

SUSTAINABLE DEVELOPMENT GOALS, RECEPTION AND DECENT WORK OF THE MIGRANT IN BRAZIL

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Abstract

Achieving the Sustainable Development Goals, through the accomplishment of its goals, is a global challenge that aims to reduce national and international inequalities. This article aims to analyze the reception and decent work of immigrants in Brazil and the Sustainable Development Goals n. 8 and 10, goals 8.5, 8.8 and 10.7, as well as the new Brazilian Migration Law, which innovates when treating the immigrant as a subject of human rights, corroborating the goals and enabling the implementation of public policies aiming at better living conditions for the immigrant who is in national territory. The research is qualitative with a deductive method. Regarding the objectives, it has an exploratory, descriptive and bibliographic character. As for the means, it will be done by bibliographic and documentary survey, with analysis of the relevant legislation. It concludes that Brazil is advancing in relation to migration policy, but there is still a long way to reach the proposed goals of the 2030 Agenda for the transformation of the Brazilian reality through the achievement of the Sustainable Development Goals.

Keywords

Humanitarian reception, Immigrant Reception, Brazilian Migration Law, Sustainable Development Goals, Immigrant decent work.

Summary

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INTRODUCTION

Access to decent work is one of the challenges for the achievement of the 17 Sustainable Development Goals (SDGs) and the fulfillment of the 2030 Agenda, which aim at reducing domestic and international inequalities, as well as offering reception to immigrants and creating public policies capable of promoting the dignity of human beings who are in a migratory flow, among many other necessary actions to achieve the goals proposed by the United Nations (UN).

In 2015, UN member states have formalized a final document for the future of the Millennium Development Goals (MDGs), focusing their efforts on adopting a new universal development agenda that would replace, and above all, broaden the goals that had been proposed for that time. Thus, 17 SDGs were defined and approved, containing 169 goals to be achieved to guarantee sustainable development and poverty eradication by 2030. This action plan was named 2030 Agenda for sustainable development.

In the first paragraph of the preamble to that document, it is recognized that ‘... the eradication of poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development’ and that this is an action plan for people, the planet and prosperity that seeks to strengthen universal peace in larger freedom. It is also registered as a collective challenge, which requires cooperation between nations, being, therefore, a universal action plan: ⁴ “All countries and all interested groups, acting in a collaborative partnership, will implement this plan. We are resolved to free the human race from the tyranny of poverty and want and to heal and secure our planet. We are determined to take the bold and transformative steps which are urgently needed to shift the world on to a sustainable and resilient path. As we

⁴ Brasil, 2016.

embark on this collective journey, we pledge that no one will be left behind.”⁵

The Migration Law, Law No. 13,445, of May 24, 2017, provides for the rights and duties of migrants, visitors and emigrants, regulating entry and stay in the country, in addition to pointing out the principles and guarantees that should govern the national migration theme. The greatest legislative novelty achieved by the law is to guide the theme based on human rights, as provided for in its art. 3, which lists, in an exemplary manner, the principles and guidelines and mentions, in clause I: ‘universality, indivisibility and interdependence of human rights’, demonstrating a pro-subject shift in rights to protect migrants.⁶

As advances in Law No. 13,445 / 2017 can be cited: the non-criminalization of migration, after all ‘no human being is illegal’; the criminalization of xenophobia and discrimination; promoting regular entry and document regularization; the repudiation of the practices of collective expulsion and deportation; among others, mainly provided for in the aforementioned art. 3.⁷

The aim of this article is to identify possibilities for the achievement of the SDGs through public policies made possible by the guidelines of the legislative change on migration, which recognizes migrants as subjects of human rights. In this sense, the provisions of art. 3 of the Migration Law in its items V (‘promotion of regular entry and document regularization’), VI

⁵ Brasil, 2016..

⁶ Brasil, 2017a.

⁷ ‘No human being is illegal.’ The expression is powerful because of its humanistic and emotional charge. It is attributed to Elie Wiesel, a Nobel Peace Prize awardee, an American Jew born in Europe who was withheld in Auschwitz, suffering the persecutions from nazism. It has become a usual slogan for Non-Governmental Organizations (NGOs) and movements that defend humanitarian causes’ (FERNANDES, 2018).

(‘humanitarian reception’) and X (‘social, labor and productive inclusion of migrants through public policies’).⁸

Among the various aspects relevant to the theme, this article is interested in addressing SDGs 8 (Decent work and economic growth) and 10 (Reduction of inequalities), specifically goals 8.5, 8.8 and 10.7, which will be analyzed individually, based on the opportunities for reception and work for migrants established by the new Migration Law.

1. BRAZIL AND THE SDGs: PERSPECTIVES AND CHALLENGES

In order to achieve the SDGs, there is a need for cooperation and effort by nations, since they deal with structural, hard-to-solve problems considering the social and environmental performance of the countries. The 2030 Agenda deadline is ending, less than a decade remains, and very little has been done by Brazil and other countries, as shown in the Social Progress Index report: ‘The index captures outcomes related to all 17 Sustainable Development Goals and reveals that, if current trends continue the world will not achieve the goals until 2082’. The report warns that ‘the data also indicates that, unless urgent action is taken, the Covid-19 pandemic will set us back another decade, delaying achievement of the goals to 2092 - more than sixty years after the 2030 target date’.⁹

Although the data is discouraging, the rapporteur says that, in general, the world is improving since 2014. However, individual freedoms and inclusion have declined, having been stagnant since 2011. There is an urgent need for data to be analyzed and rethought so that public policies are created that aim to accelerate social progress and minimize social differences within and between nations.

⁸ Brasil, 2017a.

⁹ Social Progress, 2020.

Brazil, the United States and Hungary were the only three countries that, contrary to the world, had a worsening in their indexes, as shown in the aforementioned report and as stated by Nicholas Kristof in the report: ‘We're n. 28! And we are dropping!': “This should be a wake-up call: New data suggest that the United States is one of just a few countries worldwide that is slipping backward. The newest Social Progress Index, shared with me before its official release Thursday morning, finds that out of 163 countries assessed worldwide, the United States, Brazil and Hungary are the only ones in which people are worse off than when the index began in 2011. And the declines in Brazil and Hungary were smaller than America's.”¹⁰

About the national situation, Nilo and Mattar state, in the III *Luz da Sociedade Civil* Report of the 2030 Agenda for Sustainable Development: “The scenario is strained, with high and persistent unemployment (13 million people), however the Federal Government focuses on proposals that aggravate conflicts and worsen, mainly, the lives of black women, *quilombolas* and indigenous women, without presenting solutions to pacify the country.”¹¹

Among the challenges for the internalization of the 2030 Agenda, the SDG Report: National targets of sustainable development goals highlights: to sensitize actors, implement governance, adjust global goals and, finally, define national indicators.¹²

1.1 Goal No. 8 - goals 8.5 and 8.8: decent work and compatibility with the Brazilian Migration Law

SDG 8 provides for decent work and aims for ‘promoting sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all’. Among its goals, 8.8 has as a proposal formulated

¹⁰ Kristof, 2020.

¹¹Nilo e Mattar, 2019, 5.

¹² Brasil, 2018a.

by the UN: ‘Protect labour rights and promote safe and protected work environments for all workers, including migrant workers, in particular migrant women, and people in precarious jobs’.¹³ Brazil adjusted the topic to the national reality, proposing the following goal 8.8: ‘to reduce the degree of non-compliance with labour legislation, with regard to registration, working conditions, health and safety standards at work, with an emphasis on workers in a situation of vulnerability’.¹⁴

In 2018, Brazil created the National Commission for the Sustainable Development Goals, which aims to adapt the goals to the Brazilian reality. Thus, according to the Institute of Applied Economic Research (IPEA), ‘the goals contained in this proposal from the Brazilian government will allow the country to reach a level of sustainable development in 2030, guiding the construction of multi-annual plans and public policies at the three levels: federal, state and municipal’.¹⁵

It is noted, therefore, that the country unifies the target for workers in situations of vulnerability without the distinction proposed by the UN, which points out migrant workers, with an emphasis on migrant women as deserving of special attention. The suppression of this specificity is detrimental to immigrants, who are generally in a situation of greater vulnerability simply due to their condition as non-nationals.

Goal 8.5 expresses that, ‘by 2030, achieving full and productive employment and decent labour for all women and men, including for young people and people with disabilities, and equal pay for work of equal value’.¹⁶ Brazil made the following adaptation to the national reality: ‘By 2030, reduce the unemployment rate and other forms of underutilization of the workforce by 40 per cent, guaranteeing worthy labour, with an emphasis on equal pay

¹³ Brasil, 2016.

¹⁴ Brasil, 2018a.

¹⁵ Brasil, 2018b.

¹⁶ Brasil, 2016.

for work of equal value'.¹⁷ The expression 'decent labour' was replaced by 'worthy labour', and additionally, the target of 40 per cent was established, a percentage that would allow the country to approach the marks of the most developed countries.¹⁸

It is important to recall the concept of 'decent labour', which must be adopted and which was proposed by the International Labour Organization (ILO) based on the consideration of several Conventions approved throughout its existence. Human labour is the basis for the recognition of social rights of the so-called second generation of human rights. Social rights reached their zenith in the 1948 Universal Declaration of Human Rights, which proclaimed human dignity and equality as the foundation of freedom and justice.

The 1966 International Human Rights Covenants (International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights), adopted by the United Nations General Assembly, reaffirmed the maturity and evolution of human rights, especially in relation to social human rights of workers, due to the influence of the actions and norms produced within the scope of the ILO.

Such documents were inspired by the Declaration of Philadelphia, approved on May 10, 1944, on the purposes and aims of the ILO, which provides in Art. 2: 'a) all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity'.¹⁹

The ILO, which joined the UN in 1946, is the only agency of the United Nations System that has a tripartite structure, composed of representatives of governments and organizations of employers and workers.

¹⁷ Brasil, 2018a.

¹⁸ Brasil, 2018a.

¹⁹ ILO, 1944.

In carrying out its task of promoting international labour standards, employment, improving working conditions and expanding social protection, the ILO started to focus its activities on eight conventions that underlie the 1998 Declaration on Fundamental Principles and Rights, which are: No. 29 - Forced labour; No. 87 - Freedom of association; No. 98 - Right to organise and collective bargaining; No. 100 - Equal remuneration; No. 105 - Abolition of forced labour; No. 111 - Discrimination (employment and occupation); No. 138 - Minimum age; No. 182 - Worst forms of child labour.

The ILO's idea of decent labour arose from the adoption of these conventions in the face of the need to promote equal access to productive labour for people and in an attempt to promote equal opportunities. With the ILO Declaration on Fundamental Principles and Rights at Work, the commitment to ensuring equity, social progress and the eradication of poverty was reaffirmed, among other rights designed to guarantee universal and permanent peace.

In 1999, the concept of decent labour was formalized as a synthesis of the historic ILO mission of [...] promoting opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity. [...] being considered a fundamental condition for overcoming poverty, reducing social inequalities, the guarantee of democratic governance and sustainable development.²⁰

For the ILO, the concept of decent labour is based on four strategic pillars: a) Respect for international labour standards, in particular the fundamental principles and rights of labour (freedom of association and effective recognition of the right to collective bargaining; elimination of all forms of forced labour, the effective abolition of child labour, the elimination of all forms of discrimination in matters of employment and occupation);

²⁰ ILO, [*n.d.*].

- b) Promoting quality employment;
- c) Extension of social protection;
- d) Social dialogue.

The concept of decent labour is also brought up by the National Plan of Decent Labour signed from the commitments assumed by the Brazilian government in the National Agenda of Decent Labour, in 2006: ‘Decent Labour is a fundamental condition for overcoming poverty, reducing social inequalities, the guarantee of democratic governance and sustainable development’.²¹

In numerous publications, decent labour is defined as work that is adequately remunerated, carried out under conditions of freedom, equity and security, capable of guaranteeing a dignified life.

The Mercosur Sociolaboral Declaration²², revised in 2015, expressly mentions, in the preamble to the approval document, the recognition of a minimum level of workers' rights within the scope of Mercosur, corresponding to the fundamental ILO conventions.

Thus, when we talk about protecting labour rights and promoting safe and protected work environments for everyone, including migrant workers, we are talking about decent labour, that is, ‘productive and quality work, under conditions of freedom, equity, security and human dignity’.²³

1.2 SDG 10 and goal 10.7: reducing inequalities and orderly and safe migration; the integration of migrants in Brazil

SDG 10 reveals the commitment to ‘reduce inequality within and between countries’ and proposes, in its goal 10.7 to: ‘facilitate migration and orderly,

²¹ ILO, 2006, 5.

²² Brasil, 2015.

²³ ILO, [*n.d.*].

safe, regular and responsible mobility for people, including through the implementation of policies of planned and well-managed migration²⁴.

After being adapted to the Brazilian reality, goal 10.7 was replaced by the following: 'Facilitate migration and promote the integration of migrants and refugees into Brazilian society',²⁵ based on the following justification: 'The representatives of the Ministry of Justice made several objections to the drafting of the original goal, indicating that the terms used are not inclusive and that they favor migratory policies aimed at qualified workers, and that, therefore, it would go in the opposite direction of the reduction of inequalities. [...] It should be added that the original wording does not address the concrete problems that immigration policy faces in Brazil, with a focus on the integration of migrants and refugees.'²⁶

The report also highlights that goal 10.7 is directly related to goal 8.8, both requiring the implementation of public policies to be achieved. It can be noted, from the proposed wording, that the focus is on the integration of immigrants and refugees, and not on the promotion of orderly and safe migration 'through the implementation of planned and well-managed migration policies'²⁷, which corroborates the content of items V ('promotion of regular entry and document regularization') and VI ('humanitarian reception') of art. 3 of the Migration Law.²⁸

It is noteworthy that the humanitarian reception has evolved considerably since 2017 and that, currently, it constitutes a State instrument capable of granting the immigrant recognition as a subject of human rights, as highlighted by Dupas: it is worth mentioning that the implementation of the humanitarian visa meant an important instrument capable of providing the opportunity

²⁴ Brasil, 2016.

²⁵ Brasil, 2018a.

²⁶ Brasil, 2018a..

²⁷ Brasil, 2017a.

²⁸ Brasil, 2018a.

for documented migration. Without it, thousands of migrants would continue to risk their lives on clandestine journeys, unknown routes and uncertain destinations. Although the humanitarian visa does not eliminate all forms of violation of immigrants' rights, without it, the path would be longer.²⁹

Although this is one of the most difficult to achieve sustainable development goal, Brazil, through the Migration Law and the humanitarian reception, took an important step towards its realization, although it needs to expand its application, since it is related to some specific nationalities, such as Haitians, Venezuelans and Syrians.

In view of the national scenario of migratory crisis, it is urgent to think about this matter in a global way, as pointed out by Garrido Rodríguez: "Since 2015, we have been experiencing a real humanitarian refugee crisis that has shown the need to create a global migration management system."³⁰ Both migratory flows and the implementation of the 2030 Agenda are global challenges that require the cooperation of all nations.

2. THE MIGRATION LAW AND THE NEED FOR PUBLIC POLICIES FOR THE REALIZATION OF IMMIGRANTS' RIGHTS AND THE ACHIEVEMENT OF THE SDGs

The 2017 Brazilian Migration Law breaks with a historical violation of the human rights of international immigrants, who until then were seen as harmful to the nation and treated as a threat. The previous legislation was based on the principle of national security and economic utilitarianism, since Brazil, even if indirectly, selected immigrants according to national interests. In this sense, Dupas discourses on the use of the guiding principles: "In the current world context of renewed armed conflicts, terrorism and

²⁹ Dupas, Carvalho and Jesus, 2020, 249.

³⁰ Garrido Rodríguez, 2020, 399.

transnational crime, national security has not lost its relevance and continues to be the subject that must be present in migration policy, but as its element and no longer as its core, which should be, from the 1988 Constitution onwards, the respect for human rights. Therefore, it is clear that the principle of national security has always permeated the legislation regarding migration issues and is still present in the current law, as expected and as it should be to guarantee the sovereignty of the State. However, currently, it is not the guiding principle of the legislation, demonstrating the main change in relation to the topic.³¹

Regarding the principle of economic utilitarianism, the same author explains: [...] which ensures that a decision is made for the benefit of the community, has also always been present in migratory legislation, since Brazil has always valued the interests of the nation. Therefore, when you have an image of the ideal immigrant with some purpose for the nation, you have the application of this principle to the detriment of principles that guarantee the protection and interests of immigrants.³²

The new Migration Law was received hoping to change the way the Brazilian State treats international immigrants, since the previous treatment was incompatible with the Federal Constitution of 1988, as well as with several international law treaties.

Although there are significant legal advances, very little is seen in terms of procedural change. The regulatory decree of that law, Decree No. 9,199, of November 20, 2017,³³ normative instrument that provides for the applicability of the law, is almost a copy of the previous legislation, the revoked Statute of the Foreigner, Law No. 6,815, of August 10, 1980. In this way, the applicability

³¹ Dupas, 2020, 36.

³² Dupas, 2020, 36.

³³ Brasil, 2017b.

of the Migration Law has been quite limited, and it is urgent that the country break with historical stigmas and really begin to apply the spirit of the law that recognizes immigrants as subjects of human rights.

In relation to the work of the immigrant, the law foresees in its art. 3, clause X, the 'social, labor and productive inclusion of the migrant through public policies'.³⁴ Such measure allows the country, through federal public policies, to be able to achieve SDG 8, through goal 8.8. However, the country is not moving in this direction, it even removed the specificity contained in the UN target, treating the vulnerability of all workers equally, regardless of whether or not they are immigrants and without gender distinction, as demonstrated.

Nevertheless, when it comes to the commitment assumed in goal 8.5, it is noted that the reduction in the unemployment rate and "other forms of underutilization of the workforce, guaranteeing decent work, with an emphasis on equal pay for work of equal value"³⁵ also applies to migrant workers, and although the expression 'decent labour' has been removed, as mentioned above, when referring to decent labour, it is regarding the dignity of the worker and the social values of work as well as the social rights guaranteed in art. 6 to 11 of the Brazilian Federal Constitution.³⁶

According to Ferreira and Reinholz, the scenario was aggravated by the covid-19 pandemic: "Historically, Brazil has been the destination of varied migratory flows, and still remains today. The situation of this population, that has already faced problems before the pandemic, became even more serious. There is a lack of jobs and the delay in obtaining the National Migration Registry has increased even more. In addition, although there are specific laws for refugees and immigrants - Law No. 9,474, of July 22, 1997, for refugees, and Law No. 13,445, of May 24, 2017, the Migration Law - there is a lack of public policies for these people. To overcome obstacles,

³⁴ Brasil, 2017a.

³⁵ Brasil, 2018a.

³⁶ Brasil, 1988.

they seek mutual support in associations and rely on the solidarity of civil society organizations.³⁷

Regarding the reception of immigrants, Brazil adopted the policy of voluntary internalization through *Operação Acolhida*,³⁸ aimed at meeting the demand in relation to Venezuelans, a nationality that maintains an intense flow of entry into the country. The *Operação Acolhida* consists of three main lines of action: “1) border ordering - documentation, vaccination and control operation of the Brazilian Army; 2) reception - offering shelter, food and health care; 3) internalization - voluntary displacement of Venezuelan migrants and refugees from Roraima State to other Units of the Federation, aiming the socioeconomic inclusion.”³⁹

It is clear, therefore, that there are specific actions aimed at solving specific problems, which demonstrates the lack of implementation of federal public policies capable of acting in a coordinated manner throughout the Brazilian territory. However, as Passos, Porto and Jaborandy⁴⁰ recall, the country is making efforts to alleviate migratory problems, although there is still a long way to go before the Migration Law is applied satisfactorily, respecting all immigrants as subjects of human rights:

It should be noted that the concept of public policies used here is that of Maria Paula Dallari Bucci: “. Public Policies are governmental action programs that result from a legally regulated process or set of processes - electoral process, planning process, government process, budget process, legislative process, administrative process, legal process - aiming to coordinate the means

³⁷ Ferreira and Reinholz, 2020..

³⁸ Brasil, 2021.

³⁹ Brasil, 2021. 1) border ordering - documentation, vaccination and control operation of the Brazilian Army; 2) reception - offering shelter, food and health care; 3) internalization - voluntary displacement of Venezuelan migrants and refugees from Roraima State to other Units of the Federation, aiming the socioeconomic inclusion.

⁴⁰ Passos, Porto and Jaborandy, 2020.

available to the public. State and private activities, for the achievement of socially relevant and politically determined goals.⁴¹

Thus, Brazil needs to implement public policies to enable international immigrants, as well as Brazilian citizens, to be able to exercise decent work, an essential practice for social integration and respect for human rights. Thereby, the country will approach the achievement of SDG 8, targets 8.5 and 8.8, and for that it is necessary to emphasize the relevance of SDG 10 and target 10.7, which aim to reduce national and international inequalities, additionally directing at orderly and safe migration.

CONCLUSION

Considering the commitment assumed in goals 8.5 and 8.8 of SDG 8, it is possible to affirm that Brazil, when approving the Migration Law, puts itself in a position to achieve this goal. However, for that purpose, policies for the reception of migrants and refugees are necessary, which has already been done, albeit in specific manners.

It is true that these policies need to be implemented and executed satisfactorily and with greater scope, and, in this respect, it is still necessary to evolve considerably, as it has been pointed out. The fact that there is a law that guides migration policy based on human rights principles represents a huge national advance.

Regarding the difficulties in achieving the SDGs regarding migrants, Brazil's retirement from the Global Compact for Migration can be pointed out, as it indicated by the 2019 Luz Report as a threat to the Migration Law. Therefore,

⁴¹ Bucci, 2006, 39. Public Policies are governmental action programs that result from a legally regulated process or set of processes - electoral process, planning process, government process, budget process, legislative process, administrative process, legal process - aiming to coordinate the means available to the public. State and private activities, for the achievement of socially relevant and politically determined goals.

several movements against the law are perceived, and this scenario is being aggravated by the covid-19 pandemic and the closing of several borders around the world as a way of containing the disease and protecting the national population.

However, the idea that the Brazilian Migration Law may be building a demandable migration right, in Brazil, to all those who intend to settle in national territory, as long as they are in a situation of serious or imminent institutional instability, of armed conflict, large-scale calamity, environmental disaster or serious violation of human rights or international humanitarian law, or in other cases, in the form of regulation of humanitarian reception is encouraging.

The SDG, an important tool for transforming the planet into a more sustainable and better place for people and for the environment itself, constitute a task not only for governments, but for the whole of civil society and for each one of us. The 2030 Agenda is, in this sense, the main contemporary landmark for the social, economic and environmental improvement of all nations.

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