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WORKERS' RIGHTS VIOLATED BY THE PRACTICE OF LABOR ANALOGOUS TO SLAVERY: LEGAL CHALLENGES AND CONSEQUENCES

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ABSTRACT

Despite the enactment of the Lei Áurea (Golden Law) on May 13, 1888, which abolished slavery in Brazil, practices of labor analogous to slavery have been illegally maintained by individuals and legal entities in urban and rural areas. The focus of this article is to address the forms of combat that are being applied and their respective consequences. We will discuss laws and decrees, eradication programs, inspection measures, sanctions applied and recent case law, examining the consequences for individuals and companies involved in this practice.

Keywords: Slavery. Labor Law. Imprisonment. Freedom. Labor Inspector.

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INTRODUCTION

The general objective of this article is to demonstrate the historical journey of slave labor up to the current context, analyzing the main projects that aim to eradicate it, instituted by the ILO, MTE, Government and current case law decisions. In view of this, the specific objectives are to consolidate that slave labor can be combated if it has government support and commitment from companies, with inspections and programs focused on this issue, and also to verify which sanctions and legal decisions are being applied to these individuals and/or legal entities, who subject their employers to these conditions and what opportunities are given to them.

Therefore, the analysis of the topic of labor analogous to slavery is based on a social issue, because despite being a well-known subject, Brazil has many people in situations of great poverty, without access to education and better jobs, where they are most often victims of this crime.

The bibliographic research chosen was of a basic nature, exploratory objective, with research results and demonstration of case law. This study was developed based on an extensive review of specialized literature on the subject. To this end, relevant books, articles and online sources were consulted. The research material was selected through systematic research in libraries and search engines, such as Google, using the following descriptors: slavery; labor law; imprisonment; freedom; labor inspector, 2030 agenda, decent work.

The analysis of the collected data occurred through a predominantly qualitative approach, to deepen the understanding of the research topic in light of the theoretical information available.

The work was initially developed by addressing constitutional guarantees, also commenting on the influence of decrees and human rights in relation to workers in general, exploring the concept of workers' rights.

Immediately after, there is a correlation between ancient and contemporary slave labor. For a better visualization of this analysis, the mechanisms that are currently being used to combat it are also seen, such as programs and awareness-raising of companies, developed by the government, ILO and other institutions. However, is the action of government agencies and society in combating slave-like labor sufficient or does it need to be improved? The answer will be addressed during the article.

At the end, it addresses how rural and urban employers are condemned, the measures that are being developed and achieved, their effective monitoring and demonstrates current legal issues and decisions, leading to the question of whether current

sanctions and judicial decisions are sufficient to reduce the rate of employers subjecting their workers to conditions analogous to slavery.

CONSTITUTIONAL GUARANTEES FOR WORKERS

The rules that ensure social rights that encompass workers' rights are always of public order and inviolable, thus all workers have their rights duly listed in the Constitutions.

Uadi Lammêngo in his work demonstrates how labor rights were constitutionalized in the world:

> "It came from the Declaration of the Rights of Man and of the Citizen of 1789, with a strong influence on the doctrine of the social contract (Jean-Jacques Rousseau). It found expression in the French charter of 1848 (art. 2, no. 13), in the Communist Manifesto (1848) and in the Encyclical Letter Rerum Novarum, by Leo VIII (1891, ideological documents of notorious influence and importance. But it was in the 20th century that it gained strength, with the advent of the constitutions of Mexico (1971), the former Soviet Union (1918) and Weimar Germany (1919) [...]"

With the institution of the 1988 constitution, which is in force to this day, there was a great revolution within social rights, which closed down bodies that were representing workers, but established principles and better conditions for workers, as Mauricio Godinho states "[...] it established basic principles for the legal order, the State and society – a large part of these principles elevating work to the pinnacle, just like the matrix of post-war Europe", bringing more legal security to the population.

It can also be seen that Godinho explains the institution of the CF/88 regarding labor law:

> "[...] The Constitution of the Republic established in Brazil the normative concept and structure of the Democratic State of Law, in which the human person and his/her dignity occupy cardinal positions, together with the valorization of work, especially employment, which inserts the labor justice branch in the legal heart and mind that define the best spirit of the Constitution [...]

As was already expected, the Magna Carta lists in its articles the institution of the social dignity of work in conditions analogous to slavery and in its art.1º it provides for the dignity of the person human rights, which is one of the fundamental principles:

> "[...] Art. 1. The Federative Republic of Brazil, formed by the indissoluble union of the States and Municipalities and the Federal District, constitutes a Democratic State of Law and is based on:
> [...]III – the dignity of the human person; IV – the social values of work and free enterprise [...]"

In its art. 5, it lists the right to freedom, equality of people, which thus becomes one of the most extensive in the code:

> "[...] Art. 5. All are equal before the law, without distinction of any nature, guaranteeing Brazilians and foreigners residing in the country the inviolability of the right to life, liberty, equality, security and property, under the following terms: [...]III – no one shall be subjected to torture or to inhuman or degrading treatment; [...]XXIII – property shall fulfill its social function [...]"
> Art. 170 provides for the freedom of the worker and that his/her dignity must be respected:
> "[...] Art. 170. The economic order, founded on the valorization of human labor and free initiative, aims to ensure a dignified existence for all, in accordance with the dictates of social justice, observing the following principles: [...] III – social function of property; [...] VII – reduction of regional and social inequalities [...]

In art. 186, the concept of social function and its relationship with labor law, which must be accepted even in rural or urban areas in accordance with the requirements established by law, is addressed:

> [...] Art. 186. The social function is fulfilled when rural property simultaneously meets, according to criteria and levels of demand established by law, the following requirements:
> [...] III – observance of the provisions that regulate labor relations; IV – Operation that favors the well-being of owners and workers [...]

As can be seen, workers' rights are listed in social rights, where employees who are subordinate due to having an employment relationship or being service providers are supervised by individuals or legal entities, protected by social rights. Nascimento apud Godinho defines subordination as "a basic idea of submission, subjection to the power of others, to the orders of third parties, a position of dependence".

Even so, there are specific rights for rural workers, who, due to having less access and greater difficulty in obtaining their rights, have specific guarantees in the Federal Constitution, as provided in art. 7º CF/88 "These are the rights of urban and rural workers, in addition to others that aim to improve their social condition". In this article, there are 34 clauses provided for these rights for workers, and all social rights listed for workers in general are also applicable.

Art. 8º CF/88, which provides for freedom of association, without requiring workers to form associations and the lack of need for unions to depend on the state for deliberations. It is also possible to see art. 9º, which brings the concept of strike and the rights that workers have in relation to this issue.

In addition, the constitutional guarantees that are favorable to workers occur with the existence of standards defined in Human Rights Conventions, which stand out and have greater prevalence in their decisions.

HUMAN RIGHTS FROM THE WORKER'S FOCUS

With Human Rights, we can analyze the Declaration of the Rights of Man and of the Citizen (French Declaration) of 1789, which is considered the birth of the first generation in terms of civil rights, marking a great step forward in the limits of workers. In this declaration, it was determined that work is optional for men, thus, the employment contract appears so that their rights are fulfilled, emerging as an obstacle to the phase of servitude.

The principle of Human Dignity has a universal value in labor law to prevent inhumane work, and is also invoked to give scope to the right to honor, which grants its holder protection against humiliating and despicable treatment. According to Alice Monteiro, human dignity constitutes the intangible core of the right to honor, the concept of which depends on facts, ideas and values that are present in a society at a given historical moment.

In 1948, the Universal Declaration of Human Rights (UDHR) was published, which addressed collective rights, defining the human person, as Maria Áurea Baroni Cecato, addressing third-generation rights, can state that:

> “Third-generation rights – collective and solidarity – also include workers, both because they consider the indispensability of a healthy work environment and because they expand collective rights, but, above all, because they define the human person as the central subject of development. In fact, from the text of the 1986 UN Declaration, it can be inferred that socio-labor inclusion al is an essential component of development [...]”

This declaration also addressed the right to work, fair conditions and protection against unemployment. This was followed by the American Convention on Human Rights (Pact of San José de Costa Rica) of 1969, which was ratified by Brazil in 1992, and which establishes in its art. 6 the prohibition of slavery and servitude:

> “1. No one shall be subjected to slavery or servitude, and both slavery and the slave trade and trafficking in women shall be prohibited in all their forms. 2. No one shall be compelled to perform forced or compulsory labor. In countries where, for certain crimes, a custodial sentence accompanied by forced labor is prescribed, this provision may not be interpreted as prohibiting the enforcement of said sentence, imposed by a competent judge or court. Forced labor must not affect the dignity, nor the physical and intellectual capacity of the prisoner [...]”

Therefore, soon after this convention was ratified, there was a greater obligation to attempt to reduce forced labor, and thus, action began on these, with the creation of Treaties, which have greater supremacy over the laws of this country.

When we talk about Human Rights, we talk about International Treaties and Conventions, International Pacts qualify as Constitutional Amendments, for example, Constitutional Amendment No. 45, of 2004, which cannot be rejected or have decisions that are contrary to it, as provided for in art. 3rd and 5th §2:

> "§ 3rd International treaties and conventions on human rights that are approved in each House of the National Congress, in two rounds, by three-fifths of the votes of their respective members, will be equivalent to constitutional amendments.[...] Art. 5º All are equal before the law, without distinction of any nature, guaranteeing Brazilians and foreign presidents in the country the inviolability of the right to life, liberty, equality, security and property, under the following terms: [...] § 2º - The rights and guarantees expressed in this Constitution do not exclude others arising from the regime and principles adopted by it, or from international treaties to which the Federative Republic of Brazil is a party.

Furthermore, it can be seen that the dignity of the human person is listed in the 1988 Constitution as one of the fundamental rights:

> Art. 1º The Federative Republic of Brazil, formed by the indissoluble union of the States and Municipalities and the Federal District, constitutes a Democratic State of Law and is based on:[…] III - the dignity of the human person;

Within the institutions of human rights and the articles defined in the Constitution, it can be imagined that the rights of workers are protected when applying and creating new laws.

LABOR RIGHTS

Law is established with legislation and standards to ensure that order and justice are established in the country. With the primary function of ensuring the protection and guarantees of people's fundamental rights, so that social rights are always applied with the intention of protecting them, especially for the most vulnerable people and those most susceptible to injustice, promoting a more just and cohesive society.

As Arnaldo Sussekind states in his work "Labor law is a product of the reaction seen in the 19th century against the exploitation of employees by employers", protection in Brazilian legislation is always essential for workers, thus trying to ensure that the law most favorable to them is always applied.

Workers' guarantees aim to prevent harmful practices in the workplace, so that harmful attitudes do not occur in their jobs and that labor practices are in accordance with the standards of human dignity.

Art. 468 “caput” of the Consolidation of Labor Laws addresses the protection of workers with the prohibition of unilateral changes to labor contracts, as follows:

> “[...]Art. 468 - In individual employment contracts, the respective conditions may only be changed by mutual consent, and even then, provided that they do not result, directly or indirectly, in harm to the employee, under penalty of nullity of the clause that violates this guarantee [...]”

Therefore, confirming the Magna Carta, which states in art.5º XXXVI, that the law shall not harm acquired rights, perfect legal acts and res judicata.

The CLT, in its chapter V, addresses the regulation of the work environment, the duties of companies for the safety and well-being of employees, as well as the inspection of labor departments that must be carried out periodically in companies to ensure due compliance with these standards, guaranteeing safety and health.

Art. 9º of the CLT is fundamental and encompasses all the standards contained in this legislation, which states that: “[...]Art. 9º - Acts performed with the objective of distort, prevent or defraud the application of the precepts contained in this Consolidation [...]”

In this way, it ensures that employment contracts are fairer and free from fraud, offers legal security with effective measures against companies that exploit workers and keep them in degrading situations. In this way, it combats companies that are on the blacklist, which have tried in every way to cover up their situation before society, and are treating their employers in the worst possible way.

Several articles of the CLT are considered for inspection by the Labor Tax Auditor, as we can see in art. 41 combined with art. 47, in relation to keeping an employee without registration, it also considers art. 157, I CLT, which provides for occupational health and safety, and art. 168, I CLT, which cannot fail to submit the worker to a medical examination upon admission, among other violations.

Article 66 of the CLT provides for an 11-hour consecutive rest period between two shifts, and Article 67 of the CLT addresses a weekly rest period of 24 consecutive hours. There is also Article 71 and its clauses that address breaks. These cannot be violated either and are used as a basis for inspections, where workers work exhausting hours without any monitoring.

For inspections, it is clear that violations of the CLT are addressed, as well as Law 5,889/1973, which regulates rural work and the Regulatory Standards, such as NR 31.

NR 31 is commonly known as the NR for slave labor, as it provides for the health and safety of rural workers, who must ensure places for rest (decent accommodation with hygiene and comfort), adequate sanitary facilities, first aid supplies, and when there are more than 10 employees, a person trained for this purpose must also be provided, as well as a place for storing and preserving food.

This NR also identifies activities that involve serious and imminent risk to life and health, and these activities must be interrupted and only resumed when appropriate measures have been taken, and a CIPA must be established. It also provides for the use of PPE, which is established in NR 06.

We can see that Brazilian legislation guarantees protections for workers for decent work, with significant changes that were implemented to combat degrading work. However, there are still many challenges to be overcome, such as more intensive monitoring and raising awareness among the entire population regarding this issue, which is not outdated and has gained new nuances, as we will see in the next topic.

DIFFERENCE BETWEEN ANCIENT AND CONTEMPORARY SLAVERY

Slavery has existed in Brazil since 1500. Rafael de Bivar Marquese, in his article, addresses the history of slaves. He states that the Indians were initially exploited to serve as “employees” of the Portuguese, receiving in exchange objects that were still unknown to them, and thus being a profitable labor force. However, over time, epidemics and revolts occurred, and the Catholic Church became interested in catechizing them. Thus, the capture of Indians was prohibited, bringing the end of indigenous slavery close, as stated by Luiz Koshiba and Denise Manzi F. Pereira:

> “[...] although the Indian was an important element in the formation of the colony, the black soon supplanted him, with his labor force being considered the main base on which Brazilian colonial society developed. In the initial phase of sugarcane farming, indigenous slave labor still predominated. It seems to us then that arguments so widely used, such as the Brazilian Indians' inability to work in agriculture and their indolence, fall by the wayside [...]”

In the mid-16th century, with a lot of land to be explored, attention turned to the colonies in Africa, so the slave trade was the main means of bringing African slaves to Brazil, as can be seen in the work of Luiz Koshiba and Denise Manzi F. Pereira.

According to Katia Mattoso, after arriving in Brazil, they were sold as objects and forced to work in degrading conditions, exhausting hours of work, without any burden and a decent place to live. The slaves were treated like animals, branded like cattle and belonged to the people. The abolitionist movement began in 1831, when the Diogo Feijó Law was instituted, determining that blacks who had come from abroad could not be enslaved, as established in its art. 1º of this law, with the following content: “All slaves who enter the territory or ports of Brazil, coming from abroad, shall be free”.

The prohibition of slave trafficking occurred to preserve the image of a more sovereign nation, with the Eusébio de Queirós Law in 1850.

The Free Womb Law No. 2,040, enacted in 1871, granted freedom to children born to slave mothers, but the Golden Law was instituted before any of these slaves born after the Free Womb Law had completed 21 years of age. At that time, laws were passed that emancipated slaves or abolished their conditions, such as the law on sexagenarians, which meant that slaves over 60 years of age should be freed.

With the signing of the Lei Áurea (Golden Law) (No. 3,353) on May 13, 1888, it was determined that slavery was abolished from that moment on, as seen in its article 1, “Slavery in Brazil is hereby declared abolished (sic) from the date of this Law”.

The 1926 United Nations Slavery Convention, amended by the 1953 Protocol, and the 1956 Supplementary Convention on the Abolition of Slavery (Promulgated in Brazil by Presidential Decree No. 58,563 of June 1, 1966), established the commitment of its signatories to completely abolish slavery in all its forms. Thus, the practice of slavery was prohibited, bringing hope of freedom for all. However, although abolition occurred, the reality held an uncertain future for those freed, without any protection or assistance, they were not given the necessary opportunities to reintegrate into society, and many were forced to accept precarious, poorly paid jobs without due recognition. Thus, without any preparation for the job market, it resulted in a cycle of invisibility, with poverty and inequality, a true social exclusion that is largely perpetuated to this day by structural racism.

Currently, the term used for people who are subjected to precarious work is labor analogous to slavery, which is seen with high incidence in rural areas, still continuing on many farms, but is also found in urban areas of large cities, by poor Brazilians, the vast majority of whom are black, and often without education, and there are also cases of foreigners, who are looking for a better life.

There are also cases of women who are subjected to domestic slave labor, generally from lower social classes, from small towns, black, who work in family homes from childhood and grow up in this home, always as “employees” and without pay, registration in

the CTPS or payment of other charges, having all their rights taken away. Monitoring is increasingly intensified due to the increase in complaints, and thus the cases tend to increase.

The majority of these people are still black, because despite Public Policies being implemented to change this scenario, there is still great racial inequality, and inclusion is happening slowly, as Florestan Fernandes states:

> "Although 'individuals of color' still participate (in some regions in apparently considerable proportions) in the 'conquests of progress', it cannot be objectively stated that they collectively share the currents of vertical social mobility linked to the structure, functionalism and development of class society."

Work analogous to slavery violates the Universal Declaration of Human Rights, the ILO Declaration of Fundamental Rights at Work and the Guidelines for Multinational Enterprises of the Organization for Economic Cooperation and Development (OECD), CF/88, Regulatory Standards and CLT.

According to the ILO, people known as "gatos" are intermediaries for employers, enticing individuals in vulnerable situations with false promises of jobs, excellent salaries and housing, which seem like perfect work, but turn out to be a big trap. The people who are enticed, after arriving at the workplace, are forced to purchase tools and equipment and realize that the cost of the instruments they need for the work is high, and so the debt begins, being written down in a notebook for this purpose.

Although the forms of exploitation have changed, the purpose of slave labor continues. The sale and purchase of people has given way to an illusory employment proposal that traps workers in degrading situations, with exhausting work hours, wage suppression or ridiculous amounts, homelessness or precarious housing, restricted movement and large debts to their employers, thus violating several rights.

WAYS TO FIGHT LABOR SIMILAR TO SLAVERY

The eradication of slave labor has become a national priority, becoming a matter of State, after the Brazilian government was warned that there were still high rates of slave labor in the country, due to complaints from the Pastoral Land Commission. The Pastoral Land Commission (CPT) is a movement formed by members of the Catholic Church, which investigates and denounces the atrocities committed against workers, acting before the Brazilian authorities in order to demand measures to solve the issue of labor analogous to slavery, as commented by José Ribeiro and Joanine Berg in their article "[...] denouncing the existence of slave labor since the 1970s, continues to provide essential services by

forwarding complaints to the MTE and providing services to rescued workers". Among these and other attempts to combat this, there is the Decent Work Act, which was established by the ILO, together with the Ministry of Labor and Employment (MTE), and aims to ensure improvements in the labor market, in social dialogue, as well as in equal employment opportunities and their protection. Decent work is that which is remunerated within its legalities, with freedom and security, where workers' rights are duly respected. In 2006, the National Agenda for Decent Work (ANTD) was publicly launched, where this agenda includes programs such as improvement courses, job creation, eradication of slave labor, improvements in workplace conditions, congresses and lectures in each state of the country. In 2023, Brazil announced the South-South Cooperation Program until 2027, supporting decent work in Latin America, Africa and Asia-Pacific. There are four axes to be explored, one of which is forced labor. It is cooperation from all sides. In Geneva, Switzerland, the "Social Justice for the Global South" program was presented, for global social justice.

In addition, some States have created their own decent work agenda, such as in Bahia, where FUNTRAD was founded, created by State Law No. 12,356/2011. It is a Fund to finance actions to achieve decent work. There is the Bahia Decent Work Agenda, which promotes groups to hold debates and implement measures to combat degrading work.

The Labor Prosecutor's Office, together with the ILO, as part of the Smartlab initiative for decent work, created the slave observatory, which periodically updates data on slave labor in the country. It shows that 63,516 workers in situations analogous to slavery were rescued from 1995 to 2023.

In 2014, Constitutional Amendment 81/2014 was created, which amended art. 243 of the Federal Constitution of 1988, and now has the following wording:

> "[...] Art. 243. Rural and urban properties in any region of the country where illegal crops of psychotropic plants or the exploitation of slave labor are located in accordance with the law will be expropriated and allocated to agrarian reform and popular housing programs, without any compensation to the owner and without prejudice to other sanctions provided for by law, observing, where applicable, the provisions of art. 5. Sole paragraph. Any and all assets of economic value seized as a result of illicit trafficking in narcotics and similar drugs and the exploitation of slave labor will be confiscated and will revert to a special fund with a specific destination, in accordance with the law [...]"

According to the new wording, the companies and seized products will be duly confiscated with a specific destination and this measure will not depend on criminal action.

In 2021, Ordinance/MTP 671 was created, which brought several changes in favor of workers and the fight against labor analogous to slavery, with a chapter dedicated exclusively to this subject, defining labor in conditions analogous to slavery as:

> "Art. 207. The worker subjected, individually or jointly, to:
> I - forced labor;
> II - exhaustive workday;
> III - degrading work conditions; IV - restriction, by any means, of movement due to debt contracted with the employer or agent, at the time of hiring or during the course of the employment contract; or
> V - retention in the workplace due to:
> a) restriction of the use of any means of transportation;
> b) maintenance of ostensive surveillance; or
> c) seizure of documents or personal objects.
> Sole paragraph. Work performed in conditions analogous to slavery, in any form, constitutes an attack on fundamental human rights and the dignity of the worker and it is the duty of the Labor Inspector to combat its practice."

In this way, expanding the conditions in which forced labor is characterized and with measures against companies that are part of the dirty list, which is updated periodically, and expanding the concepts that Labor Inspectors must use in their actions, defining this as in its art. 211 et seq.:

> "[...] Art. 211. The Ministry of Labor and Social Security and its decentralized units shall provide the Labor Inspection with all the resources necessary to monitor and combat labor in conditions analogous to slavery, which combat shall be a priority in its planning and actions. [...]"

The protection of workers also extends to foreigners, and as previously seen, the new ordinance returned with the freedom for the work of Tax Auditors, as well as guidelines for their protection.

INSPECTION

On January 22, 2018, normative instruction no. 139 was published, presenting indicators of characterization forced labor based on the inspection report of the Special Mobile Inspection Group over the last 10 years and the reception of the worker who should be referred to Social Welfare, as stated by João Paulo Ferreira Machado, deputy secretary of the SIT, as we can see in the content of IN 139:

> "Art. 6. The worker is considered to be in a condition analogous to slavery if he/she is subjected, individually or jointly, to:
> I - Forced labor; II - Exhaustive work hours; III - Degrading work conditions; IV - Restriction, by any means, of movement due to debt contracted with the employer or agent, at the time of hiring or during the course of the employment contract; V - Retention at the workplace due to:

a) restriction of the use of any means of transportation; b) maintenance of overt surveillance; c) seizure of documents or personal objects.
[....] Art. 23. In order to provide shelter for workers subjected to conditions analogous to slavery, their psychosocial support and access to public policies, the Labor Inspector must, during the course of the inspection action:
I - Guide workers to register in the Single Social Assistance Registry, referring them to the local agency responsible for registration, whenever possible; II - Communicate in writing the discovery of workers subjected to conditions analogous to slavery to the nearest Specialized Social Assistance Reference Center (CREAS) or, if none exists, to the Social Assistance Reference Center (CRAS), requesting assistance to the victims; III - Inform other civil society agencies or entities that may exist in the region focused on assisting victims of labor analogous to slavery. § 1. The procedures provided for in items II and III will not be adopted when they imply risk to the worker.
§ 2. If it is found that the procedures provided for in items II and III imply a risk of compromising the confidentiality of the inspection, the Labor Inspector may adopt them at the end of the inspection action [...]"

This Normative Instruction innovated and listened to the Labor Inspector Auditors, and emphasized that unemployment insurance guides must be issued when labor analogous to slavery is found, by Art. 16 and the CTPS will be issued by art. 18.

The Labor Inspector Auditors created a website where it is possible to check all the data on their activities in various areas, we can analyze the amount of activity between urban and rural slave labor situations, as can be seen.:

Table 1: Labor Auditors' Supervision

Formalized Workers During the Fiscal Action	Inspected Establishments	Unemployment Insurance Forms Issued	Compensation Received by Workers
54,783	7,323	43,479	148,628,505.54
Source: SIT			

With the indicators shown on this website, it is evident that a significant issue remains, one that is still far from over. In 2023 alone, nearly 2,000 workers were rescued, highlighting the need for essential inspections to curb these actions and ensure that workers' rights will no longer be violated. It is reasonable to believe that in the coming years, these inspections will be multiplied, especially with the upcoming civil service examination for AFT (Auditor-Fiscal of Labor) at the end of 2024, which is estimated to bring 900 to 1,800 new employees to begin their activities in 2025.

ACTIONS COMPANIES CAN TAKE TO COMBAT FORCED LABOR

Companies must take a set of precautions to prevent and combat forced labor. They should implement stricter measures, including indirect ones, such as within their supply chains and subcontracted companies. At this point, we can observe that several internal practices can currently be adopted, as detailed below.

In 2005, the ILO (International Labour Organization) formulated the National Pact for the Eradication of Forced Labor. Through this initiative, companies involved in such practices are subject to commercial market restrictions, including being prohibited from obtaining any financing. In 2013, the National Institute for the Eradication of Forced Labor (InPACTO) was created as part of the pact, with the goal of achieving ten key commitments for eradication and monitoring the fulfillment of commitments by companies and signatory entities.

This institute has supporters from the ILO, as well as major Brazilian companies such as Vale, Nestlé, Ambev, Carrefour, and others. Companies that join and sign the pact commit to confronting forced labor.

Additionally, the Ministry of Labor and Employment (MTE) adopted the Sustainable Labor project, based on ESG (Environmental, Social, and Governance) standards, established by the ILO, which promotes Responsible Business Conduct and includes actions such as dialogue, awareness-raising, and providing tools for companies.

Companies can also join the UN Global Compact, which features various agendas and initiatives aiming for more sustainable work, aligned with the Sustainable Development Goals (SDGs), including achieving full and decent employment. Among these, SDG 8 focuses on promoting economic growth, employment, and decent work, with its sub-targets addressing modern slavery (8.7) and the protection of labor rights (8.8). Companies can also join this agenda.

Furthermore, a self-assessment tool was launched to allow companies to evaluate their practices related to corporate responsibility principles voluntarily and confidentially. With this tool, companies can select their sector and size, and the information provided is not used against them. By using this self-assessment tool, it is possible to evaluate responses to each question, along with suggestions for improvements. At the end, a chart is generated for each situation, a report, and a plan for improvement.

Additionally, a platform was created to develop Risk Management Programs and issue declarations of non-existence of forced labor in the GOV.BR system, aimed at micro-companies, small businesses, and rural companies with up to 50 employees.

Returning to the start of this section, it is important to highlight the Due Diligence tool, which allows companies to thoroughly evaluate their supply chains, subcontracted companies, and partners. It is possible to identify financial risks, check certificates issued by the Ministry of Labor (SIT), and consult the Ministry of Labor and Employment's "dirty list," which is crucial for preventing future issues.

According to CUT (Central Única dos Trabalhadores), only 27% of companies are currently assessing or plan to assess the risks of forced labor next year. The presented data emphasize the need for companies to intensify their compliance efforts. Regular audits, detailed mapping of production chains, and concrete measures to ensure dignified working conditions are essential for legal compliance and corporate social responsibility.

Given the above, it is clear that the government is committed to ensuring companies comply with labor laws and to eradicating forced labor. The promotion of compliance within companies—through conduct codes, whistleblower channels, and regular audits—shows the pursuit of effective solutions. These measures, alongside rigorous inspections and societal awareness, can indeed contribute to a significant reduction and potentially the eradication of degrading labor practices.

SANCTIONS FOR EMPLOYERS AND JURISDICTION TO JUDGE

As discussed in this article, there is a significant effort by entities, governments, etc., to eradicate labor under poor conditions. In this context, sanctions are necessary to punish and deter companies from engaging in these unlawful practices.

The ILO's Convention No. 29, in article 2, item 1, lists cases where work is equated with slavery and discusses sanctions for employers, as seen below:

> "For the purposes of this Convention, the term 'forced or compulsory labor' refers to all work or service that is required from an individual under the threat of any punishment, and for which the individual has not offered voluntarily.
> In § 1, the following actions are considered equivalent to forced labor and subject to the same penalties: a) Restricting the worker's use of any means of transportation to retain them at the workplace; b) Maintaining overt surveillance at the workplace to detain the worker; c) Seizing the worker's documents or personal belongings to keep them at the workplace.
> Qualified cases (or special causes for increased penalties) are listed in § 2: a) Against children or adolescents; b) Due to prejudice based on race, color, ethnicity, religion, or origin.
> Finally, we understand that public and unconditional criminal action is required."

In the Penal Code, several articles apply in these cases, such as Article 148, which addresses the crime of kidnapping and unlawful detention. For the crime to be configured, it must be shown that the retention or detention was not legally permitted or tolerated by social norms. It is a crime against individual liberty, defined by retention at the workplace. Then there is Article 149, which deals with reducing someone to a condition analogous to slavery:

> "Art. 149 – Reducing someone to a condition analogous to slavery, either by forcing them to perform hard labor or exhaustive hours, by subjecting them to degrading working conditions, or by restricting their movement due to debt contracted with the

> employer or agent: Penalty – imprisonment from two to eight years, a fine, and additional penalties for any violence involved. § 1 – The same penalties apply to those who: I – restrict the worker's use of any transportation to detain them at the workplace; II – maintain overt surveillance at the workplace or seize the worker's documents or personal belongings to retain them at the workplace. § 2 – The penalty is increased by half if the crime is committed: I – against a child or adolescent; II – due to prejudice based on race, color, ethnicity, religion, or origin."

This article highlights that freedom restriction is one of the essential elements for characterizing forced labor. Additionally, Article 207 of the Penal Code addresses the recruitment of workers, defining penalties and methods:

> "Art. 207 - Recruiting workers with the purpose of transporting them to another location within the country: Penalty - detention from one to three years, and a fine. § 1 – The same penalty applies to those who recruit workers outside the location of work within the country through fraud or by charging any fees to the workers, or failing to ensure their return to the original location. § 2 – The penalty is increased by one-sixth to one-third if the victim is under 18 years old, elderly, pregnant, indigenous, or physically or mentally disabled."

Beyond the legal provisions within the penal sphere, a complaint channel was created in 2020, known as Ipê, and thanks to these complaints, it was found that the activities with the highest numbers include: charcoal production, cattle ranching, planted forests, native forests, coffee cultivation, mineral extraction, and construction.

On October 7, 2024, the latest update to the employer registry, known as the "Dirty List," published by the Ministry of Labor, saw the addition of 176 employers, bringing the total to 716 violating companies, located across 17 states in Brazil. These employers are prohibited from receiving public financing. Each employer remains on this list for two years, in accordance with Article 3 of the Interministerial Ordinance.

On the same date, a new Interministerial Ordinance was issued, regulating the employer registry, allowing these employers to sign an adjustment of conduct or judicial agreement with the Union. This will be formalized through an administrative process, after which the Coordination of Social Dialogue and Promotion of Decent Work will send it for legal consultancy to finalize the agreement, which includes commitments such as compensation for moral damages, at a minimum of R$25,000.00 (twenty-five thousand reais), with an additional R$2,500.00 (two thousand five hundred reais) for each year the worker was subjected to conditions of forced labor.

Employers who reach such agreements will be removed from the registry but will remain on a list of employers who have signed the Conduct Adjustment Term (TAC) for two years. If they fail to comply, they will be reinstated on the dirty list for another two years.

Regarding jurisdiction, the Supreme Federal Court (STF) has determined that if the actions harm the organization or affect a group of workers subjected to forced labor, the jurisdiction will belong to the Federal Court, as seen in the jurisprudence:

> "CRIMINAL PROCEDURAL LAW. EXTRAORDINARY APPEAL. FEDERAL COURT JURISDICTION. CRIMES OF REDUCTION TO A CONDITION ANALOGOUS TO SLAVERY, EXPOSURE OF THE LIVES AND HEALTH OF THESE WORKERS TO DANGER, FRUSTRATION OF LABOR RIGHTS AND OMISSION OF DATA IN THE LABOR AND SOCIAL SECURITY PORTFOLIO. ALLEGED RELATED CRIMES. APPEAL PARTIALLY ACKNOWLEDGED AND, IN THIS PART, GRANTED. 1. The extraordinary appeal filed by the Federal Public Prosecutor's Office covers the issue of the federal court's jurisdiction over the crimes of reducing workers to a condition analogous to slavery, exposing the lives and health of said workers to danger, frustrating of their labor rights and the omission of data from their work and social security cards, and other allegedly related crimes. (2) With regard to the conditions for admissibility of the extraordinary appeal, in the part referring to the alleged jurisdiction of the federal courts to hear and judge crimes allegedly related to offenses of interest to the Union, as well as the crime against Social Security (CP, art. 337-A), the issues raised by the appellant would require examination of infra-constitutional rules (CPP, arts. 76, 78 and 79; CP, art. 337-A). (3) Thus, it is not possible to hear part of the extraordinary appeal filed due to the infra-constitutional nature of the issues. (4) The judgment under appeal upheld the federal judge's decision declaring that the federal court lacked jurisdiction to prosecute and judge the crime of reduction to a condition analogous to slavery, the crime of frustration of a right guaranteed by labor law, the crime of omission of data from the Labor and Social Security Card and the crime of exposing the life and health of workers to danger. In this case, it was understood that these are not crimes against the organization of work, but against specific workers, which does not attract the jurisdiction of the federal courts. 5. The Plenary of the Federal Supreme Court, in the judgment of RE 398.041 (rel. Min. Joaquim Barbosa, session of 30.11. 2006), established the jurisdiction of the federal courts to try crimes of reduction to a condition analogous to slavery, on the grounds that “any conduct that violates not only the system of bodies and institutions that collectively preserve the rights and duties of workers, but also the working man, affecting him in the spheres in which the Constitution grants him maximum protection, falls within the category of crimes against the organization of labour, if committed in the context of labour relations” (Informativo no 450). (6) The conduct attributed to the defendants, in theory, violates legal assets that go beyond the limits of individual freedom and the health of workers reduced to a condition analogous to slavery, undermining the principle of human dignity and freedom of work. Among the precedents in this regard, I refer to RE 480.138/RR, rel. Min. Gilmar Mendes, DJ 24.04.2008; RE 508.717/PA, rel. Min. Cármen Lúcia, DJ 11.04.2007. 7. extraordinary appeal partially heard."

This decision sets a precedent for others, but it is still a point of much disagreement on the criminal issue.

In cases of slave labor in the domestic sphere, the prevailing case law indicates that the state courts have jurisdiction, as can be seen:

> "REDUCTION TO CONDITIONS ANALOGOUS TO SLAVERY. COMPETENCE. CERCEPTION OF DEFENCE.1 - The State Court has jurisdiction to prosecute and judge the crime of reduction to a condition analogous to slavery, committed in the domestic sphere, when there is no direct offence against the organization of work.2 - If the defendant, summoned more than a month in advance of the date of the hearing for questioning, does not appear and does not justify the absence, it is possible to decree her in absentia without this characterizing the curtailment of her defence.3 - The crime of reduction to a condition analogous to slavery is committed by an

> employer who, for more than 20 years, subjects a domestic servant to exhausting working hours and degrading working conditions, including physical aggression, such as ear pulling and hair pulling.4 - In order to characterize the crime of reduction to a condition analogous to slavery, it is not necessary to restrict the worker's freedom of movement; it is sufficient to limit the worker's ability to self-determine.5 - Appeal not upheld."

In 2015, the CNJ created the National Forum of the Judiciary for Monitoring and Effectiveness of Demands Related to the Exploitation of Labor in Conditions Analogous to Slavery and Trafficking in Persons (FONTET), according to Resolution No. 212 of December 15, 2015. There has been a considerable increase in the number of people rescued, from 50,000 in 2015, among other guidelines more than 500 cases in progress. FONTET was created to monitor the progress of these actions, propose measures for improvement, promote judicial cooperation, encourage the creation of committees to effectively combat work analogous to slavery, in conclusion to combat crimes committed by employers.

Therefore, we can conclude that thanks to the increase in complaints and the intensification of inspections, there has been a rise in cases that were previously hidden, with companies acting in stealth, but are now beginning to come to light, resulting in those responsible being identified and punished. With this growing visibility, discussions in the judiciary about work analogous to slavery are progressing, as will be discussed below.

JURISPRUDICIES AND THE POSSIBILITY OF FILING LABOR ACTIONS

The fight against work analogous to slavery continues and is gaining ground. In April 2023, the Attorney General's Office (PGR) filed a Motion for Failure to Comply with a Fundamental Precept (ADPF) No. 1053 with the Federal Supreme Court (STF) asking that the crime of reduction to a condition analogous to slavery be considered imprescriptible. The ADPF was drafted with the support of the MPT and is still being analyzed by Justice Nunes Marques.

In October 2023, the TST decided that the search for reparation for cases of work analogous to slavery would be imprescriptible, as it is a crime against humanity, in this case, it was decided that the serious restriction of freedom cannot be limited by time, in addition to the ignorance of most of these people who are totally deceived and do not know that they are going through work analogous to slavery, the reasoning was based on sum. 64 of the STJ, ILO conventions, and ADPF 1053, which is part of the UN agenda. 647 of the STJ, ILO conventions, and ADPF 1053, which is on the UN's 2030 agenda, and despite not being able to confuse labor and criminal law, there would be no way to separate imprescriptibility, this decision being a very important milestone in this fight.

After the appropriate inspections, and concurrently with the criminal proceedings, the MTE and MPT can initiate labor actions and file public civil suits with a request for collective moral damage. If these measures are not sufficient, the Labor Courts can judge these cases, and individual labor lawsuits can be filed with compensation for amounts already paid under the same title.

In relation to work analogous to slavery, the lawsuits are seeking, in addition to labor reparations, compensation for moral damage, in this area, we can verify a very well-known case, which were the wineries in southern Brazil, in which workers were rescued in degrading working conditions, which gained a lot of repercussions in 2023.

In this case, there was probably no use of the Due Diligence mentioned in the previous topic, which culminated in a conviction, because the workers were working for outsourced companies (Fênix and Oliveira de Santana), which served the Salton, Aurora and Garibaldi wineries, in this case, in addition to the sanctions already mentioned, these were condemned in a subsidiary way, in addition, only the company Fênix appears on the dirty list because it was the company fined, but all the companies signed the Conduct Adjustment Agreement.

As a result of this, there was an individual labor lawsuit and in a recent ruling (April 2024), the time cards were invalidated, with the condemnation of payment of overtime that was not computed, breaks, Sunday work and other labor charges, but according to the degrading housing and eating conditions of the workers, the companies were ordered to pay 50,000 reais in moral damages, jointly and severally and limited in relation to the Garibaldi and Aurora cooperatives, which is being challenged by the plaintiff on appeal.

Another example is a case that took place in 2023 in the south of Minas Gerais. In this case, a collective action was filed by the union representing 13 (thirteen) workers against the employer, an inspection was carried out and several irregularities were identified, from a lack of basic sanitation to a lack of PPE, and a lack of materials for first aid, precarious housing, etc.

In this lawsuit, moral damages of R$20,000.00 (twenty thousand reais) were determined for each worker. The employer appealed, but so far has been unsuccessful and the case is before the TST.

In analysis, we can see that labor lawsuits are not varied, but the majority are condemned to at least collective or individual moral damage, in order to combat this regrettable practice that still occurs in this country, we can see that currently there is still no consolidated jurisprudence on this case, which can lead to varied decisions, from low compensation, which can lead companies to commit the same facts again, in this way, I

conclude that it is necessary that this issue is still more addressed and discussed, being taken as a priority by the judiciary.

CONCLUSION

The research in this article aimed to explore the illegality of slave labor and the ways to combat it, as demonstrated by the general objective, as well as the struggle of human beings as workers to have a dignified life in their work environment.

As can be seen, former slave labor was expressly legal for a long time, and over the years camouflaged difficulties were created for its exploitation, until revolts and revolutions arose along with the understanding that Brazil would not grow if it continued along these lines.

It seems that in modern slave labor, the scope of slavery is outdated and totally intolerable in many respects. People are lured with illusory offers of better work, mistreated and housed in precarious places with no hygiene conditions. We can also see that those most affected are the merely poor and foreigners who arrive in the country with the hope of a better life, because they are ignorant and have no opportunity to study or even improve their lives.

The measures adopted by the ILO, the MTE and the government aim to curb and end work analogous to slavery, setting up agendas to make people and companies aware of these practices, and setting up operations with Labor Inspectors, who risk their lives to discover and put an end to the illicit conduct of employers, achieving recovery rates and better jobs.

We can thus conclude the answer to the problem raised in this article: the fight is evolving every day, even with resistance from some people. A few years ago, the Penal Code was amended, in its Article 149, which increased the penalties for those who commit this crime, as well as government ordinances focused on combating work analogous to slavery, with administrative penalties for employers. It is clear that the authorities are working harder every day to eradicate degrading work and, consequently, to curb the actions of employers.

It can be seen that the labor courts are committed to awarding moral damages in lawsuits in an attempt to penalize and restrain these employers, and that decisions are gradually evolving in the direction of more intense combat, such as the adoption of imprescriptibility in these cases, both in the labor and criminal spheres.

In view of the above, it can be concluded that thanks to these forms of combat, more and more people are being freed, which brings hope of scarcity. The fight to abolish slave-like labor will not end soon, but it is constantly evolving and gaining ground in this country.

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