

“I Go to the Street and Drink the Storm”¹: observations about the unpleasantness of the umbrella of human trafficking in Brazil*

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Abstract

This article analyzes one of the aspects of the definition of “human trafficking”: slavery or practices similar to slavery. It presents the history of the native category “slave labor”, as currently used in Brazil, to allow correctly differentiating it from the international category of “human trafficking” or from contemporary campaigns against “sex trafficking” and “modern slavery”. It points to the idiosyncrasies of the introduction of the anti-trafficking agenda in Brazil, after the ratification of the Palermo Protocol, particularly its ability to weaken historic concerns of Brazilian society, such as confronting racism and the struggles for agrarian reform and worker rights.

Keywords: Slave Labor, Human Trafficking, Slavery, National Congress.

¹ Reference to the verses by Chico Buarque de Holanda in the song *Bom Conselho*: “Eu semeio o vento na minha cidade, vou pra rua e bebo a tempestade” [“I sow the wind in my city, I go to the street and drink the storm”], which is a criticism of the popular saying “One who sows the wind reaps a storm”. It can be heard at: <https://www.youtube.com/watch?v=wkcYU699Jj0>

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Introduction

Forced labor or services, slavery or practices similar to slavery and servitude are forms of exploitation linked to the definition of "human trafficking", according to article 3 item a, of the Protocol to Prevent, Repress and Punish Trafficking in Persons, under the United Nations Convention against Transnational Organized Crime, known in Brazil as the "Palermo Protocol".² In the case of Brazil, this definition of "human trafficking" must be analyzed with great care, given that it should not be confused with the native category "slave labor", which is a historic construction of Brazilian society, resulting from the tensions and conflicts in the field of land ownership and worker rights. To know the history of this category it is essential to be able to correctly differentiate it from the international category of "human trafficking" and the contemporary campaigns against "sex trafficking" and "modern slavery".³

I – "Slave labor" as a native category

As indicated by Dias (2014), contemporary Brazilian discourses that use the category of "human trafficking" (even qualifying it as "modern slavery") do not refer, even remotely, to the more than three centuries of continuous trafficking in slaves

² The expression, "trafficking in persons" or human trafficking, means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

³ About this issue, see the article by Kamala Kempadoo, "Revitalizing Imperialism: Contemporary Campaigns against Sex Trafficking and Modern Slavery", published in this collection.

towards Brazil. This author finds strange this lack of association between the exogenous concept of “human trafficking” and the historic reality of a country marked by slavery for centuries.

The trafficking in slaves and the legal institute of slavery began in Brazil, with the production of sugar for the metropole, in the first half of the sixteenth century. According to Joaquim Nabuco, a Brazilian intellectual and politician who participated in the campaign to abolish slavery, for more than three centuries millions of Africans were transported from Africa to Brazil whose descendants would form two-thirds of the population at the time of the campaign:

It cannot (...) be questioned that slavery brought from Africa to Brazil more than two million Africans; who, because of the interest of the master in the production of the womb slave, it favored when it could the fertility of the black women; that the descendants of this population compose at least two-thirds of our current people; that for three centuries slavery, operating on millions of individuals, which in a large portion of this period was the majority of the national population, prevented the regular appearance of the family in essential layers of the country; reduced human procreation to a venal interest of the masters; maintained all of those intelligent people in a purely animal state; did not sufficiently feed or dress it; stole its savings and never paid their salaries; left it to be stricken by disease and die abandoned; made it impossible for it to develop the habit of saving, of voluntary work, of its own responsibility, of personal dignity; made it subject to the lower passions, of all the sensual whims, of all the cruel punishments of another race (Nabuco, [1883],2003:133).

Slave trading was only abolished in 1850, under Law no. 581, of September 4, that “Established measures for the repression of trading of Africans in this Empire”, known as the Lei Eusébio de Queiroz.⁴

⁴ Available at: <http://www.planalto.gov.br/ccivil_03/leis/LIM/LIM581.htm>. This law was regulated by Decreto no 731, of 14 November 1850.



Figure 1 – Slave ship (1883). Photo by Marc Ferrez. Acervo Instituto Moreira Salles.

In 1871, Law no. 2.040, of September 28, which “Declared to be free the children of a slave woman who were born after the date of this law, freed slaves of the nation and others, and establishes measures for the raising and treatment of those minor children and the annual freedom of slaves”, known as the Free Womb Law⁵, which gave freedom to the children of slaves born after that date.

⁵ Available at: <http://www.planalto.gov.br/ccivil_03/leis/LIM/LIM2040.htm>.



Figure 2 - photo by Marc Ferrez (left) and “Slaves resting” (1858), by Victor Frond (right). Archives of the Instituto Moreira Salles.

In 1885, Law no. 3.270, of September 28, was enacted which “Regulated the gradual extinction of the servile element”, known as the Law of the Sexagenarians⁶, which guaranteed the freedom of slaves who were more than sixty years old.

In 1888, under Law no. 3.353, of May 13, which “Declared slavery extinct in Brazil”, known as the Lei Áurea [Golden law],⁷ slavery was finally abolished. It has been only 128 years.



Figure 3- Cover of the Brazilian journal announcing the extinction of slavery.

⁶ Available at: <http://legis.senado.gov.br/legislacao/ListaPublicacoes.action?id=66550>.

⁷ Available at: http://www.planalto.gov.br/ccivil_03/leis/LIM/LIM3353.htm.

As was broadly analyzed by Brazilian historiography, after abolition, neither the imperial government, nor the following Republican governments, concerned themselves with incorporating the former slaves into society, to the labor force or to social protection. Without land to work, the nascent free population had no place in the patriarchal society. According to Nabuco, like “nomads” and “beggars without fixed work”, they came to be defined above all by denial, “in an intermediary condition that is not slavery, but is also not that of the citizen” (Nabuco, 2003 [1883]:147).

Nabuco described how these dispossessed families were interned in Brazilian territory, whenever possible seeking to adhere to lands of a mill or farm, upon which they became dependent. He defined the social situation of Brazil’s free population as that of a population that lived in the interstices of the agricultural properties:

It was this population that was interned, living like gypsies, adhering to the lands of farms or mills where they found shelter, forming small groups at the interstices of agricultural properties, building their four walls of clay where they were given permission to do so, through conditions of servitude that made the residents into serfs of the village (Nabuco, 2003 [1883]:148).⁸

⁸ For a deeper analysis of this process, see “O povo brasileiro: entre os ‘proletários nômadas’ de Joaquim Nabuco e as ‘formigas que não trabalham’ by Manoel Bomfim” (Sprandel, 2004:32-49).



Figure 4 – Leaving for coffee harvest with an ox cart. Paraíba do Sul Valley (1885). Photo by Marc Ferrez/ Acervo Instituto Moreira Salles.

In the 128 years that separate us from Abolition, in 100 of them (that is for a century) there was no specific legislation for protection of the former slaves and their descendants. This would only take place in the Constitution of 1988, when the right to land was guaranteed to slave descendants who lived in ancestral territories as we will see below.

While the Criminal Code of the Empire of 1830, published during the slavocrat regime, sanctioned only the conduct of subjecting a free person to slavery,⁹ the Penal Code of 1890, edited after the abolition, makes no reference to slavery.

Fifty years later, Decree-Law 2.848, of December 7, 1940 (Penal Code), in article 149, inserted in Title I, “Of the crimes against the person”, in Chapter VI, “Crimes against individual liberty”, Section I, “Of the crimes against personal liberty”, established the crime of “reduction to a condition analogous to that of a slave”

Reduction to a condition analogous to that of a slave

⁹ “Art. 179. To reduce to slavery a free person who has possession of his freedom. Punishments – imprisonment for three to nine years, and a penalty corresponding to one third of the time; the time of prison will never be less than that of the wronged, plus one-third” (Código Criminal do Império, 1830).

Art. 149. To reduce someone to a condition analogous to that of a slave:

Punishment – Imprisonment of two to eight years.

In the Exposition of Motives that presented the text of the new law, the jurists recognized that labor relations similar to those of the extinct slavocrat regime remained in the country:

In article 149, a criminal category is foreseen that is ignored in the current Code: the fact of reducing someone, by any means, to the condition analogous to that of a slave, that is, to deny him, in fact, status libertatis, subjecting him, to the complete and discretionary power of the agent. It is a crime that in the past was called “*plagium*”¹⁰ Its practice is not unknown among us, notably in certain remote points of our hinterland.¹¹

That is, little more than fifty years after the abolition of slavery the existence of workers living in a situation of subjection was recognized. This reality, linked to the persistence of slavocrat and patriarchal thinking, would change little in the following decades and appeared to be deepened (or became more visible) in the 1970s and 1980s, when Brazil’s agricultural frontier expanded to the Amazon.¹²

Given the finding that this process, in the case of large rural property owners, was based on a super-exploitation of labor,¹³ the

¹⁰ For Pierangeli (2007:156, apud Figueira et alii, 2013), the word *plagium*, etymologically, comes from the verb *plagiare*, which, in ancient Rome, meant to buy a free man knowing that he was free, and maintain him in servitude.

¹¹ Accessed at:

<<https://www.diariodasleis.com.br/busca/exibelink.php?numlink=1-96-15-1940-12-07-2848-CP#cp>>.

¹² About this process, see the doctoral thesis of Alfredo Wagner Berno de Almeida, “Conflito e mediação: os antagonismos sociais na Amazônia segundo os movimentos sociais, as instituições religiosas e o Estado”, defended at PPGAS/Museu Nacional, in 1993.

¹³ With workers taken far from their homes, under guard, required to sleep in precarious lodgings, to buy food, work tools, personal hygiene products, clothes

religious organizations that first denounced this reality, such as the Comissão Pastoral da Terra¹⁴ and the civil society entities that defended agrarian reform, denominated these situations as “slave labor”, a category that referred to the historic memory and the slavocrat ideology that did not see poor workers as individuals with rights.

In 1985, with the redemocratization of the country (after twenty-one years of military dictatorship), the recently created Ministry of Reform and Agrarian Development (MIRAD), came to register “slave labor” in the fields, officially recognizing its existence in contemporary Brazil:

The state, through MIRAD, gave legitimacy and status to a category – slavery – which until then was employed in literary texts, in the press, by social agents and more sporadically by the social sciences (Rezende, 2009:85).

Since then, a national agenda has been constructed that is dedicated to the “eradication of slave labor”, involving the state, civil society, religious and labor organizations, human rights groups and international agencies, which has remained alive and combative until today.

and shoes in shops at exorbitant prices, which prevented them from paying off their debts and be able to leave and without recognition of their basic labor rights.

¹⁴ The Comissão Pastoral da Terra (CPT) [Pastoral Land Commission] was created in June 1975, during the military dictatorship, as a response to the grave situation of rural workers, squatters and farmworkers, particularly in the Amazon. Although linked to the National Conference of Bishops of Brazil (CNBB), the entity had an ecumenical character, both in terms of the workers who were supported, and through the incorporation of agents of other Christian churches, particularly the Lutheran Church of Brazil. The entity also worked with people affected by large dam projects, landless rural workers, salaried workers, *boias-frias* [migrant farmworkers] and workers submitted to conditions analogous to slavery. It supported the organization of these workers politically and produced annual reports about rural conflicts in Brazil that are available at <http://www.cptnacional.org.br/index.php/publicacoes/conflitos-no-campo-brasil>.

Table 1- Chronology of the agenda to confront “slave labor” in Brazil (1995-2015)

1995	<p>Recognition of the existence of contemporary slave labor by the Brazilian government before the United Nations.</p> <p>Creation of the Special Mobile Inspection Group of the Ministry of Labor and Employment, coordinated by fiscal labor auditors, responsible for inspecting working conditions on the properties and for releasing enslaved workers. Since then, it has been responsible for freeing some 50 thousand workers throughout Brazil.</p>
1997	<p>Creation of the campaigns to fight slave labor of the Comissão Pastoral da Terra and of the Centro de Defesa da Vida e dos Direitos Humanos de Açailândia (MA)</p>
2001	<p>Implantation of the International Labor Organization (ILO) project to fight slave labor in Brazil.</p> <p>The non-governmental organization Repórter Brasil began an investigation of productive chains of people and companies caught with slave labor and denounced those who benefitted from this crime.</p>
2002	<p>Creation of unemployment insurance for workers released from slave labor.</p>
2003	<p>Launching of the 1st National Plan to Eradicate Slave Labor, which calls for prevention actions, assistance for freed workers and repression of the crime of slave labor to eradicate the problem in the country.</p> <p>Creation of the National Commission for the Eradication of Slave Labor (CONATRAE), linked to the Secretariat of Human Rights of the Presidency of the Republic and composed of actors from civil society and government. It is responsible for proposing, monitoring and evaluating the implementation of actions called for in the National Plan to Eradicate Slave Labor.</p> <p>Reformulation of article 149 of the Penal Code of 1940, which came to include the elements, <i>forced labor, debt servitude, exhaustive work shifts and degrading working conditions.</i></p> <p>Creation of the registration of employers found with slave labor, the so-called “Dirty List”, of the Ministry of Labor and Employment. The document presented a list of employers caught with slave labor and who had an opportunity to defend themselves at two administrative levels.</p>

2004	<p>The massacre at Unaí: the assassination of a driver and three labor inspectors during an inspection operation in Unaí (MG). The farm Castanhhal Cabaceiras, in Marabá (PA) was appropriated for having used slave labor.</p> <p>Institution of the program “Escravo, nem Pensar!”, by Repórter Brasil, the first national education program dedicated to fighting slave labor by means of prevention actions.</p>
2005	<p>Creation of the National Pact to Eradicate Slave Labor, under which Brazilian companies and multinationals made a commitment to not purchase raw materials from suppliers who had used slave labor for their production.</p>
2006	<p>The Federal Supreme Court determined that the federal courts could judge the crimes of slave labor, which led to an increase in charges brought by the Federal Public Ministry (Attorney General’s office).</p>
2007	<p>First four states create State Commissions for the Eradication of Slave Labor (Maranhão, Pará, Tocantins and Mato Grosso). Mato Grosso do Sul and Piauí already had similar entities.</p>
2008	<p>Launching the 2nd National Plan to Eradicate Slave Labor, with the revision and updating of the first by CONATRAE.</p>
2010	<p>National Monetary Council decides to prohibit financial institutions from providing rural credit to those who have used slave labor. This reinforces the action of government and private banks that have adopted the measure.</p>
2011	<p>Inspection action frees immigrants in sewing workshops that produce for the Zara clothes brand in São Paulo. The case gave national and international visibility to the exploitation of Latin Americans in the Brazilian textile sector.</p>
2012	<p>The state legislative assembly of São Paulo approves a law that calls for canceling the legal incorporation of a company that has used slave labor in the state and prevents partners in the company from opening a company in the same sector for ten years.</p>
2013	<p>For the first time, the number of workers freed from urban activities is higher than those in rural activities due to the releases in civil construction.</p>
2014	<p>Approval of Constitutional Amendment 81, which calls for confiscation of rural and urban properties on which slave labor is found and their use for agrarian reform or urban housing</p>

	<p>programs.</p> <p>At the end of the year, the Federal Supreme Court suspended, through an injunction, the publication of the Dirty List after the Brazilian Association of Real Estate Developers (ABRAINC) filed suit, alleging the supposed unconstitutionality of the list.</p>
2015	<p>The Ministry of Labor and Employment and the Secretary of Human Rights of the Presidency of the Republic published a new norm with rules for registering employers to comply with the Law for Access to Information.</p> <p>Mobilization against the approval of three projects being considered in the National Congress that propose limiting the concept of slave labor: Project for regulation of Amendment 81, presented by Senator Romero Jucá (PMDB/RR), amendments to the proposed law for revising the Penal Code, presented by Senators Blairo Maggi (PR/MT) and Luiz Henrique da Silveira (PMDB/SC) and a proposal by federal deputy Moreira Mendes (PSD/RO).</p>

Source: Trabalho escravo contemporâneo – 20 anos de combate (1995-2015). Escravo, nem pensar! Repórter Brasil and Sindicato Nacional dos Auditores Fiscais do Trabalho (SINAIT).

There is currently great conflict in relation to the regulation of Constitutional Amendment 81 of 2014,¹⁵ which determined that a rural or urban property where slave labor was used, as determined by the Penal Code, would be appropriated by the government and used for agrarian reform or low-cost housing, without compensation to the owner.

¹⁵ This amendment altered art. 243 of the Federal Constitution, which had called for the seizure of properties that planted narcotics: “Art. 243. Rural and urban properties of any region of the country at which were located illegal cultivation of narcotics or the exploitation of slave labor according to law, would be seized and used for agrarian reform and low-cost housing programs, without any payment to the owner and without changing any other sanction called for by law, observing, when applicable, the disposition of art. 5 sole paragraph. All and any goods with economic value seized due to illicit trafficking of narcotics and related drugs and the exploitation of slave labor will be confiscated and reverted to a special fund with a specific destination, according to law.

In 2015, the National Congress created the Mixed Commission to consolidate the federal law and regulate measures in the federal Constitution, composed of seven senators and seven members of the Chamber of Deputies. The commission approved Proposed Senate Law n° 432, of 2013, to regulate art. 243 of the Constitution (governing appropriation in cases of slave labor), which had been sharply criticized by workers and human rights groups, given that it required proof of the use of coercion and the intention to retain the worker at the workplace in cases of restriction of any means of transportation, of ostensive policing, and seizing of documents or personal objects of the worker. In addition, it excluded the concepts of “exhaustive work shift” and “degrading conditions”.

Similarly, proposed senate law n° 236, of 2012, which proposed a new text for the Penal Code, received amendments from senators from the Parliamentary Agricultural Front (known as the rural bench, which was composed of representatives who supported agribusiness and large land owners) to remove the references to an *exhaustive work shift and degrading conditions*, with the argument that “the mere lack of compliance with the labor law can be understood as a crime by inspectors, given the subjectivity of what a degrading condition or an exhaustive work shift could be”.¹⁶

This discussion began in 2003, when Law 10.803 was passed, which established new language for art. 149 of the Penal Code, which came to include in its definition the elements *forced labor, debt servitude, exhaustive work shift and degrading labor conditions*.¹⁷

¹⁶ Amendment n° 10, proposed by Senator Blairo Maggi (PR/MT), known as “The Soybean King”. In the Chamber of Deputies, proposed law n° 3842, of 2012, from deputy Moreira Mendes, also a member of the Parliamentary Agricultural Front, also excludes from criminal categorization the exhaustive work shift and degrading conditions.

¹⁷ Reduction to a condition analogous to that of a slave: Art. 149. Reduce someone to a condition analogous to that of a slave, whether by submitting them to forced labor or to an exhaustive work shift, or by subjecting them to degrading

Table 2- Definitions referring to art. 149 of the CLT

Forced Labor	The individual is required to submit to working conditions in which he or she is exploited, without a chance to leave the location whether because of debts, or by threat and physical and psychological violence.
Exhaustive work shift	Taxing work shift that goes beyond overtime hours and places the physical integrity of the worker at risk, given that the interval between shifts is insufficient to restore energy. There are cases in which the weekly shift is not respected. Thus, the worker is also prevented from maintaining a family and social life.
Debt Servitude	Fabrication of illegal debts referring to spending for transportation, food, rent and work tools. These items are charged in an abusive manner and discounted from the salary of the worker, who remains indebted.
Degrading Conditions	A set of irregular elements that characterize the precariousness of the work and the living conditions to which the worker is submitted, violating his or her dignity. Examples: precarious lodging, lack of medical assistance, poor food, lack of basic sanitation and potable water, poor treatment and violence.

Source: Trabalho escravo contemporâneo – 20 anos de combate (1995-2015). Escravo, nem pensar! Repórter Brasil and Sindicato Nacional dos Auditores Fiscais do Trabalho (SINAIT).

working conditions, or restricting, by any means, their movement due to a debt contracted with the employer or agent:

Penalty – imprisonment, of two to eight years, and a fine, as well as a punishment corresponding to the violence.

§ 1o The same punishments are applied to those who

I – restrict the use of any means of transportation by the worker, in order to retain him at the work place;

II – maintain extensive policing at the workplace or seize the documents or personal items of a worker, in order to keep him at the workplace.

§ 2o The penalty is increased by half, if the crime is committed

I – against a child or adolescent;

II – for reasons of prejudice by race, color, ethnicity, religion or origin.

The debate continues to be tense, indicating that the eradication of slave labor in Brazil, in addition to being a human rights issue, is a question of the workers struggle for their basic rights and for agrarian and urban reform, and is supported, in debates in the national congress, by leftist political parties.



“Someone looking for work can’t find slavery”

Figure 5- poster concerning the National Day for Combat of Slave Labor

If this alone distinguishes the debate about “slave labor” from that about “human trafficking” after the Palermo Protocol, it is important to observe that unlike the “victim” in “human trafficking” [who is always presumed], the workers rescued from situations analogous to slavery are considered and treated as subjects of rights.

Brazilian anthropology plays an important role in understanding the strategies, temporalities and memories of these workers, who are often subsumed in categories such as “migrants”, “the enticed”, “slaves” or “victims”, by strengthening the native categories and agendas and untying the only apparently endless knot of the essentializations (Sprandel; Melo, 2013).

In *Notas sobre a precarização do trabalho no Brasil* [Notes about making work precarious in Brazil], anthropologist Jose Sérgio Leite Lopes indicated that, although the concept of precariousness is associated to changes in the organization of

production in the post-Fordist period (since 1980), in the case of Brazil – which had four centuries of slavery – “the precarious nature of work is a characteristic that is constitutive of its social formation” (Lopes, 2011a).

This should not be understood, however, in a way that demeans workers who leave their places of origin in search of better working conditions. To the contrary, according to Lopes, studies underway about workers in new fields of agribusiness or in dam construction (and we can include here civil construction in general and sexual work of men and women) highlight the importance of mobility as a strategy of social navigation.

Here enters in scene a tradition of mobility of the network of young male workers, who turn need into a virtue and behind the aspects of labor exploitation that appear in their successive temporary jobs, there is a taste for adventure and for movement in search of new jobs in distant lands (Lopes, 2011a:11).

The reconsideration of the trajectories and memories of people in mobility (whether they are defined as “migrants”, “boias-frias” [migrant farmworkers], “victims of human trafficking” or “poor”) is essential for their recognition as individuals that belong to social groups “formed by dense relations of kinship and neighborliness, with a history full of unexpected events” (Lopes, 2011:597).

II – “Slave labor” and the umbrella of “human trafficking”

The anti-human trafficking agenda was implemented in Brazil twelve years ago.¹⁸ By involving issues concerning prostitution, migrations and labor, it arrived with the pretension of

¹⁸ Decreto nº 5.017, which enacted the Protocol to Prevent, Repress and Punish Trafficking in Persons, in particular Women and Children, which was signed on 12 March 2004.

becoming an umbrella concept,¹⁹ treating these three themes as a single phenomenon. There has already been broad analysis and discussion of the mistaken nature of this agenda in relation to the real demands of people or social groups who undertake these spatial movements in their life trajectories and under danger, because of its potentiality, in terms of control and criminalization.

Ela Wiecko de Castilho, Assistant Attorney General of the Republic, displayed in the interview “Human Trafficking in Brazil: Between crime-based and human rights-based governance” (2015a), how this agenda confronted with the (problematic) need to adjust perspectives and working methods in the fields of security and human rights:

Bringing together NGOs, social movements and governmental bodies, with separately developed plans – the National Plan for Combating Sexual Commercial Exploitation of Children and Adolescents (2000), the National Plan for Eradication of Slave Work (2003) and the National Plan for Eradication of Child Labour (2004) – was challenging. Reconciling a security and a human rights approach was difficult. The Brazilian government believes in a perspective that recognises and guarantees rights, while the Convention and its Protocols are primarily driven by security concerns rather than human rights (Castilho, 2015b:05).

In addition, Castilho shows how that agenda confronted other concerns in studies or public policies concerning gender, slave labor and migrations. In the case of gender studies, works such as that of Adriana Piscitelli show that women and transgenders who leave Brazil to conduct prostitution abroad make special use of social networks in their movements, and not criminal organizations:

¹⁹ I used the idea of the umbrella concept for the first time in the article *A temática do tráfico de pessoas no contexto brasileiro*, written with Guilherme Mansur Dias and published in the Revista Interdisciplinar da Mobilidade Humana (REMHU), ano XVIII, nº 35, jul. /dez. 2010.

Of the 15 people [who affirmed that they had worked in the sex industry], six were transvestites. Following the pattern of other Brazilian migrants, these people utilized social networks to leave the country and insert themselves in the other, not necessarily organized criminal groups, (...) but all types of networks, including relatives, friends, neighbors, acquaintances. Through these networks they obtained information and help to leave, arrive, obtain shelter and become integrated in some niche of the labor market. (Piscitelli, 2008:44-45).

In relation to labor exploitation, Ela Wiecko emphasizes that the Comissão Pastoral da Terra, which, as we saw, since the 1980s fought against exploitation of rural workers and helped to promote the expression *slave labor*, “saw in the National Plan to Confront Human Trafficking a loss of space for political activism of the National Commission for the Eradication of Slave Labor” (Castilho, 2015a:05).

Groups that defended the rights of migrant workers, in turn, perceived in the Palermo protocols a threat to some consolidated rights and an attempt to criminalize irregular migration even more. This is because the definition of human trafficking in these protocols focuses on mobility: “migration is the real problem that is behind human trafficking” (Castilho, 2015a:06).

An important position in relation to the theme was made public by the Associação Brasileira de Antropologia and its Committee on Migrations and Movements in a letter to the Ministry of Justice, which expressed surprise at the inclusion of an International Fair for Combating Human Trafficking and Experiences of Migratory Policies during the 1st National Conference on Migrations and Refuge (COMIGRAR):

(...) the holding of this Fair, with an emphasis on human trafficking, would reflect a contradiction between the democratic participatory project of the COMIGRAR (...) and its (inconvenient) association with an agenda against human trafficking produced by multilateral agencies and used, particularly by governments in the Northern

Hemisphere, as an instrument of contention of human mobility, of free exercise of prostitution and in the final analysis, to criminalize immigration (ABA, 2014).

These reflections and political positions appear to indicate that under the conceptual and strategic umbrella of “human trafficking” crucial, latent and unresolved problems in the country do not fit,²⁰ such as racism, slave labor, the polemics about reparation policies,²¹ the rates of violence against the young black population and the difficulties in the execution of the policy for the recognition of the communities of slave descendants, known as “quilombolas”.

²⁰ Perhaps because they were not conceived to fit, as Zizek indicated, referring to the umbrella of human rights: “This, then, is the truth of the discourse of the universal rights of man: the wall that separates those who are protected by the umbrella of human rights and those who are excluded from this protective coverage. All references to universal human rights of man as an “unfinished project” to be gradually extended to all peoples is a vain ideological chimera ” (Zizek, 2003:181).

²¹ In August 2012, the Quota Law was approved, which changed the form of entering federal institutions of higher education. It required federal universities, institutions and centers to reserve half of the space annually opened in their selection processes for low income students who graduate public school. Within the social quotas, the racial openings are composed according to the proportion of Indians, blacks and pardos (brown-skinned people) in the state where the campus of the federal education institute is located, according to census data. In June 2014, the law took force that reserved 20% of federal civil service openings to black candidates, to take effect immediately, and for ten years.



Figure 6 – Poster from the union center referring to Black Awareness Day (20 November, The day of Zumbi) [51% of the Brazilian population is black. And the other half has twice the opportunities. This has to change].²²

Perdidas e Racismo no Brasil (2013) [Technical Note, Lives Lost and Racism in Brazil], the Instituto de Pesquisas Econômicas Aplicadas (IPEA) [Institute of Applied Economic Studies], analyzed the majority who are self-declared blacks in the lowest income social stratum:

²² National Black Awareness Day is celebrated in Brazil on November 20. It was created in 2003 and instituted on a national level under Law n° 12.519, of 10 November 2011. The date was chosen because it coincides with the date of the death of Zumbi dos Palmares, in 1695. Zumbi was the last of the leaders of the Quilombo of Palmares, the largest quilombo of the colonial period, formed by black slaves who had escaped Brazilian farms, prisons and slave houses. It occupied an area nearly the size of Portugal. At that time, it had a population of some thirty thousand people.

This fact had historic roots that relate to slavery. With the abolition of slavery and with the Afro-descendants cast out to their own luck, a dual process of discrimination was initiated, which helped to explain the persistence of poverty related to blacks. On one hand, economic discrimination took place through the intergenerational transmission of low human capital, in light of inexistent inclusionary policies (that would move towards equality), a reflex of the elitist preferences of colonial Brazil, which made schools spaces for the few and the white. On the other hand, the belief in an inferior race – which was the ideology that sustained slavery – did not end with abolition, but was perpetuated (IPEA, 2013:2-3).

The document, based on data from the Mortality Information System of the Ministry of Health and the demographic census of the Brazilian Institute of Geography and Statistics (IBGE), of 2010, indicates violent lethality as an inheritance of this process.

In proportional terms, for each homicide of a non-black in Brazil, an average of 2.4 blacks are assassinated. While the life-expectancy at birth of a black man drops 1.73 years due to this cause of death, non-blacks drop only 0.81.

More than 39 thousand blacks are assassinated every year in Brazil, compared with 16 thousand people of other “races”. Beyond the physical extinction, there are thousands of symbolic deaths behind the losses of opportunities and personal growth that many individuals suffer, only because of their skin color. They are lives lost due to racism in Brazil (IPEA, 2013:15).

The Mapa da Violência 2015 – Mortes Matadas por Armas de Fogo²³ [*The Map of Violence 2015 – Deaths from Firearms*] shows that, of the 42,416 people who died from gunfire in 2012 in Brazil

²³ Published by UNESCO, in partnership with the General Secretary of the Presidency of the Republic, of the National Secretariat of Youth, Secretariat of Policies to Promote Racial Equality and the Latin American College of the Social Sciences.

(94.5% by homicide), 59% (24,882) were youths between 15 and 29. Of all these deaths, 10,632 were of whites and 28,946, of blacks, or 142% more blacks than whites were killed by gunfire.

The high rates of assassination of black youths led to the creation of two Parliamentary Investigative Commissions in 2015, one in the federal Chamber of Deputies and another in the Senate, and to the release, by the Brazilian office of Amnesty International, of the campaign *Jovem Negro Vivo* [Young Black and Alive],²⁴ with the objective of mobilizing society and breaking the indifference.



Figure 7- Campaign of Amnesty International of Brazil: *Jovem Negro Vivo*. [Young Black and Alive]

The quilombola issue, in turn, began to gain visibility with the Constitution of 1988, which determined that “the remnants of the communities of the quilombos that are occupying their lands are recognized to have definitive ownership, the state must issue them respective property deeds”.

The *Diccionario de Vocabulos Brasileiros* [Dictionary of Brazilian Words], of 1889, defined quilombo as follows:

Clandestine residence in the forests and deserts, which served as a refuge for escaped slaves. They were also called

²⁴ About the campaign, see <https://anistia.org.br/campanhas/jovemnegrovivo/>

Mocambo. *Etim.* It is a word from the Banto language meaning encampment. [Capello and Ivens] (Beaurepaire-Rohan, 1889:121).

The term quilombo has undergone a process of re-semanticization, assuming new meanings for groups, individuals and organizations. In this way, the term has gained distance from the old understanding of the quilombo of the colonial and imperial periods – as a synonym for a meeting of escaped slaves hidden in the forests – coming to designate the present situation of communities with black ancestry related to the slavocrat period and located in different regions and contexts. Based on this resignification – in which anthropological studies had important weight – the term quilombo also became a legal category used by the Brazilian state to assure definitive ownership to these communities.

The entities responsible for granting recognition to the quilombo territories are the Fundação Palmares and the Instituto Nacional de Colonização e Reforma Agrária (INCRA) [The National Institute for Agrarian Settlement and Reform]. There are 2-5 thousand quilombo communities in the country according to the Fundação Palmares. The process for these communities to gain deeds for their lands, however, has not been easy.²⁵ The demarcation of quilombo lands is constantly attacked by the rural bench in the national congress, which uses all its resources to delay the process, and has even presented proposed amendments to the

²⁵ From 2005 to 2015 INCRA prepared 201 Technical Reports for identification and Delimitation (which consists in anthropological studies, mapping and registration of families), 107 Recognition Edicts (published by the President of INCRA, recognizing the land borders of the quilombo in the Diário Oficial da União and of the states, concluding the identification process), 77 decrees (required when the quilombo's land coincides with private land, requiring INCRA to appropriate the land and indemnify the owner to obtain the deed) and 30 Deeds (issued in the name of the community association, and determining that the land cannot be sub-divided, leased or pawned). Source: http://www.incra.gov.br/sites/default/files/incra-andamentoprocessos-quilombolas_quadrogeral.pdf.

Constitution to determine that the demarcations must be authorized by the national congress. In late 2015 this group of congressmen was able to install a Parliamentary Investigative Commission in the Chamber of Deputies to question the demarcation of indigenous lands and quilombolas and the role of anthropologists in this process.



Figure 8 – Campaign about the risks of expansion of bauxite mining on quilombo lands in Oriximiná (PA), in the Amazon. [Quilombolas in Oriximiná - Threatened Rights #Property Deeds Now #Mining No Learn more www.quilombo.org.br]

Considering these issues facing Brazilian society, the category “human trafficking” arrived with the intent of conceptually and politically encompassing the agenda for confronting slave labor.

It is up to the actors who work to confront slave labor in the country, human rights advocates and labor inspectors to evaluate the consequences of the incorporation of slave labor to the umbrella of human trafficking. What will be the practical results of this change, which is not only conceptual, but legal?²⁶

²⁶ The incorporation of slave labor to the categorization of human trafficking is already being analyzed in at least two important laws being debated in the national congress: one known as PLS 236, of 2012 (The New Penal Code) and PL 7370, of 2014, the result of the two Parliamentary Investigative Commissions about human trafficking.

Today, a foreign worker found in a situation analogous to slavery must be granted a legal right to work in the country, receive indemnification, three months of unemployment insurance²⁷ and be guaranteed the right to live in the country for one year.²⁸ It is necessary to seriously consider if the inclusion of “slave labor” in the criminal typology of “human trafficking” would not signify shifting the issue from the universe of the right to work and to mobility to a criminal realm, with the probable criminalization of family and support networks and in the final analysis of the worker.

There is a line in the Manifesto Antropofágico [Anthropophagic Manifesto], of 1928 – one of the founding texts of Brazilian modernity – in which Oswald de Andrade wrote *The migrations. The escape from tedious states. Against urban sclerosis. Against the conservatories and the speculative tedium.*²⁹

This article sought to call attention to the importance of the debate about “slave labor” versus “human trafficking” and for the need to not abandon the history of struggles for labor and human rights that involve the first category.

Returning to the suggestion of the title, with poetic license from Chico Buarque de Holanda and using a spatial metaphor, I think that perhaps there is still time to politically and conceptually come out from under this umbrella and go to the streets to drink from the storm of our combative place in the world.

Because it is in the street, under the storm, where are now found young blacks, the landless, the Indians and quilombolas, the

²⁷ Lei n° 10.608, of 20 December 2002. Conversion of MP n° 74, of 2002 changes Law n° 7.998, of 11 January 1990, to assure the payment of unemployment insurance to the worker freed from a situation analogous to slavery.

²⁸ Resolução Normativa n° 93, of 21 December 2010. Concerns the granting of a permanent visa or the right to remain in Brazil to a foreigner considered a victim of human trafficking. Available at: <http://reporterbrasil.org.br/documentos/RN93-2010.pdf>.

²⁹ The reading of the Manifesto – and the *insights* they offer – was conducted with Guilherme Mansur Dias, to whom I am grateful for the always fertile partnership.

prostitutes, the transvestites, the restless, those who travel, those who strive, those who cross the borders of bodies, houses, neighborhoods, cities, states and countries, escaping, now with the anthropophagic license from Oswald de Andrade, the borders of the tedious states.

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