

# Forced Labor and Forced Labor Risks in Brazil's Cocoa Sector



 **FREE  SLAVES**

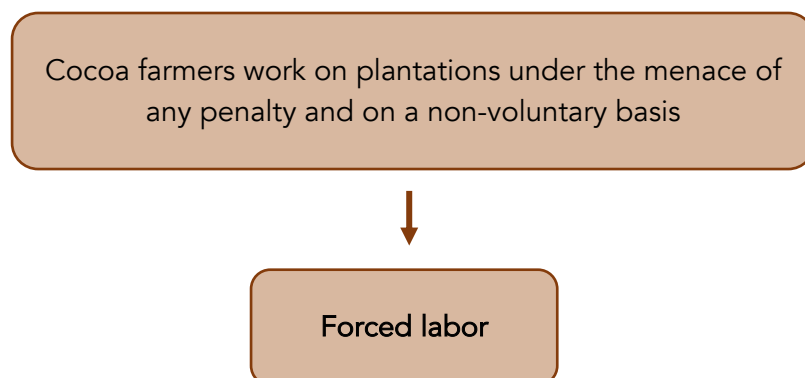
**Free the Slaves** (FTS) was founded in 2000 and has since committed to the mission of ending modern slavery. Today, FTS is widely recognized as a leader and a pioneer in the modern abolitionist movement. Through its work, FTS has assisted individuals in slavery to regain their freedom, has helped officials to bring slaveholders to justice, and has supported survivors to rebuild their lives and reclaim their future. To advance its mission further, FTS has developed a multi-dimensional strategy: policy and advocacy, to advocate for the reform of laws and regulations; engagement of local communities, to provide training and resources to vulnerable communities; movement building, to encourage knowledge-sharing and collective action; continuous learning, to produce research that enhances understanding and guides responses.

## Introduction

Chocolate, one of the most popular products worldwide, comes from a long and labor-intensive process. First, cocoa farmers must clear the land, plant seedlings, weed their plantations, prune trees, and apply pesticides and fertilizers. Once cocoa pods grow, farmers must harvest them by hand, using machetes or hooks. They then open the pods, so that the beans inside can be removed. They let the beans ferment for several days and later spread them to dry in the sun. After storing the beans in sacks, farmers can sell their cocoa down the supply chain, where it goes through collectors, transporters, traders, grinders, manufacturers, and retailers. Finally, it reaches consumers, pleasing them with a great variety of flavors and aromas.

However, the sweet taste and the pleasant smell of chocolate hide a bitter reality. In fact, the production of cocoa beans is particularly vulnerable to the exploitation of adults and children, especially into forced labour, work that does not amount to decent work, and child labor.

Figure 1. Forced labor in the cocoa sector



According to the International Labor Organization (ILO) Convention No.29, forced labour is “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. The menace of any penalty refers to the means of coercion used to impose work on someone. This may take place during the recruitment process or once the person is working. Involuntary work refers to work or services that take place without the worker’s free and informed consent.<sup>1</sup> Significantly, both conditions of involuntary work and coercion must be present simultaneously for work to be statistically

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<sup>1</sup> ILO, *Guidelines concerning the measurement of forced labor*, Geneva October 2018.

regarded as forced labour.<sup>2</sup> For its part, the existence of one or more conditions of either involuntary work or coercion indicates a situation of forced labor risk, which may degenerate into a situation of forced labour in the lack of timely interventions.<sup>3</sup>

Table 1. *Involuntary and coercive labor in the private economy (ILO)*

Involuntariness	Coercion
Forced recruitment	Physical or sexual violence
Deceptive or fraudulent recruitment	Abuse of isolation
Recruitment linked to debt	Restrictions on workers' movement
Hazardous or degrading working conditions	Retention of cash, assets, or identity documents
Onerous working hours or work schedule	Withholding of wages
Degrading work-related living conditions	Abuse or manipulation of debt
Abusive additional obligations	Abuse of vulnerability
Sexual abuse	Induced addiction
Inability to terminate employment	

While the past two decades have witnessed many promises to address forced labor and child labor in the cocoa industry, exploitation in cocoa farms continue to be widespread, representing a major source of concern when interrogating our capacity to meet SDG 8 and Target 8.7 by 2030. Oblivious to human rights, in fact, major cocoa companies continue to engage in exploitative practices and to unilaterally reap the benefits of an ever-expanding chocolate industry.

It is thus unsurprising that cocoa was listed in the latest 2023 Global Slavery Index as one of the products imported by G20 countries that is most at risk of modern slavery.<sup>4</sup> Also, in the 2022 List of Goods Produced by Child Labor or Forced Labor released by the US Department of Labor, cocoa was listed as one of the goods produced by child labor and forced labor as well as one of the goods “with the most child labor listings by number of countries”.<sup>5</sup>

<sup>2</sup> ILO, *Hard to See, Harder to Count* (Geneva: ILO, 2024), 5.

<sup>3</sup> *Ibid.*, 19.

<sup>4</sup> Walk Free, *Global Slavery Index*, 2023.

<sup>5</sup> US Department of Labor, 2022 List of Goods Produced by Child Labor or Forced Labor.

In this report, Free the Slaves aims to focus on forced labor and forced labor risks in the cocoa sector in Brazil. The decision to focus on forced labor was not casual but was rather informed by the consideration that while great attention has traditionally been devoted to child labor, forced labor has remained widely overlooked – in Brazil as well as in most other cocoa-producing countries. At the same time, recognizing that forced labor practices do not occur in a vacuum but are rather observed in contexts where human rights violations tend to be more widespread in general, the report seeks to place the discussion on forced labor in the cocoa sector in the context of Brazil’s wider human rights situation.

The first part offers an overview of the human rights situation in Brazil, identifying the most common forms of violations and the most vulnerable groups. The second part introduces cocoa production in Brazil. From there, an overview of forced labor and forced labor risks in the cocoa sector follows. In the fourth part, the conditions and root causes that enable forced labor on Brazil’s cocoa plantations are discussed. After that, attention will be given to the laws, policies, and programs that have been implementing to counter forced labor. Building on those considerations, in the final part a series of recommendations are offered to ensure greater protection of human rights in Brazil’s cocoa sector.



## Human rights situation in Brazil

The return to power of President Luiz Inácio Lula da Silva in January 2023 has represented a positive development for the protection and promotion of human rights in Brazil. For instance, President Lula created the Ministry for Human Rights and Citizenship as well as the first Brazilian Ministry for Indigenous Peoples, a Ministry for Women, and a Ministry for Racial Equality. The government re-introduced a number of human rights programmes that had been suppressed, re-opened civil society spaces, and generally adopted a more respectful attitude towards human rights activists. Certain situations of concern, however, do remain in the country.

Brazil continues to have one of the highest levels of inequality in the world. This is especially observed in the disparity between Afro-Brazilian and Brazilians of European descent. Following his visit to Brazil in November-December 2023, the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement noted that people of African descent continue to face systemic racism in Brazil, a legacy of the transatlantic slave trade.<sup>6</sup> According to the Brazilian Institute of Geography and Statistics, Afro-Brazilians are disproportionately affected by poverty, unemployment, and lack of access to quality education. Other areas in which disparities are most evident are access to health and housing. People of African descent, in fact, are overrepresented among homeless people, people living in *favelas* (Brazil's most impoverished neighborhoods) and precarious households. Widespread violence also disproportionately affects people of African descent, with women and children affected. Of the 46,328 intentional violent deaths that occurred in Brazil in 2023, 78% were of Black people.<sup>7</sup>

Beyond systemic racism, systemic sexism is also another problem affecting Brazilian women and limiting their capacity to enjoy their full rights. For the most part, Brazil is still a highly patriarchal society and machismo (meant as a strong sense of masculine pride that associates men with strength and authority and women with weakness and submissiveness) is still a common attitude among men. Conservative gender roles whereby the husband is considered the head of the household and the wife is considered responsible for all household matters

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<sup>6</sup> Report of the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement, A/HRC/57/71/Add.1, September 27, 2024.

<sup>7</sup> Ibid.

(regardless of whether the wife has an income-generating job outside the house) are still widely accepted. Lamentably, these values and attitudes have created a fertile environment for gender-based violence. Even though Brazil criminalizes sexual violence and has one of the most progressive laws on domestic violence in the region (i.e., Maria da Penha Law, No. 11.340/2006) the government does not enforce the law effectively and gender-based violence, including femicide, remains rampant.<sup>8</sup> Besides women, transgender people also face extreme violence and human rights violations, including physical violence, discrimination, and racism.

Another form of human rights abuse widespread in Brazil is the use of excessive police violence. Heavily armed police operations have exploited the narrative of the “war on drugs” to use force in *favelas* and marginalized neighbourhoods, resulting in intense shootouts, unlawful killings and extrajudicial executions, unlawful entry into and destruction of property, torture and other ill-treatment, restrictions on freedom of movement, enforced disappearances, and the suspension of essential services such as schools and health clinics. In the last ten years, 54,175 persons have been killed by law enforcement officials in the country. To make things worse, the unlawful use of force by police is not investigated promptly or effectively, as there is a persistent pattern of impunity for police operations. In April 2023, the NGO Forum for Justice reported that fewer than one-half of the investigations of police homicides resulted in an indictment.

As police has been increasingly resorting to arbitrary arrests in its attempt to maintain law and order, and incarceration is continuously used even to punish petty criminality, over the last 20 years the prison population in Brazil has risen from 200,000 to over 888,791.<sup>9</sup> Of these inmates, 663,906 are in state and federal prisons, which is a staggering number considering that the official capacity of Brazil’s prison system is 488,991. Under these conditions, it is unsurprising that the country fails to provide minimum living conditions for the detained - inadequate food, poor sanitation, lack of access to drinking water and to healthcare. Overcrowding in prisons, coupled with degrading living conditions and limited access to healthcare contribute to the dissemination of diseases, as seen in the disproportionate risk of tuberculosis in prison in comparison with the general population. Moreover, even though the constitution prohibits torture

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<sup>8</sup> Human Rights Watch, Brazil, 2023, <https://www.hrw.org/world-report/2023/country-chapters/brazil-0> ; <https://documents1.worldbank.org/curated/en/099071723163037876/pdf/P1769790eeb7ed0c80b5e705f557711d627.pdf>

<sup>9</sup> World Bank, Gender-Based Violence Report, Brazil, <https://www.prisonstudies.org/country/brazil>

and inhuman or degrading treatment, violent treatment and punishment by prison officials are not uncommon.

Human rights defenders and activists also remain at significant risk in Brazil. As noted by the UN Special Rapporteur on the situation of human rights defenders in a statement following an official visit to the country, “human rights defenders are under extreme threat in Brazil. The Federal Government knows this but has so far failed to put the structures in place to provide them with better protection and tackle the root causes of the risks they face”.<sup>10</sup> Indigenous women, *Quilombola* women,<sup>11</sup> rural women workers, and Afro-Brazilian women in urban areas are leading the movements to see rights respected in their communities. As they do so, and attempt to challenge structures of power that impose and reinforce injustice, they are violently attacked and face serious risks. These include being targeted by assassination attempts, being shot at, having one’s house surrounded, having death threats delivered to the door, or seeing one’s work unjustly criminalised.

Positive steps have been taken by current President Lula towards Indigenous peoples. This included the creation of a Ministry of Indigenous Peoples, the withdrawal of a bill by the Bolsonaro administration that allows mining and other commercial activities in Indigenous territories, and the revocation of policies facilitating encroachment. However, Brazilians of Indigenous ethnicity continue to be denied the full enjoyment of their rights to their lands and territories, health, food security, self-determination, and traditional ways of living. For instance, in a landmark decision, the Supreme Court rejected an attempt to block Indigenous people from obtaining title to their traditional lands if they were not physically present on them when Brazil’s constitution was adopted in 1988. Congress, however, reacted by approving a bill—and later overturning a presidential veto of the bill— that runs counter to the ruling. Indigenous groups petitioned the Supreme Court to strike down the law, but the case remains unresolved at this time.

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<sup>10</sup> United Nations Special Rapporteur on the situation of human rights defenders, April 2024, <https://www.ohchr.org/sites/default/files/documents/issues/defenders/statements/20240419-Brazil-com-statement.pdf>

<sup>11</sup> The term “Quilombo” refers to communities of former enslaved individuals who resisted the oppressive enslavement system that persisted in Brazil for over 300 years before its abolishment. These Quilombo communities are distributed throughout Brazil, with the Northeast Region being home to the majority, comprising 69.19% of the total Quilombo population. See: <https://cpisp.org.br/direitosquilombolas/observatorio-terras-quilombolas/quilombolas-communities-in-brazil/>.



Finally, it is noticeable that Brazil continues to be a destination for child sex tourism, a crime that is not covered in any specific legislation. Child sex tourism is particularly common in coastal areas, but reports indicate that child trafficking for sexual exploitation occurs throughout the country. Children also engage in child labor in agriculture, including in the production of coffee and cocoa. In remote rural areas, children begin working in agriculture from an early age, including performing dangerous tasks. Other sectors in which minors are commonly employed include the production of footwear, street work, restaurants and similar establishments, domestic work. They may also be used by criminal gangs for involvement in illicit activities, such as drug transportation.<sup>12</sup>

Girls from other South American nations – especially Bolivia, Paraguay, and Venezuela – are also exploited in sex trafficking in Brazil. For their parts, Brazilian women are lured by traffickers with false promises and trafficked abroad for purposes of sexual exploitation. Traffickers also fraudulently recruit adults to travel abroad for jobs in technology or customer service (e.g., Thailand) and then exploit them in forced labor in online scam operations. Lamentably, these cases have been reported in Burma, Cambodia, and the Philippines.<sup>13</sup>

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<sup>12</sup> US Department of Labor, Child Labor and Forced Labor, <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/brazil>

<sup>13</sup> US State Department, Trafficking in Persons Report, Brazil, <https://www.state.gov/reports/2024-trafficking-in-persons-report/brazil/>

## An overview of cocoa production in Brazil

In Brazil, cocoa cultivation began in the seventeenth century. In the 1770s, the Portuguese crown attempted to diversify Brazilian exports by promoting the industrial production of coffee, cotton, and cocoa. In the state of Bahia, the first plantations were established in the 1820s with Swiss and German capital. Around 1900, Brazil increased its cocoa production significantly and became the largest producer worldwide for many years, until Ghana took over.<sup>14</sup>

Today still, cocoa is an important part of the Brazilian agricultural economy, even though less than in the past. In the early 1980s, Brazil produced approximately 430,000 tons of cocoa beans. Today, however, the volume has dropped to approximately 200,000 tons per year. This decline was due to the drop in global cocoa prices due to overproduction and the spread of a fungal disease (Witches' Broom) that led to a crisis in the sector. Consequently, Brazil has gone from being the world's second largest cocoa producer in the early 1980s to being the seventh today (and the second in Latin America after Ecuador). Yet, the expectation for the next ten years is to increase production to more than 400,000 tons per year. This high production volume is estimated to be the beginning of a new "Golden Era" of cocoa in the country.

Brazil has not historically been renowned as a producer of fine quality cacao. However, over the last decade, in line with trends on the global market, Brazilian consumers are also seeking higher quality cocoa. This has encouraged an increasing number of cocoa farmers to engage in the production of fine flavor cacao beans. In recent years, the domestic market has accounted for over 95% of the country's chocolate production, according to the most recent data compiled by the Brazilian Association of the Chocolate, Peanut and Candy Industry (Abicab).

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<sup>14</sup> Willumsen, M.J. and Dutt, A.K. 1991. Coffee, cocoa and economic growth in Brazil. *Brazilian Journal of Political Economy*. 11, 3 (Jul. 1991), 362-381

Brazil is the 7<sup>th</sup> largest producer worldwide

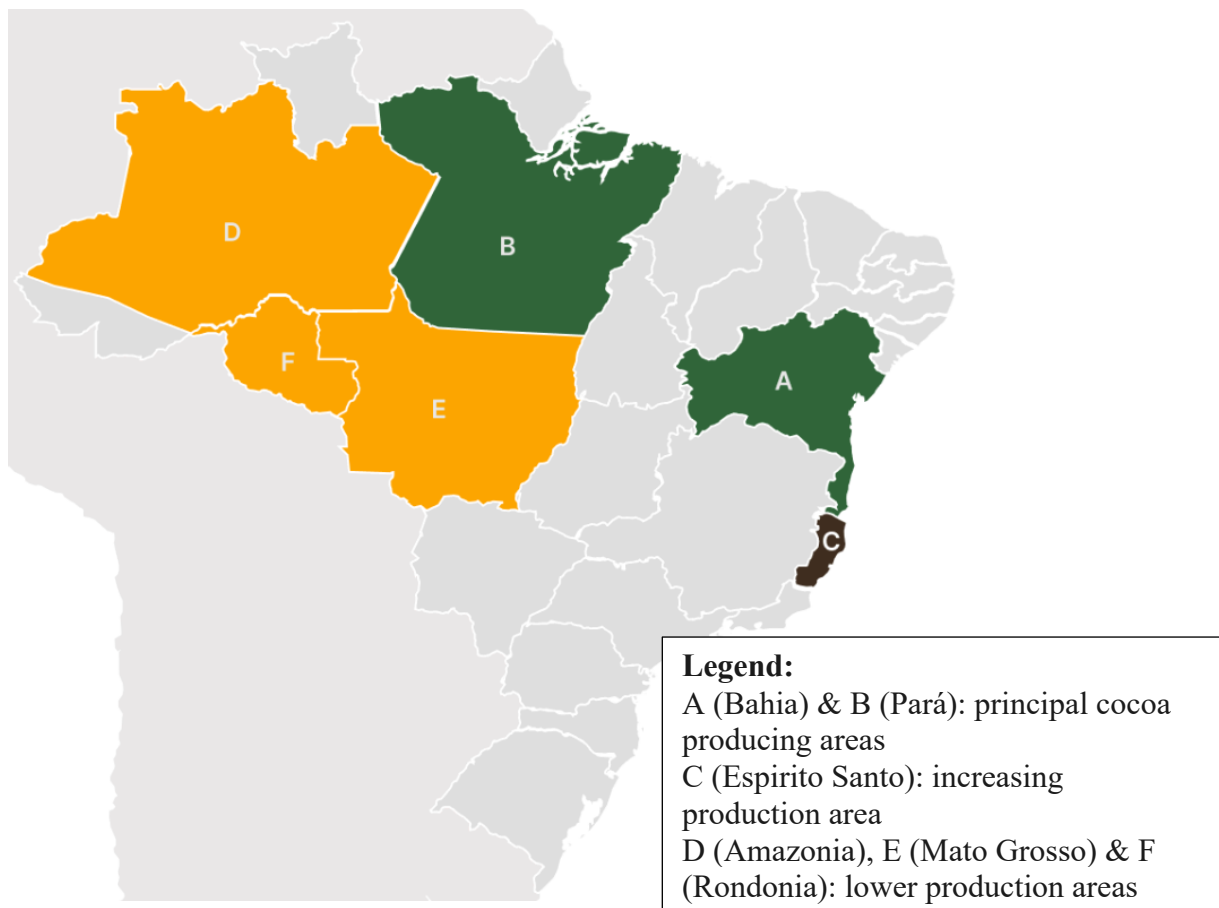
Brazil's cocoa production: 220,000 tons (2022)

Planted area: 700,000 ha

Number of farmers: 95,000

Geographically, cocoa production areas in Brazil span from the Atlantic coast all the way into the rural Amazon Forest areas.

Figure 2. Cocoa production in Brazil by region <sup>15</sup>



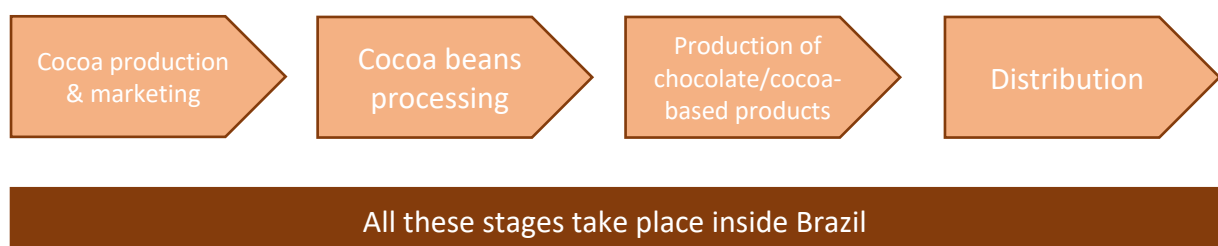
<sup>15</sup> World Cocoa Foundation, <https://worldcocoafoundation.org/programmes-and-initiatives/cocoaaction-brasil>

Most of the country’s cocoa sector is based on an agribusiness model, in which smallholder farmers or low-income workers — sometimes under similar to slavery working conditions — plant and harvest the fruit, selling it to companies that produce cocoa-derived products. In this regard, is important to note that Brazil is the only country in the world with the entire cocoa and chocolate chain in its territory – cocoa cultivation, cocoa processing, chocolate production, distribution, and retail. Major chocolate manufacturers have production plants in Brazil that process the cocoa beans, turn it into chocolate, and supply the fast-growing food services industry in Brazil and/or export it to international markets.

The location of production sites in Brazil is also encouraged by the fact that – beyond cocoa itself – the country offers extensive high-quality raw materials for chocolate products such as milk and sugar. Typically, major chocolate companies purchase cocoa from buying stations (mostly in Bahia and Pará states), buying from farmers and from small companies. According to the National Association of Cocoa Processors (AIPC), three international companies process 90% of the country’s cocoa. Two other international companies are responsible for two thirds of the chocolate consumed by Brazilians. At the same time, there are increasingly also Brazilian small chocolate companies operating inside the country, mostly serving domestic consumers. Many small producers themselves starting to produce chocolate instead of just selling the beans.

According to ABICAB (Brazilian Association of the Chocolate, Peanut and Confectionery Industries), around 201,000 tons of chocolate were produced in the first trimester of 2022, a growth of 6% compared to the same period in 2021. Brazil is the world’s fifth largest chocolate producing and consuming country – behind the USA, Germany, Russia, and the United Kingdom.

*Figure 3. Stages of the production process*



## Cocoa production, forced labor and forced labor risks

Cocoa workers in Brazil are significantly exposed to the risk of forced labor (*trabalho escravo*). However, unlike exploitation on cocoa farms in West Africa that has been extensively documented for long time, it is only in recent years that evidence has surfaced of forced labor on Brazilian cocoa farms. There, most cases of forced labor are associated with the system of the partnership.

After the crisis that hit Brazil's cocoa sector in the 1990s, cocoa sales plummeted and farmers spiralled into debt. Most of them migrated from the producing region to the urban area to operate in the services sector. Farms were abandoned and a new form of work organization became common: partnership contracts. These are arrangements whereby the owner of the farm grants a landless farmer the right to cultivate cocoa trees on all or part of his property. The “partner” worker (*meeiro*) is responsible for all stages of cultivation, which include preparing new areas for planting, forming seedlings, pruning, fertilizing, controlling pests, harvesting the fruit, separating the beans, fermentation and drying.<sup>16</sup> As compensation, the worker does not receive a salary, but has the right to sell a percentage of the cocoa harvested on his own account – usually around 50%. The remainder 50% must be given to the owner. The compensation is therefore variable and subject to the risks of the business. The arrangement is advantageous for the farm owners because it reduces labor costs, as it saves them from having to sign a regular employment contract with farmers. In addition, the farm owners get to divide the costs and the risks of the business (including any loss that may be experienced) with the workers. For workers, on the other hand, partnership is often the only option available due to the limited work opportunities, which de facto forces them to accept a remuneration below the minimum established by law.<sup>17</sup>

Partnership contracts are regulated by the Land Statute of 1964, which establishes that the owner of the farm must provide the worker with the prepared land, warehouses, seeds, machinery, and agricultural implements.<sup>18</sup> The owner must also provide hygienic housing to the farmer and his family. In addition, the worker must have the autonomy to freely negotiate his share of the production. However, in the reality there are many cases where these rules are

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<sup>16</sup> Reporter Brasil, <https://reporterbrasil.org.br/wp-content/uploads/2021/06/Monitor-6-Cacau-PT.pdf>

<sup>17</sup> Cacaucultura, <https://www.uesc.br/editora/livrosdigitais2018/cacaucultura.pdf>, 103

<sup>18</sup> Cacaucultura, <https://www.uesc.br/editora/livrosdigitais2018/cacaucultura.pdf>, 96

not respected. The most common violations are the imposition by the landowner of the conditions of sale and the specific buyer with whom the partner must negotiate the harvested cocoa; the denial of agricultural inputs, whose responsibility ends up falling entirely on the worker; and the provision of unhealthy housing arrangements.<sup>19</sup> Even in cases where the partnership is respected, the very nature of this type of land contract usually subjects entire families to poor socioeconomic conditions, thus perpetuating their situation of extreme poverty.

Degrading work and cases of forced labour have been found in the main cocoa producing regions of Brazil in recent years. As reported in a documentary on Brazil's cocoa plantations, "slave labor exists, and it is not an uncommon situation [*o trabalho escravo existe nos dias de hoje nas plantações de cacao e não é uma situação incomun*]."<sup>20</sup> Someone involved in inspections on cocoa farms on behalf of the Ministry of Labor reported that they find labor irregularities on at least 90% of the farms that they visit, possibly even more.<sup>21</sup> At least 148 people have been rescued from slave labour on cocoa farms in the past 15 years. However, as the cocoa sector is poorly monitored, the actual numbers of people in forced labor situations are likely to be higher.<sup>22</sup>

The most common human and labor rights violations include threats and coercion from the employers, degrading and hazardous conditions of life and work, debt bondage, and exhausting working hours.<sup>23</sup>

According to inspectors, workers are typically kept in poor accommodation, living in straw and tarpaulin shacks that they had to build themselves. In fact, the houses provided by landowners are often abandoned huts, and it is up to the farmers to make them as livable as possible.<sup>24</sup> These are extremely precarious dwellings, made with dirt floors and no side protection. In addition to the workers, entire families live there, including small babies.<sup>25</sup>

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<sup>19</sup> Reporter Brasil, <https://reporterbrasil.org.br/wp-content/uploads/2021/06/Monitor-6-Cacau-PT.pdf>

<sup>20</sup> See: <https://www.youtube.com/watch?v=hjV8JdEzvcg>

<sup>21</sup> See: <https://www.youtube.com/watch?v=hjV8JdEzvcg>

<sup>22</sup> Reporter Brasil, <https://reporterbrasil.org.br/2020/08/slave-labour-and-inhuman-wages-labour-violations-in-brazils-cocoa-industry/>

<sup>23</sup> ILO, Public Labor Prosecutor's Office, [https://www.cocoainitiative.org/sites/default/files/resources/Cocoa\\_EN.pdf](https://www.cocoainitiative.org/sites/default/files/resources/Cocoa_EN.pdf), p.35; Reporter Brasil, <https://reporterbrasil.org.br/wp-content/uploads/2021/06/Monitor-6-Cacau-PT.pdf>

<sup>24</sup> See: <https://www.youtube.com/watch?v=hjV8JdEzvcg>

<sup>25</sup> Reporter Brasil, <https://reporterbrasil.org.br/wp-content/uploads/2021/06/Monitor-6-Cacau-PT.pdf>



The houses where farmers live are without access to bathroom facilities, electricity, or drinking water. Farmers commonly bathe in a pond of still, murky water. For their daily needs, workers need to use the bush instead of a proper toilet.<sup>26</sup> In order to drink and cook, many farmers have to strain the water collected from wells to remove tadpoles and fish.<sup>27</sup> Other farming families fetch water from distant streams and carry the water using pesticide containers, without any kind of treatment.<sup>28</sup> Lacking access to gas to cook, many families rely on wood and fire. Considering that their houses are commonly built from wood, this exposes them to a daily risk.<sup>29</sup> To access electricity, a group of cocoa farmers manage in a cocoa-growing community in Bahia got together and bought a solar panel from São Paulo that enabled them to have light inside their houses and a refrigerator to store food for the first time.<sup>30</sup> Most communities, however, do not have the money to invest in these expenses and remain without electricity.

As they engage in cocoa farmers, workers have no access to protective equipment, which exposes them to accidents caused by snakes, spiders, and scorpions. Others suffer from infections and leishmaniasis. In addition, several of the farmers who were rescued described a real climate of terror imposed by the landowner, including threats with a machete.<sup>31</sup>

Most workers, also, earn less than half the minimum wage.<sup>32</sup> Many others do not make an earning at all, as they are being forced to work to pay off debts to the landowners.<sup>33</sup> According to the Labour Prosecution Service, the two central figures in this chain of crimes are farm owners and the so-called ‘middlemen’ – intermediaries who serve as links between owners and large mills. Indeed, the majority of workers rescued from conditions analogous to slavery were sharecroppers who had a relationship of strong economic dependence with both landowners and intermediaries. Often, they had debts to both, since they asked for money up front to buy

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<sup>26</sup> See: <https://www.youtube.com/watch?v=hjV8JdEzvcg>

<sup>27</sup> Reporter Brasil, <https://reporterbrasil.org.br/2020/08/slave-labour-and-inhuman-wages-labour-violations-in-brazils-cocoa-industry/>

<sup>28</sup> ILO, Public Labor Prosecutor’s Office, [https://www.cocoainitiative.org/sites/default/files/resources/Cocoa\\_EN.pdf](https://www.cocoainitiative.org/sites/default/files/resources/Cocoa_EN.pdf), p.38-9

<sup>29</sup> See: <https://www.youtube.com/watch?v=hjV8JdEzvcg>

<sup>30</sup> See: <https://www.youtube.com/watch?v=cTikHQfPWH4m>

<sup>31</sup> Reporter Brasil, <https://reporterbrasil.org.br/wp-content/uploads/2021/06/Monitor-6-Cacau-PT.pdf>

<sup>32</sup> Reporter Brasil, <https://reporterbrasil.org.br/2020/08/slave-labour-and-inhuman-wages-labour-violations-in-brazils-cocoa-industry/>

<sup>33</sup> Reuters, <https://www.reuters.com/article/world/exclusive-cocoa-giant-in-brazil-slave-labour-probe-says-it-cant-trace-supplies-idUSKBN2FD1DN/>

food and medicines, for example, and the corresponding amounts were then deducted, with interest, from their pay in the following month.<sup>34</sup>

As has been noted by the producers of a documentary that depicts the exploitation that Brazil's cocoa farmers are exposed to, "the cocoa-producing family is the main actor in this production chain and, at the same time, is the main victim of an inhumane process. [...] The price paid by intermediaries is so low that families cannot pay their bills at the end of the month. In practice, what we see is that the sharecropping or partnership contract is used to disguise the relationship of exploitation and rights violations."<sup>35</sup>

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<sup>34</sup> ILO, Public Labor Prosecutor's Office, [https://www.cocoainitiative.org/sites/default/files/resources/Cocoa\\_EN.pdf](https://www.cocoainitiative.org/sites/default/files/resources/Cocoa_EN.pdf), p.37; Reporter Brasil, <https://reporterbrasil.org.br/wp-content/uploads/2021/06/Monitor-6-Cacau-PT.pdf>

<sup>35</sup> Brasil de Fato, <https://www.brasildefato.com.br/2024/02/01/brasil-de-fato-mostra-em-documentario-como-vivem-os-trabalhadores-do-cacau-esquecidos-pela-globo-em-renascer>; see: <https://www.youtube.com/watch?v=cTikHQfPWH4>

## Drivers of vulnerability to forced labor on cocoa farms

Within cocoa-growing communities, forced labor is driven by a series of intersecting factors:

**Poverty within rural cocoa-growing communities.** Most cocoa farmers in Brazil receive a very low income from the sale of cocoa beans, as testified by the fact that all cocoa regions have an average household income per capita clearly below the Brazilian average.<sup>36</sup> In Bahia, for instance, 44% of the families live on a salary lower than the national minimum wage.<sup>37</sup> While the global chocolate industry is expected to reach an annual value of \$263 billion by the end of the decade,<sup>38</sup> cocoa farmers worldwide continue to earn very little. As noted above, in Brazil the limited earnings obtained from cocoa farmers are also linked to the partnership system, whereby farmers need to share 50% of the profit (when not even more) with the landowner. Importantly, the poverty to which cocoa-producing communities are exposed is linked to three main factors:

- **Low international market price for cocoa.** Low cocoa prices often mean that farmers struggle to make enough income to cover production costs. At best, farmers will get only a small profit margin. In remote areas, the purchase price practiced by some buyers/intermediaries who source directly from farmers may be even lower than the international market price.
- **Price fluctuations of cocoa beans.** Cocoa prices are constantly fluctuating, making farmers highly susceptible to price fluctuation shocks. When cocoa prices are low, farmers often have no savings to rely on, which exposes them to even greater poverty.
- **Inequality in the supply chain.** As has been noted, there is a strong inequality between the top and bottom of the chain. Subjecting cocoa producers to “top-down” pricing in the chocolate supply chain restricts their ability to negotiate with intermediaries and large buyers. Because farmers bear the burden of

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<sup>36</sup> Anker Research Institute, [https://www.globallivingwage.org/wp-content/uploads/2022/07/Living-Income-Estimates-for-Cocoa-Brazil\\_v3.1.pdf](https://www.globallivingwage.org/wp-content/uploads/2022/07/Living-Income-Estimates-for-Cocoa-Brazil_v3.1.pdf)

<sup>37</sup> See: <https://www.youtube.com/watch?v=hjV8JdEzvcg>

<sup>38</sup> A. Brudney, R. Taylor, *There Will Be No More Cocoa Here: How Companies Are Extracting the West African Cocoa Sector to Death*, Corporate Accountability Lab, September 2023, 6.

market volatility, whether driven by commodity prices or by changes in demand, they are exposed to economic precarity and indebtedness.

**Limited access to essential services and infrastructure** such as roads, education, healthcare, water, electricity. Poor road infrastructure, in particular, contributes to marginalization and isolation, limits access to farm inputs (which are essential to increase productivity and quality of output), and complicates delivery of cocoa to cooperatives. Overall, the limited access to essential services and infrastructure in rural cocoa-farming areas contributes to poverty, making rural communities more vulnerable and therefore more susceptible to abusive labor practices. The appalling conditions of the roads is another factor with negative repercussions for the cocoa production chain, in that it prevents many farmers from reaching mills and exacerbates their dependency on middlemen

**Low Human Development Index.** It is observed that cocoa producing municipalities in Brazil have a Human Development Index (life expectancy at birth, expected years of schooling, mean years of schooling, GNI per capita) below the state and national averages, which contributes to illustrating the vulnerability of their populations to different forms of exploitation.<sup>39</sup>

**Dependency on intermediaries.** Instead of selling the cocoa beans directly to the mills, Brazilian cocoa farmers most commonly sell to small middlemen, which has the benefit of involving less bureaucracy. Payment is made in cash at the time of purchase rather than through bank transfer. Furthermore, family farmers do not have the organization and financial structure to ship their production directly to the mills. In addition, unlike middlemen, multinationals require invoices and a Corporate Taxpayer Identification Number (CNPJ). However, selling to intermediaries means that farmers are paid less and are dependent on the price set by the intermediary.

**Partnership agreements.** As noted above, cocoa farmers in Brazil work under a partnership agreement that, especially when manipulated by the landowner and when

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<sup>39</sup> ILO, Public Labor Prosecutor's Office, [https://www.cocoainitiative.org/sites/default/files/resources/Cocoa\\_EN.pdf](https://www.cocoainitiative.org/sites/default/files/resources/Cocoa_EN.pdf), p.17

in violation of the law, leaves them extremely vulnerable. There is price control by the landowner, production control and prohibition of sale to third parties. “Cash advances” and “deductions” are used indiscriminately by landowners, in some cases leading to debt bondage.

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

## Relevant laws, policies and programs

### Government

Brazil has ratified the Forced Labor Convention, 1930 (No.29), the Abolition of Forced Labor Convention, 1957 (No.105) and the Protocol to the 1930 Forced Labor Convention, 2014.

Article 5 of the Brazilian Constitution stipulates that the exercise of any job, trade or profession is free and that there shall be no penalties of forced labor. Article 7 stipulates that all workers have a right to a national uniform minimum wage, fixed by law, capable of meeting a worker's basic living needs and those of his family, for housing, nourishment, education, health, leisure, clothing, hygiene, transportation, and social security. For those receiving variable compensation, there must be a guarantee that the remuneration will never fall below minimum wage.

Article 149 of Brazil's Penal Code contains provisions related to slave labor. It stipulates that the penalty for reducing a person to the condition analogous to that of a slave (whether by subjecting him to forced labor or an exhaustive journey, by subjecting him to degrading conditions of work, or by restricting by any means his movement by reason of debt contracted with the employer or agent) is imprisonment from 2 to 8 years and a fine. The same penalties apply to those who restrict the use of any means of transport by the worker to keep him in the workplace or those who maintain ostensive surveillance in the workplace or seize documents/personal objects of the worker to keep him in the workplace.

The government maintains a national "Dirty List" containing information on employers found to be using slave labor, including that of children. Employers and companies added to the List pay fines and unpaid labor taxes, are prevented from receiving any credit from government or private banks, and are kept on the list until they prove that they are making concerted efforts to clean up their supply chains.

The Ministry of Labor and Employment oversees the Secretariat of Labor Inspection, which is responsible for organizing, evaluating, and monitoring labor inspection activities, including those related to forced labor. Labor inspectors carry out actions outlined in the Labor Prosecution Office's Normative Instruction No.02 of 2021, including by conducting unannounced inspections.

The government has launched a Federal Pact for the Eradication of Forced Labor that aims to establish a database and create state-level commissions to address forced labor and strengthen interagency coordination. It is led by the Ministry of Justice and Public Security's Special Secretariat for Human Rights.

The government has created a National Flow of Assistance to Victims of Slave Labor that creates an integrated network of social services providers and standardizes assistance to victims of slave labor, including child victims, across the country. It is led by the Ministry for Women, Family and Human Rights.



### Private Sector

Leading members of Brazil's chocolate and cocoa sector launched "CocoaAction Brasil" to address a range of issues in the country's cocoa sector. It works to find solutions that increase productivity, improve the quality of Brazil's cocoa, improve farmers' living and working conditions, strengthen farmers' organizations. All activities are implemented by engaging members and partners throughout the supply chain. CocoaAction Brasil was initially set up for five years (2018-2022), but it has been extended for another cycle.

The government, through the Ministry of Agriculture and Livestock - Executive Committee of the Cocoa Farming Plan, together with the private sector represented by CocoaAction Brasil, developed the INOVA CACAU 2030 PLAN in a participatory and collaborative manner. The objective of the INOVA CACAU 2030 PLAN is to consolidate Brazil as a reference for sustainable cocoa origin for the world, with a focus on productive conservation and ensuring the improvement of living and working conditions throughout the chain. The guidelines of the Plan include, among other things, adopting provisions that regulate labor relations and promote the well-being of producers and other workers and combating child and slave labor in cocoa-producing regions. In other words, the Plan presents as a strategic objective the complete eradication of the practices mentioned above and, to this end, awareness-raising actions will be carried out covering the entire universe of cocoa producers.

## Recommendations

### Companies that produce chocolate in Brazil

- **Implement a holistic human rights due diligence policy.** Embed responsible business conduct into policy and management systems; identify and assess adverse impacts in operations, supply chains, and business relations; cease, prevent, or mitigate adverse impacts; track implementation and results; communicate how impacts are addressed; provide for, or cooperate in, remediation when appropriate.
- **Adopt a whole-of-supply-chain approach.** Ensure that supply chains due diligence efforts go beyond tier one suppliers to higher-risk tiers further down the supply chain. This will entail expanding the focus from where companies may have greater leverage to where the risk of forced labor and child labor is greater.
- **Invest more serious and consistent efforts in the traceability of cocoa beans.** Traceability efforts should go all the way down to the farming site to identify any red flags of forced labor and take appropriate action when needed. In a recent lawsuit brought against three major chocolate companies for indirect connection to forced labor practices in Brazil's cocoa production, it became apparent that companies lack the capacity to track cocoa beans that move from farmers to small middlemen to bigger middlemen before being bought by the company itself.
- **Certify middlemen** so that the origins of cocoa can be better known and assessed, especially considering that middlemen buy cocoa pods from different farms and bring it to the mills. An equally valid alternative would be to reduce sensibly dependence on middlemen and to set up formal contracts of purchase directly with farmers
- **Pay a living income to cocoa farmers** and make sure that the full amount of the living income reaches farmers, rather than brokers who act as middlemen.
- **Partner with civil society organizations to implement credible, sustainable, and effective projects aimed at addressing forced labor** in cocoa-producing regions (e.g.,

Community Vigilance Committees) as well as to share experiences and good practices and accelerate progress.

## Government of Brazil

- **Implement a better regulatory system for companies sourcing cocoa and producing cocoa-based products** in the country. This includes ensuring that the cocoa that farmers are paid fairly for their cocoa.
- **Support the establishment of farmer cooperatives** to improve the bargaining power of cocoa producers vis-à-vis middlemen who act as first buyers of their cocoa.
- **Invest more in rural infrastructure** such as drinkable water and electricity in order to mitigate the vulnerability of cocoa-growing workers and ensure that they can have access to a higher quality of life. This is also important to ensure that cocoa producers can transport their cocoa beans, rather than waiting for the middlemen to come and collect them, which creates an imbalanced power relationship.
- **Enhance the labor inspection mechanism.** Specifically, increase the number of labor inspectors, train labor inspectors and strengthen their capacities to effectively identify indicators of forced labor and investigate cases, provide the labor inspectorate with sufficient funding, and expand (unannounced) labor inspections to small-scale cocoa farms. As many of those farms are located in remote, isolated, and hard-to-reach areas, labor inspector must be provided with the adequate equipment to do their work (e.g., vehicles that can travel in challenging terrains).
- **Expedite the prosecution process.** The average slave labor case in Brazil concluded 7.3 years after the commission of the crime. Lengthy case timelines contributed to a culture of impunity for perpetrators. Observers also expressed concern that the excessive duration of cases discouraged or complicated victims' participation in investigations and prosecutions.

## Civil Society Organizations

- **Train farmers on their rights** as well as on how to file complaints and reports to Ecuador's relevant authorities in order to obtain redress in case of abuses.
- **Carry out research to improve understanding** of the causes of forced labour in the cocoa sector and to identify effective mechanisms to address these phenomena.
- **Provide technical assistance to government and cocoa companies** to support the development of effective projects aimed at addressing and reducing the risk of forced labor on cocoa plantations.
- **Initiate forums, conferences, and workshops** aimed at encouraging a constructive multi-stakeholder dialogue on successes, challenges, and failures in addressing the risk of forced labor in cocoa supply chains.