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Labour governance in the Brazilian soy sector

New state-market relations

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Abstract

This paper examines the role of epistemic communities and advocacy networks in Brazilian rural labour governance and soy supply chain politics. Epistemic communities (Haas, 2015) and advocacy networks (Keck & Sikkink, 1998) are important concepts in constructivist international relations scholarship. Their influence over risk perceptions and trust in soy stakeholder relations was evaluated by focusing on four labour governance initiatives that affect the Brazilian soy sector: 1) the Round Table on Responsible Soy (RTRS), a transnational private governance initiative; and three Brazilian state labour governance initiatives, 2) the 2017 labour reforms; 3) modern slavery regulations; and 4) the rural health and safety regulations (NR 31). These four initiatives are regulatory processes that have been shaped by the particular interpretations of risk and trust disseminated by epistemic and advocacy networks. The transnational liberal epistemic community has been able to influence the four initiatives, conditioning the interactions between state and non-state labour governance mechanisms in the soy sector.

Many soy sector stakeholders reproduce liberal beliefs in discourse about trust and risks but unions, advocacy networks and career civil servants who loosely identify themselves as members or allies of the transnational socialist movement provided rival formulations of trust and risk. The increasing presence of Chinese executives and traders in the Brazilian soy sector and in transnational private governance mechanisms like the RTRS could have a profound impact on the distribution of risks in Brazilian agriculture. Their arrival in Brazil could also alter the epistemic distribution of beliefs about trust and risks in state-market relations. Hearn (2015) argued that differences in cultural dispositions towards trust in state-market relations affected Sino-Brazilian agriculture. I argue that European and Brazilian soy sector stakeholders with liberal beliefs remain more powerful than their socialist rivals in the four examined cases of rural labour governance.

This paper also seeks to clarify an important research puzzle regarding the interactions between state and non-state governance in supply chain politics (Macdonald, 2014). The analysis of labour standards required for certification by the RTRS reveals key differences between traditional state governance and non-state governance in the Brazilian soy sector. It also indicates the widespread influence of liberal thinking, which has grown in Brazil since the impeachment of President Rousseff in 2016. However, the political and epistemic resistance led by unions, civil society and public sector officials is also growing.

The four labour governance initiatives suggest that the final outcome of labour governance processes is influenced not only by the distribution of power but also by the variation of risk cultures across sectors and epistemic communities. The analysis of

these four specific labour governance processes is preceded by a brief description of the main institutions involved in the governance of Brazilian agricultural labour. The labour reforms and governance initiatives have generated new dynamics of risk and trust. A deeper understanding of these dynamics can be achieved by examining the role of epistemic and advocacy networks in soy supply chain politics.

Keywords

Soy; Labour; Governance; Epistemic Communities; Trust; Risk;

Acronyms

ABIOVE	Brazilian Association of Vegetable Oil Industries
ABRAIN	Brazilian Construction Industry Association
ABRASS	Brazilian Association of Soy Seed Producers
AMPA	Mato Grosso Cotton Industry Association
ANAMATRA	National Association of Labour Magistrates
APROSOJA	Brazilian Association of Soybean and Corn Producers
BV RIO	Rio de Janeiro Environmental Exchange
CBIC	Brazilian Chamber of the Construction Industry
CEJIL	Center for Justice and International Law
CI	Conservation International
CLT	Brazilian Labour Code
CNA	National Agriculture Confederation
CNI	National Industry Confederation
COFCO	China National Cereals, Oils and Foodstuffs Corporation
CONTAG	National Confederation of Agricultural Workers
CONTAR	National Confederation of Salaried Agricultural Workers
CPT	Pastoral Land Commission
CTB	Brazilian Workers' Central
CUT	Central Union of Workers
DEM	Democrats Party
EU-RED	European Union Renewable Energy Directive
FAMATO	Mato Grosso State Agriculture Federation
FETRAF-SUL	Federation of Family Farmers in Southern Brazil
FS	Força Sindical Union
IBISA	Institute of Agribusiness Innovation and Sustainability
ICV	Centro de Vida Institute
IE	Ethos Institute

ILO	International Labour Organisation
INTERSINDICAL	Working Class Central
IOE	International Organisation of Employers
IPEA	Institute of Applied Economic Research
ISO	International Standards Organisation
ITUC	International Trade Union Confederation
MPT	Labour Prosecutors' Office
MDB	Brazilian Democratic Movement Party
OAS	Organisation of American States
PCB	Brazilian Communist Party
PCdoB	Communist Party of Brazil
PP	Progressistas Party
PSB	Brazilian Socialist Party
PSD	Social Democratic Party
PSDB	Brazilian Social Democracy Party
PT	Workers' Party
RTRS	Round Table on Responsible Soy
SD	Solidarity Party
SECOVI-SP	São Paulo State Housing Syndicate
TST	Supreme Labour Court
UGT	Workers' General Union
WWF	World Wide Fund for Nature

Introducing the main institutions: soy sector labour governance in Brazil

Before presenting the four labour governance initiatives, I begin by identifying the main actors in Brazilian labour governance referred to throughout the paper. Since at least the Brazilian military regime era (1964-1985), soy producers have successfully lobbied the Presidency and Congress to influence labour markets. This lobbying has intensified since the commodity boom of the early 2000s. However, trade unions, prosecutors, judges and inspectors, some of whom identify as socialists, have offered powerful opposition. The Presidency of the Republic is one of the most powerful institutions in labour governance, particularly when its actions are well coordinated with Congress. This was the case during the 2017 labour reforms. Many epistemic communities among the opposition are against the neoliberal character of the reforms and their allegedly negative impacts on trust and risks in the soy sector.

Many soy producers and traders were advocates of the 2017 Brazilian labour reform, broadly aligning with a transnational liberal epistemic community that includes President Michel Temer and a majority in Congress also defend liberalism. Opposing the reforms are most of the labour unions, federal prosecutors, inspectors, and the International Labour Organisation. Labour judges, also discussed below, are split on the issue as some argue that the new laws must be strictly upheld, while others are open to more creative legal interpretations to defend workers' rights. This alignment of actors is fairly similar throughout the four governance initiatives.

Koenig-Archibugi & Macdonald (2017) emphasise four categories of actors that shape regulatory processes: regulators, intermediaries, targets and beneficiaries. The Presidency of the Republic, Congress, federal prosecutors, labour prosecutors, judges and inspectors are the key regulators in the Brazilian soy sector labour market. Employers and traders are the targets of labour regulations. Unions and civil society organisations represent the interests of the beneficiaries, i.e. soy sector employees and affected communities. The International Labour Organisation (ILO) is an intergovernmental regulator but it could also be considered an intermediary because it often provides indirect support to regulators, as well as authoritative opinions on disputes between Brazilian regulators and targets. The Roundtable on Responsible Soy (RTRS) is a regulator in so far as it requires compliance with private governance regulations included in the RTRS Standard for soy certification. However, the RTRS is also an intermediary because it requires private auditors to evaluate compliance with state regulations in order to grant certification.

The liberal epistemic community

The national soy producers' association APROSOJA represents the vast majority of large scale soy plantations, often partnering with the soy crushers association ABIOVE. It is very active lobbying in both state and non-state governance arenas. The connections of APROSOJA and ABIOVE to the agribusiness parliamentary front and to the Presidency of the Republic provide considerable leverage over labour regulatory processes. The two associations helped to launch a non-state governance initiative, the Round Table on Responsible Soy but, following negative campaigning by activist networks, decided to leave it. The possibility that this defection had to do with perceived reputational risks is examined in the RTRS section below. The Brazilian Association of Soy Seed Producers (ABRASS) is a newer and smaller player in labour governance. The National Agricultural Confederation (CNA) is also an important institution in rural labour markets representing the interests of state federations of rural employers.

In 2016, President Dilma Rousseff was impeached and the Workers' Party (PT) vacated the presidency after more than thirteen years in office. The vice-president, for many years a leader of the Brazilian Democratic Movement (MDB), became President Temer and spearheaded rapid policy convergence with the recipes of reforms prescribed by the liberal epistemic community (Bittencourt, 2017). Many of the Congressmen in the rural caucus not only supported the labour reforms put forward by President Temer but amended them to accentuate their liberalising effects. The market-oriented provisions of these reforms indicate that the influence of the neoliberal epistemic community is growing again.

The votes of the Brazilian Social Democracy Party (PSDB) were important for the approval of the 2017 labour reforms. Without them, a rebel group of MDB members in the Senate might have prevented the reforms. Between 1995 and 2002, while President Cardoso and his party allies in the PSDB attempted to implement economic reforms, the transnational epistemic community associated with liberalism was highly influential (Cervo, 2003). The return of the PSDB to the governing coalition after the impeachment of President Rousseff has coincided with the return of a recipe of structural reforms resembling the Washington Consensus, which influenced many labour governance reforms in Latin America. It is likely that the liberal epistemic community favoured by former President Cardoso has been strengthened by the recent rise of the PSDB. As discussed below in the case studies, the influence of the neoliberal epistemic community over the smaller political parties in the governing coalition seems to have been strengthened by President Temer or by his allies in Congress. Many of the votes and speeches of members of the MDB and PSDB parties reflect liberal ideas and could be an indication of membership in the liberal epistemic community.

The socialist epistemic community and advocacy networks

Many union members in Brazil belong to socialist epistemic communities associated with the term “state capitalism”. Although they do not always identify as socialists, many labour prosecutors and inspectors have supported unions that do. Trade unions, prosecutors and labour inspectors have resisted market-oriented reforms in order to protect workers’ rights in Brazil for decades (Coslovsky, Pires & Bignami, 2017). They are inclined towards state intervention and correcting the failures of labour markets. The Central Union of Workers (CUT) is the largest union in Brazil, and in Latin America, with 7.8 million associated workers in 2013 (Rodrigues & Ladosky, 2015). It is also the union with the largest number of rural members but the National Confederation of Rural Workers (CONTAG), one of the oldest unions in the country, continues to have an important role in rural labour governance. These unions have received support from organisations linked to the Catholic Church, which has also supported advocacy networks that campaign against contemporary slavery in Brazilian agriculture.

Since the end of the military dictatorship, advocacy networks, social movements and civil society organisations, both local and transnational, have thrived in Brazil. The labour reforms and the other three governance initiatives examined indicate that the change of political parties in the Presidency of the Republic has weakened but not defeated these movements. The alliances created by transnational and local activists to influence labour governance have become even more apparent during the recent reforms.

The branch of the Brazilian Judiciary comprised of labour prosecutors, *Ministério Público do Trabalho* (MPT), is a very powerful institution. According to the federal government transparency portal, it has more than three thousand employees across the country and an annual budget of R\$1.6 billion in 2017, around half a billion dollars. The head of the MPT, the Brazilian Labour Prosecutor General, is one of the leading figures in labour governance.

The federal prosecutors in the Ministério Público Federal (MPF) sometimes also advocate for workers’ rights. There is some overlap with the role of the MPT. The MPF budget in 2017 of R\$3.6 billion, roughly one billion dollars, sustained almost ten thousand employees across the country. The MPF and particularly its leader, the General Prosecutor of Brazil, have been active in labour governance.

In addition to being able to issue labour regulations by decree, the minister of labour is also the boss of the secretary of labour inspection, who is the head of the Brazilian Labour Inspectorate. Labour inspectors work in collaboration with labour prosecutors to enforce laws. The Brazilian Labour Inspectorate is similar in size and in number of employees to the MPT but it is perhaps more powerful than the MPT and the MPF in terms of shaping the legal culture and labour governance “on the ground” in the soy sector during every day operations. Coslovsky, Pires & Bignami (2017) emphasised

the combined impact of labour inspectors and labour prosecutors opposing market-oriented reforms. The case studies indicate that high-ranking federal prosecutors were also against the 2017 reforms, opposing the neoliberal epistemic community that helped to design them.

According to the transparency portal of the Brazilian Judiciary, in 2017 the branch responsible for labour in the Judiciary had an annual budget of R\$17 billion, equivalent to US\$5 billion, employing 56,311 people. The Supreme Labour Court (TST) alone had an annual budget of almost US\$300 million. In spite of a huge workforce, the labour Judiciary registered a backlog of 643,012 unresolved lawsuits that year. The liberal epistemic community is very influential among judges but socialists and other epistemic communities that favour state intervention to ensure rights are also highly influential. Judges are split over the labour reforms, some are in favour, while others have argued that their sentences should emphasise the prevalence of workers' rights enshrined in the Constitution over and above the regulations approved during the 2017 labour reform.

The International Labour Organisation (ILO) is a large and powerful component of the UN system with a budget amounting to almost US\$800 million for the 2018-19 biennium, US\$65 million of which for programmes in the Americas and in Brazil. The foundation of ILO in 1919 was influenced by epistemic communities concerned with labour rights and by socialist movements (Van Daele, 2005). European social democrats are still influential in the organisation. ILO coordinates the Digital Observatory of Slave Labour in Brazil in collaboration with the office of the Federal Labour Prosecutor General. The eight fundamental ILO conventions are cited in the the Roundtable on Responsible Soy (RTRS) Standard, reflecting their global importance. However, as discussed below, some of the most powerful executives in the global soy sector are Chinese and their risk cultures have not been influenced as much by the legal framework promoted by ILO. Moreover, ILO does not have the capacity that the liberal Bretton Woods organisations have to influence governance through lending and conditionalities (Cook, 2007).

The above actors and coalitions are influential in the four labour governance initiatives examined in this paper. Three of those are state governance processes but the RTRS is a non-state multi-stakeholder governance process driven by voluntary private initiative rather than by state-sanctioned regulations. Many of the executives involved in the RTRS are members of the transnational liberal epistemic community but there are also many RTRS members who belong to other epistemic communities and to advocacy networks that focus on the environment and human rights.

The 2017 labour reforms illustrate how liberal thinking has once again come to dominate soy sector governance, having flourished during the presidency of Fernando Henrique Cardoso (1995-2002) and retreated under the centre-left governments of Lula da Silva and Dilma Rousseff. The epistemic re-emergence of liberalism evident in the second labour governance initiative examined in this paper has also coincided with controversial changes in contemporary slavery regulations that affect the soy industry

and pose both regulatory and reputational risks for corporate investors. The fourth and last initiative examined also demonstrates the mistrust of socialists and advocacy networks towards the liberal episteme, manifested in rural health and safety disputes, which have led to, depending on which perspective is adopted, the “dismantling” or “streamlining” of labour risk management institutions.

The Round Table on Responsible Soy (RTRS)

The RTRS is a transnational multi-stakeholder initiative that aims to manage social and environmental risks by engaging civil society, soy traders and producers in certification. The prioritisation and selection of risks in the RTRS Standard reflects the dispute of epistemic communities during its inception. The liberal epistemic community might have influenced this selection as well as the exclusion of government and public sector stakeholders.

Schouten, Leroy and Glasbergen (2012) argued that the soy sector associations APROSOJA and ABIOVE reproduced a type of discourse in the RTRS that highlights the economic dimension of sustainable development. The emphasis of this type of discourse on economic risks and financial feasibility is consistent with the risk culture and beliefs of the liberal epistemic community. However, the reformist sustainable development discourse that has prevailed in the RTRS is not merely the expression of the liberal epistemic community. The fairly equal emphasis given to both market and social-environmental risks suggests that liberals and environmental advocacy networks found an epistemic middle ground. However, this compromise led to the exclusion of more radical and orthodox voices.

The emphasis of advocacy networks on social and ecological risks is somewhat at odds with the priority given by the liberal epistemic community to market risks. APROSOJA and ABIOVE decided to leave the RTRS in 2009 and 2010 respectively. They created alternative, arguably rival, initiatives (Hospes, 2014). Their defection had to do with the reputational risks accentuated by advocacy network campaigning (Schleifer, 2017), which reduced trust in the RTRS. Some advocacy networks and civil society organisations have remained critical of the RTRS since its inception. The tension between opposing risk cultures has influenced the exclusion of the radical advocacy networks and civil society organisations that remained critical of the RTRS since its inception.

The advocacy networks that are active in the RTRS are not opposed to liberalism *per se* but they are opposed to many of the liberal regulatory changes in Brazil. In May 2017 almost 150 civil society organisations and advocacy networks signed an open letter against the regulatory reforms led by President Temer. The term *ruralistas* in the title of

the open letter “Government and *ruralistas* unite against the future of the country” refers to the rural caucus and more generally to agribusiness interest groups. Several organisations that signed the open letter are members of the RTRS, including the World Wide Fund for Nature (WWF), Conservation International (CI), the Ethos Institute, Instituto Centro de Vida (ICV) and the Rio de Janeiro Environmental Exchange (BV Rio). These organisations are helping to ensure that the RTRS Standard remains relatively stringent by comparison to the national labour regulations that are becoming more flexible, as discussed below.

The union CUT also signed the open letter and has in the past maintained indirect links to the RTRS. A union affiliated to CUT took part in the creation of the RTRS, the federation of family farmers in Southern Brazil (Fetraf-Sul), but it defected early on. Fetraf-Sul received funding from Cordaid, a civil society organisation linked to the Dutch Catholic Church, to develop a campaign against genetically modified soy (Hospes, Van der Valk, & Van der Mheen-Sluijer, 2012). The inauguration of the RTRS was marked by intense disputes between agribusiness representatives and a non-GMO alliance. Smallholders and environmental civil society organisations argued against the risks associated with transgenic soy. Fetraf-Sul stepped down from the RTRS Organising Committee in 2005 because of a perception that it had no power to influence the agenda and to prevent the inclusion of GMO soy in the RTRS.

Unions have participated in labour governance initiatives like the RTRS, for example, one of the largest unions in Brazil, Força Sindical, took part in the Global Reporting Initiative (GRI), while two labour organisations are in the ISO 26000 working group, helping to consolidate the Corporate Social Responsibility framework of the International Standards Organization (Pena, 2014). However, unions are absent from the RTRS. The socialist epistemic community to which many of the Brazilian unions belong is much less influential in the RTRS than the liberal community. Instead of unions, transnational advocacy networks, many of which based in Europe, offer most of the opposition to the more orthodox members of the liberal epistemic community in the RTRS.

Many of the liberal members of the RTRS are based in the Europe. The European Union issued a Renewable Energy Directive (EU 2009) that requires soy biofuel suppliers in Brazil and in other soy producing countries to comply with a series of sustainability criteria. The RTRS was accredited as an EU-RED scheme for compliance purposes. The directive stipulated that the European Commission should report every two years to the European Parliament and Council on the impact of EU biofuel policies on social sustainability and food affordability in supplier countries. It also mandated reporting on whether the eight fundamental conventions of the International Labour Organisation (ILO) have been ratified by supplier countries.

Millions of tonnes of RTRS certified soy have been imported by traders based in Holland. Europe could be considered the driving force of the RTRS Standard. The inclusion in this Standard of norms issued by ILO, an intergovernmental organisation

based in Europe, reflects the influence of European importers and of European advocacy networks. These networks target traders to promote ILO norms in the certified soy sector. The RTRS Standard is based on five overarching principles. The criteria under the principle “responsible labour relations” refer to the eight fundamental ILO conventions. However, Brazil and China have not fully converged with ILO.

ILO Conventions in the RTRS Standard for Responsible Soy Production v3.1 and year of ratification by Brazil and China											
Country	Fundamental conventions								Technical conventions		
	Freedom of Association		Forced Labour		Discrimination		Child Labour		Hours of Work	Occupational Safety and Health	Safety and Health in Agriculture
	Co87	Co98	Co29	C105	C100	C111	C138	C182	C1	C155	C184
Brazil	-	1952	1957	1965	1957	1965	2001	2000	-	1992	-
China	-	-	-	-	1990	2006	1999	2002	-	2007	-

Compared to the Chinese legal system, labour legislation in Brazil has converged much more with the ILO framework. Many Chinese executives and supply chain managers are not accustomed to managing the social risks targeted by the ILO conventions. The Chinese government has not ratified the two fundamental conventions regarding forced labour (C029 and C105). Neither has it signed the conventions on Freedom of Association and Protection of the Right to Organise (C087) or the Right to Organise and Collective Bargaining (C098). However, the Chinese executives who participate in the RTRS and in the Sustainable Soy Trade Platform (SSTP) are learning about the labour risk management institutions promoted by European and South American soy supply chain managers, while building transnational relations of trust with counterparts from these regions.

Wilkinson (2011) argued that the rapid expansion of Chinese demand could weaken European niche market initiatives like the RTRS in South America. On the other hand, Chinese socialisation in the RTRS could lead to further convergence of Chinese and Western risk cultures in the soy sector. Johnston (2008) argued that socialisation in international institutions is leading to the convergence of Chinese and Western strategic cultures and ideologies. Based on my participation and observations at the RTRS Annual Conference in 2018, and on informal conversations with Chinese executives, I argue that this argument about cultural convergence through socialisation is also applicable to the soy sector. The increasing engagement of Chinese executives in the RTRS could contribute to the adoption of labour risk management norms that go beyond national legislation, which has become less stringent due to labour reforms.

The 2017 labour reforms: the return of the liberal epistemic community

President Temer successfully carried out the most substantial labour reforms since the first version of the Brazilian Labour Code (CLT) was published in 1943. The 2017 reforms were implemented through a series of legal instruments that have affected the whole economy but two laws in particular constitute the legal core of the labour reforms. Law 13429 was enacted on 31 March 2017 to reduce limitations on temporary work and outsourcing. The reforms continued with the publication on 14 June 2017 of Law 13467. This law became effective four months later, amending a huge portion of the CLT.

Voting on the labour reforms in the Chamber of Deputies, the lower house of Congress, indicated general consistency with the historical ideological ordering of Brazilian legislative parties, from Left to Right, identified by the Brazilian Legislative Surveys (Power & Zucco Jr., 2012). As an exception to this consistency, almost half of the Brazilian Socialist Party (PSB) congressmen departed from the party's historical alignment with the Left and voted in favour of the liberalising labour reforms. In addition to this exception, a substantial minority of congressmen in the Progressistas Party (PP) voted against the reforms in spite of their historical liberal economic propensities.

<i>Votes in Congress, Chamber of Deputies, on 26 April 2017 to reform the Labour Code (CLT): Law 13467</i>																		
Political Party	PT	PDT	PCdoB	REDE	PHS	SD	PSB	MDB	PSDB	PP	PSD	PR	DEM	PRB	PTB	PSC	PPS	PEN
Yes	0	1	0	0	2	5	14	52	43	34	29	28	29	15	13	8	6	2
No	56	15	9	4	4	8	16	7	1	9	5	7	0	4	4	2	3	1
http://www.camara.leg.br/internet/votacao/mostraVotacao.asp?ideVotacao=7492&numLegislatura=55&codCasa=1&numSessaoLegislativa=3&indTipoSessaoLegislativa=O&numSessao=94&indTipoSessao=E&tipo=uf																		

While implementing the reforms, President Temer's governing coalition repeatedly argued in mainstream media that the high cost of labour in Brazil was a major contributing factor to the severe economic recession and to the low competitiveness of the Brazilian economy. The National Agriculture Confederation (CNA), the National Industry Confederation (CNI), the soy producers association APROSOJA, the Mato Grosso State Agriculture Federation (FAMATO), the Mato Grosso cotton industry association AMPA and the Brazilian Institute of Agribusiness Innovation and Sustainability (IBISA) published statements supporting the reform. Although agribusiness representatives sometimes defend state intervention and policies that are not associated with liberalism, statements made during the labour reforms about the

urgency of more flexible or rational regulations indicate that many agribusiness and soy sector opinion leaders could be considered members or supporters of the liberal epistemic community.

Major unions and other opponents of the reforms have professed beliefs and policy preferences that indicate affinity with socialist epistemic communities and advocacy networks associated with the terms “national-developmentalism”, “state capitalism” and “socio-environmentalism”. On 28 April 2017, thousands of people in several Brazilian state capitals joined a general strike convened by trade unions and allies against the labour and pensions reforms put forward by President Temer.

According to Ruediger et al. (2017) this strike was mentioned more than a million times on Twitter and marked a turning point in public opinion against the Temer administration. In terms of the number of times they were mentioned in relation to the strike, the Mayor of São Paulo João Doria, a very liberal PSDB member, became the main spokesperson against the strike, followed by Congressman Jair Bolsonaro, a member of the Social Liberal Party (PLS) who became President of Brazil in 2019. Former President Lula of the Workers’ Party (PT) was by far the most mentioned supporter of the strike. The Twitter numbers and the party affiliations of the leaders mentioned above indicate that the reforms could be interpreted as a classical political struggle between right-of-centre interest groups that focus on market risks and left-of-centre groups that are more concerned about social risks.

Resistance to the reforms continued after the strike. In May 2017 roughly 150 advocacy networks and civil society organisations signed an open letter against the reforms. The position of the term “ruralistas” in the title of the open letter, just after “government”, indicates a perception among the opposition that agribusiness is the main driver of the reforms and should not be trusted. The open letter denounced the labour reforms carried out by the Temer administration in 2017, portraying them as a severe social risk and a powerful attack on the socio-environmental, human rights and rural workers’ advocacy agendas. The letter emphasised the centrality of labour issues in the emerging coalitions that cross the divide between state and non-state governance.

Three large trade unions were among the signatories of the open letter, CUT, CONTAG and the Working Class Central (Intersindical). Many of the workers in the soy sector are affiliated to CUT. The National Confederation of Agricultural Workers (CONTAG) was founded in 1963, a year before the dictatorship started, by activists linked to the Catholic Church and by members of the Brazilian Communist Party (PCB). In 1995, CONTAG joined CUT but tensions between the two entities remained. Rural workers have been underrepresented in the main decision-making institutions of CUT (Rodrigues & Ladosky, 2015). In 2009, CONTAG separated from CUT. Several of its leaders joined a rival union, the Brazilian Workers’ Central (CTB).

Some of the main trade unions in Brazil are closely aligned with specific political parties (Sampaio Ferraz, 2014; Galvão, Marcelino & Trópia, 2015). Their stance with

regards to the labour reforms has coincided with party lines. CUT is closely aligned with the Workers' Party (PT). The trade union CTB is primarily under the influence the Communist Party of Brazil (PCdoB) but some of its leaders are members of the Brazilian Socialist Party (PSB). In terms of affiliated members and unions, CTB is less than half the size of CUT but it has the highest proportion of rural affiliates out of the six main trade unions in Brazil. CUT has been influential in the soy sector in both state and non-state labour governance, as discussed below in the RTRS case study.

There is a new union that could have a large impact on social risk management in the soy sector but has still not been very outspoken. In 2017, the salaried workers section of CONTAG split and became a separate union, the National Confederation of Salaried Agricultural Workers (CONTAR). Although it is too early to evaluate the influence of this new union on epistemic communities in the soy sector, CONTAG has portrayed CONTAR as an ally in newsletters, so the new union is likely to oppose the reforms and maintain the general political alignment of CUT and CTB with, respectively, the opposition parties PT and PCdoB.

Reflecting their political alignment, CUT and CTB have opposed the labour reforms in their entirety, mostly refusing to negotiate with the Temer government. Compared to the other major unions, the union Força Sindical (FS) has historically been much closer to the liberal epistemic community (Cook, 2007). Its current president Paulinho da Força is also leader of the Solidarity Party (SD) and has voted in favour of President Temer on several occasions. União Geral dos Trabalhadores (UGT), the other major union, does not have a clear alignment given that its members have a variety of ideological preferences, although its president, Ricardo Patah, is a member of the Social Democratic Party (PSD). Compared to CUT and CTB, FS and UGT have been more open to negotiate with the Temer government.

It is important to consider the role of unions in rural labour governance because, in spite of market-oriented reforms, the relative power and significance of rural trade unions is increasing. According to the Brazilian statistics authority IBGE, whereas the rate of urban union membership in Brazil has declined from 23% of workers in 1992 to 15% in 2013, rural union membership has increased from 17% to 24% in the same period. However, only 15% of salaried rural workers are unionised, compared to 30% of subsistence and smallholder family farmers. The rural union membership statistics indicate that salaried workers in the soy sector are less organised than family farmers.

One of the most significant attributes of rural unions in terms of labour governance and social risk management is their role as intermediaries for rural workers to claim pensions. This is one of the reasons for the expansion of rural union membership in recent years. The rural section of the national labour movement has grown in recent years, along with its ability to shape the distribution of trust and risks in the soy sector. However, ongoing pension and labour reforms have profoundly altered the structure of incentives for union membership and for collective bargaining.

One of the most controversial aspects of the labour reforms is the introduced possibility that collective bargaining agreements can prevail over labour legislation. This had already been proposed during the Cardoso administration (Coslovsky, Pires & Bignami, 2017), reflecting the influence of the liberal epistemic community back then. This provision, in theory, could lead to employers negotiating payments per results at a final value lower than the minimum wage, based on productivity. Although this is unconstitutional and is likely to be explicitly prohibited in jurisprudence, Law 13467 also increases the cost of litigation and enforcement by workers. Therefore, payments below the minimum wage are not unrealistic, particularly in the informal rural economy. Soy certification could reduce the risk of precarious wages given that the RTRS Standard explicitly requires the minimum wage to be met by employers. The RTRS Standard could also help to preserve other labour rights that have become more flexible following reforms.

Before the labour reforms were enacted, the International Labour Organisation (ILO) Committee of Experts on the Application of Conventions and Recommendations (ILO, 2017) warned that the proposed reforms would lower protections by allowing collective bargaining agreements to prevail over labour legislation. The ILO experts argued that these regulatory changes were in conflict with ILO Conventions 98 and 154, ratified by Brazil.

The Brazilian Labour Prosecutor General, Ronaldo Fleury, requested an evaluation from the ILO International Labour Standards Department. The director of that department, Corinne Vargha, confirmed the opinion of the Committee of Experts. The Labour Prosecutor General then recommended that President Temer veto entirely or at least partially the proposed reforms.

The union CUT sent to ILO a joint observation with the International Trade Union Confederation (ITUC) arguing that the labour reform was incompatible with the ILO conventions ratified by Brazil and lacked sufficient prior consultation. The International Organisation of Employers (IOE) and the Brazilian Confederation of Industry (CNI) also submitted their views to ILO, in defence of the reform and of the scope of consultation. The Committee of Experts (ILO, 2018) argued in favour of the trade unions, recommending regulatory revisions to achieve compliance with ILO Conventions. This is an indication that the discursive stance of ILO is closer to the epistemic communities favoured by the trade unions and by prosecutors than it is to the liberal community.

The state-run Institute of Applied Economic Research (IPEA) is one of the most important think tanks in Brazil (McGann, 2018). Some IPEA researchers predicted that the reforms would lead to more precarious rural labour relations (Valadares, Galiza & Oliveira, 2017). They argued that it would lead to longer working hours, shorter periods of rest, lower wages and the dissemination of outsourcing and intermittent labour contracts that weaken labour rights. Although only salaried rural workers with formal employment cards are directly affected by the reforms, corresponding to only 12% of the

13.4 million rural workers in Brazil, the indirect impacts on widespread informal labour relations and on smallholder, subsistence and family farmers are also expected to be severe given that the formal sector is a reference for the informal rural economy.

Echoing the opinions of most labour inspectors, some labour judges have promised to not comply with the labour reforms, claiming they are unconstitutional. In November 2017, the main national media groups reported that the President of the Supreme Labour Court (TST) at the time, Ivan Gandres Filho, warned judges that their civil disobedience would not be tolerated and could be legally contested. He argued that the Judiciary should intervene less in labour disputes and cannot concede as many labour rights while trying to reduce unemployment during an economic crisis. Echoing arguments put forward by liberal business groups, he also mentioned the accusations of corruption that fuel mistrust towards inspectors.

When the two-year mandate of the new President of the TST, João Batista Brito Pereira, began in February 2018, he argued that compliance with the new labour laws was absolutely necessary. However, he added that the Constitution would prevail over new laws. Some labour judges have criticised the provisions of the labour reform that have reduced the power of labour courts and judges to interpret labour legislation in light of social and human rights. Combined with the provisions of the reform that increased the cost of accessing labour justice for lower income plaintiffs, these reduced powers have arguably weakened a key social risk management institution.

Leite (2017) called upon his colleagues in labour courts to courageously adopt constitutional hermeneutic techniques to defend the rights of the most vulnerable workers, challenging legislators who want to reduce or abolish the role of labour judges. These judges have joined forces with unions, social movements, prosecutors, inspectors and socialists, representing a powerful challenge to the liberal character of the labour reform spearheaded by President Temer and his allies in Congress.

The next labour governance initiative examined in this paper has also had a profound impact on the soy sector and also demonstrates the dispute between liberals and socialists over regulatory change in rural labour markets. Contemporary slavery is one of the most severe risks in the soy sector in terms of its impact on the wellbeing of rural workers. Much like the labour reform, it has fuelled mistrust towards agribusiness elites and their political allies.

The risky business of contemporary slavery

Socialists and advocacy networks in Brazil have focused a lot on the risk of contemporary slavery. The 2018 Global Slavery Index estimated that 369,000 people were victims of modern slavery in Brazil. The Digital Observatory of Slave Labour in Brazil, an ILO initiative in collaboration with the office of the Federal Labour Prosecutor

General, registered 43,696 workers freed from conditions analogous to slavery between 2003 and 2017. The majority worked in cattle ranches, rice or sugarcane fields but 718 workers were freed from soy plantations, primarily in the states of Bahia, Minas Gerais, Goiás, Maranhão and Mato Grosso. This figure does not include workers freed from forced labour in other economic activities related to soy supply chains, such as agricultural support services.

According to the Digital Observatory of Slave Labour in Brazil, in 2017 only 341 workers were freed from modern slavery, compared to 5999 in 2007. However, the substantial reduction might not be exclusively the result of successful slavery eradication operations. In August 2017, federal labour prosecutors filed a lawsuit against the federal government to avoid further budget cuts to slavery eradication programs, which have been included in a package of austerity measures implemented by President Temer.

Brazil has signed the two fundamental ILO conventions concerned with forced labour but contemporary slavery is an ongoing problem in the country. Work conditions analogous to slavery represent a substantial legal risk for agribusiness investors in Brazil. Many multinationals have been implicated. According to the risk matrix included in the 2017 sustainability report of one of the largest Chinese soy importers (COFCO International, 2018), the most important business risk is related to human and labour rights. Following media reports about contemporary slavery, COFCO reasserted its commitment to the fundamental ILO conventions and implemented a Human Rights Due Diligence procedure to manage risks related to seasonal and temporary workers.

In 2017, COFCO subcontracted a trade union in Mato Grosso state to hire soy workers, the cargo workers union of Nova Maringá. This union provided inadequate accommodation to workers. In March 2017, the Mato Grosso State Labour Superintendency (SRTE-MT) collaborated with civil police and state labour prosecutors to investigate whether working conditions were analogous to slavery. The largest media groups in the country reported that it was the largest operation of its kind in the region since 2009.

The workers were recruited a few weeks before the operation, as part of a casual work outsourcing contract regulated by Law 12023/2009, which requires registration by the Ministry of Labour. The contracts had not been registered and were nullified by regulators, who asserted the full liability of COFCO. The company was charged a large fine and was forced to sign a compliance order (TAC), committing to extensive operational and corporate governance changes.

In 2010 the Central Bank issued Resolution 3876 prohibiting financial institutions from offering rural credit to companies included in the *lista suja*, the Ministry of Labour's Cadastre of Employers charged with work conditions analogous to slavery. However, the financial cost of being blacklisted by the Ministry of Labour can be surpassed by the loss of brand equity and consumer trust in the company. Although multinationals from many countries have been accused of engaging in modern slavery in Brazil, brand and

reputation risks for Chinese multinationals are arguably more acute because of orientalist prejudices regarding the Chinese work ethic, which are widespread in Brazil, and stereotypical beliefs about labour conditions in China.

Long term reputation risks can be more severe than immediate non-compliance risks. The Nova Maringá case is just one example of a widespread slavery risk that affects agribusiness investors and supply chain managers in many regions of Brazil. One of the civil society organisations that signed the open letter against the government and ruralistas, mentioned in the governance initiatives examined above, the Pastoral Land Commission (CPT), filed a lawsuit in co-authorship with the Center for Justice and International Law (CEJIL) at the Inter-American Court of Human Rights of the Organisation of American States (OAS). In December 2016, the Court ruled against the Brazilian government and ordered it to pay US\$5 million in compensation to 128 victims of modern slavery who had been working in a cattle ranch in the state of Pará. The Brazilian government was accused of not taking action to prevent modern slavery and allowing the case of these workers and several other legal proceedings to lapse and expire. A few weeks after the sentence was issued, the Brazilian government established a federative pact to eradicate slave labour, involving several bureaucracies at the federal and state levels.

On 20 January 2017, federal prosecutors published a technical note criticising the preference of Senator Romero Jucá (MDB-RR), an ally of President Temer, for a version of a draft bill (PL 432/2013) that would reduce the scope of the definition of modern slavery and its legal application (PGR, 2017). As rapporteur of the draft bill, the senator claimed that the concepts “exhausting shifts” and “degrading working conditions” were too fluid and should be removed from the penal definition of slavery. The federal prosecutors contested this argument as merely an attempt to reduce the number of cases in which expropriation can be used as punishment for working conditions analogous to slavery. They also emphasised that the International Labour Organization (ILO) had praised the Brazilian government for its efforts to eradicate forced labour and to adopt definitions consistent with international treaties.

The federal prosecutors highlighted that modern slavery puts the freedom of competition at risk, reducing costs in relation to competitors and distorting free markets as a result of social dumping, arguably reflecting a liberal concern about market risks. However, many federal prosecutors are vocal about the need for more government intervention to correct market failures. They often collaborate with bureaucrats and advocacy networks associated with the socialist epistemic community to defend rights and disseminate their views. In terms of its predominant discourse regarding slavery in Brazil and its consistent support for Brazilian labour prosecutors and judges, ILO could also be considered an ally of the socialist epistemic community in Brazilian labour governance.

On 07 April 2017, labour magistrates, labour prosecutors, labour inspectors, public defenders, ILO, the National Confederation of Rural Workers (CONTAG) and the civil society organisations Pastoral Land Commission (CPT) and Reporter Brasil signed a joint letter addressed to the Minister of Human Rights, requesting political support against the amendments to the aforementioned draft bill proposed by Senator Ronaldo Caiado (DEM-GO), who sought a narrower definition of modern slavery. They requested support for the version of the draft bill put forward by the Workers' Party Senator Paulo Paim (PT-RS), which would maintain a broader definition.

Key members of the liberal epistemic community in Brazil, Senator Jucá (MDB-RR) and Senator Caiado (DEM-GO), argued for a "less fluid" definition of slavery to prevent companies from being targeted by corrupt or arbitrary inspectors and regulators. By contrast, the influence of socialist epistemic communities and of advocacy networks concerned with social justice can be found in the joint letter and in the position of the Workers' Party.

The Brazilian construction industry association (ABRAINC) has released many statements accusing labour inspectors of being corrupt. The association has repeatedly taken legal action and lobbied the government to modify contemporary slavery regulations and prevent the publication of the cadastre of companies charged with slavery, the *lista suja*. According to the Digital Observatory of Slave Labour in Brazil, the construction sector accounted for 4% of workers freed from modern slavery since 2003. On 10 August 2017, ABRAINC sent a proposal to the Ministry of Planning for regulatory changes regarding slavery, which was forwarded to the Ministry of Labour.

On 13 October 2017, Labour Minister Ronaldo Nogueira (PTB-RS), issued the ministerial decree 1129/2017, which modified the definition of slave labour and centralised in the office of the minister the power to blacklist companies accused of modern slavery, which blocks access to public credit. Previously, lower ranking civil servants in the Ministry of Labour had blacklisting power. It also imposed a new requirement for police officers to accompany surveillance operations, arguably reducing the autonomy of inspectors.

The decree was defended by the Minister of Agriculture Blairo Maggi, by the Attorney General Grace Mendonça, by members of the agribusiness parliamentary front and by the agribusiness think tank Instituto Pensar Agro, which receives funding from, among others, the soy industry associations APROSOJA, ABIOVE and ABRASS. The Sustainability Network (REDE), an opposition party, filed a lawsuit in the Supreme Court against the decree. On 24 October 2017, a minister of the Supreme Federal Court (STF), Rosa Weber, provisionally revoked the decree. The civil society organisations Conectas and Pastoral Land Commission (CPT), which is linked to the Catholic Church, appealed to several UN Special Procedure Mandates responsible for human rights and contemporary forms of slavery. The decree was also criticised by former President Cardoso, federal labour prosecutors, ILO and the Organisation of American States (OAS),

as well as by the labour inspectorate of the ministry of labour. The Prosecutor-General Raquel Dodge argued in widely broadcasted interviews that more severe punishments should be established for slavery. In Congress several left-of-centre members of parliament, primarily from opposition parties, submitted draft bills to overturn the ministerial decree.

Political Parties	Members of Congress against the ministerial decree 1129/2017
Workers' Party (PT)	Leader of the congressional minority José Guimarães (CE); Érika Kokay (DF); Maria do Rosário (RS)
Sustainability Network (Rede)	Leader of the environmental parliamentary front Alessandro Molon (RJ)
Communist Party of Brazil (PCdoB)	Former president of the Labour, Administration and Civil Service Commission Orlando Silva (SP); Assis Melo (RS); Alice Portugal (BA)
Socialism and Freedom Party (PSOL)	Edmilson Rodrigues (PA); Chico Alencar (RJ)
Green Party (PV)	Roberto de Lucena (SP)

The socialists Alice Portugal (PCdoB-BA) and Chico Alencar (PSOL-RJ) claimed in congressional speeches that the ministerial decree was a request of the agribusiness coalition, accepted by President Temer in exchange for support against corruption investigations that could have implicated him.

Ronaldo Nogueira resigned as minister on 27 December 2017 and returned to his seat in Congress in order to run for the 2018 elections but shortly before resigning he issued a ministerial decree with more stringent regulations against contemporary forms of slavery. This led to contestation from agribusiness groups and from the construction industry associations ABRAINC, CBIC and Secovi-SP. These interest groups argued that the lack of debate with stakeholders and the legal insecurity resulting from the regulatory changes would increase business risks and hamper investments. On 04 April 2018, Congressman Ronaldo Nogueira (PTB-RS) was unanimously elected president of the Labour, Administration and Civil Service Commission, replacing Congressman Orlando Silva (PCdoB-SP), who opposed the decree issued by Nogueira when he was the minister. The policies implemented and later retracted by Minister Nogueira indicate intense power struggles that are also present in the congressional commission

responsible for labour. These disputes reflect the same epistemic and political coalitions involved in the 2017 labour reform.

The distribution of discursive alignments and risk perceptions regarding contemporary slavery in Congress is also similar to the epistemic distribution that led to major environmental regulatory changes. The Workers' Party (PT) opposed most of the pesticides and forest regulations proposed by the liberal members of the political parties MDB and DEM (Donadelli, 2016). The joint letter about slavery regulations, the federal prosecutors' technical note and party politics in Congress suggest similar risk perceptions and discursive alignments with regards to labour governance.

Rural health and safety: another epistemic battleground

The epistemic alignments regarding health and safety governance in the soy sector are similar to those examined in the previous governance initiatives. For the members of the liberal epistemic community, excessive regulations represent a risk to competitiveness, efficiency and economic growth. The rival coalition of socialist unions and opposition parties is more concerned about the negative social impacts of dismantling the health and safety risk management institutions that have already been established as a result of trade union and civil society advocacy.

In 2005, the Ministry of Labour issued the agricultural health and safety regulation NR31, according to which rural enterprises that have more than 20 permanent employees are obliged to set up internal commissions for the prevention of accidents with employer and employee representatives. The employer is obliged to provide training to the members of these commissions and to workers who operate machinery or spray agrochemicals. However, NR31 does not require training for all workers.

The National Confederation of Agricultural Workers (CONTAG) was involved in lobbying the ministry for the issuance of NR31 and has representatives in the Permanent National Rural Commission (CPNR) established by the regulation. Many agribusiness employers do not like the NR31. For example, some farmers from the USA who migrated to Brazil to invest in soy argued that the NR31 is superfluous and excessively interventionist (Ofstehage, 2016). They believe the most severe risk in Brazilian agribusiness has to do with labour regulations and cultural relations with employees. The beliefs and risk perceptions of these farmers arguably reflect a liberal ideology, at least by comparison to the socialist CONTAG position on rural health and safety. The NR31, particularly the section that specifies the necessary distance between bunk beds in worker dormitories, is often quoted by liberal plantation owners as an example of how unreasonable the Brazilian regulatory framework can be.

In 2016 Congressman Nilson Leitao (PSDB-MT), who is one of the most prominent members of a political party heavily influenced by the liberal epistemic

community, submitted a draft bill (PL 6442/2016) to revoke NR31, while he was the leader of the agribusiness parliamentary front. On 15 March 2017, the president of the lower house Rodrigo Maia (DEM-RJ) set up a special commission to evaluate this draft bill. In response, the Workers' Party Congressmen Marcon (PT-RS) and Patrus Ananias (PT-MG) requested a public hearing and invited speakers from organisations that strongly oppose the draft bill, including the National Association of Labour Magistrates (ANAMATRA), the office of the Labour Prosecutor General and the National Confederation of Salaried Agricultural Workers (CONTAR), the 2017 outgrowth of CONTAG.

On 4 May 2017, the Labour Prosecutor General (Fleury, 2017) signed a technical note rejecting Draft Bill (PL) 6442 in its entirety due to the provisions that would allow non-monetary remuneration, twelve-hour shifts, 18 consecutive days of work and several instances of rollback in health and safety requirements. Similar reasons to oppose the bill were given by Erika Kokay (PT-DF) and by Davidson Magalhães (PCdoB-BA) who called upon CONTAG and state federations of rural workers to intensify their opposition to the bill. João Daniel (PT-SE) equated the bill with the legalisation of slavery and referred to the research of the human rights lawyer Naiara Bittencourt, who is linked to the civil society organisation Terra de Direitos and has published articles against the draft bill, as well as a thesis about the increasing exploitation of labour in Brazil as a result of liberal reforms (Bittencourt, 2017).

The IPEA researchers Valadares, Galiza & Oliveira (2017) warned that the draft bill could lead to even more precarious rural labour relations. The interactions between non-state and state governance of rural health and safety are substantial. The RTRS Standard includes several provisions about hazardous tasks and emergency procedures, as well as references to ILO conventions and recommendations regarding health and safety. As with the 2017 labour reform, the relative stringency of the RTRS Standard, by comparison to national regulations, could increase substantially if the NR31 is revoked. In other words, soy certification could potentially preserve labour rights that are weakened in the name of liberal flexibility and efficiency.

Conclusion

After the impeachment of President Rousseff, the distribution of power in Congress tilted towards the political party that has been closely associated with the liberal epistemic community, PSDB. The four labour governance initiatives examined in this paper indicate that the liberal epistemic community remains powerful in non-state governance and has become even more powerful in Brazilian state governance of rural labour, promoting extensive regulatory changes in rural labour markets.

The 2017 labour reform demonstrates that the liberal epistemic community was able to shape laws and regulations in such a way that risk cultures in the soy sector are more likely to focus on market risks. The possibility that the negotiated can supersede the legislated, discussed earlier, rests on the assumption that employers and employees can engage in trusting labour relations. Epistemic communities that oppose the labour reforms emphasise the social risks that have been aggravated and warn that it is not always possible to trust your boss. Unions and state institutions are proposed as necessary intermediaries to build trust and reduce risks in labour relations.

Contemporary slavery regulations and the attempts to revoke the agricultural health and safety regulations indicate that the liberal reforms are not over. There are remaining social risk management institutions in rural labour markets that can be further streamlined or dismantled to achieve fiscal responsibility targets and to rationalise regulations that are perceived to be excessive and inefficient. Soy sector executives who are members of the liberal epistemic community have been influential in the RTRS since its inception but they have been open to convergence with the less radical advocacy networks and alternative epistemic communities.

Unions, advocacy networks and public sector officials continue to offer epistemic resistance to market oriented reforms, opposing attempts to reduce the role of the state in labour governance. The outcome of their resistance will determine how the reforms affect risk cultures in Brazilian rural labour markets. Labour governance is influenced by the variation of risk cultures across sectors and epistemic communities, which in turn is influenced by the distribution of power.

Socialist epistemic communities and environmental advocacy networks have strengthened the opposition of the rural unions to the labour reforms. However, the liberal epistemic community is highly influential among ruralistas. The new dynamics of risk and trust installed by the labour reform have been characterised by the re-emergence of the liberal epistemic community in Brazil, in tandem with the re-emergence of the PSDB after the impeachment of President Rousseff.

Although the RTRS Standard focuses to a large extent on compliance with national regulations, it also includes provisions that go beyond mere compliance. In a scenario of increasing regulatory rollback in rural labour markets, the relative stringency of the RTRS will increase, as well as its potential to preserve labour rights that have become more flexible. This is an important conclusion to the research puzzle concerning the interactions between state and non-state governance. However, this potential will depend on maintaining and strengthening trust in the capacity of the initiative to manage social risks, in particular those that have been exacerbated by state regulatory changes.

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