

## EXECUTIVE SUMMARY OF THE BRAZIL COUNTRY RISK ASSESSMENT

The Brazil CRA includes an analysis of each human right from the Universal Declaration of Human Rights (UDHR) at three levels. First, the rights were investigated for areas of conflict between the prevailing national laws and international human rights law. Second, the prevailing social and cultural practices were analysed to identify any inherent human rights violations frequently perpetrated at the societal level. Third, each right was assigned an overall company risk rating, based on the ratings in the formal law and practice categories and the proximity to company operations. The results of the CRA analysis produced the categorisation of 10 human rights as high-risk areas, 7 human rights as medium risk areas, and 4 low risk human rights areas for companies operating in Brazil. The following presents the overall results of the CRA, including a short description of each right. The full CRA offers a detailed in-depth description of each right.

### COMPANY RISK

The following rights received a red rating in the Company Risk category in the CRA which indicates that these human rights constitute high-risk human rights areas for companies operating in Brazil. A short description of each right follows below.

- Right to Freedom from Discrimination (art.2)
- Right to Freedom from Forced Labour (art. 4)
- Right to Own Property (art. 17)
- Right to Take Part in Government (art.21)
- Right to Peaceful Assembly and Freedom of Association (art. 20 & 23)
- Right to Work and Just and Favourable Conditions of Work (art.23, 24 & 25)
- Right to an Adequate Standard of Living (art.22 & 25)
- Right to Health (art.25)
- Right to Adequate Housing (art. 25)
- Right to Education (art. 26)

*Right to Freedom from Discrimination (art.2)* constitutes a high-risk human rights area in Brazil that requires special attention from companies. Discrimination is widespread in Brazil. Women, Afro-Brazilians – particularly Afro-Brazilian women – and indigenous people are often subjected to discriminatory treatment. Discrimination is especially prevalent in the workplace where these groups routinely earn less, enjoy less job stability and often work under precarious conditions. Homosexuals are also susceptible to discrimination and are regularly subjected to violence and demeaning treatment. People with HIV/AIDS also experience discriminatory treatment.

*Right to Freedom from Forced Labour (art. 4)* is a high-risk human rights area in Brazil that requires special attention from companies. The use of forced labour is widespread in sectors such as forest clearing, logging, charcoal production, cattle ranching, and agriculture. Despite legislation and government initiatives to stop the use of slave labour, the number of slave and forced workers is increasing. It is estimated that there are more than 25.000 forced workers in Brazil. Victims are typically young men recruited from poor communities, but indigenous people have also been forced to work on coffee and sugar plantations. Trafficking of women and children for the purpose of sexual exploitation is a serious problem, and Brazil is considered to have the worst child sex trafficking record in the world after Thailand. Various sources report that 250.000 to 500.000 children live as child prostitutes (U.S. Department of State, 2005).

*Right to Own Property & Right to Adequate Housing (art. 17 & 25)* are both high-risk human rights areas in Brazil due to widespread problems of homelessness, landlessness, housing shortages, housing inadequacy and the lack of protection for indigenous lands. The violations of these rights are closely linked to the historic discrimination against Afro-Brazilians, indigenous people and women. In the urban areas, the major problems are related to the rapid expansion of informal



settlements (favelas) that lack basic infrastructure such as water and sanitation. The indigenous population has special property rights under both Brazilian domestic law and international indigenous law but these rights are not protected in practice. Illegal encroachment is common by invaders and occupants who exploit indigenous lands for the purpose of mining, forest clearing, logging and agriculture. Land disputes frequently lead to violence and the murder of indigenous people and indigenous rights defenders.

*The Right to Take Part in Government (art.21)* is a high-risk human rights area for companies operating in Brazil because of the prevalence of bribery and corruption at all levels and branches of government. In response to longstanding public concern over corruption, the Lula government launched an anti-corruption offensive in 2003 that resulted in the arrest of 300 people. While the efforts have had some success, practices of bribery and corruption are deeply embedded, particularly in the civil service sector.

*The Right to Peaceful Assembly and Freedom of Association (art. 20 & 23)* is a high-risk human rights area in Brazil that requires special attention from companies. Anti-union discrimination is a serious problem, and union activists - particularly in rural areas - are often targets of intimidation, violence, and even murder as a result of their union activities. The Courts limit the right to strike through judicial decisions, and striking workers are sometimes arrested or assaulted by the police. The authorities do not effectively enforce laws to protect union members, and companies are known to retaliate against or dismiss union members because of their union associations. In addition, approximately half of the workforce is employed in the informal sector where they lack access to union representation.

*Right to Work and Just and Favourable Conditions of Work (art.23, 24 & 25)* is a high-risk human rights area for companies in Brazil. Although Brazil's labour laws are comprehensive and thorough, half of the work force lacks access to these labour rights because they are employed in the informal sector. The high number of workers in the informal sector is arguably related to extensive and demanding labour laws, which purportedly create undue expense for companies and compel them to hire unregistered workers. In national opinion polls, unemployment is consistently cited as the country's most serious and urgent problem.

*The Right to an Adequate Standard of Living (art.22 & 25)* constitutes a high-risk human rights area in Brazil that requires special attention from companies. Brazil has one of the most unequal distributions of income in the world, and even though Brazil operates with a minimum wage system, the minimum wage (\$93 or 260 reais in 2004) has not kept pace with inflation and is not sufficient to cover basic needs. In addition, a large proportion of the Brazilian labour force is employed in the informal sector where they are not covered by minimum wage standards. Brazil has a social security system covering unemployment, work accidents, and pensions, but it is challenged by high public deficits. Roughly 18.8 million Brazilians from the informal sector do not have access to this system.

*Right to Health (art. 25)* constitutes a high-risk human rights area for companies in Brazil. Brazil's public healthcare system is overburdened, under-funded and likely to get worse. The public system is complimented by a more effective private healthcare system, but the private plans are only accessible to the wealthy or those with healthcare coverage through their employers. The general occupational health and safety conditions of the typical Brazilian workplace are poor, and conditions on Brazilian plantations are particularly unsafe, unhealthy and abusive. Half of the workforce is employed in the informal sector where implementation of health and safety standards is likely to be even worse.

*Right to Education (art. 26)* Due to the prevalence of child labour in Brazil, the right to education constitutes a high-risk human rights area for companies operating in Brazil. Although the Brazilian Government has implemented relevant laws and has been active in combating child labour, it is still a serious problem in Brazil. Most child labour is concentrated in the informal sector, and the most common types of child labour in rural areas include fishing, mining, raising livestock, producing charcoal, and harvesting crops. In urban areas, children mainly work in shoe shining, transportation, construction, restaurants, street markets, drug trafficking and prostitution.



## COMPANY RISK

The following rights received a yellow rating in the Company Risk category in the Brazil CRA which indicates that these human rights constitute medium-risk areas for companies operating in Brazil. A short description of each right follows below.

- *Right to Freedom from Torture, Cruel, Inhumane or Degrading Treatment or Punishment (art. 5)*
- *Right to Life, Liberty and Security of Person (art.3)*
- *Right to a Fair Trial and to Recognition as a Person Before the Law (art.6,7,10 & 11)*
- *Right to Freedom of Movement (art. 13 )*
- *Right to Adequate Food (art. 25)*
- *Right to Participate in Cultural Life (art. 26)*

*Right to Freedom from Torture, Cruel, Inhumane or Degrading Treatment or Punishment (art. 5) and Right to Life, Liberty and Security of Person (art.3.)* constitute medium risk human rights areas for companies in Brazil. Violations of these two rights are severe. Brazilian police forces are known to be involved in killings for hire and death squad executions of suspected criminals, indigenous peoples, labour activists, and others who advocate against corporate or government abuses. Police violence frequently occurs in connection with arrests, and the use of torture is widespread in prisons and detentions centres. Prisons in Brazil are generally over-crowded, unsanitary and violent, and prisoners are often denied basic health care. While violations of the right to freedom from torture and the right to life, liberty and security mainly occur within the governmental realm, the company could risk violating these rights if it uses abusive state security forces to guard its premises or to maintain orderly and productive operations.

*Right to a Fair Trial and to Recognition as a Person Before the Law (art.6, 7, 10 & 11)* is a medium risk human rights area for companies in Brazil. Access to judicial posts in Brazil is limited by nepotism and discrimination, and the enforcement of laws is somewhat selective. Lawyers and judges who represent or preside over cases involving sensitive matters (such as union murders, environmental protection, sexual abuse or domestic violence) are often targets of intimidation and violence. Legal representation is too expensive for the average citizen, and the Public Defender's Office is overburdened and under funded. Judges have discretion to hold court proceedings in private whenever they think it is necessary to protect the public interest, and they routinely abuse this privilege, especially when the case involves human rights matters or government officials. Because Fair Trial violations are typically committed by the Government, the company's risks are somewhat limited. However, the company could easily become involved in an indirect violation if it benefits from favourable judicial rulings as a result of judicial abuse of the rights of others.

*Right to Freedom of Movement (art. 13)* constitutes a medium risk human rights area. Violations of the right to freedom of movement often occur in connection with forced labour. The methods used to retain forced workers and prostitutes include debt bondage, withholding of wages, confiscation of identification papers and the use of armed guards. See *under the right to freedom from forced labour and servitude*.

*Right to Adequate Food (art. 25)* constitute a medium risk human rights area for companies in Brazil. The Brazilian rainforests are threatened by deforestation and predatory logging which affects regional biodiversity and may be leading to climate change, locally as well as globally. Logging, cattle ranching and agriculture – much of which is illegal -have devastating effects on the environment and on the food and water resources of indigenous people who traditionally live off the land. Because the deforestation is related to cattle ranching, soybean farming and logging, it causes special human rights concern for companies sourcing those types of goods from Brazil.

*Right to Participate in Cultural Life (art.26)* is a medium risk human rights area in Brazil due to the vulnerability of the indigenous population who are considered to be one of the most disadvantaged groups in Brazil. In addition to socio-economic deprivation and marginalisation, the indigenous peoples have often been prevented from living on and practicing traditional and religious customs on their lands.



## COMPANY RISK

The following rights received a green rating in the Company Risk category in the Brazil CRA which indicates that these human rights constitute low-risk risk areas for companies operating in Brazil. A short description of each right follows below.

- *Right to Privacy (art. 12)*
- *Right to Family life (art. 16)*
- *Right to Freedom of Opinion, Expression, Thought, Conscience and Religion (art. 18 & 19)*
- *Right to Intellectual Property (art. 26)*

*Right to Privacy (art. 12)* constitutes a low-risk human rights area for companies in Brazil. Not much information exists with regard to the right of privacy, but the Government is generally considered to respect this right. Companies should exercise caution when collecting data from employees and ensure that it does not collect sensitive data, particularly from groups that are often exposed to harassment and discrimination in Brazil.

*Right to Family Life (art. 16)* constitutes a low-risk human rights area for companies in Brazil. Brazil's family and maternity laws are relatively good, but do not apply to the high number of employees employed in the informal sector. In addition, increased challenges of combining work and family life have been noted, especially because of the rise in single-parent families in Brazil.

*Right to Freedom of Opinion, Expression, Thought, Conscience and Religion (art. 18 & 19)* is a low-risk human right area for companies in Brazil. The Government generally respects this right. However, human rights defenders and other activists have been subject to threats, harassment, violence, and murder, particularly by members of state police forces. The primary threats to freedom of press come from local officials, and people associated with drugs and gangs.

*Right to Intellectual Property (art. 26)* constitutes a low risk human rights area for companies in Brazil. The main intellectual property concern in Brazil is illegal Internet piracy, which is due in part to ineffective border enforcement. At the time this report was written, no information was available concerning specific threats to the intellectual property rights of indigenous people. However, companies dealing with issues of indigenous knowledge and resources must take efforts to protect the intellectual property rights of the indigenous population of Brazil, particularly considering the general discrimination of these peoples in Brazil.

