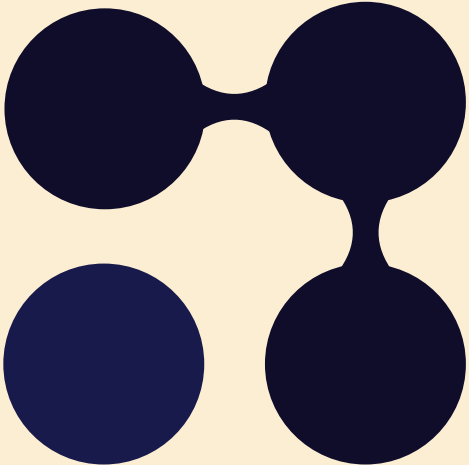


**Attempts at dismantling
and setbacks in the
slave labor fighting
system in brazil**





INTRODUCTION

Brazil has become internationally renowned for its innovative public policies in the fight against slave labor. The country presents an advanced penal legislation and has a series of public policies for the prevention and repression of slave labor. Together with inspection mechanisms and the training of agents responsible for fighting slave labor, these laws and policies have helped rescue over 57 thousand workers between 1995 and 2021¹.

However, a series of threats and setbacks are jeopardizing all of the work carried out in the last few decades. These enslaved workers are still being rescued, but only due to the strong foundations of the national slave labor fighting policy in Brazil and the commitment of multiple institutions involved with said rescue attempts that are weathering the intense blows against existing social and labor protections by corporate sectors and members of multiple levels of power in the Brazilian State.

In recent years, the Brazilian government has used budget cuts and the economic crisis as justification to implement measures that remove or weaken the rights of workers, to refrain from investing in social policies that fight the causes of many socio-economic vulnerabilities, and to cease fighting social and labor violations (particularly slave labor and people trafficking) to which more vulnerable people are subjected.

¹ Data obtained from the Labor Inspection Sub-secretariat Radar at <https://sit.trabalho.gov.br/radar/>

In 2017, the Brazilian congress passed a reform of the country's labor laws (**Law no. 13,467/2017**), which increased poorer labor conditions and informal labor². In 2019 in turn, a social security reform was passed, imposing stricter rules on the access to retirement pensions, disproportionately affecting informal and lower-income workers, with rural workers being particularly harmed³.

However, these reforms were not able to overcome the Brazilian financial crisis, the effects of which were further intensified by the impacts of the **COVID-19 pandemic**, which resulted in the deaths of over 600,000 people in the country as a result of the disease⁴. In 2021, the unemployment level reached 14.7% (over twice the global average), leading the country to rank 4th among the highest unemployment rates in the world⁵.

The disappearance of jobs and the weakening of the social and labor protection net **intensified social problems** experienced by the majority of the population⁶, contributing to increase social inequality in the country and the number of Brazilians suffering with famine⁷. In 2018, 85 million Brazilians were under some degree of food insecurity. In 2020, in turn, the situation became worse: 58.7% of Brazilian homes experienced a food insecurity scenario, which means that 125.2 million Brazilians lacked full and permanent access to food⁸.

This scenario increased the number of workers under extreme vulnerability, who were therefore **more susceptible to being inducted into slave labor**. In 2021 alone, 1,937 workers were rescued from slave-like conditions⁹. The highest toll of rescue operations is still found in **rural areas**, which correspond to nearly 80% of the total rescue efforts¹⁰. However, the urban environment is also concerning, particularly in relation to sectors such as the civil construction and textile industries – however, up until 2020, the latter industry corresponded to less than 2% of the cases of released workers¹¹.

Whether in urban or rural areas, however, the profile of rescued workers demonstrates that this issue is characterized by a series of **intersectionalities**: the immense majority of rescued workers is black, has not completed elementary school, and is aged between 18 and 24 years¹².

2 See: <https://reporterbrasil.org.br/2018/11/em-um-ano-reforma-trabalhista-aumenta-informalidade-enfraquece-sindicatos/>

3 See: <https://www.redebrasilatual.com.br/trabalho/2019/05/contag-denuncia-impactos-da-reforma-da-previdencia-na-area-rural/>

4 See: <https://g1.globo.com/saude/coronavirus/noticia/2022/02/23/brasil-registra-956-mortes-por-covid-em-2-4-horas-media-movel-de-casos-completa-2-semanas-em-queda.ghtml>

5 See: <https://g1.globo.com/economia/noticia/2021/11/22/brasil-tem-a-4a-maior-taxa-de-desemprego-do-mun-do-aponta-ranking-com-44-paises.ghtml>

6 See: <https://www.cnnbrasil.com.br/nacional/fome-avanca-e-atinge-mais-9-milhoes-de-brasileiros-nos-ultimo-s-dois-anos/>

7 See: biblioteca.ibge.gov.br/visualizacao/livros/liv101749.pdf

8 See: <https://www.cnnbrasil.com.br/nacional/agravada-pela-pandemia-fome-avanca-no-brasil-e-atinge-33-milhoes-de-pessoas-diz-estudo/>

9 See: Painel de Informações e Estatísticas da Inspeção do Trabalho no Brasil em <https://sit.trabalho.gov.br/radar/>.

10 See: Painel de Informações e Estatísticas da Inspeção do Trabalho no Brasil em <https://sit.trabalho.gov.br/radar/>.

11 Data obtained from <https://smartlabbr.org/trabalhoescravo/localidade/0?dimensao=perfilCasosTrabalhoEscravo>

12 Data obtained from the 'Observatory for the Eradication of Slave Labor and People Trafficking. Brazil – Profile of Slave Labor cases', SmartLab, <https://smartlabbr.org/trabalhoescravo/localidade/0?dimensao=perfilCasosTrabalhoEscravo>

LACK OF STAFFING AND BUDGET CUTS TO INSPECTING AGENCIES

The Brazilian **Labor Inspection** agency, which is the body responsible for inspecting work conditions in Brazil (including those related to slave labor), underwent severe budget and staffing cuts

The **labor inspection staff** has been suffering a **significant decline** for years now. In the last ten years, the number of labor auditors went from 2,935 in 2010 to merely 2,050 in 2020¹³, which is far from enough in order to reach all regions of the country, particularly those that are more remote, and has hindered the monitoring and enforcement of labor laws by the State. There has been a long-standing deficit in the staffing of the Labor Inspection agency, which has been denounced by civil society organizations and by the labor auditors themselves, leading to a public statement by Conatrae (the National Slave Labor Eradication Commission)¹⁴.

In addition to the lack of staffing, the Labor Inspection agency has also suffered serious **budget cuts** that directly affect the public policy of fighting labor violations, including slave labor. In August 2017, rescue operations were even halted due to lack of funds¹⁵. After publicizing this fact, the head of labor inspection was fired by his superior authorities¹⁶. The budgetary issue was only rectified after intense pressure by institutions involved in the fight against slave labor in Brazil, including organized civil society entities and labor unions. However, in 2019, the funds for labor inspections were once again reduced, falling by 49% compared to the previous year¹⁷.

The government also prevented the inspection agency from obtaining funds through other means by **preventing the destination of funds** originated from fines and collective pain and suffering compensation to the Labor Prosecution Office (MPT). The grounds for that prevention were that the funds should be destined to the Diffuse Right Protection Fund (FDD) or the Worker Support Fund (FAT). It should be noted that none of these funds are meant to promote collective or unavailable labor rights. In other words, even though the destination of funds to the MPT for the prevention and fight against slave labor is established in the **2nd National Plan for the Eradication of Slave Labor**, said funds can no lon-


13 Ver: <http://www.wipsociology.org/2021/04/20/a-devastated-brazil-how-bolsonaro-has-dismantled-labor-and-environmental-protections/>

14 Ver: <https://www.gov.br/mdh/pt-br/acao-a-informacao/participacao-social/conatrae/NotaPblicaConcursoAuditorFiscaldoTrabalho.pdf>

15 The head of the Department of Surveillance to Eradicate Slave Labour (Divisão de Fiscalização para a Erradicação do Trabalho Escravo) presented official data to the Brazilian Senate that demonstrated this.

16 Ver: <https://oglobo.globo.com/economia/apos-critica-por-falta-de-verba-governo-decide-trocar-chefia-no-ministerio-do-trabalho-21930138>

17 Ver: <https://economia.uol.com.br/noticias/redacao/2020/01/02/2019-ano-fim-ministerio-do-trabalho-balanco-bruno-dalcolmo.htm>



The labor inspection staff has been suffering a significant decline for years.

ger be claimed by the labor inspection auditing body or other federal government entities, such as the Federal Police. This measure, in practice, hinders the capacity of the auditing body and the Brazilian State's labor inspection potential, since said funds helped purchase equipment for these operations. As an example, all vehicles of the Special Mobile Inspection Group were acquired in 2015 with funds destined to the MPT. Although these vehicles were old and had extensive mileage, the government did not update the fleet and, with the aforementioned measure, prevented the receipt of equipment and resources through these destinations. Initially, the destination of funds was prohibited only by the Ministry of Labor, but this later extended to other federal entities¹⁸.

Rescue and inspection operations are complex and demand resources for the purchase and renewal of work and logistics instruments, notably the vehicle fleet (which includes fuel), computer equipment, and the personal protection of auditors. The lack of funds directly affects the number of operations carried out in-person, the activities inspected, and the number of workers rescued. Since they involve higher costs, operations in remote areas have become less frequent, which has made workers in these areas more vulnerable.

However, the Labor Inspection agency was not the only entity harmed by the budget cuts, since these cuts included the policy of fighting slave labor as a whole. And there is no improvement in the foreseeable future. In the **2022 budget** proposed by the federal government, the Ministry of Labor and Social Security – to which the Labor Inspection agency is subordinated – was the government area that suffered the **highest budget cut** (to the tune of 1 billion Reais)¹⁹.

The budget for fighting slave labor was not only reduced, but also restricted and carried out without the proper accountability or explanations to civil society. According to data available on budget transparency platforms, the budget execution rate fell from 98% in 2018 to 44% in 2021. Unfortunately, the lack of transparency in government data prevents us from accurately ascertaining the amounts of budget cuts suffered by each mechanism of the national policy.

18 See: <https://www1.folha.uol.com.br/mercado/2021/11/pf-e-prf-recebem-recursos-de-infracoes-trabalhistas-na-contramao-de-ministerio-de-onyx.shtml?origin=folha>

19 See: https://www.em.com.br/app/noticia/politica/2022/01/25/interna_politica,1339956/area-social-sofre-cort-es-drasticos-com-tesouradas-no-orcamento.shtml

WEAKENING OF THE ADMINISTRATIVE PROTECTION SYSTEM

In addition, the current federal administration has sought to restructure the protection bodies that make up the administrative system for the fight against slave labor, making said system further subordinate to the demands of the Executive branch.

In 2019, the Ministry of Labor and Employment was **eliminated** and became a secretariat under the Ministry of Economy. This action removed the labor topic from the core of the Executive branch's concerns and left Brazil for two years without a central body responsible for making a systematic policy for employment in the country, in addition to responding to the demands of workers in increasingly fragile conditions. However, specialists suspect that the decision to recreate the Ministry 2021, far from indicating a concern with the high levels of unemployment in the country, was merely a political decision. It enabled the president to make over 200 political nominations for the body, which manages funds (the Severance Pay Indemnity Fund – FGTS, and the Deliberative Council of the Worker Support Fund – FAT) with assets totaling over half a billion reais²⁰.

Other measures have been made regarding the reduction of social participation in social matters and human rights. Decree No. 9,759, issued on April 11, 2019, determined the elimination of the councils and committees that were part of the National Social Participation Policy (PNPS)²¹. Among the many collegiate bodies affected, the **National Commission for the Eradication of Slave Labor** (Conatrae) requested its **recomposition** and had its claim granted. However, the Commission now has only 8 members (four government representatives and four members of civil society)²² – the latter being selected by a public invitation notice²³ for a two-year mandate. Although other civil society organizations can witness the meetings of Conatrae, they cannot propose topics for the agenda or vote on decisions.

This measure, presented with the rationale of containing expenses and eliminating councils that the government considered “superfluous”, did not save much in practice²⁶ and affected social participation on extremely important matters. The list of collegiate bodies eliminated by the presidential decree includes councils that discuss matters directly related to the environment, indigenous peoples, traditional communities, and agriculture. Although some of them have managed to reconvene, in practice, many of these councils remain depleted or unable to carry out concrete activities, existing solely in a formal sen-

20 See: <https://economia.ig.com.br/2021-07-27/fgts-anyx-que-des.html>.

21 See: <https://deolhonosruralistas.com.br/2019/04/17/decreto-de-bolsonaro-fragiliza-combate-ao-trabalho-es-cravo-no-campo/>

22 See Decree No. 9,887, issued on June 27, 2019, with provisions on the National Slave Labor Eradication Commission, at http://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2019/Decreto/D9887.htm#art11

23 See: <https://www.gov.br/mdh/pt-br/assuntos/noticias/2020-2/marco/ministerio-abre-processo-seletivo-para-comissao-nacional-de-erradicacao-do-trabalho-escravo>

se²⁴. It is worth noting that social participation is extremely relevant and that, without the pressure of organized civil society, Brazil would not be an international benchmark when it comes to fighting contemporary slave labor.

SETBACKS IN LEGISLATION

In the legislative sphere, some legislative reform bills that are particularly harmful to the protection of workers have often been discussed without any popular participation, particularly lacking the involvement of union entities and public bodies and entities that fight labor irregularities.

One particularly concerning example is the **Senate Draft Bill no. 432/2013**, which alters the concept of slave labor established in the Brazilian Penal Code, restricting it to cases of mere restriction of freedom. This proposed change directly contradicts the understanding of the International Labor Organization (ILO), which defines the current Brazilian concept as being adequate to describe contemporary forms of slave labor²⁵.

Furthermore, the Brazilian government has revised almost all **Regulatory Standards** of the Ministry of Labor that refer to work health and safety conditions²⁶. This revision has led to concern among experts, since these changes can particularly harm the granting of slave labor complaints, which are based on these standards, as well as increasing the figures of accidents and deaths of workers, including children and adolescents, in a country that already ranks second among G20 nations in terms of mortality resulting from work accidents²⁷.

Particularly in regards to **child labor**, estimates indicate that nearly 2 million children and adolescents aged 5 to 17 were in child labor situations in Brazil before the pandemic. From this total, 706,000 experienced the worst forms of child labor. Far from attempting to fight the issue, the Brazilian State has operated under the false assumption that child labor is a valid solution for poverty and unemployment, which is made evident by the legislative agendas that seek to reduce the protection granted towards children and adolescents. Examples of this include the Constitutional Amendment Proposal No. 18/2011, which reduces the minimum age for admission to employment to 14 years, and recent attempts

24 According to an assessment carried out by the Ministry of Economy and publicized by the O Globo newspaper: "these re-created councils represent only 1.2% of the total 2,593 collegiate bodies linked to the government". "A decree by the Bolsonaro administration maintains only 32 consultative councils", O Globo, June 29, 2019, _

25 See: <http://www2.camara.leg.br/camaranoticias/noticias/RELACOES-EXTERIORES/478351-PARA-OIT-BRASILE-REFERENCIA-MUNDIAL-NO-COMBATE-AO-TRABAJ-ESCLAVO.html>

26 See: <https://agenciabrasil.ebc.com.br/politica/noticia/2021-10/governo-faz-nova-revisao-de-normas-de-seguranca-no-trabalho#:~:text=O%20governo%20federal%20anunciou%20nesta,no%20di%C3%A1rio%20oficial%20da%20Uni%C3%A3o>

27 See: <https://g1.globo.com/economia/noticia/2021/05/01/brasil-e-2o-pais-do-g20-em-mortalidade-por-acidentes-no-trabalho.ghtml>.

Brazil's omission in legislating and/or enforcing existing protection laws has also been an issue.

to create atypical employment contracts for young workers that exempt employers from paying labor and social security rights²⁸.

Brazil's omission in legislating and/or enforcing existing protection laws has also been an issue. **Constitutional Amendment No. 81**, passed on 2014, which included a constitutional provision establishing the repossession of lands in which slave labor is employed (**article 243 of the Federal Constitution**) has not yet been regulated, and has therefore not been enforced. There are draft bills, such as 5970/2019, which seek to regulate the article so that it may be enforceable.

State Law No. 14,946/2013, passed in the state of São Paulo, stipulates that the owners of businesses that directly or indirectly use slave or slave-like labor should have their taxpayer registration voided²⁹, which would freeze their commercial transactions. This law, however, was never practically effective: no taxpayer registration has ever been voided or removed from the taxpayer registry.

This omission is also evident when it comes to **international standards**. In spite of all the appeals, Brazil has not yet ratified the **2014 Protocol to the ILO Forced Labor Convention or the UN Convention on the Protection of the Rights of All Migrant Workers and their Families**.

IMPUNITY

This entire history is further aggravated and increased by the government's **inability to hold perpetrators criminally liable and to ensure proper reparations for victims**. Out of the 3,450 slave labor inspection operations carried out between 2008 and 2019, only 2,679 defendants were charged with the crime and, out of this subset, only 112 were convicted in a definitive capacity, which corresponds to 4.2% of all those accused and 6.3% of the number of people tried in court³⁰.

The **morosity in investigations and in the processing of lawsuits** by the Brazilian judicial system – which allows for many types of appeals, which are used skillfully by perpetrators to delay justice – often draw out the claims beyond their statute of limitations, preventing defendants from being held accountable³¹. The low chances of punishment offer

28 Examples include MP No. 881/2019, MP No. 905/2019 and MP No. 1045/2021.

29 The law is available at <https://www.al.sp.gov.br/repositorio/legislacao/lei/2013/lei-14946-28.01.2013.html>

30 See: <https://politica.estadao.com.br/blogs/fausto-macedo/trabalho-analogo-escravidaio-baixa-condenacao-justica-pesquisa-trabalho-escravo-na-balanca-da-justica-ufmg/>

31 See: <https://exame.com/brasil/quanto-tempo-a-justica-do-brasil-leva-para-julgar-um-processo/>

very little incentive to private actors and the State to comply with the legislative worker protection system, which enables the continuity of the cycle of abuse and impunity.

This delay in holding perpetrators accountable for labor violations has led to be internationally condemned in 2016. In the **Fazenda Brasil Verde** case, the Inter-American Court of Human Rights found that the Brazilian State violated the rights of 85 victims who were enslaved at a farm in the state of Pará in 2000, as well as other 43 workers rescued from the same estate in 1997. The Court considered that Brazil violated the rights of these individuals to freedom (particularly the right to not be subjected to any form of slavery or servitude), access to justice and reasonable duration of lawsuits, and that the victims did not receive proper judicial protection, which was synonymous with denying them access to justice. This was the first time the Inter-American Court condemned a State for slave labor³².

TRANSPARENCY

A successful strategy employed by Brazil when it comes to transparency is disclosing lists of perpetrators. To that end, a valuable instrument has been employed: the so-called “blacklist”, a registry of employers who have been proven to subject their workers to slave-like labor. The list is regularly updated and is publicly available. Although it has been generally acknowledged as being a good practice in promoting transparency on slave labor cases³³, the “blacklist” was suspended for over two years (2014 to 2016) by the Federal Supreme Court after a series of legal measures. In April 2016, the United Nations published a work document highlighting the many governance gaps pertaining to modern slavery in Brazil, recommending, among other measures, the reactivation of the ‘blacklist’³⁴. Even then, the Brazilian government continued its attempt to hinder transparency and weaken the labor protection framework by rendering the publication of the ‘blacklist’ conditional to a political decision by the federal government³⁵. Fortunately, this order was overturned by the Federal Supreme Court in 2020, restating that the list and its publication were supported by the Constitution³⁶.

However, Brazil lacks a legal framework demanding that companies publicly disclose data and information on their productive chain, which hinders control efforts and prevents all those involved with the practice of slave labor from being held accountable.

32 Decision available here: https://www.corteidh.or.cr/docs/casos/articulos/seriec_318_por.pdf

33 Read the official document at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/096/43/PDF/G1609643.pdf?OpenElement>.

34 See: <https://brasil.un.org/sites/default/files/2020-07/position-paper-trabalho-escravo.pdf>

35 See Normative Instruction No. 1.129/2017, issued on December 17, 2020, at https://www.in.gov.br/materia/-/asset_publisher/Kujrw0TZC2Mb/content/id/19356195/do1-2017-10-16-portari-a-n-1-129-de-13-de-outubro-de-2017-19356171.

36 See: <https://www.conectas.org/en/noticias/federal-supreme-court-decides-dirty-list-on-slave-labour-to-be-maintained/>.

CONCLUSION

Over the last few years, the Brazilian Government – in more than one administration – has used the justification of reducing expenses, maintaining a lean State, and the economic crisis as permissions to threaten rights: implementing measures that remove or weaken workers' rights, refraining from investing in social policies that fight the causes of multiple socio-economic vulnerabilities, and acting to fight social and labor violations (particularly slave labor and people trafficking) suffered by those most vulnerable in the country.

The policy of fighting slave labor has seen many administrations and has been internationally celebrated. However, even though there were slight advancements, the Brazilian State's history of actions in the last few years demonstrates that, far from intensifying efforts to increase the system of fighting and protecting against slave labor, **Brazil has moved backwards in many aspects.**

The **deteriorating reforms** carried out and constant **attacks against labor and social rights**, along with the **weakening of state bodies** through budget and resource cuts, have bolstered the context of extreme vulnerability and left workers unprotected.

In this sense, one could also mention the **interconnection between human rights violations and environmental degradation**: often, slave labor is connected to crimes such as illegal deforestation and other violations of environmental rights. In 2009, a study by the International Labor Organization (ILO) indicated the connection between this violation and deforestation in the Amazon when preparing the land to raise cattle and in activities pertaining to agriculture³⁷. In the last few years, the agricultural invasion of other Brazilian biomes extends this concern regarding the use of slave labor in these crops and the corresponding labor violations and environmental crimes. In this context, specialists have demonstrated their concern with recent decrees³⁸ and measures³⁹ by the federal government seeking to stimulate current clandestine prospecting operations (often associated with slave labor⁴⁰), reducing requirements for environmental licenses and even establishing a tacit license associated with the elapsing of a specific period of time⁴¹

In a scenario of economic crisis further intensified by the COVID-19 pandemic, the Brazilian State must act to prevent new people from being inducted and victimized by this crime and to rescue those that are already suffering violations to their human rights. The glo-

37 See: <https://reporterbrasil.org.br/2009/08/desmatamento-usa-o-trabalho-escravo/>

38 See: <https://g1.globo.com/meio-ambiente/noticia/2022/02/14/decreto-que-estimula-mineracao-artesanal-visa-legalizar-garimpo-apontam-ambientalistas.ghtml>

39 See: <https://www1.folha.uol.com.br/ambiente/2021/12/helena-diz-ser-legal-autorizacao-para-garimpo-na-amazonia-e-mpf-abre-apuracao.shtml>

40 See: <https://brasil.mongabay.com/2021/02/trabalho-escravo-em-garimpos-expoe-redes-criminosas-na-ama-zonia/>

41 BRAZIL. Presidency of the Republic. Decree No. 10.965, issued on February 11, 2022: See Decree No. 10.965/2022, Article 39: (...) § 1 The execution of the licensing registration by the ANM in a free area, provided that it is duly instructed in accordance with the procedures and requirements established in the ANM Resolution, will be completed within sixty days, counted from the date of presentation of the competent environmental license. § 2 Once the period referred to in § 1 has expired without the ANM having expressed itself, as long as the requirements referred to in that paragraph are met, the effects of the registration will be effected. Available at: http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2022/decreto/D10965.htm

bal health emergency and the difficulties generated by the worsening of economic figures cannot serve as justification for the State to cease fulfilling its obligations and to sacrifice those most vulnerable in the name of the ideologic concept of a lean State.

This document was collectively prepared by Conectas Human Rights, the Articulation of Rural Employees of Minas Gerais (ADERE/MG), the Business & Human Rights Resource Centre, Oxfam Brasil, and the National Confederation of Salaried Workers (CONTAR).

June 2022

