



BRAZIL

Legal System	Constitution	Bill of Rights	Country Structure	Form of Government
Civil Law	Written	Yes	Federation	Republic

1. INTRODUCTION

1.1. Brazil and Modern Slavery (Human Trafficking)

Brazil has recently passed legislation and improved its law enforcement to suppress human trafficking and slavery. However, Brazil does not meet the minimum international standards for the elimination of those crimes. Brazil is an origin, transit, and destination country for human trafficking. Human trafficking victims are also transported inbound across different states of the Brazilian federation.

Brazil first enacted specific legislation targeting human trafficking in 2016. Brazilian authorities face several challenges to coordinate their efforts to combat human trafficking crimes and protect victims: communication among various governmental authorities; allocation of financial and technical resources; training to identify individuals who are victims of those crimes; and training on the national and international legal framework to prosecute traffickers.

Women are the main target for sexual exploitation in Brazil. Twenty percent of the human trafficking victims identified between 2014 and 2016 were between the ages of 10 and 19 years old, and most of them were trafficked for the purposes of sexual exploitation. Both men and women are targeted for labor exploitation. Men are usually trafficked to work in the mining industry, heavy labor agriculture, and fishing. The exploitation of women's labor usually takes place in the textile industry or for domestic work. Between 2014 and 2016, 5.8% of the victims of human trafficking were foreign immigrants from countries like Bolivia and Paraguay. Other common forms of human trafficking are illegal adoption and the recruitment of vulnerable women and transgender individuals for sexual exploitation in Europe and other countries.¹

The main agencies monitoring and reporting human trafficking in Brazil are the National Committee to Confront Human Trafficking (**CONATRAP**), the Centers to Confront Human Trafficking (**NETP**), and the Advanced Service Stations to Support Migrants (**PAAHM**). The Brazilian Federal Police also oversee a Human Rights Division (**DDH**) and a Service to Suppress Human Trafficking and Migrant Smuggling (**SRTP**). The Brazilian Secretariat of Labor Inspection also has a Special Mobile Inspection Group (**GEFM**) to identify labor exploitation. The roles of these agencies are discussed in further detail in Section 8.

1.2. Brazil's Policy and Legal Position

Brazil has signed and ratified a number of international conventions relating to slave labor, slavery-like conditions, and human trafficking. In 2016, Brazil enacted its first Human Trafficking Law (Law No.

¹ *Guia de Enfrentamento ao Tráfico de Pessoas* developed by the International Center for Migration Policy Development, in collaboration with the Migration and Human Rights Institute (**IMDH**), Ministry of Justice and Public Security, Federal Public Prosecutor's Office, and the Brazilian Federal Police.

13.344/2016),² which follows the principles enshrined by the Palermo Protocol,³ ratified by Brazil in 2004. Those principles are prevention, crime suppression, and victim protection.

Before the Brazilian Human Trafficking Law, Brazilian authorities needed to interpret Brazilian criminal law creatively to cover human trafficking offences as the Protocol of Palermo defines those crimes.

The Brazilian Human Trafficking Law unifies several types of exploitation as one single human trafficking criminal offence, making it easier for authorities to prosecute offenders under Brazilian Law. The law also characterizes additional offences as human trafficking, such as organ trafficking, illegal adoption, and slave labor. This law sets forth that victims should receive humanitarian aid; temporary shelter; legal, social, and health assistance; and prevention from new exploitation.

The III National Plan to Confront Human Trafficking (**National Plan**),⁴ approved in 2018, seeks to achieve a number of goals and metrics between 2018 and 2022. The National Plan mainly aims to enhance policy and information management, increase program integration and training, raise public awareness on human trafficking issues, and improve victim protection and the accountability of perpetrators.

2. OVERVIEW OF BRAZIL'S LEGAL APPROACH TO COMBATING MODERN SLAVERY AND HUMAN TRAFFICKING

2.1. Brazil's International Law Obligations

2.1.1. *Fundamental human rights*

Brazil is a party to the Universal Declaration of Human Rights and the American Convention on Human Rights. It has also ratified the International Covenant on Civil and Political Rights (1992), the International Covenant on Economic, Social and Cultural Rights (1992), the Convention on the Elimination of All Forms of Discrimination against Women (1984), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1989), and the Convention on the Rights of the Child (1990), among others.

2.1.2. *Slavery and trafficking*

Brazil is a party to treaties combating human trafficking and smuggling. Brazil's principal international law obligations derive from the Convention against Transnational Organized Crime (2000) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (**Palermo Protocol**). Brazil is also a party to the Abolition of Forced Labor Convention (1966).

2.1.3. *Effect under Brazil's law*

Brazil's obligations under international instruments typically have an automatic force-in-law once the two houses of the National Congress have ratified a convention. International instruments setting forth international human rights standards become equivalent to constitutional amendments if approved, in two sessions, by both houses of the National Congress, with a voting quorum of three-fifths of their members.

² http://www.planalto.gov.br/ccivil_03/ato2015-2018/2016/lei/13344.htm.

³ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁴ http://www.planalto.gov.br/ccivil_03/Ato2015-2018/2018/Decreto/D9440.htm.

Other international human rights treaties have a lower legal status than the Federal Constitution but a higher legal status than Brazilian federal statutes.

2.2. Human Rights Protections Under Brazil’s Law

Title II of the Brazilian Constitution establishes a “bill of rights.” Because international instruments also have the force of law, the Brazilian legal framework with respect to human rights is a combination of various national and international laws and conventions.

2.3. Criminalization of Modern Slavery

Before the Brazilian Human Trafficking Law, Article 149 of the Brazilian Criminal Code made it a crime to subject another individual to a situation analogous to slavery. In 2003, Law No. 10,803 amended Article 149 of the Brazilian Criminal Code to clarify the conditions and circumstances that are modern slavery.

The crime of modern slavery is punishable with imprisonment for two to eight years and a fine. Additional penalties apply to any violent actions perpetrated against the victim (*e.g.*, battery, rape, and harassment), which are separate criminal offences.

The term of imprisonment may be increased by half if the crime is committed (i) against a child or adolescent, or (ii) by reason of discrimination on account of race, skin color, ethnicity, religion, or social origin.

In addition to Article 149 of the Brazilian Criminal Code, the Brazilian federal government has ratified Conventions No. 29 and 105 of the International Labour Organization for the elimination of all forms of forced labor and modern slavery.

2.4. Supply Chain Reporting

As Section 4 explains, no supply chain reporting legislation obligates private businesses to control their supply chain to hinder human trafficking. However, in 2005, Brazilian and multinational private organizations and companies created the National Pact to Eradicate Modern Slavery (*Pacto Nacional pela Erradicação do Trabalho Escravo*) (**Pact**). The Pact’s signatories committed not to do business with third parties that exploited individuals through modern slavery or forced labor.

2.5. Investigation, Prosecution, and Enforcement

2.5.1. Investigation and prosecution of criminal offenses

The process for investigation and prosecution of criminal offenses in Brazil is generally divided into two phases: the pre-court proceeding phase, during which the police investigate a crime, and a court proceeding phase, when the alleged criminal offense is prosecuted and tried and penalties are enforced. Basic constitutional principles, particularly the principles of presumption of innocence, no conviction without due process of law, and no *ad hoc* tribunals, guide the entire process.

For state criminal offenses, the civil police of each state (*polícia civil*) investigate crimes occurring in their state. The federal police (*polícia federal*) investigate federal criminal offences. The crimes of both modern slavery and human trafficking are considered state criminal offenses, which the civil police investigate; however, the federal police will investigate crimes that have interstate or international repercussions. Similarly, federal courts hear cases dealing with federal criminal offenses, and state courts hear cases involving state criminal offenses. Pursuant to Article 109, Item V of the Federal Constitution, if a state

criminal offense is set forth in an international convention or treaty of which Brazil is a party and the actual crime involves conduct outside of Brazil, then only federal courts will hear the case.

Under Brazilian law, evidence obtained through unlawful means is considered null and void, and it is unconstitutional to use it in any criminal proceedings. However, Law No. 13,344/2016 allows for application of the Brazilian Organized Crime Law (Law No. 12850/2013) to human trafficking cases. That allows investigative authorities to use special methods of gathering evidence, such as plea bargaining and infiltration by police officers into criminal organizations, that are not allowed for other criminal cases.

The authorities in charge of prosecuting crimes in Brazil are the Federal Prosecutors' Office (*Ministério Público Federal*), for federal criminal offenses, and the State Prosecutors' Office (*Ministério Público Estadual*), for state criminal offenses. Each of the 26 federative states of Brazil has its State Prosecutors' Office. The obligations of the Federal Prosecutors' Office are set forth in Complementary Law No. 75/1993, and the obligations of the State Prosecutors' Offices are set forth in Law No. 8625/1993.

Law No. 7210/1984 (the so-called Criminal Enforcement Law or *Lei de Execução Penal*) governs enforcement of civil penalties. It sets forth the rules and parameters for imprisonment and other criminal punishments and the rights and prerogatives of convicted individuals.

2.5.2. *Mutual assistance/international cooperation*

The main Brazilian international cooperation departments are (1) the Federal Attorney General's Office specifically for cooperation involving Canada or Portuguese-speaking countries, and (2) the Department of Asset Recovery and International Legal Cooperation (**DRCI**), for all other cases.

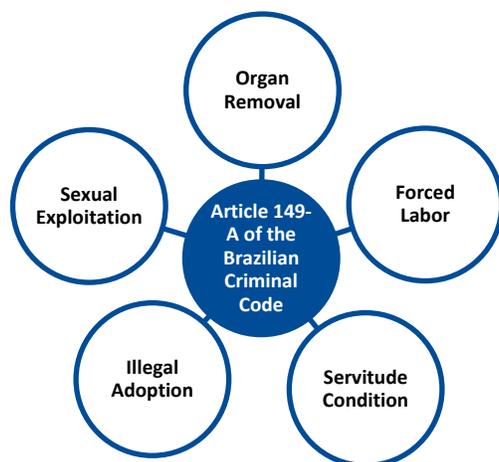
International legal cooperation may be direct or indirect. Cooperation by Brazilian authorities is deemed to be indirect whenever it requires legal authorization by a Brazilian court, such as extradition, ratification of foreign court decisions, and letters rogatory (*carta rogatória*). International treaties and reciprocity agreements also govern international cooperation by the Brazilian authorities, since no specific internal legislation provides for international legal cooperation. In the absence of an international legal cooperation treaty, the Ministry of Foreign Relations handles requests for cooperation.

The Brazilian internal cooperation system is discussed in further detail in Section 8.

3. BRAZIL'S FEDERAL CRIMINAL OFFENSES RELATING TO SLAVERY, SLAVERY-LIKE CONDITIONS, AND HUMAN TRAFFICKING

3.1. Overview of Criminal Offenses

The Brazilian Criminal Code, as amended, contains various offenses and penalties relating to forced labor under slavery-like conditions and human trafficking for different purposes. Article 149 of the Brazilian Criminal Code targets forced labor, while Article 149-A targets human trafficking (including for forced labor purposes). Law No. 13,344, enacted in 2016, added Article 149-A to the Brazilian Criminal Code. The offenses are punishable by a maximum and minimum penalty of imprisonment, which increases if there are specified aggravating circumstances.



3.2. Slavery Offenses Under the Criminal Code

3.2.1. General

Articles 149 and 149-A of the Brazilian Criminal Code prohibit forced labor and servitude under slavery-like conditions. In addition, a specific law on forced labor, Law No. 13,344, amended the Brazilian Criminal Code and the Brazilian Criminal Procedural Code to harden the penalties and to make sure that the victims are treated properly, regardless of their legal status in Brazil.

To prove a violation of the Brazilian Criminal Code, there must be an action (conduct), a subjective element (intention), a result, and the means to achieve the result (causal link). The Brazilian Criminal Code provides for crimes that are punishable both when actually committed or when attempted, and for other crimes that are only punishable when actually committed. For crimes that do not have an “attempted version,” the exploitation must have effectively taken place for there to be a criminal infraction. The victims’ consent is irrelevant.

Article 149-A of the Brazilian Criminal Code prohibits human trafficking, for different purposes, including to work under slavery-like conditions. Under Brazilian law, an attempt to engage in human trafficking, even if frustrated by virtue of circumstances extraneous to the perpetrator’s will, is punishable as described in the chart below.

Articles 13-A and 13-B of the Brazilian Criminal Procedural Code, added by Law No. 13344, allow the public prosecutor’s office to request public authorities and private companies to provide personal information regarding victims and suspects. In addition, telecommunication companies must provide the location of victims and suspected offenders of forced labor, if a court authorizes the request.

HUMAN TRAFFICKING PENALTIES IN BRAZIL	Duration of imprisonment	Amount of the fine
Human trafficking offence without aggravating circumstances	4 to 8 years	Set by court on a case-by-case basis
Attempt to engage in human trafficking	Imprisonment for the same time applicable to the consummated offence reduced by 1/3 to 2/3	Set by court on a case-by-case basis
Human trafficking offence committed with abuse of official authority	4 to 8 years with additional imprisonment time from 1/3 to 1/2	Set by court on a case-by-case basis

Human trafficking offence committed against a minor, or an elderly or disabled person	4 to 8 years with additional imprisonment time from 1/3 to 1/2	Set by court on a case-by-case basis
Human trafficking offence committed by taking advantage of a kinship, domestic, cohabitation, hospitality or financial dependence relationship, or of a position of authority or hierarchical superiority inherent to the exercise of employment, position, or function	4 to 8 years with additional imprisonment time from 1/3 to 1/2	Set by court on a case-by-case basis
Human trafficking offence that leads to the victim being removed from Brazil	4 to 8 years with additional imprisonment time from 1/3 to 1/2	Set by court on a case-by-case basis
Human trafficking offence that causes the victim's death	4 to 30 years depending on the specific offence	Set by court on a case-by-case basis

The time of imprisonment for a human trafficking offence may be reduced by one-third to two-thirds if the accused is a first-time offender and has not taken part in a criminal organization.

3.2.2. Extraterritorial application

Article 7 of the Brazilian Criminal Code has an extraterritorial scope and provides that the perpetrators of certain crimes may be prosecuted in Brazil regardless of where the criminal conduct occurs. Brazil is a signatory of the Protocol of Palermo, which sets forth the situations in which the signatory states must establish their jurisdiction in human trafficking cases.

The Brazilian Criminal Code authorizes the Public Prosecutor's Office (*ministério público*) to prosecute an alleged offender in Brazil under the Brazilian Criminal Code for slavery offences regardless of whether the conduct constituting the offence or a result of the conduct occurred within Brazil.

3.3. Slavery-Like Offenses in Brazil's Legal Order

3.3.1. Servitude

Article 149-A, item III of the Brazilian Criminal Code punishes the enticement, recruitment, transportation, transfer, purchase, or accommodation of any person for the purpose of forcing that person to live in any type of servitude, by using serious threat, violence, coercion, fraud, or abuse.

The penalty consists of four to eight years of imprisonment, which can be increased by one-third to one-half, if committed:

- against a child, adolescent, or elderly or disabled person;
- against a victim trafficked from another country;
- by an agent taking advantage of kinship, domestic relations, cohabitation, hospitality, economic dependence, authority, or superior position inherent to a labor relationship.

3.3.2. *Forced labor*

Article 149 of the Brazilian Criminal Code punishes the submission of anyone to forced labor, exhausting work hours, and degrading working conditions, as well as the restriction of the fundamental right to come and go, by any means, including by debt bondage. The penalty is two to eight years of imprisonment, which can be increased by one-half, if committed:

- against a child; or
- due to discrimination of race, color, ethnicity, religion, or origin.

The same penalty applies to anyone who: (i) restricts the victim's use of any means of transportation; (ii) maintains explicit surveillance in the workplace; and (iii) takes possession of documents or personal objects of the victim, all to retain the victim in the workplace.

Article 149-A, Item II, of the Brazilian Criminal Code also punishes the enticement, recruitment, transportation, transfer, purchase, or accommodation of any person, using serious threat, violence, coercion, fraud, or abuse, to perform forced labor. The penalty consists of four to eight years of imprisonment, which can be increased by one-third to one-half, if committed:

- against a child, adolescent, or elderly or disabled person;
- against a victim trafficked from another country;
- by an agent taking advantage of kinship, domestic relations, cohabitation, hospitality, economic dependence, authority, or superior position inherent to a labor relationship.

In Brazil, forced labor is typically addressed separately from human trafficking, as human trafficking has multiple purposes other than forced labor. However, the Brazilian Government also felt the need to address forced labor in connection with human trafficking, as both crimes are intertwined.

Generally, organized crime commits human trafficking for the purposes of labor exploitation. According to the Statistics and Information Dashboard of Labor Inspection in Brazil (*Painel de Informações e Estatísticas da Inspeção do Trabalho no Brasil*), in 2019, 1,133 individuals were rescued from forced labor.⁵

3.3.3. *Deceptive recruiting for labor or services*

Article 206 and the first paragraph of Article 207 of the Brazilian Criminal Code make criminal deceptive recruitment for labor services in Brazil or abroad. In both cases, the penalty consists of one to three years of imprisonment, plus a fine. There can be one-sixth to one-third of additional imprisonment time, if the victim is under 18 years old, elderly, pregnant, indigenous, or physically or mentally disabled.

3.3.4. *Early and forced marriage*

A marriage is generally considered as forced when at least one person involved in the union has not given free and full consent. The Brazilian Criminal Code does not identify forced marriage as human trafficking. However, in the context of human trafficking, Article 149-A penalizes sexual exploitation, and the penalty can be increased if the victim is a minor. In addition, Article 217-A of the Brazilian Criminal Code prohibits sexual intercourse with anyone younger than 14 years old. The penalty consists of eight to 15 years of imprisonment.

⁵ Source document in Portuguese, available at: <https://sit.trabalho.gov.br/radar/>.

Nonetheless, in Brazil, both civil and criminal laws address early and forced marriages.

Article 1,520 of the Brazilian Civil Code nullifies any marriage involving anyone who has not reached 16 years of age. Article 1,517 of the same Code allows anyone over 16 years of age to marry, as long as both parents (or their legal representatives) provide written authorizations, until civil majority is reached. In addition, forced marriage can be invalidated if there is no genuine consent pursuant to Article 1,550, item III of the Brazilian Civil Code. The spouses, any interested parties, or the public prosecutor's office can request to annul the marriage (Article 1,549 of the Brazilian Civil Code).

Article 237 of the Brazilian Criminal Code prohibits a person from marrying if that person is aware of an impediment that nullifies the marriage; for instance, if that person has already married someone else (crime of bigamy). The penalty consists of three months to one year of imprisonment.

3.3.5. Debt bondage

In debt bondage, the victim is obliged to work to pay off a debt, while not receiving anything in exchange for the performed tasks. Article 149 of the Brazilian Criminal Code encompasses forced labor by debt bondage. The Brazilian Criminal Code does not make debt bondage a separate offense; it must be linked with forced labor. Nonetheless, in the event of forced labor by debt bondage, the penalty consists of two to eight years of imprisonment, which can be increased by one-half, if committed:

- against a child; or
- due to prejudice of race, color, ethnicity, religion, or origin.

In addition, the Consolidated Brazilian Labor Laws prohibits debt bondage by the employer. Refer to Section 5 for further details.

3.3.6. Any other relevant offenses

Brazil has no other relevant slavery-like offenses.

3.3.7. Extraterritorial application of the offenses

Refer to Section 3.2.2.

3.4. Human Trafficking/Smuggling-Related Criminal Offenses

3.4.1. International and domestic trafficking/smuggling of people

Migrants are vulnerable to sex trafficking and forced labor. Traffickers recruit immigrants living in Brazil and those still living abroad via online advertisements and social media platforms offering fraudulent job opportunities, later exploiting them in major cities, like Sao Paulo or Rio de Janeiro.⁶

Article 149-A of the Brazilian Criminal Code makes criminal the enticement, recruitment, transportation, transfer, purchase, or accommodation of any person, using serious threat, violence, coercion, fraud, or abuse, for the purpose of:

- (i) removing the person's organs, tissues, or body parts;

⁶ Source document in English, available at: <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/brazil/>.

- (ii) submission to any type of servitude;
- (iii) illegal adoption;
- (iv) sexual exploitation; or
- (v) forced labor.

The penalty provided by the Brazilian Criminal Code is four to eight years of imprisonment, which can be increased by one-third to one-half, if committed:

- against a child, adolescent, or elderly or disabled person;
- against a victim trafficked from another country;
- by an agent taking advantage of kinship, domestic relations, cohabitation, hospitality, economic dependence, authority, or superior position inherent to a labor relationship.

If the purpose for human trafficking cannot be proven, then other criminal offenses might apply, such as kidnapping or private imprisonment (Article 148 of the Brazilian Criminal Code), illegal constraint (Article 146 of the Brazilian Criminal Code), and fraud—assigning false documentation to foreigners to promote entry into national territory (Article 309, sole paragraph, of the Brazilian Criminal Code) or even re-entry of an expelled foreigner (Article 338 of the Brazilian Criminal Code).

3.4.2. *International and domestic trafficking in children*

Article 149-A of the Brazilian Criminal Code punishes the enticement, recruitment, transportation, transfer, purchase or accommodation of any person, using serious threat, violence, coercion, fraud or abuse, for the purpose of: (i) removing the person’s organs, tissues or body parts; (ii) submission to any type of servitude; (iii) illegal adoption; (iv) sexual exploitation; or (v) forced labor.

The penalty is four to eight years of imprisonment. However, Item II of the first paragraph of Article 149-A of the Brazilian Criminal Code establishes that, if the crime is committed against a child, an adolescent, or an elderly or disabled person, the term of imprisonment can be increased by one-third to one-half.

Article 244-A of Law No. 8069, enacted in 1990, as amended, also known as the Brazilian Child and Adolescent Statute (**ECA**), makes it a crime to induce a child to engage in sexual exploitation activities without the need to prove the use of force, fraud, or coercion.

Article 244-A of ECA sets forth a penalty from four to 10 years of imprisonment, in addition to the loss of assets used in the criminal practice in favor of the Fund for Children and Adolescents’ Rights.

3.4.3. *Victim harboring*

Article 149-A of the Brazilian Criminal Code punishes harboring victims for the purpose of sexual exploitation, servitude, removal of organs, illegal adoption, and forced labor.

The penalty consists of four to eight years of imprisonment, which can be increased by one-third to one-half, if committed:

- against a child, adolescent, or elderly or disabled person;
- against a victim trafficked from another country;

- by an agent taking advantage of kinship, domestic relations, cohabitation, hospitality, economic dependence, authority, or superior position inherent to a labor relationship.

3.4.4. Extraterritorial application of human trafficking and smuggling offenses

Refer to Section 3.2.2.

3.4.5. International and domestic organ trafficking

Article 149-A, item I, of the Brazilian Criminal Code punishes the enticement, recruitment, transportation, transfer, purchase, or accommodation of any person, by using serious threat, violence, coercion, fraud or abuse, for the purpose of removing the person's organs, tissues or body parts.

The penalty consists of four to eight years of imprisonment, which can be increased by one-third to one-half, if committed:

- against a child, adolescent, or elderly or disabled person;
- against a victim trafficked from another country;
- by an agent taking advantage of kinship, domestic relations, cohabitation, hospitality, economic dependence, authority, or superior position inherent to a labor relationship.

In addition, Law No. 9,434, enacted in 1997, also addresses the removal of organs, tissues and body parts of the human body for transplantation purposes without the victims' consent. The law prohibits both international and domestic organ trafficking.

3.5. Online Exploitation of Children Offenses

The Child and Adolescent Statute (**ECA**) punishes online exploitation of children.

Article 241-A sets forth a penalty of three to six years of imprisonment, plus fines, to anyone who offers, exchanges, makes available, transmits, distributes, publishes, or disseminates, by any means, including through a computer, cellphone, or any information technology system, photography, video, or other recording, an explicit or pornographic sex scene involving a child or adolescent. The penalty also applies to anyone who provides the means or services for storage of and access to such contents.

Article 241-B sets forth a penalty from one to four years of imprisonment, plus fines, to anyone who acquires, possesses, or stores, by any means, photography, video or other form of record that contains an explicit or pornographic sex scene involving a child or adolescent. The penalty does not apply if the storage was done for the purpose of informing governmental authorities about the unlawful conduct, as long as notice is made by:

- (i) a public official acting within the official's duty; or
- (ii) a legal representative or an employee of a storage and server provider company, until the Public Prosecutor's Office receives the contents.

Article 241-C sets forth a penalty from one to three years of imprisonment, plus fines, to anyone who simulates the participation of a child or adolescent in an explicit or pornographic sex scene, by means of adulteration, assembly, or modification of photographs, videos, or any other form of visual representation, including those who sell, display, make available, distribute, publish, or disseminate by any means, acquire, own, or store such produced content.

3.6. Child Sex Tourism Offenses

The Brazilian Criminal Code does not punish child sex tourism. Nonetheless, Article 217-A of the Brazilian Criminal Code sets forth a penalty from eight to 15 years of imprisonment to anyone who has sexual intercourse, or any other libidinous act, with a child under the age of 14 years old, regardless of the victim's consent.

Aggravating circumstances, like the use of violence or death of the victim, can enhance the penalty up to 30 years of imprisonment.

In addition, the ECA prohibits child exploitation, especially, sexual exploitation:

- Article 240 sets forth a penalty from four to eight years of imprisonment, plus fines, to anyone who produces, reproduces, directs, photographs, films, or records, by any means, an explicit or pornographic sex scene involving a child or adolescent.
- Article 241-D sets forth a penalty from one to three years of imprisonment, plus fines, to anyone who entices, harasses, instigates, or embarrasses, by any means, a child, to perform a libidinous act with that child.
- Article 241-E defines the term “explicit or pornographic sex scene” to include any situation involving a child or adolescent in explicit, real, or simulated sexual activities, or the exposure of a child's or adolescent's genitals for primarily sexual purposes.
- Article 244-A sets forth a penalty from four to 10 years of imprisonment, in addition to the loss of assets used in the criminal practice in favor of the Fund for Children and Adolescents' Rights, to anyone who subjects a child or adolescent to prostitution or sexual exploitation.

Child exploitation for sex tourism is a relevant issue in Brazil. The Ministry of Family, Women and Human Rights (*Ministério da Mulher, da Família e dos Direitos Humanos*) reported that, in 2019, its human rights hotline received 21 calls reporting child slave labor, seven calls reporting child trafficking victims,⁷ and eight calls reporting child sex tourism.⁸

3.7. Brazil's State and Territory Criminal Offenses Relating to Slavery, Slavery-Like Conditions, and Human Trafficking

Only Congress—the Senate (*Senado*) and the House of Representatives (*Câmara dos Deputados*)—has the power to pass criminal laws.

The main source of criminal law in Brazil is the Brazilian Criminal Code (Decree-Law No. 2848/1940), the Brazilian Criminal Procedure Code (Decree-Law No. 3689/1941), and the Criminal Enforcement Law (Law No. 7210/1984).

Brazilian law distinguishes between federal criminal offenses and state criminal offenses. Federal criminal offenses comprise crimes perpetrated against the assets of the federal government or government-

⁷ Chart 19, pg. 51. Source document in Portuguese, available at: https://www.gov.br/mdh/pt-br/aceso-a-informacao/ouvidoria/Relatorio_Disque_100_2019_.pdf.

⁸ Source document in Portuguese, available at: <https://www.gov.br/mdh/pt-br/navegue-por-temas/crianca-e-adolescente/dados-e-indicadores/VIOLENCIASEXUALCONTRACRIANCAEADOLESCENTES.pdf/view>.

controlled companies, embezzlement of government funds, money laundering, international drug trafficking, and smuggling, among many others.

Both the crimes of modern slavery and human trafficking are state criminal offences prosecuted by state authorities. However, those offences become federal crimes investigated and tried before federal courts when they take place across state lines. In addition, pursuant to Article 109, Item V of the Federal Constitution, if a state criminal offence is provided in an international convention or treaty signed by Brazil and the actual crime involves conduct outside of Brazil, only federal courts will hear the case.

4. BRAZIL'S SUPPLY CHAIN REPORTING LEGISLATION

No supply chain reporting legislation in Brazil obligates private businesses to control their supply chain to hinder human trafficking. Nonetheless, some initiatives may influence companies to manage their supply chains to prevent human rights violations.

The main initiative regarding supply chain management for private companies is the National Pact to Eradicate Forced Labor (*Pacto Nacional pela Erradicação do Trabalho Escravo*) (**Pact**), formed in 2005 by a group of Brazilian and multinational companies that agreed to avoid all negotiations with companies that exploited forced labor. Signatories are required to comply with 10 commitments aimed at eliminating forced labor in their supply chains. Some of the initiatives of the Pact that might have a positive impact on human trafficking are mentioned below.

Signatories of the Pact agree to:

- define specific goals for labor relations in production chains, which implies formal employment relations by producers and suppliers and preventive actions related to the health and safety of workers;
- define commercial restrictions on those companies identified in the production chain that use degrading work conditions associated with practices that characterize slavery;
- support actions for the social and productive reintegration of workers who are still in degrading working relationships, guaranteeing them opportunities to overcome their social exclusion, in partnership with the different spheres of government and non-profit organizations;
- support information campaigns for workers vulnerable to the solicitation of slave labor, as well as public campaigns to prevent slavery;
- support actions, in partnership with public and private entities, to provide the training and professional development of liberated workers;
- support actions to combat tax evasion and piracy;
- support and debate proposals for governmental actions needed to implement the Pact;
- monitor implementation and achievement of the proposed goals;
- disseminate Brazil's experience to promote similar action in other countries; and
- evaluate the results of the policies and actions provided for in the Pact.

By 2014, more than 400 companies, which represented 35% of Brazil's GDP, had signed the Pact. At that time, the *Instituto do Pacto Nacional pela Erradicação do Trabalho Escravo (InPACTO)* was created to manage and continue expanding the purposes of the Pact.

5. FORCED LABOR: OVERVIEW OF BRAZIL'S APPLICABLE EMPLOYMENT AND MIGRATION LAWS

5.1. Employment Law Rights for Victims of Human Trafficking and Forced Labor

In addition to the Federal Constitution, Brazilian labor courts rely on: (i) the consolidated labor laws (commonly known as **CLT**); (ii) Law No. 13,344 on forced labor and trafficking; and (iii) ratified decrees of the International Labour Organization Conventions, especially Conventions No. 29 and No. 105, ratified in Brazil by Decrees No. 41,721 and No. 58,822, respectively (collectively **Brazilian Labor Laws**).

Brazilian Labor Laws provide indemnification mechanisms through which victims have the right to seek remedies. In Brazil, labor courts commonly determine compensation and indemnification to victims, as long as damages resulted from a labor relationship. A victim is not required to file a civil suit to receive damages or compensation.⁹

Workers subject to labor laws in Brazil have presumed court benefits, for instance, reversal of the burden of proof. Although these benefits are not presumed for all civil suits, in Brazil it is more common for the State to interfere with forced labor and trafficking issues through a public civil suit, rather than through a labor suit, as these are issues of public interest and are commonly prosecuted by the Public Prosecutor's Office (*ministério público*), instead of the victim. The State has the duty to criminally prosecute these infractions.

In addition, victims likely will not seek compensation on their own, because they do not know their rights to claim for their wages or they fear being caught and deported for their irregular status in Brazil. On top of that, the Brazilian justice system is burdensome, and lawsuits often last for a long time while incurring court fees and expenses.

5.2. Applicability of Employment Legislation in the Context of Forced Labor or Trafficking

A victim of forced labor and trafficking is likely to fall under the applicable scope of the Brazilian Labor Laws if a labor relationship is characterized by: (i) subordination (*i.e.*, the employee is subject to the supervision, control, and instructions of the employer); (ii) exclusivity (the relationship of the employer is with a specific individual who serves as an employee; that employee cannot choose to be replaced by someone else); (iii) regularity (*i.e.*, the work performed is not sporadic, it has to follow a fixed schedule); and (iv) compensation (*i.e.*, the work performed by the employee must be compensated with a salary). Forced labor also requires proof of coercion. As a result, Brazil prohibits any form of labor relationship that began through intentional coercion. Victims of human trafficking and smuggling benefit from employment legislation, as it applies to all employers in Brazil.

⁹ Source document in Portuguese, available at: http://www3.tst.jus.br/jurisprudencia/Sumulas_com_indice/Sumulas_Ind_351_400.html#SUM-392.

5.3. Statutory Rights

In Brazil, all employees are entitled to statutory labor rights under the Brazilian Labor Laws, especially the CLT. These rights serve as a basis to assess whether a person is the subject of forced labor, as well as a basis for damage claims by trafficking victims.

5.3.1. *Rights to minimum wages, entitlements, and other applicable minimum standards*

Federal law determines the minimum wage each year. In 2020, the Brazilian minimum wage was set at BRL 1,045.00 (approximately USD 210.00). In addition, each year, collective bargaining agreements set a minimum wage for each occupational category on top of the basic legal wage provided by law. These collective bargaining agreements are binding on all employers. Any breach of this rule is punishable by the Brazilian Labor Laws. More favorable company agreements also may apply.

5.3.2. *Claims available in relation to misrepresentations and “sham” arrangements*

Brazil has no applicable laws.

5.3.3. *Claims available in relation to unlawful deductions, loans, and debt bondage*

Article 462, second paragraph of the CLT, prohibits any form of coerced labor. That means that Brazilian Labor Laws prohibit coercion by debt bondage and any form of unlawful deduction.

5.3.4. *Remedies*

Any employee who has not been paid minimum wages has the right to sue the employer in labor court to obtain payment of the outstanding wages and benefits, with interest, as well as damages.

5.3.5. *The well-being of workers: Preventing work-related psychosocial risks.*

The Brazilian Labor Laws, specifically the CLT, aim to ensure the well-being of workers in the performance of their work. Those laws apply to every employer who employs workers in Brazil.

CLT sets forth measures regarding the safety and the health of employees. The CLT focuses more on physical than psychological health. Nonetheless, pursuant to the CLT, employers must request a psychotechnic exam to confirm that employees are able to perform their duties and can be deemed to have full legal capacity to contract.

5.3.6. *The well-being of workers: Promotion of workers’ health*

Pursuant to the CLT, the employer must limit the risk of serious injury and provide appropriate safety and health signs at work whenever risks cannot be avoided. In addition, employees who work under risky or hazardous conditions are entitled to receive additional pay, such as: (i) risk premium; (ii) health hazard premium; and (iii) night work supplements.

5.3.7. *The well-being of workers: Rest time*

CLT establishes different rest times for different working periods. The full-time working period is eight hours of work per day. If the working period is more than four hours and less than six hours, the employee is entitled to a 15-minute break. If the working period is more than six hours, the employee is entitled to a minimum of one hour and a maximum of two hours of rest time. In this last case, the employer must negotiate the rest time with the union, as set forth in the collective bargaining agreements. However CLT

limitations must be followed. CLT also requires a minimum of 11 hours of rest time between two working periods.

5.3.8. *The well-being of workers: Freedom to change jobs and right to leave*

Brazilian Labor Laws give employees freedom to change and leave jobs. In accordance with the Federal Constitution, the right to work is a fundamental right. Everyone is free to choose their profession. A worker is free to terminate employment, provided the worker provides notice.

5.4. Rights to a Safe Workplace and Compensation Associated With Injuries or Illness

CLT requires employers to provide workers with safe workplaces and compensation for work-related accidents. Under the Brazilian Labor Laws, a work-related accident includes: (i) an occupational illness; (ii) a typical accident triggered as a result of the work; or (iii) any accident suffered on the employee's way to or from work. Workers have the right to claim for damages for work-related injuries without proof of any willful misconduct or negligence by the employer.

5.5. Access to Justice and Practical Issues Associated With Enforcing Social Legislation

While many victims of forced labor and trafficking in Brazil are likely to have strong claims, most victims do not know about the legal assistance available to file those claims. Brazilian employment law and litigation procedures are complex, and it is difficult for any person to commence proceedings without legal assistance.

Nonetheless, Brazil is making an effort to facilitate the access to justice for victims of forced labor and trafficking. Since 2011, the Brazilian Ministry of Labor and Employment has guaranteed equal rights to workers, whether they are Brazilian or undocumented immigrants. Workers who have been subjected to conditions similar to slavery, even if they have irregular immigration status, are entitled to labor rights that their employers denied, plus the payment of unemployment insurance for three months.

In addition, undocumented immigrants affected by trafficking may be able to obtain permanent visas under laws seeking to protect and reintegrate victims into society, as determined in the Protocol of Palermo and Normative by the Brazilian National Immigration Council.¹⁰

The Brazilian Ministry of Labor and Employment uses several criteria to evaluate requests for permanent visas: (i) the migrant likely will be subject to another victimization if returned to the country of origin; (ii) the migrant has been coerced or threatened due to collaborating with an investigation or legal proceeding in Brazil; and (iii) the victim needs immediate services, such as medical care, because of violence suffered as a trafficking victim.

5.6. Interaction Between Employment Law and Migration

5.6.1. *Employment rights affected where employment is unlawful under migration law*

Refer to Section 5.5.

¹⁰ Source document in Portuguese, available at: http://www.trtsp.jus.br/geral/tribunal2/ORGaos/MTE/Resol/Res_122_16.html.

5.6.2. Rights/remedies available under applicable migration law and regulations

Refer to Section 5.5.

5.7. Employment Laws and Child Labor

The ECA makes it a crime to exploit child labor. It prohibits children from working other than as part of their education, and from performing work that adversely affects their well-being. The law provides an exception for children over 14 years old, who are allowed to work as underage apprentices as provided in the CLT. Children also may work as singers, actors, or models as a result of the International Labour Organization Conference held in 1973, ratified in Brazil by Decree No. 4.134.

Unfortunately, cases of child labor in Brazil are not a rare occurrence. According to the Brazilian Institute of Statistics (*Instituto Brasileiro de Geografia e Estatística - IBGE*) data from 2016,¹¹ 2.4 million children aged five to 17 were child labor victims. Of these, 1.7 million also carried out domestic chores concurrently with work or study. This problem particularly affects black girls and boys.

6. GOVERNMENT PROCUREMENT RULES

6.1. Overview

Brazil has instituted several measures to address human trafficking as part its government procurement process. Notably its “Dirty List” or *Lista Suja*, discloses employers found guilty of subjecting workers to “conditions analogous to slavery” and creates credit restrictions for those employers.¹² Also, Bill No. 128/2019 and Decree No. 9.440/2018 have proposed prohibiting tax benefits to entities that engage in slave labor and human trafficking in the context of Brazil’s federal contracting processes. However, Brazil has faced criticism for not including human trafficking provisions in its procurement code, only creating limited sanctions for entities disclosed on its Dirty List and retaining less liability for the actions of its contractors than for those of private entities.

6.2. Brazil’s Enforcement of Its Government Procurement and Financial Institution Rules

Brazil’s primary mechanism for combatting human trafficking is its Dirty List. Established in 2004, this list publicly discloses employers that Brazil’s former Ministry for Labor and Employment (currently the Secretary for Labor, a governmental body within the structure of the Ministry for Economy) (**MTE**) has found administratively guilty of subjecting workers to conditions analogous to slavery.¹³ The list is published every six months, and Brazil’s Ministry of National Integration has encouraged public companies to refrain from providing “financial or any other form of assistance” to companies on the list (refer to Section 5).¹⁴

¹¹ Source document in Portuguese, available at: https://biblioteca.ibge.gov.br/visualizacao/livros/liv101388_informativo.pdf.

¹² The Dirty List was enacted by Decree no 540/2004, available at: <https://www.legisweb.com.br/legislacao/?id=188018> and currently authorized by https://www.in.gov.br/materia/-/asset_publisher/Kujrw0TZC2Mb/content/id/1497798/do1-2017-12-29-portaria-n-1-293-de-28-de-dezembro-de-2017-1497794. The current list can be found at *Cadastro de Empregadores que tenham submetido*, available at: https://mpt.mp.br/pgt/noticias/cadastro_de_empregadores_2019_10_3.pdf.

¹³ “Fighting Forced Labour: The Example of Brazil,” International Labour Office (2009), available at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_111297.pdf at p. 89 and Annex 1.

¹⁴ Decree No. 1.150 of the Ministry of National Integration (**MIN**).

Federal law also prohibits Brazil’s National Bank for Economic and Social Development (**BNDES**), the national public policy bank of Brazil, from extending credit to companies convicted of engaging in slave labor.¹⁵ Furthermore, the Brazilian Central Bank issued a resolution in 2014 requiring, subject to sanctions, all financial institutions (including public banks) to have a social and environmental responsibility policy in place. The social and environmental responsibility policies of Banco do Brasil and Caixa Econômica Federal, the main public banks in Brazil, along with BNDES require these institutions to refrain from doing business with (or providing credit to) companies listed in the Dirty List. However, the Central Bank’s inspection of policy compliance by the banks is inadequate. In 2019, Brazil’s Labor Prosecutor’s Office sued the main Brazilian banks, including Banco do Brasil and Caixa Econômica Federal, for extending credit to companies included on the Dirty List.

Brazil has been criticized for lax administration of its Dirty List. Companies have used court injunctions to delay their inclusion on the Dirty List, which critics argue ultimately prevents disclosure of legitimate findings of companies’ slave labor practices.¹⁶ The Brazilian Supreme Court enjoined MTE’s publication of the list from 2014–2016, after a Brazilian real estate developers association, which represented many organizations on the list, challenged the list constitutionally for lack of due process.¹⁷ In 2016, the Supreme Court reversed its decision, and the MTE reinstated the list, following MTE Decree No. 4/2016 that created due process allowances for convicted employers; however, as an administrative remedy the list still remains vulnerable to challenge.

Brazil’s procurement code has no human trafficking provisions. Brazil also has less liability for the actions of its subcontractors than for those of private entities.¹⁸ Decree No. 5.452/1943 permits employees of subcontractors the right to raise complaints against private contractors for non-compliance, whereas suits against government contractors are not available for “mere non-compliance.”¹⁹

In 2018, Brazil approved analyzing whether to include human trafficking as a component of federal contracting bids. In 2019, Bill 128/19 was proposed, which if adopted, would prohibit companies that have subjected workers to conditions analogous to slavery from receiving government tax subsidies or incentives. However, the bill currently has not been enacted into law.

Additionally, in 2019, Brazil’s Labor Prosecutor’s Office announced that it would develop a new Dirty List for employers convicted by the labor courts. That new Dirty List would complement the MTE list and may be more resilient to injunctions and constitutional challenges than MTE’s administratively developed list.²⁰

¹⁵ Law No. 11.948/2009.

¹⁶ “Major companies found using courts to avoid Brazil’s slave labor ‘dirty list,’” Reuters (June 2009), available at: <https://www.reuters.com/article/brazil-trafficking-dirtylist/exclusive-major-companies-found-using-courts-to-avoid-brazils-slave-labor-dirty-list-idUKL5N2206KS>.

¹⁷ Accessible at Supremo Tribunal Federal, available at: <http://www.stf.jus.br/portal/autenticacao/> under number 11007431.

¹⁸ Law No. 8.666/1993, available at: http://www.planalto.gov.br/ccivil_03/leis/l8666cons.htm at Article 81.

¹⁹ Decree-Law No. 5.452/1943, available at: https://www.equalrightstrust.org/sites/default/files/ertdocs/Decree-Law%20No.%205%2C452_Consolidation%20of%20Labor%20Laws.pdf at Title IV; Súmula No. 331; and <https://jus.com.br/artigos/27080/sumula-331-do-tst-e-a-responsabilidade-do-ente-publico-pelas-obrigacoes-trabalhistas-nos-convenios-celebrados-para-a-prestacao-de-servico-tipicamente-estatal> at Item V.

²⁰ “Brazil to issue ‘dirty list’ of employers using slave labor based on court findings,” Reuters (July 2019), available at: <https://www.reuters.com/article/us-brazil-trafficking-dirtylist/brazil-to-issue-dirty-list-of-employers-using-slave-labor-based-on-court-findings-idUSKCN1TX30L>.

7. RESTITUTION AND VICTIM COMPENSATION

7.1. Overview

Victims of human trafficking suffer gross violations of their human rights. In addition to severe physical and psychological trauma, the victim may suffer economic losses as a result of the crimes through loss of wages or property. As a victim of trafficking, the person has the right to request fair compensation from the perpetrator of the criminal act for material and non-material damages. In Brazil, several remedies enable victims of human trafficking to obtain compensation for their damages. Victims have the legal right to claim those remedies in the criminal, civil, and labor courts.

7.2. Restitution and Victim Compensation in the Criminal and Civil Law Context

Human trafficking is a criminal offence set forth in the Brazilian Criminal Code, and the conviction of perpetrators and remedies are processed in accordance with Brazilian criminal procedure. The criminal court may fix a minimum amount for the reparation of the victim's damages.²¹ The compensation set by the criminal court does not prevent the victim from seeking a larger amount before a civil court, since the criminal sentence sets a "minimum amount" of compensation.²²

The minimum amount set by the criminal court is immediately enforceable in the civil courts.²³ Victim restitution is provided in Brazilian Law to compensate victims for their pain and suffering caused by the trafficking trauma.

In civil courts, victims may claim:

- damages for physical and psychologic suffering;
- damages for lost opportunities (including employment, education, and social benefits);
- material damages and loss of earnings, including potential earnings, and lost income;
- non-material damages;²⁴ and
- reimbursement of legal fees and other costs determined on a case-by-case basis. Also, the victim can declare "hipossuficiência" (poverty), which, if considered valid, exempts payment of court filing fees.

Before the criminal court, victims may claim psychological, health, or legal assistance, at the expense of the perpetrator or the State.²⁵

Victims also may claim any other costs or losses incurred by the victim before civil or criminal courts.

²¹ Article 387, IV Brazilian Criminal Procedure Code.

²² Article 63 of the Brazilian Criminal Procedure Code.

²³ Article 515, VI of the Brazilian Civil Procedure Code.

²⁴ Articles 186 and 927 of the Brazilian Civil Code.

²⁵ Article 201, §5 of the Brazilian Criminal Procedure Code.

7.3. Restitution and Victim Compensation in a Labor Law Context

When a person is subjected to slave-like labor, the Brazilian Labor Justice can set moral damages as victim compensation. This ruling follows the doctrine of civil responsibility in cases of human rights abuses or violations, which has three main goals: remedies, public awareness, and sanctions. Labor courts can provide three types of remedies: (1) reparation, which aims to re-establish something that was lost with the violation, (2) indemnity, for situations in which it is possible to calculate an approximate monetary value of the damage, and (3) compensation, when it is not possible to calculate the monetary value of the damage.

There are two forms of remedy for cases of slavery based on individual and collective moral damage actions. The individual lawsuit is focused on the remedial aspect of the law. For example, after the rescue of workers subjected to slave-like labor, a government group related to the Ministry of Labor has to guarantee that the workers will receive their labor rights immediately. In addition, workers have the right to receive three months of unemployment insurance and the right to be enrolled in *Bolsa Família*, a cash transfer program focusing on reducing poverty. Furthermore, the worker can sue the company before labor courts for individual moral damages. Finally, because slavery is considered a serious violation of human dignity, the Ministry of Labor can also file a collective moral damage lawsuit. While the individual lawsuit is focused on providing indemnity to the worker, the collective lawsuit aims to compensate society for the damage caused by the perpetrator.

In theory, the money from collective lawsuits should be deposited into a fund managed by a Federal or State Council and used for initiatives to suppress modern slavery.²⁶ However, the prosecutor (or the judge) has the right to decide the destiny of the collective damage indemnity, which can be a local non-governmental organization that works with slave-like labor cases or any other institution. The money may also be sent to the Workers Compensation Fund, which provides resources to the Unemployment Insurance Program, or to other economic development programs.

Perpetrators also may face non-legal sanctions. In reality, most agreements between the perpetrating company and the State are based on out-of-court instruments, such as the Term for the Conduct Adjustment (**TAC**), which is used, among other things, to encourage companies to comply with the law in the future. Out-of-court agreements may provide broader standards and remedies. The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations include equal access to justice; adequate, effective, and prompt reparation for harm suffered; and access to relevant information concerning the violation. The Guiding Principles on Business and Human Rights also recommend that perpetrating companies participate in developing remedy strategies, such as grievance mechanisms, to protect workers against abuse and facilitate the remedy process.

7.4. Victim Compensation and the Brazilian Human Trafficking Law

The Brazilian Human Trafficking Law follows the three purposes set out in the Protocol of Palermo: prevention, crime suppression and victim protection. Article 8 of the Brazilian Human Trafficking Law also permits the early freeze of traffickers' assets, as well as damages for human trafficking victims. This provision recognizes that a sanction, in addition to the penalty itself, should also repair the violence and damage suffered by the victim.

7.5. Statutory Support System

The State parties to the American Convention on Human Rights (Pact of San Jose) are obligated to investigate and punish human rights violations, as well as to compensate the victims or their families. Article 1 of the American Convention on Human Rights further obligates each State to guarantee to all persons

²⁶ Article 13 of Law No. 7,347/85.

under its jurisdiction the free and full exercise of the rights and freedoms recognized in the Convention. The Inter-American Court of Human Rights has ruled that, as a result of that obligation, States are required to “prevent, investigate and punish any violation of the rights recognized by the Convention and, if possible, attempt to restore the right violated and provide compensation for damages resulting from the violation.”

In addition to the crimes proscribed by the Brazilian Criminal Code and the protective measures stated in the ECA, the Brazilian Human Trafficking Law was created to prevent human trafficking and provide specific protective measures to victims.

According to Article 6 of the Brazilian Human Trafficking Law, the government and public entities must protect victims of forced prostitution and human trafficking by:

- providing legal and social assistance and granting access to public health services and work;
- providing shelter or housing;
- addressing victims’ specific needs, especially in relation to their gender, sexual orientation, ethnic or social origin, nationality, race, religion, age group, immigration status, professional activity, cultural diversity, language, social and family ties, or other status;
- protecting victims’ identity and right to privacy;
- preventing new victimization during investigations, care proceedings, and criminal proceedings;
- providing compassionate care and treatment; and
- providing clear information about their judicial cases.

On March 23, 2020, the Ministry of Justice and Public Security published Ordinance No. 87,²⁷ which sets the procedures to expedite the issuance of permanent residency visas to migrants subjected to trafficking and violent crimes in accordance with the Brazilian Human Trafficking Law. Under the new measure, governmental authorities must identify those visa applicants who are trafficking victims. Migration authorities will then decide on granting the permanent visa based on the victims’ cooperation with legal enforcement efforts to prosecute perpetrators.

8. BRAZIL’S MULTIDISCIPLINARY/INTERAGENCY COOPERATION APPROACH

8.1. Overview

The Brazilian Human Trafficking Law sets as goals: the integration of the different levels of government to suppress human trafficking, communication between government and other organizations, and the structuring of the network to confront human trafficking. Furthermore, the Brazilian Organized Crime Law (Law No. 12850/2013),²⁸ which the Brazilian Human Trafficking Law applies to human trafficking cases, provides that federal, state and local governmental authorities may cooperate with each other in gathering evidence and relevant information for criminal investigations and prosecutions.

²⁷ <https://www.in.gov.br/en/web/dou/-/portaria-n-87-de-23-de-marco-de-2020-249440047>.

²⁸ http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2013/lei/l12850.htm.

8.2. Efforts to Suppress Slave Labor

Even before the enactment of the Brazilian Human Trafficking Law, Brazil had made legislative and enforcement efforts to suppress human trafficking, particularly with regard to slave labor. Some of the agencies undertaking those efforts are: (1) the Labor Inspection Secretariat, currently a part of the Ministry of Economy, which coordinates activities to combat slave labor within the scope of the Regional Labor Superintendencies (**SRTb**); (2) the Regional Labor Managements (**GRTb**); and (3) the Special Mobile Inspection Group (**GEFM**). The coordination of GEFM is done by the Labor Tax Audit, which acts in coordination with other institutions, such as the Federal Highway Police (**PRF**), the Federal Police (**PF**), the Labor Prosecutor's Office (*Ministério Público do Trabalho*), the Federal Prosecutors' Office (*Ministério Público Federal*), and the Public Defender's Office (**DPU**). The Dirty List, discussed in Section 6, is another instrument created to control and suppress slave labor.

The Ministry of Labor's inspection routines strengthen the capacity to identify trafficking victims. Another measure is the integration of the Specialized Civil Police Precincts and agents of the Public Defender's Office to the Anti Human Trafficking Network.

8.3. General Coordination to Suppress Human Trafficking and Migrants Smuggling

The General Coordination to Suppress Human Trafficking and Migrants Smuggling, formally created in 2017, is connected to the Ministry of Justice and Public Security.²⁹ It is responsible for coordinating governmental and non-governmental organizations; the management of the National Plan; the coordination of the National Committee to Suppress Human Trafficking, the Inter-ministerial Group for Monitoring and Evaluating the National Plan, as well as Centers for Confronting Human Trafficking and Advanced Humanized Care Centers for Migrants. It is also responsible for receiving, processing, and forwarding issues related to migrant trafficking.

8.4. Inter-ministry Group for Monitoring and Evaluation of the III National Plan to Combat Trafficking in Persons

The Inter-ministry Group, established by Decree No. 9,796, of May 20, 2019, consists of the Ministries of Justice and Public Security; Women, Family and Human Rights; Foreign Relations; Economy; Education; Citizenship; and Health, in addition to the Public Defender's Office, which has the task of implementing the goals proposed in the National Plan and informing society about its progress. The Inter-ministry Group is responsible for monitoring the execution of the National Plan and its duration matches that of the National Plan.

8.5. Centers to Confront Human Trafficking (NETP) and Advanced Service Stations to Support Migrants (PAAHM)

NETP and PAAHM coordinate policy at the state level to assist potential human trafficking victims, as well as to implement the National Policy to Suppress Human Trafficking.³⁰ The federal and state governments jointly operate the NETP, which aims to combat human trafficking at the state level. The outposts' main

²⁹ Decree No. 9.662, from January 1, 2019, available at: http://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2019/Decreto/D9662.htm.

³⁰ Ordinance No. 31, of the National Secretariat of Justice, of August 20, 2009, available at: <https://www.justica.gov.br/sua-protecao/trafico-de-pessoas/redes-de-enfrentamento/portaria-31-de-20-08-2009-republicada.pdf>.

function is to provide reception services to Brazilians who are not admitted or are deported at the points of entry overseas.

8.6. National Committee to Combat Human Trafficking (CONATRAP)

CONATRAP is administratively linked to the Ministry of Justice and Public Security. The Committee proposes strategies to manage and implement the National Policy to Suppress Human Trafficking; encourages campaigns to suppress human trafficking; strengthens the expansion of the network to suppress human trafficking, especially NETP and PAAHM; and supports the state, district, and municipal committees to combat human trafficking.

The members of CONATRAP are the National Secretary of Justice of the Ministry of Justice and Public Security, who presides over it; the Ministry of Foreign Affairs; the Ministry of Citizenship; the Ministry of Women, the Family and Human Rights; and three NGOs or public policy councils that have the purpose of suppressing human trafficking.

8.7. Information Management

The National Policy to Suppress Human Trafficking aims to improve the quality of human trafficking data. In 2013, the National Secretariat of Justice began to develop an integrated method for collecting and analyzing human trafficking-related data in Brazil.

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