



doi 10.5020/2317-2150.2025.16847

State omission in fighting undignified working conditions: invisible contemporary slavery

*A omissão estatal no combate às condições indignas de trabalho: a escravidão contemporânea invisível**La omisión estatal en la lucha contra las condiciones indignas de trabajo: la esclavitud contemporánea invisible*

Diogo de Almeida Ferrari * , Universidade de Santa Cruz do Sul, Santa Cruz do Sul, Rio Grande do Sul, Brasil

Suzéte da Silva Reis ** , Universidade de Santa Cruz do Sul, Santa Cruz do Sul, Rio Grande do Sul, Brasil

Editorial

Histórico do Artigo

Recebido: 28/03/2025

Aceito: 27/05/2025

Eixo Temático 1: Direito, Democracia e Justiça Social

Editores-chefes

Katherine de Macêdo Maciel Mihaliuc
Universidade de Fortaleza, Fortaleza, Ceará,
Brasil
katherine@unifor.br

Sidney Soares Filho

Universidade de Fortaleza, Fortaleza, Ceará,
Brasil
sidney@unifor.br

Editor Responsável

Sidney Soares Filho
Universidade de Fortaleza, Fortaleza, Ceará,
Brasil
sidney@unifor.br

Autores

Diogo de Almeida Ferrari
diogoferrari@mx2.unisc.br
Contribuição: Conceptualization,
Methodology, Investigation,
Writing - Original Draft.Suzéte da Silva Reis, Universidade de
sreis@unisc.br
Contribuição: Writing - Review & Editing,
Supervision.

Financiamento:

O presente trabalho foi realizado com apoio da
Coordenação de Aperfeiçoamento de Pessoal
de Nível Superior - Brasil (CAPES) - Código de
Financiamento 001

Como citar:

FERRARI, Diogo de Almeida; REIS,
Suzéte da Silva. A omissão estatal no
combate às condições indignas de
trabalho: a escravidão contemporânea
invisível. *Pensar - Revista de Ciências
Jurídicas*, Fortaleza, v. 30, e16847, 2025.
DOI: <https://doi.org/10.5020/2317-2150.2025.16847>

Declaração de disponibilidade de dados

A Pensar - Revista de Ciências Jurídicas adota práticas
de Ciência Aberta e disponibiliza, junto à presente
publicação, a Declaração de Disponibilidade de Dados
(Formulário Pensar Data) preenchida e assinada
pelos autores, a qual contém informações sobre a
natureza do artigo e a eventual existência de dados
complementares. O documento pode ser consultado
como arquivo suplementar neste site.

Abstract

This theoretical article, based on bibliographic and documentary research using secondary sources, examines how state omission contributes to the perpetuation of degrading working conditions and, consequently, to the persistence of contemporary slavery. Its objective is to discuss the State's failures in monitoring and addressing cases of labor analogous to slavery, with a focus on their implications within the scope of human rights. These aspects are addressed through a conceptual and normative analysis of the notion of contemporary slavery, which stands in contrast to decent work and, consequently, to the constitutional principle of human dignity. As preliminary findings, it was observed that although important mechanisms and public policies to combat contemporary slave labor have been developed over the decades, the eradication of contemporary slavery in the national territory remains far from being achieved. To fulfill its aim, the article adopts a deductive approach.

Keywords: combat; degrading conditions; human dignity; contemporary slavery; state omission.

Resumo

O presente artigo, de caráter teórico, fundado em pesquisa bibliográfica e documental para levantamento de dados em fontes secundárias, problematiza como a omissão estatal contribui para a perpetuação de condições de trabalho degradantes e, por consequência, na perpetuação da escravidão contemporânea. Como objetivo, busca-se discutir as falhas do Estado na fiscalização e atuação nos casos de trabalho análogo à escravidão, com enfoque em suas implicações no âmbito dos Direitos Humanos. Estes aspectos são abordados a partir de uma análise conceitual e normativa do conceito de escravidão contemporânea, que se encontra em contraponto ao trabalho decente e, consequentemente, ao princípio constitucional da dignidade da pessoa humana. Em sede de resultados preliminares, verificou-se que importantes mecanismos e políticas públicas voltados à repressão do trabalho escravo contemporâneo foram desenvolvidos ao passar das décadas. Contudo, ainda se está longe de alcançar a erradicação da escravidão contemporânea no território nacional. Para atender ao proposto, este artigo utiliza como método de abordagem dedutivo.

Palavras-chave: combate; condições degradantes; dignidade da pessoa humana; escravidão contemporânea; omissão estatal.

Resumen

El presente artículo, de carácter teórico y basado en una investigación bibliográfica y documental para la recopilación de datos en fuentes secundarias, problematiza cómo la omisión del Estado contribuye a la perpetuación de condiciones laborales degradantes y, en consecuencia, a la persistencia de la esclavitud contemporánea. Como objetivo, se pretende discutir las fallas del Estado en la fiscalización y actuación en los casos de trabajo análogo a la esclavitud, con énfasis en sus implicaciones en el ámbito de los Derechos Humanos. Estos aspectos se abordan a partir de un análisis conceptual y normativo del concepto de esclavitud contemporánea, que se contraponen al trabajo decente y, por ende, al principio constitucional de la dignidad de la persona humana. En cuanto a los resultados preliminares, se constató que importantes mecanismos y políticas públicas destinadas a la represión del trabajo esclavo contemporáneo han sido desarrollados a lo largo de las décadas. No obstante, aún se está lejos de lograr la erradicación de la esclavitud contemporánea en el territorio nacional. Para cumplir con el objetivo propuesto, este artículo utiliza el método de enfoque deductivo.

Palabras clave: lucha; condiciones degradantes; dignidad de la persona humana; esclavitud contemporánea; omisión estatal.

* Mestrando no Programa da Pós-Graduação em Direito - Mestrado e Doutorado da Universidade de Santa Cruz do Sul - UNISC, Área de Concentração em Direitos Sociais e Políticas Públicas, na Linha de Pesquisa Constitucionalismo Contemporâneo, com bolsa PROSUC/CAPES, modalidade II. Graduado em Direito na Universidade de Santa Cruz do Sul. Integrante do Grupo de Pesquisas Relações de Trabalho na Contemporaneidade, vinculado a Linha de Pesquisa Constitucionalismo Contemporâneo, do Programa de Pós-Graduação em Direito - Mestrado e Doutorado, na Universidade de Santa Cruz do Sul - UNISC, coordenado pela Profa. Dra. Suzéte da Silva Reis. Advogado Sócio do Escritório Leone Pereira & Vanessa Menchen Advocacia (LPVM).

** Doutora em Direito na Universidade de Santa Cruz do Sul - UNISC. Mestre em Direito - Área de Concentração: Políticas Públicas de Inclusão Social, com bolsa da Coordenação de Aperfeiçoamento de Pessoal de Nível Superior - CAPES, pela UNISC. Professora do Programa de Pós-Graduação em Direito - Mestrado e Doutorado, na Universidade de Santa Cruz do Sul - UNISC. Professora de Direito do Trabalho e Processo do Trabalho na Universidade de Santa Cruz do Sul - UNISC. Coordenadora do Grupo de Pesquisa "Relações de Trabalho na contemporaneidade", vinculado ao Grupo de Pesquisa Constitucionalismo Contemporâneo, do Programa de Pós-Graduação em Direito - Mestrado e Doutorado, da UNISC. Professora em cursos de Especialização Latu Sensu na área de Direito do Trabalho, em diversas universidades. Graduada em Pedagogia, pelas Faculdades Integradas de Santa Cruz do Sul (1990).



1 Introduction

Brazil stands out among American countries for having been one of the forerunners in the practice of slavery, as well as for having been the last to abolish it, although although formally extinguished at the end of the 19th century with the enactment of the Golden Law, slavery permeates today's labor relations.

Slavery in its colonial form, although formally abolished, has remnants in contemporary times, especially in the idea of the superiority of the service provider over the worker, which has a direct impact on current labor relations. Although there is no longer the figure of the slave as the master's property, it is still possible to see the structural impacts of colonial slavery today.

Currently, among the various forms of contemporary slave labor are work in degrading conditions, submission to forced labor and exhausting working hours and, not so common but still existing, the restriction of freedom.

It should be noted that contemporary slavery stems from a long history of economic and cultural discrimination, internalized in the capitalist ideal, which has required, over the years, numerous fronts of action to seek the eradication of work in conditions analogous to slavery, through public bodies such as the Labor Prosecutor's Office and the Federal Police, and through the creation of a criminal type, later expanded. However, these actions are still insufficient to combat the current forms of slavery, which have improved over time.

When we talk about slavery, whether in its primitive form, where slaves were the property of their masters, or in its contemporary form, where workers are subjected to undignified working conditions, we must emphasize that we are talking about a frontal and direct attack on the constitutional precept of human dignity, which is inherent to each and every person.

The problem with this article is: how does state omission contribute to the perpetuation of degrading working conditions and, consequently, to the perpetuation of contemporary slavery?

Its general objective is to discuss the failures of the state to monitor and act in cases of work analogous to slavery, with a focus on its implications for human rights. Specifically, this article seeks to: (i) conceptually and normatively analyze what contemporary slavery is; (ii) discuss the urgent need to eradicate all forms of slavery in order to give effect to the constitutional precept of human dignity and; (iii) analyze contemporary slave labor as the result of structural omission, both by the state and by society.

Therefore, this study is justified by the need for scientific production on the problem of contemporary slavery in order to analyze the omissions present in contemporary times, as a way of proposing mechanisms for its eradication or, at the very least, its mitigation.

To this end, we used the deductive research method and the bibliographical research technique, based on a review of qualified literature on the subject of this study.

2 Contemporary slavery: a conceptual and normative analysis

Contemporary slavery does not currently have a defined concept. According to Reis (2019, p. 249) "slave labor is, therefore, a reduced form of work in conditions analogous to slavery and which represents the antithesis of decent work".

Thus, in the absence of a positive definition of the concept of contemporary slavery, the main reference is the definition of the crime of reduction to a condition analogous to slavery, enshrined in art. 149 of the Brazilian Penal Code (Brazil, 1940).

In its original wording, art. 149 of the Penal Code only imposed a penalty of 2 (two) to 8 (eight) years for anyone who committed the crime of reducing someone to a condition analogous to slavery (Brazil, 1940), without, however, regulating or even discussing which acts or omissions would characterize this type of crime. It was only in 2003, through the wording given by Law No. 10,803, that the concept of work in conditions analogous to slavery was broadened, and this amendment has remained in force. See below:

Art. 149 - Reducing someone to a condition analogous to slavery, either by subjecting them to forced labor or exhausting working hours, or by subjecting them to degrading working conditions, or by restricting, by any means, their locomotion due to a debt contracted with the employer or agent: (Wording given by Law No. 10.803, of 11.12.2003)

Penalty - imprisonment, from two to eight years, and a fine, in addition to the penalty corresponding to

the violence. (Edited by Law no. 10.803, of 11.12.2003)

§ Paragraph 1º The same penalties apply to anyone who: (Included by Law No. 10.803, of 11.12.2003)

I - restricts the worker's use of any means of transportation, with the aim of keeping them at the workplace; (Included by Law no. 10.803, of 11.12.2003)

II - maintaining ostentatious surveillance at the workplace or taking possession of the worker's personal documents or objects in order to detain them at the workplace. (Included by Law no. 10.803, of 11.12.2003)

§ Paragraph 2º The penalty is increased by half if the crime is committed: (Included by Law No. 10.803, of 11.12.2003)

I - against a child or adolescent; (Included by Law no. 10.803, of 11.12.2003)

II - for reasons of prejudice based on race, color, ethnicity, religion or origin. (Included by Law nº 10.803, of 11.12.2003) (Brasil, 2003, https://www.planalto.gov.br/ccivil_03/LEIS/2003/L10.803.htm#art149)

It can therefore be seen that it was only after the enactment of Law 10.803/2003 that the actions (or even omissions) that constitute the crime of reduction to slavery were clearly defined (Brasil, 2003).

As Arbex, Galiza and Oliveira (2018) explain, in order to be able to discuss the existence of contemporary slavery, it was initially necessary to deconstruct the stereotype of the "colonial slave", who was the property of the masters, in order to then face the current problem objectively. Only then was it possible to modify the criminal type in art. 149 to its current wording:

With this, the exploitation of work analogous to slavery was also typified by "exhausting working hours" and "degrading working conditions". Debt bondage and the restriction of freedom, now characterized by ostentatious surveillance, the retention of personal documents or the restriction of the use of means of transport (Brasil, 2003, § 1, items I and II), continued to be valid as defining criteria of slave labour, but the expansion of the concept to include situations of exhausting working hours and degrading conditions meant a crucial advance in that it set a criminal limit on practices that attack human dignity, previously punishable only by labour legislation (Arbex; Galiza; Olivera, 2018, p. 117).

In this scenario, "Freedom is precisely the counterpoint to contemporary slavery, which affects what is most dear to human beings, which is their dignity" (Reis; Jaques, 2022, p. 289).

According to Brito Filho (2006, p. 133), contemporary slave labor can be defined as the "exercise of human labor in which there is a restriction, in any form, on the freedom of the worker or when the minimum rights for the protection of the dignity of the worker are not respected".

Currently, the characterization of contemporary slavery is not limited to the restriction of the subject's freedom of movement, but can also be manifested through the submission of workers to exhausting working hours, forced labour and degrading conditions (Reis; Jaques, 2022).

It should be noted that slavery, in its current form, stems from a long history of discrimination against people in the face of the economic scenario, rooted in the predominance of increasing capital over any cost and thing, even if this meant violating the rights inherent to the human person (Reis; Jaques, 2022). Finally, the amendment to the legal text of Article 149 of the Penal Code, introduced by Law 10.803/2003, was justified.

Likewise, in line with the necessary legislative evolution that took place in 2003, Bill 2098/2023 is currently before the Federal Senate, which seeks to amend the criminal code to make the crime of reduction to a condition analogous to slavery imprescriptible (Kajuru, 2023).

As the main arguments for the legal change, the author of the bill cites the Argument for Non-Compliance with Fundamental Precept (ADPF) 1.053, proposed by the Attorney General's Office of the Republic on April 3, 2023, which states that the prohibition of slave labor stems not only from constitutional precepts, but also from international decisions and norms, which is why it is the responsibility of the government to adequately protect the subjects of rights and punish those who commit the crime, regardless of the time (Kajuru, 2023).

However, as a real legislative step backwards, the House of Representatives is currently considering Bill 2464/2015, which seeks to change the current wording of Article 149 of the Penal Code, reducing the criminal type to only submission to forced labor and restriction of freedom of movement (Sperafico, 2015).

Despite all the arguments put forward in the bill's justification, these are reduced to the argument of "legal uncertainty", caused by the "lack of definition of the concepts" of exhausting working hours and degrading working conditions, for the legislative change (Sperafico, 2015).

Thus, once these proposed changes are made to the criminal type provided for in art. 149 of the Penal Code, the likelihood of an increase in the possibilities of exploiting contemporary slave labor would be too high, added to the fact that a strong restriction would be created on the scope of inspection by state agencies.

It should be noted that, according to the definition set out in art. 149 of the Penal Code, the active subject of the criminal type can be anyone who subjects another individual to conditions analogous to slavery, not necessarily the employer. The passive subject, on the other hand, must be the employee, even if the employment relationship is not formally recognized (Reis; Jaques, 2024).

In this vein, when the active subject practices the incriminating criminal type, he or she is directly violating at least three of the fundamental rights provided for in our Federal Constitution: freedom, equality and the dignity of the human person (Reis; Jaques, 2024).

For this reason, “It seems important that the policy monitors and plans strategic actions to identify new spaces and new ‘forms’ of slave labor in the country” (Arbex; Galiza; Oliveira, 2018, p. 127). Similarly, Reis and Jaques (2024) state that in order to make the right to decent work a reality, it is necessary to value the dignity of the human person, in other words, it is necessary to recognize not only their dignity, but also the dignity of others.

Despite national and international legal provisions for the eradication of all forms of slavery, based on the principle of human dignity, which is intrinsic to everyone, it is violated on a daily basis. The various fronts of state action and inspection, coordinated mainly by the Labor Prosecutor’s Office and the Federal Police, are not unknown or ignored. However, this system is still precarious, given how many workers are subjected to conditions analogous to slave labor.

In view of this violation of constitutional and international rights, the role of the state in combating degrading working conditions is analyzed from the perspective of human dignity.

3 The dignity of the human person: the urgent need to combat all forms of slavery

The right to decent work is part of the constitutional principle of human dignity, the cornerstone of Brazil’s federal system. As such, it is up to the state and civil society, in competition, to make it a reality (Brasil, 1988).

It should be noted that the right to work is included in the list of social rights in the Magna Carta, and is certainly not only a right attributed to the human person, but also an imposition on the state to guarantee its validity and effectiveness (Brasil, 1988). Therefore, “the employment relationship does not need to be seen as a relationship of antagonistic poles, but rather interdependent and complementary, with equal importance as human beings integrated into a society (Reis; Jaques, 2022, p. 289).

According to Sarlet (2007, p. 383):

[...]the dignity of the human person is the intrinsic and distinctive quality recognized in each human being that makes them worthy of the same respect and consideration by the State and the community, implying, in this sense, a complex of fundamental rights and duties that ensure the person both against any act of a degrading and inhuman nature, as well as guaranteeing them the minimum existential conditions for a healthy life, in addition to fostering and promoting their active and co-responsible participation in the destinies of their own existence and of life in communion with other human beings (emphasis in original).

It follows, therefore, that the constitutional principle of the dignity of the human person is inherent to each and every person, even if this precept is not always concretely realized (Sarlet, 2007).

However, it goes without saying that the dignity of the human person is also enshrined in Article 1 of the Universal Declaration of Human Rights, which states that “all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood” (UN, 1948).

It should be emphasized that the human person is a social being and “productive work is the bridge through which man overcomes the subject-object dualism and saves his isolation, becoming a social being, ensuring through work the existence of his species” (Olea, 1997, p. 52).

According to Bengoechea (2005, p. 27):

The essential mission of labor law is, perhaps, to ensure respect for the dignity of workers. There would be no true social and democratic rule of law without respect for the dignity of workers. It would be the enshrinement of the principle “pro dignitate laboratoris.”

Ferrari (1961, p. 13) points out that “economic relationships, properly organized, serve to create good material conditions of life for the benefit of all, since otherwise it would be unfounded to seek to establish such relationships between men”.

At this point, it should be pointed out that a life without alternatives, in which the worker is subjected to working conditions analogous to slavery, is not in line with what the legislator sought when he established the constitutional principle of the dignity of the human person, since life cannot be reduced to a mere economic character (Sarlet, 2013).

In this vein, Reis and Jaques (2024, p. 73-74) provide a valuable lesson:

[...] the fight against contemporary slave labor presupposes the adoption of measures in the areas of prevention, repression and also compensation, as well as public policies for the social reintegration of workers after they have been rescued, since only the removal of this condition by inspection agents will not be enough to fully restore the dignity of the human being. At the administrative level, the labor inspectorate checks whether workers are subject to forced labor, debt bondage, exhausting working hours or degrading conditions, by verifying basic living conditions on site, such as precarious housing, improper and insufficient food, undrinkable water, lack of registration on the CTPS, lack of compliance with occupational safety standards and physical or moral aggression. If such violations are found, the workers are rescued, paid the labor costs related to the termination of a contract and returned to their place of origin.

It should be noted that the existence of minimum rights to freedom, equality, compatible pay and work in decent conditions are minimum rights that are a prerequisite for the existence of work (Reis, 2019).

Reis and Jaques (2024, p. 87) state that “Working with dignity and equal opportunity, with the aim of general well-being, gives social rights the status of human rights, since work cannot be considered a mere input for production”.

Therefore, in order to create, improve and make effective the right to decent work, especially by combating all forms of slavery, it is up to the State to develop and implement public policies which, according to Reck (2018, p. 117) are “a unity of differences”.

Furthermore, Reck (2018) explains that public policies form a conglomerate that specializes in something, with values to be achieved through the necessary measures and means. In this respect, it is necessary to mention that, when talking about public policies, they are not reduced to mere Police Power, which is an instrument of public policy and not a synonym (Reck, 2018). In the words of Reck (2018, p. 120), “It is important to clarify that the mere use, for example, of Police Power, is not public policy. It is an instrument of public policy. Distributing condoms is not public policy, but a public health policy program.”

Therefore, it is up to the State to adopt the necessary measures to implement public policies with the aim of protecting the right to decent work and eradicating all forms of slavery, while the more the constitutional precept of human dignity is put into effect, the greater social progress will be with the consequent reduction of existing inequalities (Reis; Jaques, 2024).

According to Arendt (2003, p. 31):

The world is not human simply because it is made by human beings, nor does it become human simply because the human voice resonates in it, but only when it becomes an object of discourse. [...] We humanize what goes on in the world and in ourselves just by talking about it, and in the course of doing so we learn to be human. This humanitarianism that is achieved in the discourse of friendship was called philanthropy by the Greeks, the love of man, since it manifests itself in the readiness to share the world with other men.

Thus, in response to the precarious conditions of work, which is moving towards the existence of contemporary slave labor, the State is required, through the implementation of public policies, to analyze the global economic context in order to prevent and reduce degrading working conditions (Reis; Jaques, 2024).

In this vein, “The lack of adequate investment in education and child labor present a relationship that violates the essential right of the human being from birth, that is, the right to respect as a developing person” (Reis; Jaques, 2024, p. 93).

According to Reis and Jaques (2022, p. 292):

In the same way, the state has a social responsibility to contribute to overcoming social inequalities and guaranteeing access for all to the decent job market, since labor law arises from the perspective

of fundamental rights with progressive state intervention to mitigate such inequalities and protect the autonomy of will, since this is relative given the need for survival of workers who, at least for the most part, would accept anything to stay alive, even if it meant a lack of dignity in working conditions.

In the same vein, Reis and Freitas (2017) state that the realization of the right to decent work is still an obstacle, especially considering the lack of compliance with both constitutional and labor precepts. In view of this, the next section analyzes contemporary slavery as a reflection of the omissions of both the state and society.

4 Contemporary slave labor as a reflection of structural omissions

As mentioned above, while Brazil is moving towards the eradication of contemporary slavery, through inspection and enforcement groups, as well as public policies aimed at strengthening decent work, it is going backwards when legislators seek to restrict criminal legislation on work in conditions analogous to slavery, as is the case with Bill No. 2464/2015, currently before the Chamber of Deputies, which seeks to exclude from art. 149 of the Penal Code the figure of “exhausting working hours” and “degrading working conditions” (Brazil, 1940).

In this sense, Arbex, Galiza and Oliveira (2018, p. 119) point out:

The progress experienced, however, does not mean that the policy of eradicating contemporary slave labor is consolidated, free of disputes and immune to setbacks. On the contrary, the disputes surrounding the concept of slave labor, the competence of fiscal actions and the penalties owed by those who practice it are permanent and have been intensifying within the Three Branches of the Republic in recent times.

We cannot ignore the growing state action that began in 1888 with the enactment of the Golden Law (Brazil, 1888) in an attempt to reduce and eradicate all forms of slave labor. However, it should not be forgotten that the current national scenario, in which workers are still subjected to labor in conditions analogous to slavery, stems from the structural omission of both society and the state in creating and maintaining mechanisms designed to eradicate these practices from the colonial past.

It should be noted that, over the years, all labour practices have undergone changes, and this has been no different in relation to the practices that characterize contemporary slavery. Thus, what is clear is that slave labor was never actually abolished, but rather the forms of enslavement changed, while maintaining the invisibility of these workers (Costa, 2018).

According to Costa (2018, p. 46-47):

The new slaves occupy both rural and urban environments, as they have seasonality as a solution to their own social miseries. However, they remain “invisible”, serving as an instrument of domination and exploitation for their employer or employers, so that the owners of the machines have become the owners of the workforce that operates them, so that control over things becomes control over people, a situation that is repeated in all professional categories.

In this sense, it should be noted that while primary slave labor was legal, where the main characteristic was submission to forced labor and the restriction of the worker’s freedom due to debts, contemporary slave labor does not exclude these hypotheses, but also includes exhausting working hours and work in degrading conditions (Costa, 2018).

Therefore, contemporary slavery lies in the social misery of the worker, who ends up accepting unworthy working conditions purely and simply because of the consideration they receive, even if it is minimal.

It should be noted that the worker and work form an inseparable two-way street, since for work to exist, human existence is presupposed, and the human person only develops through work. “Labor, therefore, is the basis of social segments, as well as being the driving force behind human identity and subjectivity (Miraglia; Oliveira, 2018, p. 84).

On the other hand, Zanella (2015) explains that reducing the human person to a solely capitalist viewpoint, as if they were a commodity (which is what happens when workers are subjected to unworthy working conditions) does not fulfill the constitutional precepts sought by the legislator when he established the dignity of the human person and the right to decent work.

According to Miraglia and Oliveira (2018, p. 84) “Decent work is work that fulfills man as a being, allowing him to live and not merely survive”. In this sense, Reis and Jaques (2024, p. 72-73) highlight the need to recognize worker’s minimum human and social rights in order to eradicate contemporary slave labour:

Human rights and the principle of solidarity are structural elements for the eradication of contemporary slave labor in Brazil, because, under the first aspect, it is denoted that knowledge of the bases of human rights, going through the historical background, the consolidation of the value of the person in international norms, the return of ethics as recognition of the Other as an equal, free and dignified being, education as an element of the formation of a citizen in a democratic context, as well as the pillars of freedom, equality, dignity of the human person and fundamental rights are constitutive in the search for world peace and social justice. These structural elements are essential in the eradication of contemporary slave labor, requiring public policy measures from the perspective of dignified and universal work focused on the human person as the primary value and capital as a means to achieve work in conditions of social well-being.

Thus, in order for everyone to be treated equally, without discrimination, whether cultural, social or racial, it is necessary for the government to adopt measures for both the protection and education of people, so that human dignity prevails over capital, thus providing greater effectiveness in combating slave labor (Reis; Jaques, 2024).

Therefore, as Arendt (2007, p. 223) emphasizes, “the assumption that a person’s identity transcends, in magnitude and importance, everything they can do or produce is an indispensable element of human dignity”, which is why the condition of human dignity must be the focus of current and future debate, both by the state and society.

Therefore, it is worth remembering that Brazil is a signatory to Convention 29 of the International Labor Organization (ILO, 1930) on forced or compulsory labor, as well as Convention 105 of the same Organization (ILO, 1957) on the abolition of forced labor. It should also be noted that in 1992 Brazil ratified the International Covenant on Civil and Political Rights (UN, 1966) and the American Convention on Human Rights (UN, 1969), which expressly prohibit slavery and forced labor.

In this scenario, specifically in relation to ILO Convention 29, which, although promulgated in 1930, was only ratified by Brazil in 1957, the State obliged itself to suppress all forms of forced or compulsory labor in the shortest possible period (ILO, 1930). Similarly, with regard to ILO Convention 105, Brazil also undertook to abolish forced or compulsory labor and not to resort to it in any way (ILO, 1957). However, more than six decades after its ratification, Brazil is still trying to eradicate work in conditions analogous to slavery.

According to data from the Digital Observatory on Slave Labor in Brazil, between 1995 and 2024, 65,598 (sixty-five thousand five hundred and ninety-eight) workers were rescued in conditions analogous to slavery, resulting in an average of 2,104.5 (two thousand one hundred and four virgula five) workers rescued every year (SmartLab, 2025). In 2024 alone, 2,101 (two thousand one hundred and one) workers were rescued (SmartLab, 2025), an almost identical number to the average of the other years, which confirms the permanence of workers in conditions analogous to slavery today.

Furthermore, according to information from “Disque Direitos Humanos”, commonly known as “Disque 100”, between 2012 and 2019 workers were rescued working exhausting hours, representing a total of 26.9 (twenty-six point nine percent) of the total, followed by workers in degrading conditions, restriction of freedom and/or inability to leave the place or service, and, finally, workers in conditions of debt bondage, highlighting that the latter was a striking feature of the colonial slavery period.

It is said that contemporary slave labor stems, in addition to colonial practices, where the worker was the property of the master, from the primitive idea that still exists of the superiority of one over the other. In other words, there is a narcissistic wound rooted in society that makes society disciples of capitalism, while “We have barely begun to be colonized and we are already living with institutionalized enslavement” (Severo, 2021, p. 2).

In order to eradicate work in conditions analogous to slavery, it is initially necessary to recognize that there is normality in the difference between people and that, even if this difference exists, there is no justification for treating one worker or another unequally. As Arendt (2007, p. 1888) teaches, “if they were not different, if each human being did not differ from all those who have existed, exist or will exist, men would not need speech or action to make themselves understood”.

In this respect, it is necessary to emphasize that, although in the colonial period the difference of race and social class was one of the determining factors in perpetuating slavery, today this idea must be eradicated, because “In man, the otherness that he has in common with everything that exists, and the distinction that he shares with everything that lives, become singularity, and human plurality is the paradoxical plurality of singular beings” (Arendt, 2007, p. 189). In other words, singularity is what makes each subject of law a complete being, and discrimination or even enslavement on the grounds of skin color or socioeconomic status cannot be justified.

This fact corroborates the observed trend that the dignity of the human person is gaining prominence in all scenarios, both social and state. This is because, according to Sarlet (2007), the dignity of the human person is intrinsic to it, being an element that constitutes the subject of rights and, therefore, inseparable from it.

It follows that contemporary slavery stems from a long process of social evolution, as a reflection of colonial slavery and the discrimination that exists in our society. It is therefore an urgent need to maximize state action to reduce this primitive idea of one person's property over another, as well as to curb the forms of discrimination and inequality that exist in today's society.

5 Final considerations

Based on the analysis carried out here, it was possible to demonstrate that contemporary slavery is still present in Brazil through practices that have already become naturalized and invisible, such as exhausting working hours and degrading working conditions, which directly violate the constitutional precept of human dignity. Likewise, it was possible to verify that there is a structural omission on the part of the state and society, both in terms of inspection and in terms of drawing up and implementing public policies for the prevention, repression and social reintegration of rescued workers. It was also found that legislative proposals aimed at retrogression represent a real risk, as they weaken the entire protective structure that has been created so far.

In view of this, this article reinforces the urgent need for the state to work together with society to not only repress, but also to formulate mechanisms and public policies to prevent and curb all forms of contemporary slave labor.

References

- ARBEX, A.; GALIZA, M.; OLIVEIRA, T. A política de combate ao trabalho escravo no período recente. **Repositório do Conhecimento do Ipea**, [s. l.], n. 64, p. 111-137, abr. 2018. Disponível em: <https://repositorio.ipea.gov.br/handle/11058/8385>. Acesso em: 30 jan. 2025.
- ARENDT, H. **A condição humana**. 10. ed. Rio de Janeiro: Forense Universitária, 2007.
- ARENDT, H. **Homens em tempos sombrios**. São Paulo: Companhia das Letras, 2008.
- BENGOCHEA, J. A. S. **Los derechos fundamentales y el contrato de trabajo**. Madrid: Civitas, 2005.
- BRASIL. **Projeto de Lei nº 2.098, de 26 de abril de 2023**. Altera o art. 149 do Decreto-Lei nº 2.848, de 7 de dezembro de 1940 (Código Penal), para considerar o crime de “redução a condição análoga à de escravo” imprescritível. Brasília, DF: Senado Federal, 2023. Disponível em: <https://www25.senado.leg.br/web/atividade/materias/-/materia/157064>. Acesso em: 29 jan. 2025.
- BRASIL. **Lei nº 10.803, de 11 de dezembro de 2003**. Altera o art. 149 do Decreto-Lei nº 2.848, de 7 de dezembro de 1940 - Código Penal, para estabelecer penas ao crime nele tipificado e indicar as hipóteses em que se configura condição análoga à de escravo. Brasília, DF: Presidência da República, 2003. Disponível em: https://www.planalto.gov.br/ccivil_03/Leis/2003/L10.803.htm. Acesso em 31 jan. 2025.
- BRASIL. Câmara dos Deputados. **Projeto de Lei nº 2.464, de 2015**. Altera o “caput”, do artigo 149, do Decreto-Lei nº 2.848, de 7 de setembro de 1940, alterado pela Lei n. 10.803, de 11 de dezembro de 2003, que instituiu o Código Penal, a fim de alterar o conceito do tipo penal de submeter alguém a condições análogas à de escravo. Brasília, DF: Câmara dos Deputados, 2015. Disponível em: <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=1594511>. Acesso em: 29 jan. 2025.
- BRASIL. [Constituição (1988)]. **Constituição da República Federativa do Brasil de 1988**. Brasília, DF: Presidência da República, [2023]. Disponível em: http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Acesso em: 20 jan. 2025.
- BRASIL. **Decreto-lei nº 5.452, de 1º de maio de 1943**. Aprova a Constituição das Leis do Trabalho. Brasília, DF: Presidência da República, 1943. Disponível em: https://www.planalto.gov.br/ccivil_03/decreto-lei/del5452.htm. Acesso em: 20 jan. 2025.

BRASIL. **Decreto-lei nº 2.848, de 7 de dezembro de 1940.** Código Penal. Brasília, DF: Presidência da República, 1940. Disponível em: https://www.planalto.gov.br/ccivil_03/decreto-lei/del2848compilado.htm. Acesso em: 20 jan. 2025.

BRASIL. **Lei nº 3.353, de 13 de maio de 1888.** Declara extinta a escravidão no Brasil. Rio de Janeiro. 1888. Disponível em: https://www.planalto.gov.br/ccivil_03/leis/lim/lim3353.htm#:~:text=LEI%20N%C2%BA%203.353%2C%20DE%2013%20DE%20MAIO%20DE%201888.&text=A%20Princesa%20Imperial%20Regente%2C%20em,lei%20a%20escravid%C3%A3o%20no%20Brasil. Acesso em: 20 jan. 2025.

BRITO FILHO, J. C. M. de. Trabalho com redução à condição análoga à de escravo: análise a partir do tratamento decente e de seu fundamento, a dignidade da pessoa humana. *In*: VELLOSO, G.; FAVA, M. N. (org.). **Trabalho escravo contemporâneo: o desafio de superar a negação.** São Paulo: LTR, 2006. p. 125-150.

COSTA, F. O. da. A lógica da dominação presente no trabalho escravo colonial e no trabalho escravo contemporâneo. *In*: MIRAGLIA, L. M. M.; HERNANDEZ, J. do N.; OLIVEIRA, R. F. de S. (org.). **Trabalho escravo contemporâneo: conceituação, desafios e perspectivas.** Rio de Janeiro: Lumen Juris, 2018. p. 33-48.

FERRARI, F. de. **Lecciones de derecho del trabajo.** T. 1. Montevideo: Facultad de Derecho, 1961.

MIRAGLIA, L. M. M.; OLIVEIRA, R. F. de S. A Reforma trabalhista e o trabalho escravo contemporâneo: análise dos impactos da terceirização irrestrita e da banalização do trabalho em sobrejornada. *In*: MIRAGLIA, L. M. M.; HERNANDEZ, J. do N.; OLIVEIRA, R. F. de S. (org.). **Trabalho escravo contemporâneo: conceituação, desafios e perspectivas.** Rio de Janeiro: Lumen Juris, 2018. p. 83-101.

OLEA, M. A. **Introdução ao direito do trabalho.** Curitiba: Genesis, 1997.

ORGANIZAÇÃO DAS NAÇÕES UNIDAS. **Convenção americana sobre direitos humanos.** São José da Costa Rica: ONU, 1969. Disponível em: https://www.cidh.oas.org/basicos/portugues/c.Convencao_Americana.htm. Acesso em: 28 maio 2025.

ORGANIZAÇÃO DAS NAÇÕES UNIDAS. **Declaração universal dos direitos humanos.** Nova Iorque: ONU, 1948. Disponível em: <https://www.unicef.org/brazil/declaracao-universal-dos-direitos-humanos>. Acesso em: 25 jan. 2025.

ORGANIZAÇÃO DAS NAÇÕES UNIDAS. **Pacto internacional dos direitos civis e políticos.** Nova Iorque: ONU, 1966. Disponível em: <https://www.oas.org/dil/port/1966%20Pacto%20Internacional%20sobre%20Direitos%20Civis%20e%20Pol%C3%ADticos.pdf>. Acesso em: 28 maio 2025.

ORGANIZAÇÃO INTERNACIONAL DO TRABALHO. **Convenção sobre o trabalho forçado.** Genebra: OIT, 1930. Disponível em: https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029. Acesso em: 27 maio 2025.

ORGANIZAÇÃO INTERNACIONAL DO TRABALHO. **Convenção relativa à abolição do trabalho forçado.** Genebra: OIT, 1957. Disponível em: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_norm/@normes/documents/normativeinstrument/wcms_c105_pt.htm. Acesso em: 27 maio 2025.

RECK, J. R. Observação pragmático-sistêmica das políticas públicas e sua relação com os serviços públicos. *In*: BITENCOURT, C. M.; RECK, J. R. (org.). **Políticas públicas e matriz pragmático-sistêmica: os novos caminhos científicos do direito administrativo no Brasil.** Santa Cruz do Sul: Editora Essere nel Mondo, 2018. p. 114-132. Disponível em: <https://www.esserenelmondo.com.br/pt/direito-politicas-pUbricas-e-matriz-pragmAtico-sistEmica-ebook124.php>. Acesso em: 31 jan. 2025.

REIS, S. da S. A atuação do poder judiciário e a proteção da dignidade dos trabalhadores nas situações de trabalho escravo contemporâneo. *In*: LEAL, R. G.; CANO, C. A.; SILVEIRA, A. A. S. (org.). **V Seminário internacional hispano-luso-brasileiro sobre direitos fundamentais e políticas públicas.** Santa Cruz do Sul: EDUNISC, 2019. p. 249-258.

REIS, S. da S.; FREITAS, P. A efetivação do direito fundamental ao trabalho na perspectiva do princípio da solidariedade. *In*: REIS, J. R. dos; BRANDT, F. (org.). **Intersecções jurídicas entre o público e o privado: a constitucionalização do direito privado**. Curitiba: Multideia, 2017. p. 63-82.

REIS, S. da S.; JAQUES, G. A política pública de combate ao trabalho em condições análogas à de escravo: argumentos éticos, morais e pragmáticos sob uma ótica sistêmica. **Revista Paradigma**, [s. l.], v. 33, n. 1, p. 70-96, 2024. DOI: <https://doi.org/10.55839/2318-8650RevParRPv33n1pa70-96>

REIS, S. da S.; JAQUES, G. O princípio da solidariedade social como um referencial teórico-estrutural na erradicação do trabalho escravo contemporâneo. **Opinión Jurídica**, [s. l.], v. 21, n. 44, p. 279-301, jan./jun. 2022. DOI: <https://doi.org/10.22395/ojum.v21n44a14>

SARLET, I. W. As dimensões da dignidade da pessoa humana: construindo uma compreensão jurídico-constitucional necessária e possível. **Revista Brasileira de Direito Constitucional**, [s. l.], v. 9, p. 361-388, jan./jun. 2007. Disponível em: <https://www.esdc.com.br/seer/index.php/rbdc/article/view/137>. Acesso em: 13 out. 2024.

SARLET, I. W. Dignidade (da pessoa) humana, mínimo existencial e justiça constitucional: algumas aproximações e alguns desafios. **Revista do CEJUR/TJSC: prestação jurisdicional**, Florianópolis, v. 1, n. 1, p. 29-44, 2013. Disponível em: <https://revistadocejur.tjsc.jus.br/cejur/article/view/24>. Acesso em: 13 out. 2024.

OBSERVATÓRIO da erradicação do trabalho escravo e do tráfico de pessoas. **SMARTLAB**, 2025. Disponível em: <https://smartlabbr.org/trabalhoescravo/localidade/0?dimensao=prevalencia>. Acesso em: 28 maio 2025.

SEVERO, V. S. Discussões sobre as consequências da justa causa nas relações de trabalho. **Pensar – Revista de Ciencias Jurídicas**, Fortaleza, v. 26, n. 2, p. 1-13, abr./jun. 2021. DOI: <https://doi.org/10.5020/2317-2150.2021.11586>

ZANELLA, L. M. Formas de trabalho escravo contemporâneo e a informação como ferramenta de prevenção. *In*: BRAGA, A. G. M.; ÁGUILA, I. M.; CUNHA, J. F.; BORGES, P. C. C. (org.). **Formas Contemporâneas de trabalho escravo**. São Paulo: UNESP, 2015. p. 34-57.