furthermore, regarding to the Zara case, this thesis aimed to explore the concept of collective bargaining since for multinational groups like Inditex due to their transnational dimension, have the issue of different jurisdictions in addition to have an even wider difference between the bargaining power of workers and the hiring company. For this reason, the negotiation for employments is managed internally by the Code of Conduct and further regulated by several Institutions such as the European Working Council and the OECD and the negotiation process also takes into considerations tools such as the Tripartite Declaration, the Global Compact, the UN guiding principles and the Universal Declaration of Human Rights all described in the third chapter. These guidelines are necessary to rule the overall agreements regarding the rights and conditions of workers, and cares about the sphere of benefits and compensations in addition to the representative power of trade unions leading the negotiation to Transnational Framework Agreements, divided into International Framework Agreements (IFA) and European Framework Agreements (EFA) depending on the territory of application. According to Eurofound, Transnational Framework Agreements are “a new industrial relations instrument that encourages the recognition of social partnership across national borders and could lead to new forms of social regulation at global level³⁶⁹” and they increase the bargaining power of workers, leading them to a decent quality of working environment in addition to demanding a compensation at least equal to the legal minimum wage recognized by the country or by the Code of Conduct of the hiring company.

As regards to the case of Starbucks, the thesis brought to attention the slavery-like conditions of workers in the plantations of coffee, which as seen before, is one of the major sectors where this kind of situations are discovered. Despite the certifications

³⁶⁹ European Foundation for the Improvement of Living and Working Conditions.

guaranteed by not only Starbucks but also by several multinational coffee brands, Brazil is the provider of one third of the global coffee and accordingly is more likely for farmers to exploit workers also due to the constant and intensive work required by these plantations. Nevertheless, being talking about the exploitations of human beings, the sector of coffee is certified by several labels including Fair Trade and UTZ described in the fourth chapter, which aim to guarantee that both the producers and employed, especially in the developing countries, are working in a safe environment and being paid an adequate price able to improve even more their conditions. The three main characteristics of the fair trade, in facts, are the attention to the conditions of workers, its short chain and the guarantee to continuity for partnerships and agreements reached. More specifically, this type of trade promotes international relationships and agreements able to oppose to the maximization of profits and instead establish peaceful dialogues and a transparent environment since the Brazilian government alone cannot do much. Recalling the issue of a fair price, in the trade of coffee has been established a minimum and a premium price that can vary depending of being traditional coffee, organic one or unroasted green one in order to guarantee decent conditions to worker. However these prices have not been reviewed in years and indeed their situations are worst in the recent year since the only thing that increase was the volume of the coffee demanded globally and for this reasons these fair trade products results not competitive enough for their higher prices for being sold in the common market and instead this type of commodities need a specific place. However, Starbucks has been criticized for its C.A.F.E. certification being different form the standard ones in several main steps, more precisely this label did not guarantee a minimum price, the management of the premium price was different and also important, the interval between inspections is definitely wider compared to the other fair trade labels in the coffee sector.

This thesis therefore aimed to show how the symptom of slavery-like conditions is the result of a more wide and complex dynamics which does not involve only the single country, most of the time located in the South of the World, and which has also to keep up with the requests coming from the North. As shown before, one of the main causes that leads certain human beings into slavery-like conditions is the poverty and for this reasons a huge number of people are forced to accept any remuneration and working conditions in addition to have no rights also because

many of them are migrants entered illegally in the country. In fact, being an illegal condition, the numbers presented in this thesis are assumed to not be the actual ones indeed especially for children are definitely higher. These conditions therefore affect the range of the opportunity that workers could have in a fair working environment and needs to receive an immediate treatment. Despite the indications and guidelines provided not only by the Government but also by different Institutions, it is also necessary an increase of inspections and a proper support to people found in these conditions, otherwise they will come back soon or later in slavery conditions. Regarding this, the Brazilian Government proposed the adoption of the National Plan for the Eradication of Slave Labour but also due to the corruption rate, current inspections and help from international institutions are still needed. An important tool provided by the Brazilian Government is the “Dirty List” in which are indicated all those employer which implemented any type of slave labour and for this reasons are denied any financial help, however an important contribution is provided by the company itself according to its Code of Conduct and in general the Corporate Social Responsibility. In fact, the companies can no longer just aim to maximize their profits but instead they have to start paying attention to the surrounding environment and understanding the role they are playing in the society through the creation of value that can satisfy both the expectation of stakeholders and bring benefits for the company. Finally, another great contribution comes from the customers themselves who needs to educate themselves and therefore be more aware of the process of their everyday commodities, such as food and clothing and so accepting potential higher prices for a “greater cause”. Recognizing what there is behind the process, allows them to pay a fairer price for both farmers and workers and adopt more thoughtful consume choices, in example by reducing the purchase of fast fashion clothing, which is characterized by constant new products at always lower prices, and the increase of consumption of food characterized by a short chain.

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FIGURES

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ABBREVIATIONS

ABIT: Associação Brasileira da Indústria Têxtil e de Confecção

ABVTEX: Associação Brasileira do Varejo Têxtil

ADI: Ação Direta de Inconstitucionalidade

CAS: Coffee Assurance Services

CCC: Consumer Choice Council

CEC: Commission for Environmental Cooperation

CI: Conservation International

CLAC: Coordinadora Latinoamericana y del Caribe de Pequeños (as) Productores(as) y Trabajadores(as) de Comercio Justo

CNA: Confederação da Agricultura e Pecuária do Brasil

COC: Code of Conduct

CPI: Corruption Perception Index

CPT: Comissão Pastoral da Terra

CSIF: Central Sindical Independiente y de Funcionarios

CSR: Corporate Social Responsibility

CTPS: Carteira de Trabalho e Previdência Social

DSDG: Division for Sustainable Development Goals

EC: European Commission

EFAs: European Framework Agreements

EFTA: European Fair Trade Association

ERP: European Recovery Program

ETUC: European Trade Union Commission

EWC: European Works Councils

FGTS: Fundo de Garantia do Tempo de Serviço

FLO: Fairtrade Labelling Organizations

FSI: Fragile States Index

GCEOA: Global CEO Alliance

GEFM: Grupo Especial de Fiscalização Móvel

GPI: Global Peace Index

HDI: Human Development Index

IEF: Index of Economic Freedom

IFAs: International Framework Agreements

IFAT: International Federation of Alternative Trade

IFPRI: Food Policy Research Institute

ILO: International Labour Organization

INPACTO: Instituto Pacto Nacional pela Erradicação or Trabalho Escravo

INSS: Instituto Nacional do Seguro Social

ISO: International Organization for Standardization

ITGLWF: International Textile, Garment and Leather Workers' Federation

MDGs: Millennium Development Goals

MNE Declaration:

MPI: Multidimensional Poverty Index

MPT: Ministério Público do Trabalho

NAPP: Network of Asia and Pacific Producers

NEWS: Network World's Shops

NGOs: Non-Organizative Organizations

OECD: Organization for Economic Co-operation and Development

OEEC: Organization for European Economic Corporation

PAT: Pontos de Atendimento ao Trabalhador

PPPs: public-private partnerships

RAIS: Relação Anual de Informações Sociais

SAN: Sustainable Agriculture Network

SAT: Seguro Acidente do Trabalho

SDGs: Sustainable Development Goals

SFS: Sustainable Food System

SIT: Secretariat of Labor Inspection

SMBC: Smithsonian Institution Migratory Bird Centre

SMEs: Small-Medium Enterprises

SPP: Símbolo de Pequeños Productores

SRSG: Special Representative of the Secretary-General

SSRO: Service, Support, Research and Others

TAC: Término de Ajuste de Conducta

TCAs: Transnational Collective Agreements

UDHR: Universal Declaration of Human Rights

UN: United Nations

UNCRC: United Nations Convention on the Rights of the Child

UNCTAD: UN Conference on Trade and Development

UNDESA: United Nations Department of Economic and Social Affairs

UNDP: United Nations Development Programme

UNGPs: United Nations Guiding Principles

WDC: World Diamond Council

WFTO: World Fair Trade Organization

WG SR: Working Group on Social Responsibility

WJP: World Justice Project

WPC: World Pensions Council

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