

ESTUDIOS

## Human dignity and the emergence of combating modern slavery in Brazil

*Dignidad humana y la emergencia del combate de la esclavitud moderna en Brasil*

Elisaide Trevisam 

*Universidade Federal de Mato Grosso do Sul, Brasil*

Julio Trevisam Braga 

*Pontifícia Universidade Católica De São Paulo, Brasil*

**ABSTRACT** In view of the guarantee and protection of human dignity and decent work, this research aims to present a reflection on the emergency character of the combat against modern slavery in Brazil through international and internal devices, which guarantee the person's fundamental rights, for the state to become able to sustain the title of a Democratic State of Law. To achieve the expected ends, the methodology used will be documentary and exploratory, using the deductive method, with bibliographic and documental character to evaluate the premises established in the research.

**KEYWORDS** Human dignity, modern slavery, decent work, fundamental rights, democratic rule of law.

**RESUMEN** En vista de la garantía y protección de la dignidad humana y el trabajo digno, esta investigación tiene como objetivo presentar una reflexión sobre el carácter de emergencia en el combate a la esclavitud moderna en Brasil a través de mecanismos internacionales e internos, que garanticen los derechos fundamentales de la persona, para que el Estado pueda sostener el título de Estado Democrático de Derecho. Para lograr los fines esperados, la metodología utilizada será documental y exploratoria, utilizando el método deductivo, con carácter bibliográfico y documental para evaluar las premisas establecidas en la investigación.

**PALABRAS CLAVE** Dignidad humana, esclavitud moderna, trabajo digno, derechos fundamentales, estado de derecho democrático.

## **Introduction**

In view of the incidence of constant reports of slavery practices in the current international and Brazilian society, it is necessary to bring a reflection on the subject, in order to find possibilities for greater awareness of all in the search for solutions to this social reality.

The present research proposes to analyze the situation of this practice currently in Brazil, which, despite having ratified international Treaties and Conventions on the subject, known by the international community as one of the countries that are most dedicated to the eradication of the problem and, yet, to be a country proclaimed as a Democratic State of Law, it appears that the devices that guarantee human dignity suffer from inefficiency in the face of a reality where human exploitation still marks the lives of thousands of people.

To address the issue, a brief analysis of fundamental rights will be made, discussing the relevance of the actions of the international community with their influence on national legislation, with a primary focus on the Brazil's Federal Constitution of 1988, which is based on the dignity of the human person and seeks a freer, more just and egalitarian society.

The principle of human dignity and the dignity of working conditions will also be considered, based on the constitutional foundation and protection that characterizes Brazil as a Democratic State of Law.

In the end, we will point out the need to combat this practice of human exploitation on the basis of the protection of the human person, his dignity, his right to decent work, configured in the search for the realization of the internationally proclaimed human rights.

In this research, the methodology used was organized through a deductive and bibliographic analysis, seeking support in the consulting of national and foreign works and articles, in addition to legal and institutional documents, in order to achieve the desired objective in this reflection.

## **Human dignity and decent work in the Democratic Rule of Law**

In the world and in Brazil, the Abolition of Slavery was one of the most important social movements in history, in view of the great struggles waged by humanity. In these wars, on the one hand, there were slaves and abolitionists who fought for the recognition of human dignity, social rights, justice and moral conscience. On the other hand, the great owners and slave traders concerned only with the savage capitalism of a new world.

In Brazil, slavery officially persisted for almost three centuries, being abolished in 1888, however, it cannot be said that this abolition was really respected. With the

abolition of slavery on May 13, 1888, the commercialization of slaves ended, however, the real history shows that, after more than a century, slavery is still alive in Brazilian reality.

But it is not only that, slavery is present in the world today and is particularly increased in developing countries, since they have the highest rate of forced labor, under the reflex of a capitalist economy.

In today's Brazilian society, on the one hand, the social class is best supported by looking for cheap labor, and on the other hand, citizens who do not see their natural rights protected and enforced by the State. Faced with the need for survival, these people submit themselves to work in precarious conditions and in a submissive way, in the case that it could be designated as work.

It is worth highlighting the relationship between slave labor and the potential, international and national struggle for human rights, for the eradication of this complex and challenging phenomenon in today's globalized world, reflecting on the principle of human dignity as an intrinsic quality recognized in each human being.

And to the Democratic State of Law, in its role as guarantor of the fundamental and social rights that are constitutionally proclaimed, it is responsible for promoting public policies so that these rights may come to fruition since these rights are already proclaimed and positively constitutionalized, when speaks of the realization and protection of such rights so that the minority who is in conditions of economic and social exclusion present in society experience his real citizenship, there is a lack of a more effective application by those who have a duty to comply with the democratic order in the country.

The democratic principles of equality and freedom set a goal to be achieved through laws and the correct implementation of public policies, otherwise, the inferior classes and groups or genders, which have less strength or capacity for self-defense in society, will potentially be affected.

In view of this, it is essential that the State, as a Democratic Rule of Law, has a duty to pay attention to the fundamental constitutional principles in order to ensure an effective social integration policy that ensures that human dignity is truly respected. Based on the preservation of freedom, equal rights, the supremacy of the will of the people, the guarantee of welfare state and the dignity of the human person, the Democratic Rule of Law emerged from great historical movements in society.

The distinction between the State and civil society is a result of the modern political struggle, and the tension that arises out of that struggle is no longer between the State and civil society, starting to stand out as a problem of interest to social groups, and thus, the effective scope of human rights becomes inherently problematic from the point of view of building an emancipated society (Souza Santos, 2003: 431).

The intense socioeconomic inequality (Cardoso, 2003: 104), which comes from the external and internal exploitation of elites, comes to specify its most cruel side.

Brazil is a violent country, whose conflicts generated by differences are part of reality. It will only be through the reduction of socioeconomic inequalities, education for citizenship and the expansion of democracy, that will be expanded the idea that democratic coexistence in pluralistic, political and cultural societies is one of the great current challenges.

It is noteworthy that those who are committed to human rights fight for the scope of dignity and respect for all, that is to say, the understanding of differences through the principle of equality, equality of rights, mutual respect, citizenship, democratic ideals, humanitarian principles, understanding and acceptance of the other, even if he is different in his singularities (Silva, 2010).

It cannot be denied that because human dignity is an intrinsic condition to man, it precedes the recognition of rights and guarantees positivized by the law, thus allowing an investigation of aspects that aim at the effectiveness of fundamental rights proclaimed by the Brazilian Federal Constitution of 1988.<sup>1</sup>

The Brazilian Constitution of 1988 is based on the guarantee that consists in the effectiveness and immediate applicability of constitutional norms, and, according to José Afonso da Silva (2011: 128), the structure of democratic modes constitutes the foundation of the Democratic State of Law, and it remains to be expected that constitutional normativity takes place in practice.

The fundamental principles of law express the main political activities within the State that must be linked to the principle of the dignity of the human person and this imposes a duty of respect and protection to the citizen, determining its essential democracy structure (Sarlet, 2012: 123).

As Ingo Wolfgang Sarlet rightly observes: The imbrication of fundamental rights with the specific idea of democracy is an aspect that needs to be highlighted. In fact, it appears that fundamental rights can be considered simultaneously a presupposition, guarantee and instrument of the democratic principle of self-determination of the people through each individual, through the recognition of the right to equality (before the law and opportunities), of a space of real freedom, as well as by granting the right to participation (with freedom and equality), in shaping the community and the political process, in such a way that positivization and the guarantee of the effective exercise of political rights can be considered the functional foundation of the democratic order and, in this sense, the parameter of its legitimacy (2012: 61).

The Federal Constitution of 1988 signed unalterable commitments with respect to the democratic principle and, consequently, to the guarantee of human rights that are widely highlighted in article 5, thus crystallizing the idea that dignity and citizenship are objectives to be achieved through economic, legal and social channels (Maniglia, 2006).

---

1. Available in <https://bit.ly/35No4hw>.

The Magna Carta text, in symbolizing the rupture with the authoritarian regime, with respect to fundamental rights and guarantees, places itself as the most advanced and comprehensive document on the matter in the country's constitutional history, where the immediate applicability of fundamental rights is explicitly enshrined in §1 of art. 5, with no need for interference by ordinary law.

The principle of human dignity precedes the understanding and interpretation of rights based on the central core of the Constitution, meaning that, for constitutional law, the recognition that the human person has dignity of its own constitutes a value in itself and cannot be sacrificed in for any collective interest (Ferraz, 2006: 131).

This means that it is from the entry into the national culture (Bittar, 2006: 43 and 44) of the dignity of the human person that this person becomes a determining criterion in the evaluation of the legitimacy of politics, justice and law in decisions relevant to the citizen as a human being. For Ingo Wolfgang Sarlet:

It is important to mention the decisive role exercised by fundamental rights in a democratic regime as a guarantee for minorities, against possible deviations of power practiced by the majority in power, thus standing out, alongside freedom of participation, the effective guarantee of freedom-autonomy (2012: 61).

It is not possible to admit a right that does not prioritize the importance of realizing the values of human life and that brings as a consequence the lack of meaning of the Law (Silva, 2009: 150). The importance of respecting fundamental rights universally considered is growing, and, in practice, the number of examples in which it is questioned whether they are being realized with the scope of being Law and the progress of justice demonstrates the basis of a democratic country.

Thus, there is a need to search for a deeper foundation than the simple state recognition for the validity of fundamental rights (Comparato, 1999: 71), because in order to live a Democratic State of Law, respect for fundamental rights is essential as the first principle of each and every society, and if the reality of the realization of the dignity of the human person is an evident content that cannot be revoked, respect for the different social classes, personal autonomy and the dignity of each citizen are factors that must be remembered.

Human dignity, as a universal principle, must be observed when realizing that human labor is precarious so that work can be considered, not as a technical inclusion of production, but as an exceptional support for insertion in the egalitarian structure of a Democratic State of Law.

In the face of an international normative context, it is observed that the right to work entails the exercise of a positive freedom, of choosing a profession or profession, which is not illegal, or a negative freedom, which prohibits the submission of others to compulsory work (Jayme, 2005: 128).

In view of this, the right to work is considered a fundamental human right, insofar as it provides the means for a dignified existence and has the broad protection of international law.

It was with the beginning of social constitutionalism that the Mexican Constitution of 1917<sup>2</sup> stood out as the first to enshrine social rights to a constitutional condition, giving them the status of fundamental rights, and to treat Labor Law as a protective form of labor rights. However, it systematized the set of human social rights restricted to the criterion of state participation in the economic and social order.

As the first Constitution to prohibit equating labor with any commodity subject to the law of supply and demand, the Mexican Constitution laid, in general, the foundations for the construction of the Social Rule of Law, thus delegitimizing exploitation practices of labor market, highlighting a complex of valuing factors that lead to welfare state and the commitment to rescue the fundamental rights of mankind, that is to say, it is the commitment to a social program of the State towards society.

Also noteworthy is the Declaration of the Rights of the Labor and Exploited People<sup>3</sup> regarding social rights, which was promulgated in 1918 by the Russian Soviet Republic, aiming at suppressing all exploitation of mankind by mankind and abolishing the division of society into classes.

In 1919, in the city of Weimar, in Germany, the Constituent Assembly met with a new idea of the concept of State and society, seeking to free mankind from any configuration of oppression. Then, the Weimar Constitution was promulgated, which ensured man's economic freedom, particularly protecting work and disciplining workers' participation in companies. It also authorized workers' freedom of coalition and their representation in the company, creating a social insurance system and the possibility for workers to collaborate with employers in working conditions and wage setting.

Also in 1919, the International Labor Organization (ILO) was created by the Treaty of Versailles, with the scope of organizing labor relations in order to ensure a minimum of inalienable rights for working citizens. This Organization is a milestone in the universalization of labor standards as it enshrines Labor Law as a new branch of legal science, standing out for the way in which it seeks to bring equality in employment relations.

Always with the concern of protecting the working citizen, in Italy, in 1927, a corporatist system was instituted through the Carta Del Lavoro, which was based on the state interest to interfere and regulate labor relations. This document served as a model for other political systems in the world, with Brazil standing out among them.

---

2. Constitución Política de dos Estados Unidos Mexicanos, available in <https://bit.ly/37VIqb7>.

3. NEPP-HD, Núcleo de estudos de políticas públicas em direitos humanos (Center for the study of public policies on human rights), available in <https://bit.ly/2TE2IO9>.

In 1945, after the traumatic experiences left by the two Great Wars, where the most varied forms of human rights violations occurred, the concern with the principle of human dignity was flourished. Then, the phase of celebrations of treaties and other international instruments between Western countries began as a guarantee of protection for all individuals in the world. The international society came together and created, still in 1945, the United Nations, and, in 1948, through the General Assembly of the United Nations, the Universal Declaration of Human Rights was elaborated, that guaranteed, from then on, the freedom and equality among peoples<sup>4</sup>, which has demonstrated the vocation of universality of human rights inasmuch as it has been accepted not only by States, but fundamentally by free and equal men.

Then, respect for dignity begins as an intrinsic value to the human condition and for the first time, the dignity of the human person is welcomed as a center for directing rights and inspiration for the new Constitutions. When the dignity of the human person is accepted as a center for the direction of rights and inspiration for the new Constitutions, the objectification of man through the various fundamental rights declared is vetoed, in order to protect the citizen from being dominated and instrumentalized.

It can be seen that work has been recognized with the realization of human dignity and the legal realization of decent work. From then on, the protection of dignity as an intrinsic value to the human being condition went beyond the limits of labor relations, reaching its universal character.

In the 1988 Constitution of the Republic of Brazil, Brazil accepted this basic principle and enshrined human dignity and the right to work as a fundamental social right. It is added that, with the objective of protecting the human being and defending him from the ailments they have previously experienced, it is essential that the dignity of work be effectively achieved by the citizen who lives in this State.

But, even with this protection, the contemporary reality shows a great obstacle in Brazilian society, because, although slavery was abolished more than a century ago, it remains alive within the national frontier.

As elucidated, several authors seek to conceptualize the dignity of the human per-

---

4. In this regard, Norberto Bobbio points out: «There is no awareness of the extent to which the Universal Declaration represents a new fact in history, as, for the first time, a system of fundamental principles of human conduct was freely and expressly accepted, through their respective governments, by the majority of men who live on Earth. With this declaration, a value system is - for the first time in history - universal, not in principle, but in fact, as the consensus on its validity and its capacity to govern the destinies of the future community of all men has been explicitly stated. [...]. Only after the Universal Declaration can we be historically certain that humanity - all of humanity - shares some common values and we can finally believe in the universality of values, in the only sense in which such belief is historically legitimate, that is, in the sense that universal means not something given objectively, but something subjectively accepted by the universe of men» in: *A era dos direitos*. Rio de Janeiro: Campus, 1992.

son, however, a definition of human dignity that is more fully translated as provided by Ingo Wolfgang Sarlet when he adds that:

The dignity of the human person is an intrinsic and distinctive quality recognized in each human being that deserves the same respect and consideration on the part of the State and the community, implying, in this sense, a complex of fundamental rights and duties that assure the person both against any and all acts of a degrading and inhumane nature, as they will guarantee the minimum existential conditions for a healthy life, in addition to providing and promoting their active and co-responsible participation in their own existence and life destinies in communion with other human beings, with due respect for other beings that make up the network of life (2012: 73).

Only those who are free have dignity, and given the relationship between dignity and freedom, two principles intrinsic to mankind, it cannot be admitted that society and the State do not create life and labor conditions for the worker. Where there is no respect for life or for the physical and moral integrity of the human being, or even if the minimum conditions for a dignified existence are not guaranteed and power is not limited so that autonomy, freedom, equality in rights and dignity are not recognized and ensured, explains Ingo Wolfgang Sarlet:

There will be no space for the dignity of the human person and (this person), in turn, may be nothing more than an object of arbitration and injustice. Everything, therefore, converges in the sense that also for the legal-constitutional order the conception of the object-man (or instrument-man), with all the consequences that can and must be extracted from it, is precisely the antithesis of the notion of the person's dignity, although this, to the evidence, in turn, cannot be exclusively formulated in the negative sense (exclusion of degrading and inhuman acts), since this would be restricting the scope of protection of dignity too much (2012: 71).

If the State refuses to provide these conditions to the citizen, it will be denying freedom, legality, equality and especially the dignity of the human person, since it is from it that the other principles derive, since, suppressing the worker's right of choice, giving him a treatment that is given to a mere object, attempts against his dignity, violating his human condition.

### **Definition of labor analogous to contemporary slavery**

If labor in conditions analogous to slavery in the 21st century is still a problem that is present in several countries of the world, severely debated and condemned by the international community in the face of the considerable increase in the conscious-



ness of humanity, with regard to fundamental human rights and the dignity of the human person, there is a need to define what really is slave analogous labor in the face of the new society.

There is a great debate in national and international social movements, regarding this problem and the great challenge in terms of causes and consequences for the subjects and society in general. When society is faced with this situation today, the idea of a natural slave is reestablished as a living demonstration that civilization has retreated (Neto, 2008: 68) with regard to the conquered fundamental rights, since the workers who are subjected to this degrading situation their rights are not respected and as much effective. As Eduardo Carlos Bittar explains:

The precariousness of labor conditions, the informalization of labor relations, the flexibilization of labor standards, the mass adhesions to false collective bargaining, outsourcing, the intensification of the demand for results, the dispersion of workers' organization, among other measures, they are direct consequences of the logic that has prevailed in the world of labor, pressed by the concepts and values of the neoliberal era and globalizing hysteria (2010: 150).

The grand problem faced due to the growing development of the economy in times of globalization is the complexity of employment relationships and the difficulty in realizing social rights proclaimed by the legal order, and, with regard to this matter, we can mention Norberto Bobbio, who adds:

It is known that the tremendous problem facing developing countries today is that they find themselves in economic conditions that, despite ideal programs, do not allow the development of the protection of most social rights. Labor law was born with the Industrial Revolution and is closely linked to its achievement. Regarding this right, it is not enough to justify it or proclaim it. Nor is it enough to protect it. The problem of its realization is neither philosophical nor moral. But neither was it a legal problem. It is a problem which solution depends on a certain development of society and, as such, it challenges even the most evolved Constitution and puts in crisis even the most perfect legal guarantee mechanism. [...] The effectiveness of greater protection of human rights is linked to the global development of human civilization (2004: 43 and 44).

This problem causes indignation since the practice of work in analogous conditions of slavery in contemporary reality directly affects the internationally proclaimed and positivized human rights, since, in the face of political disrespect for fundamental human rights and especially the violation of those rights, citizen continues to be exploited and forced to work in extremely inhumane conditions.

The way of working in capitalist society (Bittar, 2010: 147) makes evident the perspective of corruption in labor relations and this is more relevant than the dignity

of work itself, since the exploitation of work is unjust and unequal, showing up the horrors of work in conditions analogous to slavery.

Contemporary slavery takes place as a way of adapting to globalization, subjecting the economic and social forces of national or multinational organizations, making it a social and political problem that focuses on citizenship, in addition to being complex and challenging in the face of the historical process, since there have been, over time, economic, political, social and cultural changes in society, so some elements that differentiate slavery from the colonial period and contemporary slavery must be observed.

In this context, it is worth mentioning the words of Rodrigo García Schwarz:

For the characterization of the phenomenon of contemporary slavery in Brazil, it is important to note that this phenomenon is not directly related to black slavery, although it finds its most remote origins there, neither to the simple mechanics of the capitalist system, but to the peculiar cycle of the Brazilian development system based on the immigrant solution, in the 19th century, and with this manifests dependency relations (2008: 110).

It is worth noting, therefore, the relationship between work in conditions analogous to slavery and the potential international and national struggle for the eradication of this complex and challenging phenomenon of the globalized present, which directly reflects on the principle of human dignity as an intrinsic quality recognized in every human being.

Human rights function as a moral paradigm of respect for the most elementary rights of the human being, that is to say, as an ethical reference standard to guide and giving north to the entire essence of protection of the legal order (Franco, 2007: 8). These are rights that political society has a duty to enshrine and guarantee, serving as a basis for legal support to underpin the protection of the most primary and basic interests of human beings, namely, the dignity, freedom and equality of the human person.

But, as Norberto Bobbio points out:

The serious problem of our time, with respect to human rights, is no longer to substantiate it but to protect it. [...] The problem before us is not in the philosophical nature but in its legal and political. It is not a matter of knowing what and how many these rights are, what their nature and foundation are, whether if they are natural or historical, absolute or relative rights, but what is the safest way to guarantee them, preventing them from being continually violated. The demand for respect for human rights and fundamental freedoms arises from the conviction, universally shared, that they are well-founded (2004: 24 and 26).

In the world, by means of treaties, conventions, declarations and other instruments, the international human rights protection system has been acting and dedi-

cating itself to issues of social justice, vehemently combating the practice of slave labor. Due to this international protection, slavery started to have a greater variant of violation of these rights, because this is the Age in which the rights of citizens prevail. According to Jacob Goreneder:

Although condemned and abolished in treaties and formal declarations, slavery has not yet been completely eliminated in our times. If it is rare in its complete form, which includes the right to buy and sell, it is still found in various parts of the world, in partial or disguised forms. [...] In the form of partial attributes of the right to property, slavery did not cease to exist, presenting itself with a varied range of practices (2004: 34).

When dealing with contemporary slave labor, it must be understood that it refers to the condition of exploitation of human beings coerced into rendering their work in degrading conditions, that is to say, humiliating work and without the minimum of basic safety standards, hygiene and health, with exposure of workers' risk of life, whose legal relationship does not guarantee the fulfillment of fundamental rights constitutionally positivized. It is a social and political issue that focuses on citizenship, hurting it in its principles.

It is important, therefore, to bring a definition about what is currently considered labor under conditions analogous to slavery, remembering that, among the various definitions, there is a disagreement between the doctrine, because, for some, that they consider it as slave labor,<sup>5</sup> it is the labor that deprives the worker of his right to freedom, hindering the right to come and go for each one; others consider it to be forced labor in the type quality<sup>6</sup> from which slave labor derives, and, still, there are those who believe that there is a synonym between forced labor and slave labor.<sup>7</sup> However, it is clarified that all slave labor is forced labor.

In reality, it is unacceptable that the human being is still treated as the property of another human being, as emphasized by Rodrigo Garcia Schwars:

Since slavery has been abolished in Brazil in 1888, in its contemporary configuration slavery evidently cannot be associated with the incidence of property rights on the person, which historically characterized slavery, since Law no. 3,353 / 88 effec-

---

5. Jairo Luiz Sento-Sé uses the expression «forced labor», adding that the main characteristic of the practice is the provision of services under threat from the employer. In: Sento-Sé, Jairo Lins de Albuquerque (2001). *Trabalho escravo no Brasil na atualidade*. São Paulo: LTr: 136.

6. José Claudio Monteiro de Brito Filho understands this when conceptualizing labor in conditions analogous to slavery. In: Filho, José Claudio Monteiro de Brito (2004). «Labor with the reduction of mankind to the condition analogous to slavery and the dignity of the human person». *Revista Genesis*, Curitiba, (137): 673-682.

7. Forced labor is the definition used by the International Labor Organization - ILO.

tively excluded the legal possibility that in the national territory, over any person the powers normally attributed to the right to property are exercised, wholly or partially, under any pretext (2008: 109).

To define contemporary slave labor, its an obligation to start with the fundamental principle of the Federal Constitution, that is to say, with the principle of the dignity of the human person, since work in conditions analogous to slavery violates the fundamental right of decent work and if the Law is an instrument of social control, so work as a fundamental right is regulated and must be legally protected so that its realization takes place in conditions of dignity. In this sense, Gabriela Neves Delgado, Lilian Nogueira and Sâmara Eller Rios (2008) explain that:

Labor as an «applied effort», a task to which man dedicates himself, through which he spends energy “to conquer or acquire something”, must be able to dignify him in his human condition. Otherwise, it cannot be identified as labor, but as an exploitation mechanism. As an example, there is labor in the cane fields. If the worker provides his services with the guarantee of all the labor rights of absolute unavailability ensured, especially regarding the protection of his health and safety, this labor will be worthy. If the worker performs his tasks in conditions of extreme poverty and with disrespect for fundamental labor rights - the most common hypothesis in the Brazilian scenario, by the way - there will be no dignity at work, but exploitation. Labor carried out under conditions analogous to slavery is one of the main examples of human exploitation in contemporary times, the antithesis of the fundamental right to decent work.

In this way, any form of labor that may harm the dignity of the human person, culminating in the human being's objectification and impeding the citizen's right to freedom, configures labor in a condition analogous to slavery.

According to the international community, the United Nations League, in the Slavery Convention, in 1926,<sup>8</sup> defined slavery as being «the state and condition of an individual over whom, totally or partially, some or all attributes of the right to property», being the example of a measure that fights, with the purpose of preventing forced or compulsory labor from producing conditions analogous to slavery.

The International Labor Organization,<sup>9</sup> regarding the use of the term slave labor

---

8. 1926 Slavery Convention. Available in <https://bit.ly/34IJTzy>.

9. ILO - International Labor Organization. The Cost of Coercion. Global report following the ILO Declaration on Fundamental Labor Rights and Principles. Geneva: 2009. Available in <https://bit.ly/34uKRiP>. Translation: «Forced labor cannot simply be associated with low wages or poor working conditions. Nor does it include situations of pure economic necessity, such as when a worker finds it difficult to leave a job due to the real or suspected absence of alternatives. Forced labor represents a serious violation of human rights, and a restriction on human freedom, as defined by the ILO Conventions on the subject, and in other related instruments related to slavery, practices similar to slavery, debt

or forced labor, uses the term forced labor in its two conventions that regulate the theme: Conventions 29, on forced or compulsory labor, and Convention 105, on the abolition of forced labor, providing that:

O trabalho forçado não pode ser simplesmente conotado com baixos salários ou com más condições de trabalho. Nem inclui situações de pura necessidade económica, como quando um trabalhador sente dificuldade em abandonar um emprego, devido à ausência real ou suspeitada de alternativas. O trabalho forçado representa uma grave violação dos direitos humanos, e uma restrição à liberdade humana, conforme definido pelas Convenções da OIT acerca do assunto, e noutros instrumentos afins relacionados com a escravatura, práticas análogas à escravatura, servidão por dívidas ou servidão feudal.

The International Labor Organization, regarding to decent work, proposes four objectives to be globally achieved by states in a balanced way: the promotion of labor fundamental principles and rights, the creation of quality jobs, social protection and social dialogue. It can be said, according to Silvio Beltramelli Neto et al. (2019: 12) that an explicit concept of decent work according to the ILO is not discussed the doctrinal environment. At the International Labor conference held in Geneva in 2018, it is conceptualized as decent work,

an activity carried out under conditions of freedom, equity, safety and human dignity and which are compatible with the basic rights set out in the ILO Constitution, the ILO Declaration on Fundamental Principles and Rights at Work of 1998 and other ILO standards (Beltramelli Neto et al, 2019: 8).

For the International Labor Organization (ILO), decent work concerns the point of convergence of the four strategic objectives of the ILO, namely: a) respect for rights at work, especially those defined as fundamental (freedom of association, right to collective bargaining, elimination of all forms of discrimination in terms of employment and occupation and eradication of all forms of forced and child labor); b) the promotion of productive and quality employment; c) the expansion of social protection; d) the strengthening of social dialogue. The concept of decent work is central for the Sustainable Development Goals (2030 Agenda), to be achieved in an effective way, mainly with regard to Objective n. 8 that «seeks to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all» (UN, 2015).<sup>10</sup>

---

servitude or feudal servitude».

10. In Brazil, the Government assumed the commitment with the International Labor Organization to promote, from 2003, the promotion of decent work and in 2006 the National Agenda for Decent Work was elaborated during the XVI Latin American Regional Meeting of the ILO, held in Brasilia. Available in: <https://bit.ly/3e5R2wY>.

In 2011, during the 100th International Labor Conference held in Geneva, the discussion on the topic of decent work for domestic workers was concluded, defining the adoption of an international instrument for the protection of domestic work called the Convention on Decent Work for Female and Domestic Workers, under no. 189, accompanied by a Recommendation with the same title and under no. 201. In order to disseminate the promotion of decent work to all female workers and all workers who make up this category, Article 6 provides that:<sup>11</sup>

Every Member shall take measures to ensure that domestic workers, like workers in general, enjoy a level playing field and decent working conditions, as well as, if they reside in the household where they work, ensure decent living conditions that respect their privacy.

According to João Antonio Felício (2001: 5), the International Labor Organization conceptualizes decent work as being:

the occupation that allows the balance between work and family life, access to education for workers' children and conditions to remove them from child labor. It is about gender equality, access to training to keep up with new technological qualifications, conditions for the preservation of health, guarantees to have a voice in the workplace and in the community and the equitable distribution of wealth.

From what has been exposed so far, it can be understood that the International Labor Organization does not specify a concept of decent work and presents a description that suggests a broad and integrating sense of all the fundamental dimensions of decent work.

Although it does not describe the concept of decent work, recognizes the denomination of slave labor, given the coercive practices of recruitment and employment used in remote regions of the country, which are consistent in the context of the forced labor conventions.

Thus, according to the International Labor Organization, the term *slave labor* refers to degrading working conditions and the impossibility of leaving employment due to fraudulent debts and the presence of armed guards. This is really the main aspect of forced labor in rural Brazil, where workers are immobilized by physical coercion until the settlement of these fraudulent debts (ILO). According to Dom Tomás Balduino (1999: 22):

Contrary to what it may seem, the use of the expression "slave labor" does not constitute any excess of language. Which other name to use to designate a system in which entire families are displaced to points away from national territory, have

---

11. Available in: <https://bit.ly/3jwuvui>.

their documents removed, are forced to assume debts for their own survival and are forced to work in degrading conditions, at the sight of the weapons of gunmen?

For Rodrigo Garcia Schwars (2008: 119), contemporary slavery is configured in degrading labor, which restricts the freedom of the individual, frustrating his various fundamental rights guaranteed by the Constitution and labor legislation.

It should be clarified that working in conditions of slavery is not limited only to labor issues, since it is configured by the national and international legal system as a crime, in addition to its finding accompanied by other crimes and misdemeanors, such as environmental crimes, land grabbing, forgery of documents, as well as bodily injury and even murder (Neto, 2008: 96).

Article 149 of the Brazilian Penal Diploma brings a conceptualization of what labor could be under conditions similar to slavery, when it typifies crime as submitting the person to forced labor or an exhaustive workday, subjecting him to conditions that are degrading or, still, restricting his freedom due to having contracted debts with his employer, and, thus, it is concluded that, when approaching labor analogous to the contemporary slave labor, it must be understood that it refers to the condition of exploitation of the human being, who finds himself coerced to render the force of his work in conditions that do not honor his dignity as a human person or his fundamental right to decent work.

Sérgio Paulo Moreyra explains that:

Both forced and slave labor are characterized by labor constraints. The latter is more serious since it presupposes the degradation of working conditions. The non-compliance with basic safety and health standards, capable of exposing worker's lives to risk [sic], and child labor are also penalized even though the constraint is absent, given the seriousness of the interests that attack them (1999: 23).

Lelio Bentes Correa (1999: 77) notes that slave labor is a complex phenomenon, as it is not only consumed in the act of providing work without due remuneration but rather a process that is originated much earlier, that is to say, "in the enticement of the workforce, usually recruited in locations several hundred kilometers from the place of service provision, including accommodation in the city of origin and transportation of workers to their final destination".

According to Gilberto Dimenstein (1996: 166 and 171), Brazil was the last independent nation to abolish slavery. Since slavery is characterized, in most cases, by the fact that the worker incurs increasing and unpayable debts with his employer, and, the author continues:

According to a document from the Chamber of Deputies, there are four types of slave labor: 1. Agricultural expansion zone: to deforest and make improvements in the Amazon (Pará, Mato Grosso, and Rondônia); 2. Alcohol and sugar mills: use of

slave labor from other states intensively during the cane harvesting season; 3. Wood-cutting: in the manufacture of coal or deforestation for other industrial purposes, companies place workers in precarious shelters, in distant regions, where their freedom is restricted; 4. Fruits and vegetables: workers are recruited on the outskirts of large cities or in the countryside, where unemployment is high.

It cannot be forgotten that currently in Brazil, although there is no legal possibility of exercising the right of ownership of one person over another, situations of workers who do not see the possibility of leaving the employment relationship persists, being subject to forced labor.

In order to clarify what debt slave labor is, it is necessary to point out that this characteristic is configured when labor is performed in the form of coercion by the employer and, as Ricardo Rezende Figueira explains:

Other categories have also been used to designate the same phenomenon, such as «forced labor», which is a broader category and involves several types of involuntary work, including slave labor. However, the definition of the category slave labor is not just the result of a discussion based on abstract categories or rigidly defined by historical, philosophical or legal parameters. It also derives from social and political motivations that are gradually able to impose themselves due to pressure mainly from human rights bodies (2004: 35 and 42).

Among other types of labor in conditions analogous to slavery expressed in the most diverse forms of disrespect for human dignity, other characteristics can be elucidated as explained by Ronaldo Lima dos Santos (2003: 55):

a) the constriction of the initial willingness of the worker to offer himself to the provision of services, being, therefore, constrained to the provision of forced labor without even emitting a volitional feeling in this sense (generally this situation occurs with the children of workers subject to slave labor and family members);

b) the enticement of workers in a given region with promises of good work and wages in other regions, with the supervening contraction of debts from transportation, work equipment, housing, and food, whose payment becomes mandatory and permanent, determining the called debt bondage; c) work carried out under the threat of a penalty —such as death threats with weapons— generally in violation of the employer's physical or psychological integrity; modality that almost always follows debt slavery;

d) the coercion, by the owners of sewing workshops in large urban centers - such as Sao Paulo - of poor Latin workers with no prospects in their countries of origin —usually Bolivians and Paraguayans—, who enter irregularly in Brazil. Employers coercively take ownership of their documentation and threaten them with expulsion from the country, through complaints to the competent authorities. Obstated from



moving to other locations, given the irregular situation, workers submit themselves to the vilest working and housing conditions (collective).

It is noteworthy that the practices explained above are not excuses for the employer to continue to enjoy the fragility of the citizen to exploit his workforce and harm his human dignity, in addition to a series of legal provisions that aim to eliminate slave labor practices on the various international fronts, thus demonstrating the struggle that corroborates the attempt to eradicate such practices. Schwarz (2008: 126) warns that: “the existing laws have not been sufficient to solve the problem. [...] The use of slave labor is still massive in certain regions of the country, because it makes labor costs cheaper, a trait that is currently characteristic”.

What is necessary to remember is that slave labor today is seen as a wound that needs an urgent eradication, regardless of the concept but the fight against any form of forced and degrading labor, that injures the person in his dignity.

What can be noted, even with all the universal combat to protect human rights, is that Brazil shows this consistent and persistent reality in the exploitation of labor under conditions analogous to slavery, and this cannot be masked.

So that the term «slave labor» or «work in conditions similar to slave labor», «forced labor», «unworthy labor», «debt slavery», «contemporary slavery» or, still, any other denomination, does not constitute the exclusion of the penal type, but what is really necessary is to give due attention to what is happening today: mankind, a citizen of fundamental rights, after so many historical conquests, continues to be exploited and injured in his dignity.

Is it because of the existence of gaps in the current legislation that occurs favoring those who have power? Or could it be said that there is a lack of inspection and the demand of society from public authorities for the real fulfillment of respect for the dignity of human beings in their social right to work?

The fact is that because of Brazilian society finds itself in a profound process of exclusion from the majority of its population, poverty becomes the country's structure (Rech, 2003: 21). This is a consequence of the privileged historical economic sector formed by donors of hereditary captaincies, planters and farmers who have given priority to the dynamics of development, based on their own imperialist interests of each era and consequently excluding access to the country's goods to the rural and city workers.

Even though it seems that slavery was in the past (Schwartz, 2001: 57), it can be said that its legacy is still alive in Brazilian society and that, in several parts of the country, the shadow of slavery still lingers through the forces of greed and power, in addition to the fact that the institution that lasted from discovery until 1888 did not disappear, was simply transformed into its context.

What can be concluded is that, after so many conquests by the human being, society must be aware of the does not make the history of social rights protected by the State go back in the capitalist present days, rights that were hard-won through

suffering, oppression, and tyranny, ending the free citizens' return to the humiliation experienced before the dignification of mankind.

Emphasizing the problem addressed so far, in the face of contemporary reality, that still shows the use of labor analogous to slavery, it is necessary to mark out solutions in order to eliminate or, at least, to contribute to minimizing the damage caused to the person considered as a mere object.

### **Fundamental human rights and labor under conditions analogous to slavery in the Brazilian reality**

Brazil is a Democratic State of Law, therefore, democracy must be lived under the aegis of values that direct the concrete action of mankind, that is to say, the effectiveness of democracy that preserves the dignity of the human person, of present and future generations, with absolute equal consideration of the minimum elements that ensure this dignity.

The 1988 Magna Carta, which was promulgated after the authoritarian period, provides an ethical basis for the entire legal order, seeking the realization of the extensive precept of rights ensured by it, thus representing a landmark of the breach and overcoming of the standards that was until then prevailing regarding the rise of the defense of the dignity of the human person.

Offering work to mankind, citizens of this Democratic State, in dignified conditions, is the way to provide the rights that derive from the attribute of dignity, which is their own. If it is accepted that his work is reduced to a condition analogous to slavery, it is imperative to highlight that the principle of the dignity of the human person has been violated, in addition to human rights, considered universally.

Work (Almeida, 2007: 93) is a fundamental right, a value sought by society and an ideal of the human being, and, as a foundation of the social order, the value of work also began to guide the Brazilian legal-positive order when it was inserted in the Constitution as a fundamental element of society.

In the parameters established by the first article of the 1988 Federal Constitution, in its third item, it is possible to establish that work is the social law that perhaps contributes the most to the elevation of the dignity of the human person, since it promotes the socialization of man and improves his aptitudes and vocations, providing him with a personal evolution as a citizen. The Brazilian Federal Constitution, in addition to having as a fundamental basis the principle of the dignity of the human person, has as its premise its foundation in the social values of work and in free enterprise, as recommended in the fourth item of the same article:

Art. 1. The Federative Republic of Brazil, formed by the indissoluble union of States and Municipalities and the Federal District, constitutes the Democratic State of Law and has as its foundations:

[...]

III - the dignity of the human person;

IV - the social values of work and free enterprise;

The Magna Carta lists work as a fundamental right with a social dimension, in the terms of the caput of its article 6, in addition to ensuring labor relations, fully in article 7, predicting the rights of urban and rural workers «in addition to others aimed at improving their social condition».

It should be emphasized that work should prevail, according to the interpretation confirmed by article 170 of the aforementioned Charter,<sup>12</sup> which ensures everyone a dignified existence according to the dictates of social justice based on the valorization of human work.

Many of the rights currently enshrined have been achieved in the face of much human struggle and suffering, and the protection of the dignity of the human person, which must be manifested in labor relations, cannot be overlooked. Consequently, it is important to bring a reflection on what comes to be the dignity of working conditions, and, for that, it is necessary to make a consideration about laboring in dignified conditions.

Labor does not violate mankind as an end in itself since it is provided in dignified conditions, and any situation that reduces the subject to a mere object of work will characterize the unworthy condition of work. The citizen who works in subhuman conditions, on the margins of society and without access to the minimum existential that guarantees him a dignified life, is bound to be considered as a mere working tool and, therefore, his fundamental rights are not being realized and his dignity totally violated. Antônio Rodrigues de Freitas Junior points out that:

Today, therefore, life is maintained as labor, but it is not just the activity of *animal laborans*; it has become the form of realization of mankind, who does their work not only to meet the needs of their existence. From work, the individual maintains his life and develops his potential, acting, and participating in society. Working is the way that most people on the globe find to seek a life with dignity. It is essential, therefore, that not only the work be guaranteed, but this in dignified conditions (2006: 104).

---

12. The Constitution also brings other precepts that should not be overlooked: Art. 4. The Federative Republic of Brazil is ruled in its own international relations by the following principles: II - [...] Prevalence of human rights; Art. 5. Everyone is equal before the law, without distinction of any kind, guaranteeing to Brazilians and foreigners resident in the country the inviolability of the right to life, freedom, equality, security, and property, in the following terms: [...] III - no one will be subjected to torture or inhuman or degrading treatment; [...] XXIII - the property will serve its social function; Art. 186. The social function is fulfilled when the rural property meets, simultaneously, according to criteria and degrees of demand established by law, the following requirements: [...] III - observance of the provisions that regulate labor relations; IV - Exploration that favors the well-being of owners and workers.

With concern to the international protection regarding decent work, it should be noted that the Universal Declaration of Human Rights provides that everyone has the right to work and to protection against unemployment and that those who work are entitled to fair and satisfactory remuneration that guarantee him, as well as his family, an existence compatible with human dignity, adding, if necessary, other means of social protection.

In addition to the Universal Declaration of Human Rights, the 1966 International Covenant on Economic, Social and Cultural Rights, specifies in its Article 7 the following: «The member states in the present Covenant recognize the right of everyone to enjoy fair and equitable working conditions».

When José Cláudio Monteiro de Brito Filho (2010: 52) talks about worthy work, he puts it as decent work and explains: «Decent work is a minimum set of worker rights that corresponds to: the existence of work; freedom of work; equality at work; to work in fair conditions, including remuneration, and that preserve their health and safety».

For Carmem Lucia Antunes Rocha (2004: 45), «any attitude, norm, legal, social or political system that mutilates physically, morally or psychologically and treats man as an incomplete being attacks the principle of human dignity».

As explained by Eduardo Carlos Bianca Bittar (2010: 144 and 145), the suppression of work is unthinkable for the human condition, in addition to making a dignified social life impossible if work is not part of man's relationship with nature, and adds: «Life in society necessarily implies complementary activities, which makes all kinds of work concurrently responsible for providing dignity to the human dimension».

In this way, it is possible to establish that work is the social law that perhaps contributes the most to the elevation of the dignity of the human person, since it promotes the socialization of man with his peers, refines his aptitudes and vocations and provides great personal and spiritual evolution to the human being. In this sense, Maurício Delgado states that:

The idea of dignity is not reduced, today, to a strictly private dimension, tied to values to the personality and that is not socially projected. On the contrary, what is conceived inherent to the dignity of the human person is also alongside this strictly value-free dimension, the social affirmation of the human being. The dignity of the person is therefore affected if he is in a situation of complete deprivation of instruments of minimal social affirmation. While being necessarily part of a community, the individual has ensured by this principle not only the intangibility of basic individual values but also a minimum of the possibility of affirmation in the surrounding social plan. As far as this social statement is concerned, labor emerges notably regulated work, in its best-elaborated modality, employment (2004: 43 and 44).

Now, since the dignity of the human person is one of the foundations of the Dem-

ocratic Rule of Law (Costa Machado, 2010: 56), it is imperative that the State act in the economic order ensuring the reduction of social inequalities and full employment, according to which is expressly designated in the Federal Constitution, in its article 170, items VII and VIII, *in verbis*:

Art. 170 - The economic order, founded on the valorization of human work and free initiative, aims to ensure a dignified existence for all, according to the dictates of social justice, observing the following principles:

[...]

VII - reduction of regional and social inequalities;

VIII - search for full employment.

This will enable every national citizen to have a dignified existence in accordance with the dictates of social justice, since, together with the welfare state, it is the objective of the social order, which is based on the primacy of work, as established in article 193 of the Federal Constitution: «The social order is based on the primacy of work, and the objective is well-being and social justice».

It must be clarified that the idea of what is reasonable, founding the instituting consensus of democracy, contemplates the idea of fair democracy, of democracy built and lived under the aegis of fundamental rights, rights whose foundation would be the absolute equality of all men, in their common human dignity. As Eduardo Carlos Bianca Bittar emphasizes:

Democracy itself depends on the participation of its citizens to achieve itself. This means that democratic institutions without citizens do not achieve effective democracy, therefore, citizens, who were, in the logic of the market and production, reduced only to producers and consumers, need to be reinstated under the conditions of exercising sovereignty over the time, which can mean popular political sovereignty, without its presence the very vitality of democracy is compromised. Thus, the advances in democracy must be associated with profound transformations in the way of expression and support of work structures, since the commitment to a culture of human rights, democratic and participatory, lacks these implements for its effective and real consolidation (2010: 159).

The constitutional and infraconstitutional rules that make up the Brazilian legal order constitute the positivization of natural labor law as a fundamental right. In this way, any attempt against this social right will break the logic of the system, weaken the Democratic Rule of Law, and, more precisely, violate the dignity of the human person.

Therefore, decent work requires an occupation valued by society and must be performed with respect for constitutional principles, especially that of dignity, freedom and equality, thus preserving a dignified, citizen and autonomous experience of the worker.

And if the State, through public policies that enforce the dignity of the human person and fundamental rights, presents the citizen with conditions for decent work, it will make the national citizen able to assert himself and achieve his condition of a social being.

However, in a democratic, just and egalitarian society, faced with the practice of working under conditions analogous to slavery, there is no need to talk about the social value or dignity of the human person, or even about protected fundamental rights.

The conclusion reached is that there should be a special attention from society and public authorities in relation to this reality so that, together, they work to eradicate the exploitation of labor under conditions analogous to slavery in Brazil, with the main objective of rescuing human dignity and realizing fundamental rights. Only in this way will the country achieve full democracy and make the citizen actually exercise his citizenship.

## **Conclusion**

The present reflection has shown that, even after slavery was abolished more than a century ago, contemporary Brazilian reality shows that such practice is present in society, substantially injuring the dignity of the human person.

And since Brazil is a Democratic State of Law, which has a legal system based on the principle of the dignity of the human person and on the protection of fundamental rights inherent to all mankind, it is essential that the State ensure that labor relations are not configured as an usurpation of the rights of the worker or that he may be treated as a mere labor tool.

The constitutionally positive social values of work show that the principle of human dignity must be superimposed on the verification of the precariousness of human labor. Only in this way will decent work be justified, not only as an inclusion of production but, above all, as a singular support for the introduction of the citizen into the social structure.

The vast majority of workers who are destined to be exploited are those who have not had the opportunity to value themselves as subjects of rights before society, with due respect from the Public Power for human dignity, autonomy, freedom, and equality of the national citizen.

Therefore, it is of utmost importance that the constitutional principles of work are observed as a way of stopping the occurrence of this exploitation of the human being, so that he ceases to be coerced into rendering his workforce in degrading conditions that substantially harm his dignity in addition to frustrating their freedom to exercise citizenship. The International Labor Organization's statement that Brazil has made great progress in eradicating labor in conditions analogous to slavery is true, but the

country cannot forget that there is still much to be done by the Legislative, Executive and Judiciary, with the help of social institutions and society itself, so that this disease that contaminates the national territory will be eliminated once and for all.

It cannot be forgotten that it is only when the individual, the social and the political walk side by side with the right of the human person that the display of the title of Democratic State of Law can be considered as true.

## References


- ALMEIDA, Mirian R. R. Bicalho de (2007). «Contribuições histórico-filosóficas, desde a antiguidade, para a evolução do conceito do trabalho, no âmbito dos direitos humanos e dos direitos fundamentais». In: *Revista Mestrado em direito: Direitos humanos fundamentais*. Osasco: Edifio, (19): 71-96.
- BALDUÍNO, Dom Tomás (1999). *Trabalho escravo no Brasil contemporâneo*. São Paulo: Loyola.
- BELTRAMELLI NETO, Silvio, Isadora Rezende Bonamim e Julia de Carvalho Voltan (2019). «Trabalho decente segundo a OIT: uma concepção democrática? Análise crítica à luz da teoria do contrato social». In: *Revista Eletrônica do Curso de Direito da UFSM*. Santa Maria, 14 (1): 1-36.
- BITTAR, Eduardo C. B. (2006). «Hermenêutica e Constituição: a dignidade da pessoa humana como legado à pós-modernidade». In: Eduardo C. B. Bittar e Anna C. da Cunha Ferraz (Orgs.). *Direitos humanos fundamentais: positivação e concretização*. Osasco: Edifio, 43-44.
- BITTAR, Eduardo C. B. (2010). «Tempo, trabalho e direitos humanos: ensaio sobre a moderna forma de constituição da vida, do uso da libido e do lazer». In: *Direitos Humanos Fundamentais e justiça. Revista do Programa de Pós-Graduação Mestrado e Doutorado em Direito da PUC/RS*, (10): 144-145.
- BOBBIO, Norberto (2004). *A era dos direitos*. Tradução de Carlos Nelson Coutinho. Rio de Janeiro: Elsevier.
- BRITO FILHO, José Cláudio M. de (2010). *Trabalho decente: análise jurídica da exploração, trabalho escravo e outras formas de trabalho indigno*. 2. ed. São Paulo: LTr.
- BRUNO, Regina Angela L. (2003). «Nova república: a violência patronal rural como prática de classe». *Porto Alegre: Revista Sociologias*, 5 (10): 284-310.
- CARDOSO, Clodoaldo Meneguello (2003). *Tolerância e seus limites: um olhar latino-americano sobre diversidade e desigualdade*. São Paulo: Editora UNESP.
- COMPARATO, Fabio Konder (1999). *A afirmação histórica dos direitos humanos*. São Paulo: Saraiva.
- CORREIA, Lelio Bentes (1999). «Um fenômeno complexo». Sergio Paulo Moreyra (org.). *Trabalho escravo no Brasil contemporâneo*. São Paulo: Loyola, 77-80.


- COSTA MACHADO, A. C. (org.), Anna C. da C. Ferraz (coord.) (2010). *Constituição Federal interpretada: artigo por artigo, parágrafo por parágrafo*. Barueri: Manole.
- DELGADO, Gabriela Neves, Lílian Katusca Melo Nogueira, Sâmara Eller Rios (2008). *Instrumentos jurídico-institucionais para a erradicação do trabalho escravo no Brasil Contemporâneo*. Anais do XVI Congresso Nacional do CONPEDI. Florianópolis: Fundação Boiteux: 2984-3003.
- DELGADO, Maurício Godinho (2004). *Princípios de direito individual e coletivo do trabalho*. 2. ed. São Paulo: LTr.
- DIMENSTEIN, Gilberto (1996). *Democracia em pedaços: direitos humanos no Brasil*. São Paulo: Companhia das Letras.
- FELÍCIO, João Antônio (2001). «Trabalho decente e flexibilização trabalhista no Brasil». *Boletim de Mercado de Trabalho: conjuntura e análise*, 6 (17): 5-8.
- FERRAZ, Anna C. da Cunha (2006). «Aspectos da positivação dos direitos fundamentais na Constituição de 1988». In: Eduardo C. B. Bittar, Anna C. da Cunha Ferraz (Orgs.). *Direitos humanos fundamentais: positivação e concretização*. Osasco: Edifício, 115-182.
- FIGUEIRA, Ricardo Rezende (2004). *Pisando fora da própria sombra: A escravidão por dívida no Brasil contemporâneo*. Rio de Janeiro: Civilização Brasileira.
- FRANCO, Marcelo Veiga (2007). «Direitos humanos x direitos fundamentais: matriz histórica sob o prisma da tutela da dignidade da pessoa humana». In: Márcio Luís de Oliveira (Coord.). *O sistema interamericano de proteção dos direitos humanos: interface com o direito constitucional contemporâneo*. Belo Horizonte: Del Rey, 3-28.
- FREITAS JUNIOR, Antonio Rodrigues de (2006). *Direito do trabalho e direitos humanos*. São Paulo: BH.
- GORENDER, Jacob (2004). *Direitos humanos: ou que são (ou devem ser)*. São Paulo: Senac.
- JAYME, Fernando G. (2005). *Direitos Humanos e sua efetivação pela Corte Interamericana de direitos humanos*. Belo Horizonte: Del Rey.
- MANIGLIA, Elisabete (2006). «Criminalidade e violência no âmbito rural: críticas e reflexões». In: Elisabete Maniglia e J.J. Fiorati. *A nova lei agrária*. Curitiba: Juruá.
- MOREYRA, Sergio Paulo (1999). *Trabalho escravo no Brasil contemporâneo*. São Paulo: Loyola.
- NETO, Vito Palo (2008). *Conceito jurídico e combate ao trabalho escravo contemporâneo*. São Paulo: LTr.
- RECH, Daniel (Org) (2003). *Direitos humanos no Brasil: diagnóstico e perspectivas*. Rio de Janeiro: Mauad.
- ROCHA, Carmem Lúcia A. (2004). «Vida digna: direito, ética e ciência (os novos domínios científicos e seus reflexos jurídicos)». In: Carmem Lúcia A. Rocha (Coord.). *O direito à vida digna*. Belo Horizonte: Forum, 11-174.



- SANTOS, Boaventura de (2003). *Reconhecer para libertar: os caminhos do cosmopolitismo multicultural*. Rio de Janeiro: Civilização Brasileira.
- SANTOS, Ronaldo Lima dos (2003). «A escravidão por dívidas nas relações de trabalho no Brasil contemporâneo». In: *Revista do Ministério Público do Trabalho. Procuradoria Geral do Trabalho*, São Paulo: LTr, (26): 47-66.
- SARLET, Ingo Wolfgang (2012). *Dignidade da pessoa humana e direitos fundamentais na Constituição federal de 1988*. 9. ed. Porto Alegre: Livraria do Advogado.
- . (2012). *A eficácia dos direitos fundamentais: uma teoria geral dos direitos fundamentais na perspectiva constitucional*. 11. ed. Porto Alegre: Livraria do Advogado.
- SENTO-SÉ, Jairo Lins de Albuquerque (2001). *Trabalho escravo no Brasil na atualidade*. São Paulo: LTr.
- SILVA, José Afonso da (2011). *Curso de direito constitucional positivo*. 34. ed. São Paulo: Malheiros.
- SILVA, José Gomes da (2009). *Humanização da aplicação do direito para dar-lhe o seu verdadeiro sentido*. In: Helder Baruffi (org.). *Direitos fundamentais sociais: estudos em homenagem aos 60 anos da declaração universal dos direitos humanos e aos 20 anos da Constituição Federal*. Dourados: UFGD.
- SILVA, Sergio Gomes da (2010). «Direitos humanos: entre o princípio de igualdade e a tolerância». In: *Revista Praia Vermelha*, 19 (1): 79-94. Available in: <https://bit.ly/3eff6ZF>.
- SCHWARZ, Rodrigo Garcia (2008). *Trabalho escravo: a abolição necessária: uma análise da efetividade e da eficácia das políticas de combate à escravidão contemporânea no Brasil*. São Paulo: LTr.
- SCHWARTZ, Stuart B. (2001). *Escravos roceiros e rebeldes*. Tradução de Jussara Simões. Bauru: Universidade do Sagrado Coração.

## About the authors

ELISAIDE TREVISAM é doutora em Filosofia do Direito pela Pontifícia Universidade Católica de São Paulo (PUC-SP). Mestre em Direitos Humanos. Especialista em Direito do Trabalho e Processo do Trabalho. Professora no Programa de Mestrado em Direito da Universidade Federal de Mato Grosso do Sul (UFMS). Correio eletrônico: [elisaidetreviam@gmail.com](mailto:elisaidetreviam@gmail.com).  <https://orcid.org/0000-0002-6909-7889>.

JULIO TREVISAM BRAGA é doutorando (bolsista CNPq) e Mestre (bolsista CNPq) em História Social pela Pontifícia Universidade Católica de São Paulo (PUC-SP). Professor na Faculdade da Aliança Educacional do Estado de São Paulo. Correio eletrônico: [julio.t.braga@gmail.com](mailto:julio.t.braga@gmail.com).  <http://orcid.org/0000-0002-9738-3145>.

La *Revista Chilena de Derecho del Trabajo y de la Seguridad Social* es una publicación semestral del Departamento de Derecho del Trabajo y de la Seguridad Social de la Facultad de Derecho de la Universidad de Chile, y que tiene por objetivo el análisis dogmático y científico de las instituciones jurídico-laborales y de seguridad social tanto nacionales como del derecho comparado y sus principales efectos en las sociedades en las que rigen.

DIRECTOR

Luis Lizama Portal

EDITOR

Claudio Palavecino Cáceres

SECRETARIO DE REDACCIÓN

Eduardo Yañez Monje

SITIO WEB

[revistatrabajo.uchile.cl](http://revistatrabajo.uchile.cl)

CORREO ELECTRÓNICO

[pyanez@derecho.uchile.cl](mailto:pyanez@derecho.uchile.cl)

LICENCIA DE ESTE ARTÍCULO

Creative Commons Atribución Compartir Igual 4.0 Internacional



La edición de textos, el diseño editorial  
y la conversión a formatos electrónicos de este artículo  
estuvieron a cargo de Tipografía  
([www.tipografica.io](http://www.tipografica.io))