

CASE STUDY: BRAZIL

Determinants of Anti-Trafficking Efforts





**British Institute of
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Determinants of Anti-Trafficking Efforts: Brazil

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This report is published as part of the 'Determinants of Anti-Trafficking Efforts' Project. The project assesses the links and sequencing of specific factors that have yielded improved political will and capacity in national governments to address trafficking in persons and which have led to sustained and comprehensive anti-trafficking efforts. Through a multi-pronged approach, this project will conduct a review/meta-analysis of the current research and contribute a new data-set through expert interviews, a first of its kind global survey and a series of 14 case studies.

More information including the project outputs are available at:

<https://www.biicl.org/projects/determinants-of-anti-trafficking-efforts>

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Gift of the United States Government



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Executive Summary

Over the past decade, Brazil has seen notable shifts in developing trafficking policy, legislation, and initiatives. These developments, to date, can be traced back to the impact of international sources, including the adoption of the Palermo Protocol, as well as to the consequences of incidents occurring within Brazil itself.

There are two key developments to note regarding anti-trafficking Efforts in Brazil. The first key development is the enactment of Law 13.344 in 2016, which broadened the definition of human trafficking in the Brazilian Criminal Code and brought national legislation in compliance (but not alignment) with the Palermo Protocol.

The second development is the evolution and combined effect of the National Plans for Combatting Human Trafficking, where the third and most recent plan was adopted in 2018. These plans were the product of wide consultation with civil society organisations (CSOs) and state-level institutions, which in turn set a larger series of goals and guidelines for anti-trafficking efforts in Brazil.

More broadly, considering the background for these developments, there are several determinants which influenced anti-trafficking policy, legislation and initiatives in Brazil. These determinants can be largely categorised as: (i) international legal frameworks (especially the Palermo Protocol); (ii) the role of civil society organisations; (iii) the role of the media; (iv) funding, aid agreements or international aid; (v) the work of international agencies (especially UNODC, IOM and ICMPD), and (vi) the role of the anti-trafficking network in Brazil.

A great concern for anti-trafficking policy and initiatives in Brazil is the disconnect between the design of policies and their implementation, with the barriers in implementation have been further exacerbated by the COVID-19 pandemic. By and large, the public health measures put in place by the Brazilian government have limited anti-trafficking responses in both the investigation and prosecution of incidents of trafficking, while simultaneously limiting (or completely obstructing) the available resources and support for trafficked persons.

Another concern is the availability of data on trafficking. Once gathered, the act of spreading trafficking-related information can directly generate public awareness and consequently drive the development and implementation of government measures. Both the media and popular culture have been able to disseminate this information, further supplemented through data gathered by civil society organisations (CSOs) and NGOs, to build knowledge and then raise this information in the public consciousness. The barriers in knowledge building and data gathering (i.e., whether data can be disaggregated to represent marginalised identities) and the strategies for dissemination, can hinder positive anti-trafficking efforts.

Further, this report looks at the current pandemic context. The COVID-19 pandemic greatly impacted Brazil's anti-trafficking efforts by limiting funding, halting, or diminishing services and by exacerbating vulnerabilities.

Introduction

Brazil enacted the Palermo Protocol in 2004, through Decree n. 5.017. Upon coming into force, a series of anti-trafficking efforts were undertaken domestically. For example, in March 2005, Law n. 11.106 amended the Brazilian Criminal Code, specifically Art. 231, which criminalised the “Traffic of Women”, and changed it to the offence of “Traffic[king] in Persons for Sexual Exploitation”. In addition, internal traffic in persons for sexual exploitation was criminalised under Art. 231-A.¹ Similarly, in 2006, Decree n. 5.948 was enacted, which approved the National Policy to Combat Trafficking in Persons and established an Inter-ministerial Working Group to draft a proposal of a National Plan. The first National Plan for Combatting Human Trafficking was then approved by Decree n. 6.347 in 2008.

The current framework for anti-trafficking efforts in Brazil stemmed from the creation of Centres for Combating Trafficking in Persons (in Portuguese, “Núcleos de Enfrentamento ao Tráfico de Pessoas”), established in 2009. These are state level initiatives which aim to improve counter-trafficking responses across the 3Ps of trafficking (as they were known at the time): prevention, protection, and prosecution – along with creating an inter-state network.² This state coordination was one of the goals of the I National Plan, and was further reinforced by the ‘National Public Security Program with Citizenship’ (“Ponasci”).³

Since the adoption of the Palermo Protocol – which represented a defining moment in prompting anti-trafficking efforts – further anti-trafficking developments have been made in Brazil over the past decade. Of these, two key developments are, namely: (1) the enactment of Law n. 13.344 (2016) (the “Law 13.344/2016”), and (2) the adoption of the II and III National Plans for Combatting Human Trafficking (2013 and 2018, respectively).

The *first key development* is the enactment of Law 13.344/2016, which brought the definition of human trafficking closer to the definition contained in the Palermo Protocol. The law introduced Art. 149-A into the Brazilian Criminal Code, which broadened the definition of human trafficking to include forms of exploitation other than sexual exploitation (which had been the restrictive interpretation included in the previous definitions of Arts 231 and 231-A). Moreover, Law 13.344/2016 is considered a key development because it promoted the 4Ps and set principles and guidelines to combat trafficking in persons. Specifically, Law 13.344/2016 goes beyond the mere criminalisation of human trafficking, by adding specific sections on prevention and protection, and by establishing guidelines for a coordinated domestic action plan along with international cooperation.

The *second key development* is the adoption of the III National Plan for Combatting Human Trafficking (“III PNETP”) in 2018, following the expiration of the previous plan, the II National Plan for Combatting Human Trafficking (“II PNETP”). These National Plans set a series of goals and guidelines for anti-trafficking efforts in Brazil, operating across several political axes. Since the II PNETP, policies were shaped and influenced through debates along with

¹ This was later changed by Law n. 13.344 in October 2016, as seen below.

² Brazil, Secretaria Nacional de Justiça, Portaria N° 31, de 20 de Agosto de 2009.

³ Brazil, Ministério da Justiça e Segurança Pública, Núcleos de Enfrentamento ao Tráfico de Pessoas. Available at: <<https://bit.ly/3h4364Y>>.

an inclusive process which incorporated national demands from social movements.⁴ The III PNETP was built from monitoring, evaluation and learning processes that came from its predecessor(s) and added new policies and/or guidelines (including a specific axis of goals on victim assistance), which is what distinguishes it from its predecessors.⁵ These policies and guidelines were developed with the help of actors external to the government, such as civil society and international organisations, an inclusive process which mirrored the process originally used in the II PNETP.

There are further identifiable developments from the past decade. For example, Decree n. 7.901 (2013) created the Tripartite Coordination of the National Policy to Combat Trafficking in Persons and the National Committee to Combat Trafficking in Persons, later renamed the National Committee to Combat Trafficking in Persons (“CONATRAP”) and governed by Decree 9.833 (2019), which is further explained below. Additionally, National Immigration Council’s Normative Resolution n. 122 (2016) provides for foreigners that are victims of human trafficking and/or modern day slavery to be granted permanent residency in Brazil. The same provision was replicated in Art. 30(f) of Brazil’s 2017 new Migration Law.⁶

Methodology and limitations

Methodology

This case study was implemented in line with the shared methodology and research tools applied at large by team of National Research Consultants (“NRC”), along with the guidance of the BIICL research team. This shared methodology was tailored to the context of Brazil, while keeping in mind the common research goals of identifying key developments that have occurred over the reporting period (e.g., evolution and adoption of legislation/national plans; development of anti-trafficking networks; application of international jurisprudence and standards; external and internal events and pressure for the development, and implementation of policy and initiatives). These developments were then further informed by interviews with Brazilian stakeholders, and in consultation with the BIICL research team, based on the influence in seeking to improve of the 4 Ps (i.e. prevention, protection, prosecution, partnership).

The Brazil case study relied upon in-depth, cross-temporal, national level desk research including analysis of policy documents and academic commentary on anti-trafficking efforts in Brazil. In addition, where possible, the *travaux préparatoires* and relevant drafting documents of such policies and legislation were also consulted to better understand the development of policies.

To gain further insight on both how the laws/policies were drafted, but also their implementation, interviews with relevant experts and stakeholders were held. In total, 12 interviews were conducted with relevant stakeholders (including prosecutors, academics, lawyers, and activists working for relevant NGOs and other civil society organisations),

⁴ Brazil, Ministério da Justiça, II Plano Nacional de Enfrentamento ao Tráfico de Pessoas - processo de elaboração e momento de validação pré-decreto, 12 May 2012. Available at: <https://bit.ly/3AboKvv>.

⁵ While the II PNETP was also divided in several axis of goals to be pursued by the government, these axes were slightly different. For example, they did not include a specific axis on victim protection nor on repression, but did include an axis of goals to improve the legislation of human trafficking at the time (which happened in 2016 with Law 13.344/2016). See: *Ibid*.

⁶ BRAZIL, Lei nº 13.445, de 24 de maio de 2017.

balancing between State and non-State actors. The interviews canvassed the concepts of determinants of trafficking within Brazil, positive developments and barriers to implementation along with factors influencing political will within Brazil. In addition, the interviews also provided insight on the impact of the COVID-19 pandemic on anti-trafficking efforts within Brazil.

Limitations:

There is a difficulty accessing information/data on human trafficking in Brazil. Another issue is how the anti-trafficking legislation (mentioned above) was largely brought into force by way of Decrees, which do not give rise to parliamentary debates and make a thorough analysis of its specific determinants more difficult.

Context

In Brazil, the Federal government is the main responsible for anti-trafficking legislation, although states may produce guidelines and implement anti-trafficking projects at a local level. Law 13.344/2016 is now the applicable law regarding trafficking in persons. As mentioned above, this law not only provided for a legal definition of the crime of human trafficking that brings the definition closer to the one provided by the Palermo Protocol, but also addressed the core elements within the 4Ps: prevention, prosecution, protection and partnership. Law 13.344/2016 lend greater emphasis to the elements of prevention and protection of victims, and it further established principles and guidelines to combat human trafficking that include the promotion of partnerships. However, Law 13.344/2016 does not completely mirror the Protocol. First, some elements such as the lack of need of consent, deception and the mention of a position of power/vulnerability are absent from the definition. Second, The Trafficking in Persons Report (TIP Report) has noted that Art. 149(a) of Law 13.344 is “inconsistent with international law for requiring force fraud, or coercion for child sex trafficking cases and therefore did not criminalise all forms of child sex trafficking”.⁷ This definition is nevertheless closer than the previous one adopted by the Brazilian Criminal Code, which only focused on human trafficking for sexual exploitation.

Additionally, as mentioned above, Decree n. 5.017 transposed elements of the Palermo Protocol into a Brazilian context in 2004. Other notable legislation includes: (1) the National Secretary of Justice’s Ordinance n. 31 (altered by Ordinance n. 41), which regulated the Centres for Combating Trafficking in Persons, (2) Decree n. 9.833 (2019) including regulating CONATRAP, and (3) Art. 30(f) of the Migration Law (2017). Besides the federal legal framework, there are pieces of companion legislation which exist at the state/municipal levels.

Brazil is also part of REDTRAM, the Ibero-American network of specialised prosecutors on trafficking in persons and smuggling of migrants. REDTRAM is part of the Ibero-American association of Public Ministries (“AIAMP”) and aims to create cooperation and articulation mechanisms between public prosecutors of different countries. In 2011 and 2017,⁸ REDTRAM also elaborated a “Protocol of Inter-institutional cooperation to strengthen the Investigation, Attention and Protection of victims of the crime of human trafficking and smuggling of migrants amongst the Ibero-American Prosecutors” which establishes cooperation between the partners to REDTRAM across the 4Ps.⁹

Additionally, REDTRAM also established working groups along organisations such as the United Nations Office on Drugs and Crime (“UNODC”) and International Criminal Policy

⁷ USA, Department of State, Trafficking in Persons Report, 20th Edition (2020), p. 117. As it is explained in section 4.2.3 below, the TIP Report noted that the Child and Adolescent Statute helps to fill this gap by criminalising inducing children to engage in sexual exploitation without these requirements

⁸ AIAMP, Protocolo de Cooperación Interinstitucional para fortalecer la investigación, atención y protección a víctimas del delito de Trata de Personas entre los Ministerios Públicos Iberoamericanos AIAMP-REMPM (2011). Available at: <https://bit.ly/3hz07AC>.

⁹ AIAMP, Protocolo de Cooperación interinstitucional para fortalecer la investigación, atención y protección a víctimas del delito de Trata de Personas y el Tráfico Ilícito de Migrantes entre los Ministerios Públicos Iberoamericanos AIAMP (2017). Available at: <https://bit.ly/3yltD3v>.

Organization (“INTERPOL”)¹⁰ and produced declarations over specific issues, such as the current migratory situation in Latin America¹¹ and the COVID-19 pandemic.¹²

Notably, the Inter-American Court of Human Rights (“IACtHR”) decision in the case of *Fazenda Brasil Verde vs. Brasil* (2016) (“*Fazenda*”) applies to the general context of anti-trafficking policy and initiatives in Brazil.¹³ In *Fazenda*, the Court found that Brazil had violated Art. 6.1 of the American Convention on Human Rights (i.e. freedom from slavery, slave trade and trafficking). *Fazenda* was a landmark case as it was the first instance of the IACtHR presiding on the issue of human trafficking. In its reasons, the IACtHR ordered several remedial measures including investigations, the proper definition of the crime of human trafficking,¹⁴ and the adoption of public policies regarding slavery and financial compensation. However, while important, *Fazenda* cannot be directly or conclusively linked with any subsequent anti-trafficking developments in Brazil. For example, Law 13.344/2016 was enacted in the same month of IACtHR’s decision, giving it a “symbolic weight”, so that determinants that influenced the legislative process pre-dated the result in *Fazenda*. This is in contrast with the impact the IACtHR had on anti-modern slavery efforts in Brazil through the case José Pereira, which interviewees identify as a key determinant.¹⁵

Victim Identification Data

In 2016, the Global Slavery Index (GSI) estimated that approximately 369,000 in Brazil people lived under conditions of modern slavery on any given day, so that 1.8 out of every 1000 people were modern slavery victims.¹⁶

Afro-Brazilian men (and some women and/or children) were particularly susceptible to being exploited through labour trafficking, in rural areas (including ranching, agriculture, charcoal production, salt industries, logging, and mining) and cities (construction, factories, restaurants, and hospitality).¹⁷ Conditions of labour trafficking often result from a combination “of limited educational opportunities, informal working conditions, and unethical recruitment practices by unscrupulous middlemen”.¹⁸ Of the nearly 35,000 workers released from conditions defined as “slave labour” in Brazil between 2003 and 2017, about 71% were either illiterate or had no more than four years of schooling.¹⁹

¹⁰ UNODC, Grupo de Trabalho sobre Fluxos Migratórios Mistos da REDTRAM avança no combate ao Tráfico de Pessoas e Contrabando de Migrantes (2021). Available at: <https://bit.ly/3h98WC3>.

¹¹ AIAMP, REDTRAM, Declaration of the Ibero-American Network of Prosecutors against Trafficking in Persons and Smuggling of Migrants -REDTRAM of AIAMP (2020). Available at: <https://bit.ly/3havuGg>.

¹² AIAMP, REDTRAM, Declaración de REDTRAM sobre problemas y desafíos en la detección e investigación de los delitos de trata de personas y tráfico ilícito de migrantes durante la pandemia COVID-19 (2020). Available at: <https://bit.ly/3jP5aj9>.

¹³ IACtHR, Caso Trabajadores da Fazenda Brasil Verde vs. Brasil, Sentence of 20 October 2016 (Exceções Preliminares, Mérito, Reparaciones e Custas).

¹⁴ This decision was published the same month as Law 13.344 was adopted. The Court referred to the former definition of trafficking, which only criminalised trafficking for sexual exploitation.

¹⁵ Interviewees BR03 and BR06.

¹⁶ Global Slavery Index, Brazil: Country Studies (2018), Available at: <https://www.globalslaveryindex.org/2018/findings/country-studies/brazil/>

¹⁷ USA, Department of State, Trafficking in Persons Report, 20th Edition (2020).

¹⁸ Global Slavery Index, Brazil: Country Studies (2018), Available at: <https://www.globalslaveryindex.org/2018/findings/country-studies/brazil/>

¹⁹ Ibid.

Forced labour in Brazil often occurs within the industries of sugar, coffee, and carnauba wax.²⁰ In the coffee harvest season, it is estimated that nearly 40 to 50% of labourers work informally, without being registered and/or being party to a contract.²¹

Traffickers are also likely to target vulnerable groups such as women and children in Brazil for sex trafficking.²² As reported by the US State Department, an aggregate of data for South America, which included Brazil, found that victims of trafficking are more likely to suffer forms of sexual exploitation (64%) than forced labour (35%). As of 2018, the UNODC found that slightly over 40% of the total detected victims of trafficking in Brazil (15,258) were girls.²³ Migrants and residents of Brazil's border areas are also vulnerable to trafficking. Gangs often force women and girls into sex trafficking in Rio Grande do Sul and Santa Catarina.²⁴

Transgender Brazilian women are one of the most vulnerable populations in the country. As of 2019, 90% of transgender women in Brazil are in the commercial sex trade, in Rio de Janeiro, more than half are in a vulnerable position to be subject to exploitation, including as a result of trafficking.²⁵ To that end, transgender women often pay traffickers for protection and daily housing fees. When they are unable to pay, they are beaten, starved, and forced into the commercial sex trade. Traffickers can prey upon the pre-existing marginalisation of transgender Brazilian women, by luring them with offers of gender reassignment surgery as a mechanism for exploitation and sex trafficking when for those who are unable to repay the cost of the procedure.²⁶

Key stakeholders and actors

The government is a main actor regarding anti-trafficking efforts in Brazil, but this work is supplemented by NGOs and international organisations who also play a key role. At the federal level, Brazil established CONATRAP, a national initiative for coordinating anti-trafficking issues. CONATRAP is composed of the National Secretary of Justice from the Ministry of Justice and Public Security (the president of CONATRAP), the Ministry of Foreign Relations, the Ministry of Citizenship, the Ministry of the Woman, Family and Human Rights, and three civil society organisations representing that sector.²⁷ Similar initiatives have been replicated in other governmental bodies in Brazil, including the Ministry of Justice and Public Security, which also has a specialised structure for anti-trafficking issues and smuggling of migrants.²⁸

Law enforcement agencies at the federal level have also engaged in anti-trafficking efforts. For example, the Federal Police (which has a specialised structure on trafficking in human

²⁰ USA, Department of State, Trafficking in Persons Report, 20th Edition (2020).

²¹ Global Slavery Index, Brazil: Country Studies (2018), Available at: <<https://www.globallslaveryindex.org/2018/findings/country-studies/brazil/>>

²² USA, Department of State, Trafficking in Persons Report, 20th Edition (2020).

²³ UNODC, "Global Report on Trafficking in Persons" (2020).

²⁴ USA, Department of State, Trafficking in Persons Report, 20th Edition (2020).

²⁵ USA, Department of State, Trafficking in Persons Report, 20th Edition (2020).

²⁶ Ibid.

²⁷ Brazil, Ministério da Justiça. Contatos dos Membros do CONATRAP – Decreto nº 9.833/2019. Available at: <https://bit.ly/3AksVVZ>.

²⁸ Brazil, Ministério da Justiça, Tráfico de Pessoas. Available at: <https://bit.ly/3hi9EwV>.

beings (“THB”) and smuggling of migrants),²⁹ the Federal Public Ministry (“MPF”),³⁰ the Public Labour Prosecution Office (“MPT”),³¹ and the Public Defender’s Office³² (“DPU”).³³

There are many important actors and stakeholders at the state level as well. For example, the Centres for Combating Trafficking in Persons (“NETPs”) constructed and consolidated a state-wide network of reference and protection to victims, by using the pre-existing networks within these States. Currently, there are 17 NETPs across the 27 Federal Units of Brazil. Similarly, some States have Humanised Migrant Attendance Centres (“PAAHM”) and State Committees on Anti-Trafficking efforts. These networks are crucial for the implementation of anti-trafficking policy because they work closely with the public, but, like any other initiative, the organisations still face clear challenges when attempting to implement anti-trafficking policy.³⁴

Civil society organisations are also key actors in anti-trafficking efforts. For example, CONATRAP is constituted by and relies on the involvement of civil society organisations, including the Associação Brasileira de Defesa da Mulher, da Infância e da Juventude (“ASBRAD”), Instituto ECOVIDA and 27MILLION - The Justice Movement.³⁵ The involvement of civil society organisations can extend beyond a national presence, to representation in an international context – for example, the NGO Centre for Justice and International Law (“CEJIL”) and the faith-based organisation Comissão Pastoral da Terra, for example, intervened to present their position in *Fazenda* to the IACtHR.

International organisations and institutions also impact upon anti-trafficking measures in Brazil. The UNODC, International Organization for Migration (“IOM”) and International Labour Organization (“ILO”) all have offices in Brazil and engage in anti-trafficking efforts. Previous initiatives have included Joint Projects between the ILO and the US Department of Labour to address combatting of trafficking of persons in Brazil between October 2005 – September 2008,³⁶ along with initiatives between the UNODC and the Brazilian Ministry of Justice to elaborate upon the National Policy on Combatting Human Trafficking and the National Plans for Combatting Human Trafficking.³⁷ In addition, the IOM has also worked in partnership with the federal government, including collaborating with the Ministry of Justice

²⁹ The ‘Service for Repressing THB and Migrant Smuggling’ is part of the General Coordination on Repressing Crimes Against Human Rights and Citizenship. See: Brazil, Polícia Federal, Organograma – Unidades Centrais. Available at: <https://bit.ly/3wkO9j4>.

³⁰ Brazil, Ministério da Justiça, Relatório Final de Execução do Plano Nacional de Enfrentamento ao Tráfico de Pessoas (2010). Available at: <https://bit.ly/36aDlnQ>.

³¹ *Ibid.*

³² *Ibid.*

³³ As a note, the DPU has a special working group on the protection and assistance of THB victims, See: Brazil, DPU, Assistência e Proteção às Vítimas de Tráfico de Pessoas. Available at: <https://bit.ly/3dKZpyN>;

³⁴ Guerardi, Michelle. “Human trafficking and challenges to States’ compliance with International Human Rights Law: The case of Brazil”. *Cultural Dynamics* [2018] 25:2. Available at: <https://doi.org.gate3.library.lse.ac.uk/10.1177/0921374013498140>.

³⁵ Ministério da Justiça. Contatos dos Membros do CONATRAP – Decreto nº 9.833/2019. Available at: <https://bit.ly/3AksVVZ>.

³⁶ See: ILO, “Combating trafficking in persons in Brazil”, Available at: <https://www.ilo.org/global/topics/forced-labour/WCMS_082044/lang--en/index.htm>

³⁷ UNODC, Escritório de Ligação e Parceria no Brasil, Tráfico de pessoas e contrabando de migrantes: ações. Available at: <https://bit.ly/3dBk4Wi>

and Public Security and with local NETPs such as the one in Manaus (Amazonas State) to promote the prevention and prosecution of human trafficking.³⁸

In 2017, Brazil joined the Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants (“GLO.ACT”), a four-year (2015-2019) action plan financed by the European Union in several countries in partnership with UNODC, IOM and UNICEF.³⁹ More recently, UNODC has implemented in Brazil (along with 7 other countries) TRACK4TIP, a three-year initiative funded by the US State Department, which aims to improve the response of regional criminal justice towards THB.

Funding

While the actual sources of funding are unclear, below is an aggregate of available funding figures for anti-trafficking initiatives in Brazil.

In May 2015, the Brazil Human Rights Fund approved nine projects through its “Confronting human trafficking” round of funding. The foundation pledged to donate a total of R\$ 360,000 to combat human trafficking, representing an amount of R\$ 40,000 per project.

Some funding for initiatives in Brazil have been published, such as the United Nations Office on Drugs and Crime (“UNODC”)’s TRACK4TIP (with a total budget of USD 3,000,000).⁴⁰ However, the information on funding is still inconsistent and can be problematic. For example, in that specific case, the budget is not disaggregated between the individual regions of Ecuador, Peru, Brazil, Colombia, the Dominican Republic, Trinidad and Tobago, Curaçao, and Aruba. Even further, the figure is not broken down to reference the amounts spent or received for domestic initiatives within Brazil.

There are also initiatives from external actors that have operated in Brazil which have published funding figures, such as the GLO.ACT. The GLO.ACT was a four-year (2015-2019), €11 million joint initiative by the European Union (“EU”) and the UNODC.⁴¹

Particular phenomena or systems with potential impact on anti-trafficking structures

Brazil is considered to be a source, transit and destination country for migrants and trafficking victims. For example, Brazil was found to be the second most frequently reported non-EU country of origin for trafficking victims in Europe between 2010-2012 (537 victims).⁴² However, this exploitation can occur on a wider global scale, where traffickers will also lure Brazilian women to South Korea using false promises of becoming music stars.⁴³

The inverse will also occur, where vulnerable persons are brought into Brazil, including traffickers who will bring Chinese women into Rio de Janeiro for the purpose of sexual

³⁸ OIM Brasil, OIM Brasil se mobiliza para a semana de enfrentamento ao tráfico de pessoas (2019). Available at: <https://bit.ly/2Uh4RCL>.

³⁹ UNODC, Brazil joins UNODC global initiative against human trafficking and migrant smuggling (2017). Available at: <https://bit.ly/2UQf3Cr>.

⁴⁰ UNODC, “TRACK4TIP programme, an anti-trafficking initiative” Available at: <https://www.unodc.org/lpo-brazil/en/trafico-de-pessoas/track4tip.html>

⁴¹ UNODC, “GLO.ACT supports the MERCOSUR Institute of Public Policies on Human Rights” (2019) Available at: <https://www.unodc.org/lpo-brazil/en/frontpage/2019/06/glo-act-supports-the-mercosur-institute-of-public-policies-on-human-rights.htm>.

⁴² Eurostat 2015, *Trafficking in human beings*, p. 38, Available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eurostat_report_on_trafficking_in_human_beings_-_2015_edition.pdf.

⁴³ USA, Department of State, *Trafficking in Persons Report*, 20th Edition (2020).

exploitation.⁴⁴ Brazil is also a destination country for the purposes of forced labour, where people from Bolivia, Paraguay, Haiti, and China have been forced into labour and debt-based coercion in the construction and textile industry.⁴⁵ It should be noted that any attempts to isolate types of trafficking may create artificial distinctions, because there is often cross-over between labour and sex trafficking. For example, Venezuelan migrants in border cities within Brazil were particularly vulnerable to trafficking through online advertisements and social media platforms offering fraudulent job opportunities, later exploiting them in sex trafficking in major cities like Sao Paulo and Rio de Janeiro.⁴⁶ The crisis in Venezuela resulted in an increased migration flow, where the main destinations for Venezuelans crossing the border are Boa Vista/RO and Manaus/AM⁴⁷ – the latter being a region that already struggles with human trafficking issues.⁴⁸

Traffickers have also forced Brazilian subjects to engage in criminal activity.⁴⁹ Given the exchange of persons across borders, South African, Venezuelan, and Bolivian victims have been specifically identified as being put exploited for the purpose of forced criminality in Brazil, including (but not limited to) drug trafficking.⁵⁰

In Brazil, the above stated trafficking conditions have faced complications due to the COVID-19 pandemic, where restrictions upon migration and travel have resulted in a worker-shortage, especially in the coffee sector, leading to increased reliance on local and inexperienced workers, in turn resulting in the exploitation of this cohort of workers.⁵¹

In addition, organised-crime syndicates of human-trafficking networks have adjusted their operations and *modus operandi* to capitalise on the social and economic impact of the pandemic and/or make up the lost revenues brought on by economic inactivity, business closures and lockdown measures. In Brazil, some states have already signalled an increase in the rate of gender-based violence and incidents of sexual violence against children. For example, traffickers in the Amazon had changed their patterns during lockdown, sending child victims of sexual exploitation to the perpetrators' private quarters and/ or specific locations, and establishing a 'delivery' or 'drive-thru' service for the sexual exploitation of children.⁵²

Similarly, as law-enforcement agencies were mobilised to implement states of emergency or other restrictive public health measures to combat the spread of the COVID-19 virus, these same measures also limited their capacity to investigate human-trafficking cases.⁵³ Law-

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ UNODC, Providing legal and social assistance to vulnerable migrants from Venezuela in Brazil results in positive outcomes (2019). Available at: <https://bit.ly/3dPQwEq>.

⁴⁸ Ibid; Generally: Interviewee BR02.

⁴⁹ USA, Department of State, Trafficking in Persons Report, 20th Edition (2020).

⁵⁰ Ibid.

⁵¹ Global Initiative Against Transnational Organised Crime; "Aggravating Circumstances: How Coronavirus impacts Human Trafficking", May 2020 < <https://globalinitiative.net/wp-content/uploads/2020/06/Aggravating-circumstances-How-coronavirus-impacts-human-trafficking-GITOC-1.pdf>>

⁵² Every Child Protected Against Trafficking (ECPAT) International, Why children are at risk of sexual abuse and exploitation during COVID-19, 7 April 2020, <https://www.ecpat.org/news/covid-19-sexual-abuse/>.

⁵³ Vanda Felbab-Brown, How COVID-19 is changing law enforcement practices by police and by criminal groups, The Brookings Institution, 7 April 2020, <https://www.brookings.edu/blog/order-from-chaos/2020/04/07/how-covid-19-is-changing-law-enforcement-practices-by-police-and-by-criminal-groups/>.

enforcement operations experienced delays and disruption, leading to a decline in the identification of trafficking. Labour exploitation investigators faced particular difficulties during the pandemic, where sectors that were already difficult to access became further obscured, particularly in industries such as illegal logging, mining and fishing. For example, Brazil's special mobile enforcement group, which conducts raids across the country on places suspected of using forced labour, has ceased operations over fears of susceptibility to infection.⁵⁴

International rankings and assessments

The US State Department has consistently ranked Brazil at a Tier 2 level in its Trafficking in Persons Report ("TIP Report") for at least the past seven years. This ranking indicates that the Brazilian government has not fully met "the minimum standards for the elimination of trafficking but is making significant efforts to do so".⁵⁵ The TIP Report considers efforts such as "increasing investigations and prosecutions of traffickers, identification of more victims, increased interagency cooperation to improve data sharing, and creating a new list to make public the name of convicted labour traffickers".⁵⁶

Specifically, the federal government of Brazil is found to have failed to meet the minimum standards of protections for victims of trafficking and insufficient penalties, where "officials continued to punish the majority of labour traffickers with administrative penalties instead of jail time."⁵⁷ Even further, the government had failed to apply the non-punishment principle and would punish victims of trafficking "for crimes committed as a result of their trafficking situation".⁵⁸ Finally, Brazilian authorities are criticised for having failed to "proactively identify victims of sex trafficking, including among highly vulnerable populations, such as children and LGBTI persons".⁵⁹

Further, in 2017, there was a noted 'regression' in Brazil's fight against modern slavery where the United Nations Special Rapporteur on Contemporary Forms of Slavery, Ms. Urmila Bhoola made a statement, along with other UN Experts, on the matter. The specific issue responded to a number of developments, including federal Ministerial Order 1129, which narrowed the definition of contemporary slavery,⁶⁰ so that fewer people would be identified as victims.⁶¹

⁵⁴ Fabio Teixeira, Brazil halts mobile group's anti-slavery operations due to coronavirus, Thomson Reuters Foundation, 17 March 2020, <https://news.trust.org/item/20200317170106-u1tz8>.

⁵⁵ USA, Department of State, Trafficking in Persons Report, 20th Edition (2020).

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ The Ministerial order sets additional requirements when compared to the Brazilian Criminal Code. For example, it requires the complete deprivation of the liberty of the victim, and the maintenance of armed security that prevents the worker from moving.

⁶¹ UN OHCHR, "Brazil must act now to avoid losing ground in fight against modern slavery – UN experts" (2017) Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22371&LangID=E;>

Determinants of anti-trafficking efforts

Overall, the key determinants of anti-trafficking law and policy in Brazil are: (i) international legal frameworks (especially the Palermo Protocol); (ii) the role of civil society organisations; (iii) the role of the media; (iv) funding, aid agreements or international aid; (v) the work of international agencies (especially UNODC, IOM and ICMPD), and (vi) the role of the anti-trafficking network in Brazil. Other determinants (such as the economic and political situation, big events such as the World Cup and the Olympics, the international reputation of Brazil, and decisions of Courts such as the Inter-American Court of Human Rights) may not be considered 'key' determinants, but were still highlighted as contributing towards establishing a favourable atmosphere towards anti-trafficking efforts.⁶²

International legal frameworks, notably the Palermo Protocol, were crucial in establishing Brazil's current legal and political framework. By 2006, the National Policy to Combat Trafficking in Persons already mirrored elements contained in the Protocol.⁶³ One of the interview participants linked this development with the greater influence exercised by **international organisations**.⁶⁴ For example, even before Law 13.344/2016 had introduced policies that were more aligned with the Protocol, organisations like the UNODC had promoted capacity building to help the government implement elements of the Protocol in Brazil.⁶⁵ Most importantly, the Palermo Protocol was the main motivation behind enacting Law 13.344/2016, as discussed below. One of the participants added that the underlying policy drew from ideas in the Protocol, which in turn became a foundation for the new legislation of Law 13.344/2016.⁶⁶

Civil society organisations were crucial in applying **pressure** to the federal government to sustain the development of anti-trafficking legislation and policy in Brazil. The participation of civil society has generated **public attention** and brought awareness to the issue, so it became more relevant.⁶⁷ In addition, their **participation** in the elaboration of the II and III National Plans for Combatting Human Trafficking through dialogue⁶⁸ was critical to the elaboration of each of the Plans' directives.⁶⁹ The importance of civil society actors is central for originating

⁶² See generally: Andrew B. Spalding et. al. "From the 2014 World Cup to the 2016 Olympics: Brazil's Role in the Global Anti-Corruption Movement", 21 Sw.J. Int'l Law 71 (2014); Andrew B. Spalding, "Brazil's Olympic-Era Anti-Corruption Reforms", 32 Md. J. Int'l L. 188 (2017). Available at: <http://digitalcommons.law.umaryland.edu/mjil/vol32/iss1/8>, and Jennifer Gustafson, "Bronze, Silver, or Gold: Does the International Olympic Committee Deserve a Medal for Combating Human Trafficking in Connection with the Olympic Games?" 41 Cal W Intl L J 2 (2011).

⁶³ ICMPD, 'Guia de Assistência e Referenciamento de Vítimas de Tráfico de Pessoas' [2020], p. 30.

⁶⁴ Interviewee BR05.

⁶⁵ Interviewee BR05.

⁶⁶ Interviewee BR04.

⁶⁷ Amanda Fernandes, Verônica Maria Teresi, 'O Tráfico Humano Dentro de Grandes Eventos: Copa do Mundo, Olimpíadas, os Jogos da Commonwealth e o Rock in Rio' [2016] 42 Leopoldianum 9. (on the role of the action of NGOs before and during big events)

⁶⁸ Amanda Fernandes, Verônica Maria Teresi, 'O Tráfico Humano Dentro de Grandes Eventos: Copa do Mundo, Olimpíadas, os Jogos da Commonwealth e o Rock in Rio' [2016] 42 Leopoldianum 9. (on the role of the action of NGOs before and during big events); Micaela Amorim Ferreira, Paulo César Corrêa Borges, 'Evolução das Atuais Políticas Públicas de Enfrentamento ao Tráfico de Pessoas do Ministério da Justiça' [2018] in Thais Janaina Wencznovicz, Vlãdia Maria de Moura Soares, XXVII Congresso Nacional do CONPEDI Porto Alegre - RS: Criminologias e Política Criminal II.

⁶⁹ *Ibid*, p. 36.

and sustaining anti-trafficking efforts in Brazil, specifically over the past decade. One interviewee mentioned the importance of “shadow reports”, which identify how trafficking specifically manifests on the ground in Brazil.⁷⁰ These reports also offer another monitoring point of view with respect to the government’s action. Some of the interviewees also observed the role of the civil society in both putting pressure on the government (for the development of Law 13.344/2016 and consequently advocating for improvements to policies and legislation)⁷¹ along with raising awareness and bringing the anti-trafficking agenda into the public consciousness.⁷²

The impact of **funding, aid agreements and/or international aid** along with the work of international agencies should be considered together, given the connection between the funds generated and applied through these agencies. In Brazil, the biggest sources of funding in the relevant period (from 2011 onwards) are the European Union and the United States State Department. These funds are most notably implemented through UNODC, IOM and ICMPD.⁷³ These organisations create **partnerships** with governmental organs and law enforcement agencies and apply these funds in the form of research and knowledge gathering,⁷⁴ along with capacity-building,⁷⁵ and by supporting the work of law-enforcement agents.⁷⁶ The interviewees largely noted how such funding was crucial into the development of anti-trafficking efforts.⁷⁷ One of them mentioned a shift beginning in 2010, where there was: “[F]unding. A lot of funding” from these external agencies. This external example led the federal government itself to fund anti-trafficking networks at the State level, especially in the period between 2010-2016 (a period in which Brazil was most active in its anti-trafficking efforts). When asked about the reason behind this funding, two interviewees mentioned that, in a way, there was an **underlying interest in controlling migration** on the part of North American and European States.⁷⁸

The allocation of resources and capacity building is contingent on **funding, aid agreements or international aid, and the work of international agencies**. For example, the allocation of resources by the federal government to create the NETPs and the state-wide networks came along with the influx of external funding for anti-trafficking efforts in Brazil.⁷⁹ Such external funding and the work of international agencies have a larger impact on the allocation of resources and capacity building than the economic situation in Brazil alone. In the period between 2009-2014 Brazil had a more comfortable economic situation. But political will to engage in and support anti-trafficking efforts only came after international agencies intensified

⁷⁰ Interviewee BR03.

⁷¹ Interviewees BR05, BR08, and BR10.

⁷² Interviewees BR01 and BR07.

⁷³ This is seen through the budget for programs such as TRACK4TIP and GLO.ACT but also through the main reports produced by organisations and sectors of the government, which tend to refer to these sources of funding.

⁷⁴ See, for example: Brazil, Ministry of Justice (written by Verônica Maria Teresy and Claire Healy), ‘Guia de referência para a rede de enfrentamento ao tráfico de pessoas no Brasil’ [2012]. ICMPD, ‘Guia de Assistência e Referenciamento de Vítimas de Tráfico de Pessoas’ [2020].

⁷⁵ Interviewee BR05, BR08, and BR10.

⁷⁶ Interviewee BR02, BR08. See also: GUIA PRÁTICO Grupo de Trabalho de Assistência às Vítimas de Tráfico de Pessoas da Defensoria Pública da União [2019]. This guide for the Union’s Public Defender was created in partnership with several international agencies and funded by the European Union, as an example.

⁷⁷ Interviewees BR02, BR04, BR07, BR08, BR09, and BR10.

⁷⁸ Interviewees BR09 and BR10.

⁷⁹ Interviewee BR09.

its actions and funding in the country.⁸⁰ Similarly, although the economic situation in Brazil worsened post-2014, there were still anti-trafficking efforts until around 2016.⁸¹ Today, capacity building depends almost exclusively on partnerships with international agencies and international funding.⁸² Thus, although the economic situation plays a part in creating political will towards anti-trafficking efforts, the key determinant appears to be external funding.

The role of the **anti-trafficking network** in Brazil is also a developing determinant. The anti-trafficking network is a network composed of federal law-enforcement agencies in Brazil such as the MPF, MPT and DPU (defined in section 2.3), along with state-level networks, composed by NETPs, the PAAHMs (also defined above), and the State Committees on Anti-Trafficking efforts.⁸³ The establishment of partnerships (including, for example, with civil society organisations and the private sector) normally depends on the role of the anti-trafficking network in Brazil. For example, public officials will motivate their institutions to enter partnerships such as between the MPF and REDTRAM or MPT and other organisations for a prevention project of their own initiative.⁸⁴ The combined result of these partnerships can be an increase in anti-trafficking efforts that focus on prosecution and protection of victims, along with changes in the development and application of legislation.⁸⁵ On the state level, these networks have played a crucial role in the implementation of anti-trafficking policies⁸⁶ and have actively participated in the elaboration of the PNETPs.⁸⁷

Other factors have been identified through the literature review and interviews, but they are not considered as *key* determinants.

For example, while the media may not be considered a main actor, it is nevertheless an important determinant by publicizing the issue of human trafficking and amplifying the work of other actors, such as the civil society organisations and academics. In Brazil, an interesting connection was made between a prime-time soap opera⁸⁸ (featuring a protagonist who was subject to trafficking), which aired in 2011/2012, and a corresponding increase in reporting of and public attention towards trafficking. Another example is how media coverage of incidents of trafficking can motivate State intervention.⁸⁹ One interviewee noted, however, that it was not the media itself that should be considered a determinant, but the publication of the issue of trafficking, which could be achieved through wide initiatives of consciousness raising.⁹⁰ Further and specifically, that this consciousness raising is not a function exclusive to the media

⁸⁰ Interviewee BR09.

⁸¹ Interviewee BR03.

⁸² Interviewee BR08.

⁸³ As mentioned above, however, not every state in Brazil has a network like this, although states like Rio de Janeiro and São Paulo do.

⁸⁴ UNODC, 'UNODC partners with Brazil on 'Freedom in the Air' initiative', 2 September 2020. Available at: <https://bit.ly/3DhzTfc>.

⁸⁵ Interviewee BR02.

⁸⁶ Interviewees BR05, BR09, and BR10.

⁸⁷ Ministry of Justice and Public Security, UNODC, PNUD, 'COLETÂNEA de Instrumentos de Enfrentamento ao Tráfico de Pessoas' [2018], p. 19.

⁸⁸ Interviewees BR04, BR06, BR07; As a cultural side note, soap-operas in Brazil, especially those aired in Brazil's largest broadcast company and during prime-time, play a strong cultural role and may even shape the public discourse.

⁸⁹ Interviewee BR06.

⁹⁰ Ibid.

and can happen through civil society engagement with the public, or through publication of research and/or available statistics on trafficking.⁹¹

Another example of factors that contributed to the improvement of anti-trafficking efforts is a specific manifestation of **political will**, particularly how the willingness (or lack thereof) of the government to uphold human rights can influence the efficacy of determinants.⁹² This attitude was partially attributed to the political affiliation of the presiding government and consequent partisanship. Specifically, interviewees noted the shift where previous governments who had built momentum in developing anti-trafficking efforts. This momentum was contrasted against events following the 2019 election and existing to date, where the current government is hostile towards a human rights agenda.⁹³

Another example of contributing factors included **events such as the World Cup 2014 and the Olympics 2016**.⁹⁴ Although these events could not be conclusively linked to anti-trafficking law and policy at the time,⁹⁵ the attention attached to these events was channelled towards the issue of human trafficking (as there is an idea that these cases rise during these events) makes it a great time to implement anti-trafficking efforts.⁹⁶

Additionally, some interviewees mentioned the **reputation** of Brazil as a determinant, as a complementary factor to international pressure in general.⁹⁷

Particulars of determinants by type of response

Most of the interviewees did not identify a difference between determinants of trafficking as related to the type of response.

However, there was a certain focus – especially from the international organisations and sources of funding in Brazil – on repression from the state. One of the interviewees mentioned that the external determinants (i.e., external funding, international organisations and international NGOs) were mostly focused on state-repression.⁹⁸ For example, much of the funding for anti-trafficking measures are implemented through an external agenda, where there is a larger focus on repression instead of other issues such as vulnerabilities and prevention.⁹⁹ As a result, these efforts can be largely described as responsive instead of preventative. Further, there is little public information available on these partnerships, but a few participate in networks like REDTRAM and seem to be the product of government official-led initiatives along with support from law enforcement agencies.¹⁰⁰

⁹¹ Interviewee BR06.

⁹² Interviewee BR03.

⁹³ *Ibid*; Interviewee BR04.

⁹⁴ Interviewee BR01.

⁹⁵ See the preparatory works for Law 13.344/2016: Brazil, Senado Federal, CPI - Tráfico Nacional e Internacional de Pessoas no Brasil (CPITRAFPE). Available at: <https://bit.ly/3Aq0Gal>, p. 1707-1723.

⁹⁶ Amanda Fernandes, Verônica Maria Teresi, 'O Tráfico Humano Dentro de Grandes Eventos: Copa do Mundo, Olimpíadas, os Jogos da Commonwealth e o Rock in Rio' [2016] 42 *Leopoldianum* 97.

⁹⁷ Interviewees BR03 and BR06.

⁹⁸ Interviewee BR09.

⁹⁹ Interviewee BR02, BR08, and BR11.

¹⁰⁰ Interviewee BR02.

Curiously, there seems to be a larger focus on prevention and protection of victims at a state-level.¹⁰¹ This has been largely attributed to the work of the state-wide networks, including the NETPs, the PAAHMs, and the State Committees on Anti-Trafficking efforts, which are drivers in producing preventative measures. These networks are then deemed essential for the implementation of anti-trafficking efforts locally.¹⁰²

Particulars of determinant by form of exploitation

Similarly, there is little difference in determinants based on the form of exploitation. Yet, there are two main focuses in anti-trafficking efforts in Brazil, which operate through different ways: labour exploitation and sexual exploitation. Other forms of trafficking, although common in Brazil (such as trafficking for the purposes of illegal adoption, domestic servitude or begging) do not tend to be the focus of trafficking laws and policies.¹⁰³ The identified determinants did not produce as much impact regarding these other forms of exploitation.

Labour trafficking is widely recognised as an issue in Brazil, so that there is a pre-existing, well-developed legislative background for protecting workers' conditions,¹⁰⁴ in addition to an established network to tackle modern slavery (or 'work analogous to slavery', as described by Art. 149 of the Criminal Code).¹⁰⁵ The issue of labour exploitation precedes the identified period of Brazilian anti-trafficking efforts (within the past decade), with anti-slavery networks and legislation that have been in place since the 1990s. The underlying motivation for labour protection is rooted in Brazil's history and links with slavery,¹⁰⁶ and supplemented by external factors, including the IACtHR decision in *José Pereira v Brazil*.¹⁰⁷ The resulting implication of these protections then extend to anti-trafficking, where Brazilian legislation and jurisprudence treats cases of human-trafficking for the purpose of labour exploitation as cases of modern-slavery.¹⁰⁸

Brazil engaged in anti-trafficking efforts to address human-trafficking for sexual exploitation largely through external pressure, and has been often more focused on this form of human-trafficking. In Brazil, there is a belief that the majority of human trafficking cases involve sexual exploitation.¹⁰⁹ As described above, the Brazilian Criminal Code had historically exclusively criminalised human-trafficking for sexual exploitation, and this was only amended in 2016. However, this focus on trafficking for the purpose of sexual exploitation also shaped the focus of early anti-trafficking policies and developments in Brazil.¹¹⁰ For example, one of the first anti-trafficking efforts was a 2002 study called Research on the Trafficking of Women, Children and Adolescents for Sexual Exploitation in Brazil ('PESTRAF'), which further influenced the adoption of the Palermo Protocol by Brazil.¹¹¹ PESTRAF focused on the sexual exploitation of women, which can be explained when looked at the European context (where these forms of trafficking were predominant), which became Brazil's lenses for mapping THB at the time.¹¹²

¹⁰¹ Interviewee BR09.

¹⁰² Interviewees BR04, BR05, BR07, and BR09.

¹⁰³ Interviewees BR05, BR09, BR10.

¹⁰⁴ ICMPD, 'Guia de Assistência e Referenciamento de Vítimas de Tráfico de Pessoas' [2020], p. 41.

¹⁰⁵ Interviewee BR09.

¹⁰⁶ Interviewee BR09.

¹⁰⁷ Interviewees BR03 and BR06.

¹⁰⁸ Interviewees BR01, BR02, BR03, BR05, BR07, and BR11.

¹⁰⁹ Interviewees BR01 and BR02.

¹¹⁰ Interviewee BR09.

¹¹¹ Interviewees BR03 and BR10.

¹¹² Heloisa Coutinho Calmon Nogueira da Gama, 'Inimigos invisíveis: O impacto das lacunas na implementação da política pública de monitoramento do tráfico de pessoas no Brasil' [2019] Dissertação apresentada como

This focus remains somewhat controversial, where the focus provides insight into the vulnerabilities of gendered oppression, but can also erase the lived experience of marginalised persons (discussed further below).

Particulars of determinants according to trafficked persons' profile

Women and girls are primarily understood to be the majority of victims of human trafficking in Brazil.¹¹³

Some of the identified determinants are influenced by this idea, which results in a focused approach regarding these victims. As mentioned above, for example, PESTRAF focused on women and girls when it mapped the trafficking situation in Brazil in the early 2000s, following an approach and vision that were better suited for the European/American context at the time. Similarly, in the media, the same soap opera that put trafficking in the spotlight of public discourse, also fed the idea of victims of human trafficking as “innocent” cis-gender women and girls.¹¹⁴

Additionally, children have laws and policies specific for them in place, which supplement existing anti-trafficking efforts. The Child and Adolescent Statute (ECA) set a series of standards of treatment of minors and created a “microsystem” with its own provisions on administrative, procedural and criminal laws specific to children and teens. An example regarding anti-trafficking efforts is how ECA supplements the definition of human trafficking brought by Law 13.344/16. While this definition would require fraud or coercion for child sex trafficking, Art. 244(a) of ECA excludes these requirements when criminalising sexual exploitation.

The focus on women and girls as a group predominantly associated with trafficking victimhood can raise complex issues. For one the ‘mainstreaming’ (i.e. bringing a lesser known issue into the public awareness) of trafficking as an issue of public concern is important to raise awareness and public support for anti-trafficking initiatives, and therefore generate political will towards the issue of human trafficking itself.¹¹⁵ This focus is important where trafficking is one of many issues requiring political consideration (i.e. among health, labour/poverty and other social conditions).¹¹⁶ In that sense, focusing in this specific profile of victim (i.e., women and girls trafficked for sexual exploitation) is effective in generating public support regardless of political ideologies.¹¹⁷

However, the impact of mainstreaming and supporting this victim profile (to the exclusion of others) can come at the cost of erasure (particularly for already marginalised groups). In

requisito parcial para obtenção do grau de Mestre (Opção profissional) pelo Programa de Pós-Graduação em Análise e Gestão de Políticas Internacionais da PUC-Rio, p. 68.

¹¹³ ICMPD, ‘Guia de Assistência e Referenciamento de Vítimas de Tráfico de Pessoas’ [2020], p. 90, Interviewees BR01 and BR02.

¹¹⁴ Interviewees BR04 and BR07.

¹¹⁵ Interviewee BR01, BR04, BR07 and BR09.

¹¹⁶ Interviewee BR04.

¹¹⁷ Ibid.

reality, Brazil has a large share of its trafficking victims that are men and/or transgender women.¹¹⁸

Specifically, one interviewee raised the point that ideally the national understanding of trafficking should include a deconstructed idea of trafficking (including to consider intersectional approaches of queer, racialised and/or women with disabilities). However, these viewpoints could generate backlash from those with a more conservative view and that do not sympathise with (or even oppose to) these marginalised groups. Such backlash could then impact the greater scheme of anti-trafficking developments.¹¹⁹ That is, conservatives might rather not engage in anti-trafficking efforts at all than engage in efforts that are based on an inclusive notion of victims. As a result, mainstreaming is seen as an effective strategy given the greater risk of dismantling social policies and the unpredictability of the government priorities shifting with each election. In effect, the strategy focuses on maintaining core elements as opposed to pursuing a more 'radical' (and potentially divisive) agenda.¹²⁰

Finally, most interviewees did not identify a difference in determinants of anti-trafficking efforts regarding the profile of the victim. However, one noted that the same determinant may result in a different response based on the profile of the victim.¹²¹ The example given related to targeted advocacy directed at different profiles – such as LGBTQIA+ NGOs focusing on LGBTQIA+ victims, or women's rights groups focusing on women and girls as victims.

Particulars of determinants according to perpetrator profile

There were no particular determinants identified as exclusively and/or determinatively linked to the perpetrator's profile (sex, gender identity or sexual orientation, age, citizenship status, etc). However, there is a notable difference in treatment regarding organised groups and individual traffickers.

In Brazil, the focus of external determinants (i.e. international organisations or international funding) often targets criminal organised group.¹²² While this concentration is justifiable when looking at human-trafficking from a global perspective, there is a disconnect when considering the national reality in Brazil. Individual traffickers or an informal network (i.e. not rising to the level of organisation necessary to be considered a criminal organised group) tend to be common throughout Brazil, as individuals or informal networks take advantage of the prevalent situation of vulnerability.¹²³

¹¹⁸ Interviewees BR04, BR06 and BR07.

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.* Note: the interviewee specifically highlighted that there are several radical efforts taking place, but that this concept of mainstreaming applied at large to civil society organisations in Brazil.

¹²¹ Interviewee BR08.

¹²² Interviewees BR09, BR10.

¹²³ Interviewee BR05, BR09, BR10.

Particulars of determinants by type of trafficking

Particular determinants can differ when comparing internal to international trafficking and Brazil as a country of origin against the idea of Brazil as a country of transit or destination. One of the interviewees mentioned how external determinants such as international organisations and international actors typically provide funding focused on international trafficking, even if internal trafficking is also common in Brazil.¹²⁴ Some interviews related this focus on the flow of people to the underlying interests of external actors in using anti-trafficking efforts to control the flow of migration (and consequently, any migration flux).¹²⁵

Additionally, treatment differs based on the direction of migrant flow, where the removal of subjects from Brazil is treated differently that subjects brought into Brazil or the existing flows of subjects (i.e., where Brazil is the destination/transit country or any internal trafficking). Law 13.344/2016 identified that taking a victim outside of the Brazilian territory is an aggravating factor or circumstance in sentencing trafficking offences (as they are currently defined), while remaining silent on the other directional flows of trafficking.

Particulars of determinants by stage of response

Determinants of anti-trafficking efforts in Brazil can vary based on the stage of response.

The acknowledgement and prioritisation of human trafficking as a policy issue, for example, is dependent on determinants such the media (or the publication of studies and data on human-trafficking).¹²⁶ Early studies such as PESTRAF have been a determinant in the early 2000s as a first instance consideration of trafficking.¹²⁷ In the past decade, mainstreaming the issue of human-trafficking meant a larger concern by the general public and the consequent acknowledgement and prioritisation of human trafficking as an issue.¹²⁸

The adoption of legislation and policy and consequent setting up of institutions or mechanisms drew from international legal frameworks (and especially the Palermo Protocol) as a main determinant. Both the enactment of Law 13.344/2016 and, even before that, the setting up of institutions and mechanisms to deal with human trafficking, had the Protocol as a starting point,¹²⁹ as discussed below.

The monitoring and evaluation of anti-trafficking efforts, as well as reporting, may either depend on the anti-trafficking network in Brazil or international organisations and NGOs. Regarding the anti-trafficking network in Brazil, CONATRAP has attributed its work to the monitoring and evaluation of the PNETPs.¹³⁰ Additionally, international and civil society organisations are integral knowledge builders in producing actual data and reports relating to human trafficking in Brazil.¹³¹

Finally, both implementation and sustainability are an issue in Brazil. First, Brazil has legislation and policies in practice, but they are inconsistently implemented.¹³² Anti-trafficking

¹²⁴ Interviewee BR09.

¹²⁵ Interviewees BR09, BR10.

¹²⁶ Interviewee BR06.

¹²⁷ Interviewees BR03, BR10.

¹²⁸ Interviewees BR04, BR06, BR07.

¹²⁹ Interviewees BR04, BR05, BR07.

¹³⁰ Brazil, Ministério da Justiça e Segurança Pública, 'Conatrap'. Available at: < <https://bit.ly/3oxNKtp>>.

¹³¹ Interviewees BR03, BR05, BR06.

¹³² Interviewees BR01, BR02, BR03, BR07.

efforts are often implemented at the state level. The states that have NETPs, PAAHMs and state Committees retain more control over the application of policies and can provide further support to sustain anti-trafficking laws, policies and initiatives. However, this support is not uniformly shared among or provided by state governments, so that the implementation of anti-trafficking efforts can widely vary depending on the region of the country. Second, the sustainability of these laws and policies often depends on the funding allocated to the larger anti-trafficking network, but this determination of funding is often a partisan activity. For example, the most recent budget has experienced massive rollbacks and cuts from the current government, because funding for modern slavery and trafficking is a human-rights related expense.¹³³ For example, the 2020 operational budget for anti-trafficking efforts was cut in 195,410.00 reais (US\$ 34,396.52) when compared to its previous year.¹³⁴ Additionally, anti-trafficking efforts in Brazil highly depend upon external funding and partnerships with international organisations¹³⁵ and such dependency is inevitably unsustainable in the medium and long term.

¹³³ See Interviewees BR01, BR03 and BR04.

¹³⁴ USA, Department of State, Trafficking in Persons Report, 21st Edition (2021), p. 138.

¹³⁵ Interviewees BR08, BR09, BR10.

Focus: Law n. 13.344/2016

Law n. 13.344/2016 mandates “the prevention and repression of internal and international trafficking in human beings and on measures of attention towards victims”.¹³⁶ It revoked Arts. 231 and 231-A of the Brazilian Criminal Code (focused solely on THB for sexual exploitation) and inserted Art. 149-A, which included other forms of exploitation into the definition, in accordance with the Palermo Protocol. Law n. 13.344/2016 also explicitly addresses the prevention, prosecution and protection of victims and sets principles and guidelines to combat human trafficking that includes the respect for human rights and the promotion of cooperation/partnerships.

Determinants

The main determinant of this improvement was international standards – or, in other words, the endeavour to incorporate the Palermo Protocol into domestic legislation in Brazil.

Law n. 13.344/2016 addressed a concern by introducing a trafficking definition that was closer to that of the Palermo Protocol. This concern had been raised by civil society and international organisations in the drafting consultation process. The consequent legislative change was also recognised as one of the goals of the II PNETP.¹³⁷ This law was proposed to the Congress by the Senate following a Parliamentary Inquiry Committee¹³⁸ on National and International Trafficking in Brazil,¹³⁹ which took place between 2011-2014.¹⁴⁰ It is worth noting that a Parliamentary Inquiry Committee was also held in Congress between 2012 and 2014.¹⁴¹ Both inquiries considered the inputs of civil society organisations, along with incidents of THB in the country, and also convened audiences within the states of the federation (in which they were presented evidence about how THB manifests regionally throughout Brazil).¹⁴²

Both inquiries also concluded that the anti-trafficking legislation in Brazil (at the time) needed to be amended, and that any new legislation needed to resemble the Palermo Protocol more closely.¹⁴³ Additionally, the Senate mentioned the contribution of the National Secretariat of

¹³⁶ Brazil, Lei Nº 13.344, de 6 de Outubro de 2016.

¹³⁷ Heloisa Coutinho Calmon Nogueira da Gama, ‘Inimigos invisíveis: O impacto das lacunas na implementação da política pública de monitoramento do tráfico de pessoas no Brasil’ [2019] Dissertação apresentada como requisito parcial para obtenção do grau de Mestre (Opção profissional) pelo Programa de Pós-Graduação em Análise e Gestão de Políticas Internacionais da PUC-Rio, p. 37.

¹³⁸ Parliamentary Inquiry Committees are an atypical function of the Legislative in Brazil. They consist of investigations taken by the Congress and/or the Senate over matters of public interest regarding a specific fact throughout a specific period of time (Brazilian Constitution, art. 58º, §3º). See: L. R. Barroso, ‘Comissões Parlamentares de Inquérito e suas competências: política, direito e devido processo legal’ (2008) 12 RERE.

¹³⁹ Brazil, Câmara dos Deputados, Projeto de Lei PL 7370/2014. Available at: <https://bit.ly/2UJbXQC>.

¹⁴⁰ Brazil, Senado Federal, CPI - Tráfico Nacional e Internacional de Pessoas no Brasil (CPITRAFPE). Available at: <https://bit.ly/3Ag0Gal>.

¹⁴¹ Brazil, Câmara dos Deputados, CPI – Tráfico de Pessoas no Brasil, Relatório final. Available at: < <https://bit.ly/3lqpfew>>.

¹⁴² See, Brazil, Senado Federal, CPI - Tráfico Nacional e Internacional de Pessoas no Brasil (CPITRAFPE). Available at: <https://bit.ly/3Ag0Gal>. Brazil, Câmara dos Deputados, Projeto de Lei PL 7370/2014. Available at: <https://bit.ly/2UJbXQC>.

¹⁴³ Brazil, Senado Federal, CPI - Tráfico Nacional e Internacional de Pessoas no Brasil (CPITRAFPE). Available at: <https://bit.ly/3Ag0Gal>, p. 1846-1848, 1851-1857. Brazil, Câmara dos Deputados, Projeto de Lei PL 7370/2014. Available at: <https://bit.ly/2UJbXQC>, p. 387-392.

Justice (“SNJ”), which held several workshops (supported by international organisations) to develop the proposed legislation.¹⁴⁴ The Senate’s draft legislation was then sent to the Congress, eventually becoming Law 13.344/2016.¹⁴⁵

The importance of Law 13.344/2016 as a key determinant is supported within the literature. According to Ribas Cardoso and Annoni, Brazil had been presenting itself internationally as strongly committed to combating human rights violations.¹⁴⁶ International legal frameworks and agreements such as the Palermo Protocol were therefore important to meet the stated commitment.¹⁴⁷ The legislation also shifted to reflect the ongoing public debates and social pressure of that time, since Brazil had several gaps regarding human trafficking in its legislation.¹⁴⁸

The interviews revealed similar key determinants. They mentioned how, at the time, the Palermo Protocol was an important influence in anti-trafficking efforts and/or the efforts to adapt Brazil’s legislation to the Protocol.¹⁴⁹ The main determinant at that moment was said to be “the international compromise Brazil made when it signed the Palermo Protocol”.¹⁵⁰ Moreover, civil society was also important in this process by “sensitising the government”.¹⁵¹ Another interviewee pointed to how the law did not exist in isolation and was a result of the network of actors created through policies which predated the Law 13.344/2016.¹⁵²

Concerns linked to the Law n. 13.344/2016

As explained above, the TIP Report noted Art. 149(a) of Law 13.344/2016’s inconsistency with international law by requiring force, fraud or coercion for child sex trafficking.¹⁵³ However, the TIP Report also noted that Art. 244(a) of the Child and Adolescent Statute criminalises inducing a child to engage in sexual exploitation without these requirements, which the TIP Report considered to be “sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape”.¹⁵⁴

A similar concern relates to the nature of consent.¹⁵⁵ Unlike the Palermo Protocol, Law 13.344/2016 was silent on how consent can be vitiated by additional factors/means (specifically, fraud, deception, abuse of power of a position of vulnerability, etc). This gap can be filled by Brazil’s National Policy to Combat Trafficking in Persons, which excludes the need for consent.¹⁵⁶

Finally, another gap in Law 13.344/2016 is the exclusion of “vulnerability” from the legal definition of trafficking. Specifically, vulnerability should apply to any abuse of power, which

¹⁴⁴ Brazil, Senado Federal, CPI - Tráfico Nacional e Internacional de Pessoas no Brasil (CPITRAFPE). Available at: <https://bit.ly/3Ag0Gal>, p. 1852.

¹⁴⁵ Brazil, Câmara dos Deputados, Projeto de Lei PL 7370/2014. Available at: <https://bit.ly/2UJbXQC>.

¹⁴⁶ Arisa Ribas Cardoso; Danielle Annoni, ‘La protección a las víctimas de trata de personas en Brasil’ [2015] 15(29) *Opinión Jurídica* 79, p. 87.

¹⁴⁷ ICMPD, ‘Guia de Assistência e Referenciamento de Vítimas de Tráfico de Pessoas’ [2020], p. 59.

¹⁴⁸ ICMPD, ‘Guia de Assistência e Referenciamento de Vítimas de Tráfico de Pessoas’ [2020], p. 20.

¹⁴⁹ Interviewees BR03, BR04, BR06, BR07, BR08.

¹⁵⁰ Interviewee BR08.

¹⁵¹ Interviewee BR11.

¹⁵² Interviewee BR04.

¹⁵³ USA, Department of State, *Trafficking in Persons Report*, 20th Edition (2020), p. 117.

¹⁵⁴ *ibid*

¹⁵⁵ Interviewee BR04 also mentioned this concern.

¹⁵⁶ ICMPD, ‘Gua de Assistência e Referenciamento de Vítimas de Tráfico de Pessoas’ [2020], p. 30.

exacerbates existing vulnerabilities. However, a report by the Ministry of Justice and Public Security, UNODC and PNUD suggests that judges and other competent anti-trafficking authorities may adopt a broad interpretation of the legal definition (which takes into account the presence of vulnerability) to overcome this oversight.¹⁵⁷

Relevance of these examples as representative of broader determinants

Law 13.344/2016 marks an important moment in Brazil's history. As mentioned above, the law was a result of previous efforts undertaken by the Brazilian government and the network of actors (i.e. inter-state and intra-state networks). The Palermo Protocol was largely influential in Brazil to shape earlier policies on human trafficking. Other factors, while not key determinants, can be highlighted as persuasive, including the symbolic nature of IACtHR's *Fazenda* judgment, delivered in the same month the law was enacted, or the relationship between big events (such as the Olympics or the World Cup) and trafficking, creating an external pressure which influenced the work of the Senate's Commission of Parliamentary Inquiry.¹⁵⁸

¹⁵⁷ *Ibid*, p. 25, 29.

¹⁵⁸ Brazil, Senado Federal, CPI - Tráfico Nacional e Internacional de Pessoas no Brasil (CPITRAFPE). Available at: <https://bit.ly/3Ag0Gal>, p. 1690.

Focus: III National Plan (2018-2022)

The III National Plan for Combatting Human Trafficking (III PNETP) was adopted in 2018, following the expiration of the II PNETP. It was built off the framework of the previous PNETPs and through dialogue with civil society and the governmental anti-trafficking networks.¹⁵⁹ Its key features include: (i) public policies; (ii) training; (iii) information management; (iv) public awareness/campaigning; (v) accountability, and (vi) victim assistance. The III PNETP contained additional goals compared to its predecessors, such as creating partnerships with international networks and expanding the PAAHMs.

Determinants

While the adoption of the III PNETP was important, there must also be careful consideration of the determinants behind the improvement, particularly when compared to the previous PNETPs. On this note, some main determinants of the PNETP improvements are: the role of civil society, the work of international agencies, and the work accomplished by Brazil's anti-trafficking network.

The III PNETP was built in participation with the public sector, civil society and international organisations,¹⁶⁰ along with a partnership between the UNDP, UNODC and the National Secretariat of Justice (SNJ).¹⁶¹ This holistic process started with the elaboration of the II PNETP, and was maintained throughout the III PNETP.¹⁶²

The work of these actors is determinative, because it significantly contributed to the directives of the III PNETP. The development III PNETP first required the evaluation of the II PNETP, including (but not limited to) a report from the inter-ministry groups created to monitor the PNETP along with reports and guides created by the national coordination for anti-trafficking efforts (in partnership with UNODC) on the phenomenon of THB.¹⁶³ Further, virtual consultations were held with the stakeholders involved in anti-trafficking efforts: the NETPs, the PAAHMs, the State Committees, governmental organs responsible for the implementation of the II PNETP, specialists, and representatives of NGOs.¹⁶⁴ These proposals later were later subject to a feasibility analysis and received input from newly elected members of CONATRAP before being finalised to produce the version which exists to date.¹⁶⁵

¹⁵⁹ Ministry of Justice and Public Security, UNODC, PNUD, 'COLETÂNEA de Instrumentos de Enfrentamento ao Tráfico de Pessoas' [2018].

¹⁶⁰ Ministry of Justice and Public Security, UNODC, PNUD, 'COLETÂNEA de Instrumentos de Enfrentamento ao Tráfico de Pessoas' [2018], p. 13.

¹⁶¹ *Ibid*, p. 18.

¹⁶² Brazil, Ministério da Justiça, II Plano Nacional de Enfrentamento ao Tráfico de Pessoas - processo de elaboração e momento de validação pré-decreto, 12 May 2012. Available at: <https://bit.ly/3AboKvv>. See also: Heloisa Coutinho Calmon Nogueira da Gama, 'Inimigos invisíveis: O impacto das lacunas na implementação da política pública de monitoramento do tráfico de pessoas no Brasil' [2019] Dissertação apresentada como requisito parcial para obtenção do grau de Mestre (Opção profissional) pelo Programa de Pós-Graduação em Análise e Gestão de Políticas Internacionais da PUC-Rio, p. 35-37.

¹⁶³ Ministry of Justice and Public Security, UNODC, PNUD, 'COLETÂNEA de Instrumentos de Enfrentamento ao Tráfico de Pessoas' [2018], p. 18.

¹⁶⁴ *Ibid*, p. 19.

¹⁶⁵ *Ibid*, p. 21-22.

These PNETPs were also heavily discussed throughout the interviews. One interviewee referred to the “network” created in Brazil as leading to the development of policies and the III PNETP.¹⁶⁶ Another mentioned the role played by international organisations like UNODC, which “have followed the creation of the national plans”.¹⁶⁷ The importance of the multi-sector groups (involving multiple governmental agencies) for the evaluation and monitoring of the PNETPs was also highlighted as an important step in developing the Plans.¹⁶⁸ In addition, the importance of international advocacy (and the consequent funding provided by it)¹⁶⁹ and the engagement and support from civil society were flagged as central factors in developing the PNETPs.¹⁷⁰

Concerns linked to the III National Plan (2018-2022)

The main concern with this improvement is its sustainability. The Plan itself is marked as a development because it includes important issues within the anti-trafficking agenda, often considered as marking a “new cycle” of anti-trafficking efforts in Brazil.¹⁷¹ However, the interviewees already expressed a concern with the existing policies and its implementation,¹⁷² referring to them as “law for the English to see”.¹⁷³ Most notably, one of the interviewees mentioned that the III PNETP was one of the hardest ones of to implement and was almost not adopted at all, due to a lack of political will.¹⁷⁴ This lack of political will may persist as a barrier to the III PNETP’s effective implementation across Brazil.

Relevance of these examples as representative of broader determinants

Even though these policies are not always fully implemented, the development of the III PNETP (and its predecessors) demonstrates how determinants such as pressure from civil society and/or international agencies, and Brazil’s anti-trafficking network can raise issues within the anti-trafficking agenda to be incorporated in Brazilian policymaking. To that end, unlike Law 13.344/2016, whose main role was to fill in a legal gap between the legislation then and the Palermo Protocol, the importance of the Plans relates to beyond the policy as it exists on paper to the implementation and manifestations of anti-trafficking efforts in Brazil.

¹⁶⁶ Interviewee BR01.

¹⁶⁷ Interviewees BR05, BR08.

¹⁶⁸ *Ibid.*

¹⁶⁹ Interviewee BR09.

¹⁷⁰ Interviewee BR10.

¹⁷¹ Ministry of Justice and Public Security, UNODC, PNUD, ‘COLET NEA de Instrumentos de Enfrentamento ao Tráfico de Pessoas’ [2018] p. 10.

¹⁷² Interviewee BR01.

¹⁷³ Interviewee BR03; The interviewee referred to a popular Brazilian saying, referring to laws and policies adopted by the government for its image (especially abroad), which are not intended for actual implementation.

¹⁷⁴ Interviewee BR11.

COVID-19

Impact on anti-trafficking efforts

The main impact of COVID-19 on anti-trafficking efforts in Brazil is the exacerbation of vulnerabilities. In Brazil, the issue of vulnerability and its proportional relation to THB is gaining more exposure.¹⁷⁵ On this note, the majority of the interviews raised how the pandemic had an impact upon anti-trafficking measures, including restrictions put in place by the Brazilian government to halt the pandemic, along with the economic crisis which has led to rising unemployment rates.¹⁷⁶ The combined impact worsened existing vulnerabilities and made marginalised subjects more susceptible to human trafficking.¹⁷⁷ The interviewees did not suggest that any particular kind of response was more affected by the pandemic in relation to others, but that anti-trafficking initiatives at large faced greater barriers.

Regarding protection of victims, a key issue was how the pandemic has restricted available funds for anti-trafficking initiatives. Notably, a budget cut from the government limited the available assistance and destroyed the network of services for victims.¹⁷⁸ The pandemic has jeopardised the livelihoods of both beneficiaries and the staff of many services.¹⁷⁹ Further, the government restrictions have halted the services provided by organisations which support victims of human trafficking, where anti-trafficking departments may not be suspended but have reduced capacity.¹⁸⁰ Even further, there are additional physical challenges and boundaries in providing assistance along with barriers to how the service can be provided, where social distancing measures made access more limited in not completely occluded.¹⁸¹

Regarding prosecution, while some ongoing cases were minimally affected as the justice system moved online,¹⁸² the *“already difficult task of identifying victims was made worse by the suspension of in-person services”*.¹⁸³ This barrier was faced by mobile investigation groups that used to perform on-site visits to monitor potential cases of labour exploitation but had to suspend their services due to logistical difficulties.¹⁸⁴ Curiously, despite the interruption of such services, the number of identified victims remained the same.¹⁸⁵ One of the interviewees suggested this statistic was troubling and may instead indicate a rise in the actual number of

¹⁷⁵ Interviewee BR05. See also: UNODC, Ministry of Justice and Public Security, ‘Relatório Nacional sobre Tráfico de Pessoas: Dados 2017 a 2020’ [2021].

¹⁷⁶ UNODC, Ministry of Justice and Public Security, ‘Relatório Nacional sobre Tráfico de Pessoas: Dados 2017 a 2020’ [2021], p. 18.

¹⁷⁷ Interviewees BR01, BR03, BR05, BR06, BR07, BR08, BR09, BR10 and BR11.

¹⁷⁸ Interviewee BR10.

¹⁷⁹ Interviewee BR05.

¹⁸⁰ Interviewee BR04.

¹⁸¹ *Idem*.

¹⁸² Interviewee BR10.

¹⁸³ UNODC, Ministry of Justice and Public Security, ‘Relatório Nacional sobre Tráfico de Pessoas: Dados 2017 a 2020’ [2021], p. 20.

¹⁸⁴ Interviewees BR01, BR04, BR05 and BR10. See also: Fabio Teixeira, ‘Brazil halts mobile group’s anti-slavery operations due to coronavirus’, Thomson Reuters Foundation News, 17 March 2020.

¹⁸⁵ UNODC, Ministry of Justice and Public Security, ‘Relatório Nacional sobre Tráfico de Pessoas: Dados 2017 a 2020’ [2021], p. 19.

cases during the pandemic, further indicating how the pandemic has also limited capacity for gathering information.¹⁸⁶

Regarding prevention, NGO initiatives have been limited due to pandemic restrictions.¹⁸⁷ Additionally, the exacerbation of vulnerabilities makes the prevention of trafficking more difficult. One interviewee mentioned how the pandemic and the economic crisis in the country resulted in a national setback, and while the entire country was suffering, this economic hardship would multiply manifest for the most vulnerable portions of the population.¹⁸⁸

On victim profiles, while many interviewees suggested there was no discernible impact, migrants seem to be particularly affected by the measures taken by the Brazilian government during the pandemic. Specifically, the closure of Brazil's borders created precarious situations including the smuggling of immigrants (especially from Venezuela),¹⁸⁹ and generally leading people to look for alternative, more expensive and more dangerous routes, making them vulnerable to human trafficking and exploitation.¹⁹⁰

Interestingly, there were also certain benefits linked to the pandemic. For example, law enforcement agents were able to discover the presence of criminal organisations due to the border closures forcing certain operations to become more visible.¹⁹¹ Further, the pandemic facilitated efforts to train healthcare professionals to identify victims of trafficking.¹⁹² In addition, one interviewee analogised the pandemic to other big events (like the World Cup and the Olympics) as generating political will and putting additional and external pressure on the government to address and ameliorate incidents of trafficking.¹⁹³ This view not shared by other interviewees, who raised how the pandemic put pressure on the division of available resources, so that issues like unemployment or food scarcity took attention away from incidents of trafficking.¹⁹⁴

¹⁸⁶ Interviewee BR05.

¹⁸⁷ Interviewee BR11.

¹⁸⁸ Interviewee BR05.

¹⁸⁹ See: UNODC, 'Relatório situacional Brasil: tráfico de pessoas em fluxos migratórios mistos, em especial de venezuelanos' [2021].

¹⁹⁰ UNODC, Ministry of Justice and Public Security, 'Relatório Nacional sobre Tráfico de Pessoas: Dados 2017 a 2020' [2021], p. 18. Interviewees BR04, BR08. See also: Defensoria Pública da União, Comitê Pacaraima, '1º Informe Defensorial: Relatório de monitoramento dos direitos humanos de pessoas migrantes e refugiadas em RR' [2021].

¹⁹¹ Interviewee BR01.

¹⁹² Interviewee BR02.

¹⁹³ Interviewee BR01.

¹⁹⁴ Interviewee BR04 and BR06.

Conclusion

This report looked at the recent developments in anti-trafficking efforts in Brazil. Out of these, it identified two key developments: 1) the enactment of Law 13.344 in 2016, and (2) the evolution and combined effect of National Plans for Combatting Human Trafficking, where the third and most recent plan was adopted in 2018.

These developments were the product of, and are directly connected to, several determinants which influenced the anti-trafficking policy, legislation and initiatives in Brazil, which can be largely categorised as: (i) international legal frameworks (especially the Palermo Protocol); (ii) civil society organisations; (iii) the media; (iv) funding, aid agreements or international aid; (v) international agencies (especially UNODC, IOM and ICMPD), and (vi) the anti-trafficking network in Brazil. Largely, these determinants spoke to the importance of building awareness and how public pressure can lead to an increased political will. However, at the same time, the role of political will can wane based on partisanship and the view of the political party in charge, which in turn can impact on (or limit) the sustainability of anti-trafficking policy and practice.

While the reported period has shown an evolution in policy, along with relying upon a broader consultation and legislative process, there are clear issues facing implementation.

There are ongoing concerns, where there are existing networks that face barriers in implementing anti-trafficking policy. A key issue that requires further understanding is the (non) availability of data, particularly the lack of data on marginalised groups. These issues require further examination in understanding how anti-trafficking efforts impact on marginalised groups, how to better serve these groups along with the impact of the COVID-19 pandemic on those efforts. In particular, the lack of available data disaggregated by gender (or race, sexuality and/or other markers of marginalised identity), to be able to introduce that knowledge into the public consciousness through reporting and dissemination.

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