

CROSS-BORDER WORKERS IN BRAZIL: PRECARITY, INSTITUTIONAL SILENCE, AND CHALLENGES TO HUMAN RIGHTS

*TRABALHADORES TRANSFRONTEIRIÇOS NO BRASIL:
PRECARIEDADE, SILÊNCIO INSTITUCIONAL E DESAFIOS
AOS DIREITOS HUMANOS*

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Abstract

Considering the challenges faced by frontier workers in their daily cross-border commuting marked by violations of human and social rights, particularly regarding safety, health, and hygiene at work this article aims to analyze the lived experience of these workers within the border strip. To achieve this, the study seeks to: (i) understand the territorial and social configuration of this area, highlighting its historical, geographic, and political particularities; (ii) promote a dialogue between cross-border labor realities and human rights, with emphasis on the presence or absence of public policies targeting this population, and propose guidelines for their development based on the United Nations Guiding Principles on Business and Human Rights; and (iii) examine the adequacy of the current national and international legal framework in protecting these individuals, identifying existing gaps and opportunities for improvement. The research adopts a qualitative and descriptive approach, drawing on bibliographic and documentary sources, including scientific articles, periodicals, legal scholarship, and the interpretation of social phenomena in the border context. The findings indicate that factors such as low population density and poor infrastructure hinder access to fundamental rights, demanding the implementation of structured and continuous public policies. Although instruments like the CLT, the Migration Law, and international agreements offer a baseline level of protection, there remains a pressing need for integrated policies aligned with the UN Principles to ensure decent work

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and sustainable economic growth (SDG 8) in border regions.

Keywords: cross-border workers. public policies. human rights. UN guiding principles on business and human rights.

Resumo

Considerando os desafios enfrentados pelos trabalhadores fronteiriços em seu deslocamento pendular caracterizado por violações de direitos humanos e sociais, especialmente quanto à segurança, saúde e higiene no trabalho este artigo tem como objetivo analisar a realidade vivida por esses trabalhadores na faixa de fronteira. Para tanto, busca-se (i) compreender a conformação territorial e social dessa região, evidenciando suas peculiaridades históricas, geográficas e políticas; (ii) promover um diálogo entre a realidade laboral fronteiriça e os direitos humanos, com ênfase na análise da existência ou ausência de políticas públicas voltadas a essa população e na proposição de diretrizes para sua formulação, com base nos Princípios Orientadores da ONU sobre Empresas e Direitos Humanos; e (iii) examinar a suficiência do arcabouço legal vigente nacional e internacional quanto à proteção desses sujeitos, identificando lacunas e possibilidades de aprimoramento. A pesquisa, de abordagem qualitativa e natureza descritiva, utiliza fontes bibliográficas e documentais, com base em artigos científicos, periódicos, doutrina jurídica e interpretação de fenômenos sociais no contexto de fronteira. Os resultados apontam que fatores como a baixa densidade populacional e a precariedade da infraestrutura dificultam o acesso a direitos fundamentais, exigindo a formulação de políticas públicas permanentes. Embora instrumentos como a CLT, a Lei de Migração e os acordos internacionais ofereçam uma proteção mínima, reforça-se a necessidade de políticas públicas integradas e alinhadas aos Princípios da ONU, de modo a assegurar trabalho decente e desenvolvimento econômico sustentável (ODS 8) nas regiões fronteiriças.

Palavras-chave: trabalhadores transfronteiriços. políticas públicas. direitos humanos. princípios orientadores da ONU sobre empresas e direitos humanos.

1. Introduction

The border region is a unique space characterized by intense sociocultural diversity and the coexistence of multiple perspectives and life experiences. This environment hosts a wide array of social interactions, ranging from the pursuit of improved living conditions—often by individuals in more vulnerable positions within the border's social structure—to negative perceptions that associate the region with marginalization and social invisibility.

One of the most defining features of this context is the "pendulum movement on the border," a phenomenon that reflects the region's daily dynamics, where people live, study, work, and frequently commute between neighboring countries. Among the main protagonists of this phenomenon are frontier workers—individuals who reside in one country but carry out their occupational activities in a neighboring nation, periodically returning to their place of origin.

The 1990 United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families defines a frontier worker as someone who does not establish habitual residence in the country where they perform their professional duties, but instead returns to their home at the end of the day or the week. These workers are legally authorized to work in the destination country while maintaining their residence in the country of origin, with their labor and social security rights protected—without, however, severing their emotional and familial bonds.

As noted by Oliveira Neto and Crivelatti (2014, p. 118), this dynamic reflects the *lived border*, which differs from the *perceived border*: while the latter refers to the external gaze imposed upon the region, the former captures the concrete, daily experience of those who inhabit and traverse it:

The border must be understood in terms of the social relations that enable the appropriation and production of the feeling of belonging and identity. To this end, there is a need for daily interaction or participation in the events of the place's life, in neighborhood relations, in relationships with friends and acquaintances, in walking through the streets, in shopping at the market, and in participating in local festivals, as well as in other small everyday acts. In other words, to be part of the daily life of the place, things that, due to the situation of migrants and belonging to other places, the public agents who work on the border have difficulty carrying out. In the same way, the relationships themselves, the singularities of the border, can also be understood by those who live on it, but living by oneself is not enough for this understanding. The

experience and participation in the daily life of the border are fundamental for the public agent to be able to assimilate and reproduce the characteristics inherent to life on the border, thereby contributing to the improvement of the place's conditions. In this way, the border will only be perceived by the public agent who acts on it, as they appropriate the place through daily experience.

Another essential element of this scenario is the existence of twin cities—urban centers located opposite each other along international borders. These cities exhibit varying degrees of economic, social, and cultural interaction, functioning as hubs of concentrated activity and fostering the integration of populations from both countries.

However, despite this environment of integration and mobility, frontier workers often encounter conditions of vulnerability that directly affect their dignity and safety. Issues such as precarious labor conditions, the lack of adequate legal protection, and limited access to fundamental rights expose them to ongoing violations, particularly concerning occupational safety, health, and hygiene in the workplace.

In this context, the issue addressed by this study lies in the persistent gap between the legal guarantees formally extended to cross-border workers and the practical violations of their rights in border regions—especially regarding labor safety and access to public policies suited to their specific realities. This scenario raises the need to examine whether the current legal and institutional frameworks are sufficient to protect these workers, and how the UN Guiding Principles on Business and Human Rights could contribute to strengthening such protection.

The study is grounded in the hypothesis that existing legal and institutional mechanisms are insufficient to ensure the effective protection of cross-border workers, underscoring the need for the development of public policies aligned with the UN Guiding Principles on Business and Human Rights.

An analysis of how Human Rights—recognized nationally and internationally as fundamental guarantees of dignity, freedom, and equality (Luno, 2011)—apply to the reality of these workers is therefore essential. The formulation of public policies based on the United Nations Guiding Principles on Business and Human Rights presents a concrete opportunity to address the challenges faced by this population, thereby advancing the realization of their social and labor rights.

Given this scenario, this research is justified by the urgent need to shed light on the lived reality of cross-border workers, whose daily mobility between countries exposes them to specific vulnerabilities that are rarely addressed by public policies or academic research. The ongoing precariousness of working conditions, coupled

with the weak enforcement of social rights and the lack of coordinated public policies between neighboring countries, highlights the need for deeper academic inquiry into the issue.

Moreover, this study contributes to the broader debate on the implementation of the United Nations Guiding Principles on Business and Human Rights in border contexts, aiming to develop strategies that promote decent work, legal certainty, and sustainable development in frontier regions.

To this end, the research employed a bibliographic and documentary methodology, with a descriptive character and a qualitative approach. Scientific articles, academic journals, and legal scholarship were analyzed, along with the interpretation of social phenomena within the specific context of border regions.

2. Between Singularity and Structural Underdevelopment: Understanding the Brazilian Border Region

The border strip, with its historical origins and political foundations, is regulated by the 1988 Federal Constitution. In the Brazilian context, this strip corresponds to the area of influence near the international political boundary and is defined by Law No. 6,634 of May 2, 1979, as the region encompassing municipalities located entirely or partially within an internal perimeter of 150 kilometers in width, parallel to the border. Currently, Brazil shares borders with ten countries, and approximately 27% of the national territory falls within this area, totaling more than 143,000 km² (IBGE, 2020).

More than just a geographical boundary, the border strip is a space of intense cultural exchange, inhabited by people who mutually share their experiences across different contexts. This heterogeneity directly influences the social, economic, political, and cultural dynamics of the region, making it particularly susceptible to institutional transformations brought about by globalization.

According to Belarmino and Vieira (2020, pp. 2–3), apud Ferrera de Lima (2020, p. 10), “the border region is more sensitive to the institutional, economic, and social changes imposed by globalization.” Due to their geographic position along the international boundary line or zone, border municipalities undergo transformations in a more rapid and dynamic manner.

Moreover, these municipalities exhibit specific characteristics that distinguish them from other regions of Brazil, particularly because of the constant international

interactions, which are even more intense in the so-called “twin cities.” This uniqueness poses challenges for the formulation of public policies, as it requires targeted approaches capable of promoting inclusion and fostering development in these areas.

In addition, the low population density typically found in these regions directly affects the allocation of public resources, often resulting in neglect and structural underdevelopment. Historically, the Brazilian state has conceived of its land borders merely as lines of national defense, prioritizing settlement and military fortification while overlooking policies focused on effective integration and regional development.

Kruger (2017, p. 47, apud Gadelha & Costa, 2005) notes that, until the early 21st century, many federal ministries did not have specific policies targeting border regions or promoting transnational integration, with public initiatives in these areas largely restricted to public security and territorial occupation.

This perspective has contributed to the marginalization of border regions, which continue to exhibit peripheral characteristics and persistent levels of underdevelopment. Furthermore, the lack of well-planned and coordinated public policies is a decisive factor in this context, as Belarmino and Vieira (2020, p. 2) emphasize:

The literature shows that municipalities located along the border strip present singularities that distinguish them from other Brazilian regions. Although border-related issues are often discussed in development plans and public policies, these regions still experience limited economic and social dynamism and low development.

This reductionist perspective, which regards the border merely as a space for territorial defense, is inherently flawed, as borders are not confined to the physical separation of countries. In reality, they are characterized by profound complexity, encompassing both state-related dimensions—such as the exercise of national sovereignty (i.e., the authority each state exercises over its territory)—and social dimensions, which relate to the everyday lives of people residing in these regions (Oliveira et al., 2025, p. 92).

However, it is evident that, in general, the national migration policy itself—formulated and implemented within the domain of high politics, the upper echelon of state administration, and structured according to the guidelines of Defense and Foreign Affairs—is constrained by a paradigm of surveillance and control. This framework ultimately, albeit indirectly, shapes the future of international migrants in the host country, without providing effective guarantees of protection and rights (Oliveira et al., 2025, p. 90).

This occurs because, depending on the migration policy adopted, its direc-

tives will reverberate across various sectors, particularly in the way a given nation responds to migratory dynamics. Once data are consolidated by top-level governmental agencies, they acquire a privileged status in the interpretation of migratory flows and exert influence over all those seeking information on the subject, whether researchers or not (Oliveira et al., 2025, p. 90).

In the Brazilian context—and more prominently in the state of Mato Grosso do Sul—this effect is especially evident, as the country’s migration policy has historically been framed around border control and security. As such, it is a reactive policy, yet also a selective one, given that the arrival of European immigrants was historically celebrated as a symbol of national progress, while the contributions of migrants from neighboring countries, such as Paraguay and Bolivia, were systematically rendered invisible. This selectivity reflects political priorities driven by strategic and symbolic interests. Moreover, migratory control—embedded within the realm of high politics—tends to be activated in a piecemeal fashion, responding to specific and situational demands (Oliveira et al., 2025, p. 92).

In summary, the way Brazil conceives and structures its migration policy is not solely the result of administrative decisions, but also of choices shaped by historical and ideological legacies. These choices directly influence who is recognized and valued in the migratory process—and who remains invisible. Grasping these dynamics is an essential step toward critically examining the paths we are taking and the urgent need to construct fairer and more inclusive policies.

3. Ethical and Legal Foundations of International Law for the Protection of Cross-Border Workers

The analysis of systematic violations of the human and social rights of cross-border workers, especially in regions characterized by pendular displacement, necessitates a renewed engagement with the ethical and legal foundations of International Law. In this regard, the dialogue between border realities and International Law proves indispensable, as the challenges faced by these regions are not mere contingencies but rather the outcome of a long-standing process of state neglect in formulating specific and sustained public policies.

Within this context, the work of Antônio Augusto Cançado Trindade offers a significant theoretical foundation. In *The Humanization of International Law* (2006), the author emphasizes, in the opening chapter, the centrality of *recta ratio*—right reason—as the foundation of the Law of Nations (*jus gentium*), asserting that

every legal subject must guide their conduct according to justice, good faith, and benevolence. These principles, being of a peremptory nature, do not derive from state will but from a universal legal conscience, thus establishing an inseparable link between law and ethics.

By revisiting Cicero's thought, Cançado Trindade underscores that the validity of *jus gentium*, as a law common to all peoples, is perennial and non-derogable, governed by a moral rationality that transcends time and prevails over the will of States. As early as the sixteenth century, authors such as Francisco de Vitoria and Francisco Suárez argued that the Law of Nations was not confined to States but also encompassed peoples and individuals, affirming the primacy of the international community (*totus orbis*) over state arbitrariness.

This vision is further developed by Hugo Grotius, who conceives of the international legal order as necessary rather than merely voluntary, with *recta ratio* as its normative basis. For these authors, *jus gentium* imposes ethical and legal obligations on all relevant actors, possessing a universal character that grounds the accountability of States, corporations, and other social agents for human rights violations (Cançado Trindade, 2006, pp. 6–10).

In the context of Brazil's border regions, this perspective is essential to understanding the need for structured public policies that not only recognize the dignity of cross-border workers but also serve as legal and ethical responses to the violations they endure. The protection of human rights in border zones—marked by structural precariousness and institutional invisibility—requires more than the formal application of national and international legislation: it demands the recovery of the moral rationality that underpins International Law itself, as proposed by Cançado Trindade.

As noted by Belarmino and Vieira (2020) in their study on “the Southern Border Zone of Mato Grosso do Sul and Municipalities in Critical Socioeconomic Development Conditions,” this negligence is particularly acute in the state of Mato Grosso do Sul, where 44 out of 79 municipalities are located within the border zone, accounting for more than 55% of the state's territory. This strategic area, which comprises approximately 40% of the state's 357,100 km² and borders Paraguay and Bolivia, remains excluded from effective policies aimed at its development (IBGE, 2020).

According to Belarmino and Vieira (2020, p. 3), Machado (2005) and Torrecilha (2013) describe the border strip as a region marked by structural deficiencies, where persistent unmet needs coexist with the absence of consistent actions to promote its development.

4. Public Policies in Border Regions: Foundations, Challenges, and Strategies

Harold D. Lasswell, in his seminal work *Politics: Who Gets What, When, and How* (1936), regards public policies as an autonomous field within Political Science, focused on analyzing the role of the State in the formulation and implementation of governmental actions. In Brazil, this field began to be studied systematically only in the 1970s and 1980s, emphasizing the historical formation of governmental decisions. According to Dias and Matos (2012, p. 11):

The expression “public policies” encompasses various branches of human thought and is interdisciplinary, as its description and definition involve several fields of knowledge such as Applied Social Sciences, Political Science, Economics, and Public Administration.

In other words, public policies generally involve complex, interdisciplinary, planned, coordinated, and stable actions. For this reason, decisions adopted in this context tend to remain effective over time, except in cases of temporary public policies. They belong to the public sphere—that is, they are not confined to the strictly private domain but refer to what is collectively shared. Thus, public decisions are made on behalf of the collective, distinguishing them from those made by companies, families, or other private organizations. The scale of a public policy—whether small or large—is not what defines it; rather, it is characterized by its orientation toward solving issues of public interest.

The primary agent responsible for coordinating these policies is the State, which, through social delegation, assumes the task of identifying collective demands, planning responses, implementing solutions, and evaluating the outcomes achieved. Dias and Matos (2012, p. 12) provide a relevant definition:

The definition of public policies can be summarized as follows: they are actions taken—or deliberately not taken—by governments that should establish conditions of equity in social coexistence, aiming to create the necessary conditions for everyone to attain an improved quality of life compatible with human dignity.

Thus, the formulation of public policies involves the management of collective problems through the identification of priorities, rationalization of resources, and

continuous monitoring of social demands. In this process, strategic planning is an essential tool for guiding investments and achieving predefined objectives.

Importantly, the Brazilian Migration Law (Law No. 13,445/2017) introduces a significant innovation in the realm of migration-related public policies. As highlighted by Bittencourt Minchola (2023, p. 74), this law establishes a new legal framework for Brazilian migration policy grounded in the guarantee of rights. Among its guiding principles, Article 3, item XVI, explicitly emphasizes the “integration and development of border regions and the coordination of regional public policies capable of ensuring the effectiveness of the rights of border residents.” This legal provision underscores, at the federal level, the recognition of the strategic importance of designing targeted public policies that address the specific conditions and vulnerabilities of border populations, thereby reinforcing both the theoretical and practical imperatives for sustainable and inclusive policymaking in these territories.

In the case of border regions, there is a clear need for public policies that take into account their territorial and demographic specificities, given that low population density, a history of precarious geographic occupation, and a limited State presence render it indispensable to adopt strategies aimed at promoting equity, overcoming regional disparities, and expanding access to rights. Therefore, understanding the challenges these areas face is essential to the formulation of public actions that are genuinely effective and sustainable.

In this regard, it is important to recognize that these regions, due to their heightened vulnerability, require differentiated attention from public authorities. However, it is not sufficient to propose public policies in a generic or superficial manner, particularly considering the inherent complexity of this concept. It is precisely at this juncture that the need arises to deepen the distinction between government public policies and State public policies—an essential distinction for understanding the limitations of isolated actions and the importance of structural and enduring strategies aimed at border development. Bittencourt and Reck (2021, p. 633) explain the difference:

The distinction between Government and State public policies seems well established in Political Science and Law. Government public policies are characterized by their transient and electoral nature, connected with partisan disputes over government actions. In contrast, State public policies are enshrined in the Constitution and aspire to stability and superiority over sectional conflicts within a given community. From this perspective, State public policies consolidate missions linked to State sovereignty and, therefore, stand above potential government interests.

In this regard, according to Aith (2006, p. 236), when the focus lies on the organization of the State, sovereignty, and public order, it constitutes a public policy of the State. Conversely, when the objective is the specific and measurable promotion of fundamental rights, the public policy is considered to be governmental.

However, beyond the necessary distinction between State and governmental public policies—which is essential to identify the nature and durability of the actions to be undertaken—it is equally crucial that such policies be grounded in a coherent theoretical framework capable of consistently guiding their formulation and implementation.

Thus, in light of the challenges faced by border regions, the adoption of State public policies requires not only institutional stability but also structural and enduring guidelines that ensure the effectiveness of human rights. As a starting point for this framework, the adoption of the United Nations Guiding Principles on Business and Human Rights is proposed, as they provide a solid normative foundation for the development of coherent public policies. Structured around three core pillars—protect, respect, and remedy—these principles encompass the main actors involved in political, social, and economic dynamics: the State, businesses, and workers.

Each of these pillars entails rights intrinsically tied to universal, indivisible, and inalienable ideals inherent to human dignity. When enshrined in international instruments, these are recognized as Human Rights; once incorporated into State Constitutions, they are elevated to the status of Fundamental Rights. Therefore, both State and corporate actions must be firmly committed to the principle of human dignity. The obligation to prevent, mitigate, and remedy violations in high-risk areas—such as border regions—thus assumes not only a normative character but also a universal ethical dimension. This reinforces the understanding that the effective protection of border workers is not merely a matter of governance but a demand of international justice and a reflection of our shared humanity—a perspective aligned with the concept of *jus gentium*, as articulated by Cançado Trindade.

The structure of the three pillars—protect, respect, and remedy—set forth in the UN Guiding Principles provides a comprehensive framework for addressing corporate impacts on human rights. The first pillar, the State's duty to protect, emphasizes the need for effective legislation and policies to prevent abuses and ensure an adequate regulatory environment. The second pillar, the corporate responsibility to respect, requires companies to adopt internal measures to avoid human rights violations within their operations, incorporating these principles into their strategies and organizational culture. Finally, the third pillar, access to remedy mechanisms,

underscores the importance of ensuring that victims of corporate abuses have access to effective avenues for redress (Lamounier & Bastos, 2024, p. 114).

Accordingly, the development of State public policies that incorporate these principles can enhance legal certainty, as they include not only substantive content but also essential elements such as permanence, stability, and long-term planning. In contrast, governmental public policies—due to their temporary nature and susceptibility to partisan disputes and administrative shifts—tend to compromise the continuity of actions.

This scenario becomes even more concerning when considering the complexity of the displacement of migrant workers to Brazil, which involves not only border crossings but also a logistical chain of transportation, food, and shelter, often organized through informal networks. When such structures are not adequately monitored, they become vulnerable to exploitation by criminal organizations for illicit purposes, such as human trafficking and labor exploitation under degrading conditions. In this regard, the report by the Brazilian Labor Prosecutor's Office (2023) highlights the urgent need for coordinated cooperation among States involved in migration flows—origin, transit, and destination—to prevent violations and safeguard rights.

According to data from the Labor Prosecutor's Office, more than 10,000 ongoing procedures are currently investigating cases related to contemporary forms of slave labor, which include situations of exhaustive working hours, degrading conditions, debt bondage, and forced labor—all classified under Article 149 of the Penal Code as modern slavery (Lopes & Paula, 2021, p. 537).

Since 1995, the inter-institutional labor inspection task force has rescued over 53,000 workers from conditions analogous to slavery—predominantly young men with low educational attainment and high vulnerability—working in areas where the State fails to guarantee fundamental rights (Lopes & Paula, 2021, p. 536).

The data also indicate that the primary entry points for migrant workers rescued from exploitative conditions in Brazil are the municipalities of Corumbá (MS), Eptaciolândia (AC), and Pacaraima (RR). Corumbá alone accounts for approximately 20% of the total foreign victims identified, underscoring both its strategic significance and the fragility of State oversight and enforcement in these border regions. These territories operate as vulnerable corridors, where the absence of robust public policies exacerbates the risks of human rights violations (Ministério Público do Trabalho, 2023).

It is thus evident that the lack of effective public policies significantly heightens the vulnerability of affected individuals, perpetuating a cycle of social exclusion. Reversing this situation requires structured, lasting interventions guided by princi-

ples of social protection and a commitment to the sustainable development of these communities.

In summary, the fact that border municipalities exhibit low population density or face challenges stemming from their historical formation cannot, under any circumstances, be used to justify State inaction. On the contrary, it is precisely within these contexts that the urgent implementation of State public policies—supported by technical planning and strategic resource allocation capable of acknowledging and addressing the specificities of these territories with responsibility and continuity—is imperative.

5. Legal Protection of the Border Worker

5.1. In the Federal Constitution

In the Federal Constitution, under the title “Fundamental Rights,” two principles stand out as directly related to the context of cross-border workers: human dignity and the social values of labor and free enterprise (items III and IV of Article 1). These principles are reinforced by Article 3, which, in listing the fundamental objectives of the Republic, sets forth the construction of a free, just, and solidary society, committed to promoting the well-being of all, without prejudice based on origin, race, sex, color, age, or any other form of discrimination.

This ideal of inclusion and solidarity is also expressed in Article 4 of the Constitution, which governs Brazil’s international relations. Among its principles, the effort to integrate the peoples of Latin America is particularly noteworthy, aiming at the formation of a Latin American community of nations—an aspiration directly connected to the reality of cross-border workers.

Complementing this normative framework, Article 5 guarantees the right to equality without any distinction, ensuring to all the rights to life, liberty, equality, security, and property. Within this context, item XIII of the same article establishes the freedom to exercise any profession, trade, or occupation, subject only to the qualifications established by law. Moreover, Article 12, §3, limits access to certain public offices to natural-born Brazilians, which, by exclusion, ensures that foreigners may fully engage in other labor activities, provided that legal requirements are met.

Thus, once admitted to employment, the cross-border worker is entitled to the full application of Brazilian labor legislation, which constitutes a set of minimum standards indispensable for preserving a dignified existence.

This understanding is further supported by the Universal Declaration of Human Rights (UDHR) of 1948, which, both in its preamble and in Articles 22 and 23, recognizes work as a fundamental right essential to human dignity and full personal development. Furthermore, the UDHR draws no distinction between national and migrant workers, thereby confirming that cross-border workers must enjoy the same protections afforded to others. These are universal, inalienable, and non-derogable rights, aimed at safeguarding human dignity regardless of origin or nationality.

Nevertheless, in practice, nation-states impose limitations on the effectiveness of these rights, particularly regarding the freedom to migrate. Although the UDHR guarantees freedom of movement within each country, it remains silent on the right to migrate across international borders. This omission effectively legitimizes, on the part of states, the restriction of individuals to their countries of origin and reinforces the exclusion of migrants, who are thus maintained in a state of precarious and marginalized existence.

Thus, although migration is an inherent part of the human trajectory—occurring intensely and continuously since ancient times—and mobility across territories has shaped the course of human history, the current global context reflects an expectation that individuals remain within the borders of their country of nationality. This logic, which organizes the world based on national borders and affiliations, reinforces the central role of nation-states as exclusive political units, as argued by Redin, Bittencourt Minchola, and Almeida (2023, p. 15).

The structure of nation-states is grounded in sovereignty, territory, and a defined population, typically identified through nationality acquired by birth or descent. As a result, international migrants—by not being part of the group recognized as “nationals”—are perceived as outsiders to the state order and are treated as non-belonging individuals, thereby hindering their full inclusion.

5.2. In the Migration Law

The 2017 Migration Law represented a significant advancement in safeguarding the rights of migrants and refugees, replacing the Foreigners Statute, which had a predominantly security- and control-oriented approach. Unlike the Statute, which treated migrants with a certain degree of detachment, the new legislation adopts a human rights-based framework grounded in the principles of dignity and non-discrimination. It establishes that every migrant, regardless of their legal status, must be recognized as a rights-holder, guaranteeing access to healthcare, education, and labor protections.

Nevertheless, the Migration Law allows for the application of more favorable norms to migrants when international regulations provide better conditions, such as ILO Conventions, Mercosur agreements, or other international treaties ratified by Brazil. Additionally, the legislation reaffirms that cross-border workers are entitled to labor and social security protections, recognizing the particularities of their pendular movements between countries—that is, residing in one nation while working in another.

The law also facilitates, upon request, authorization to perform civil acts (Art. 23), which includes the right to engage in labor and educational activities (Art. 30), provided these activities are limited to the corresponding border municipality (Art. 24). However, this authorization does not automatically confer residency rights, which must be requested separately. As such, workers may apply for residence with the Federal Police in the municipality where they will carry out their civil and labor activities (Art. 30 of Law No. 13,445/2017 and Art. 67, III of Decree No. 9,199/2017). In brief, Santos and Farina (2018, p. 11) outline the procedural steps for the entry of cross-border workers under this legislation:

to enter a Brazilian border municipality, the border resident must present valid travel documentation (passport) or an identity card issued by the official authorities of their country of nationality (Art. 86 of Decree No. 9,199/2017). Authorization to perform civil acts must specify the border municipality in which the worker is permitted to exercise the rights granted by the Migration Law, thereby defining the geographic scope of validity. A more favorable legal regime established by a treaty to which Brazil is a party may also be applied (Arts. 87 and 88 of Decree No. 9,199/2017). This authorization may be granted for a period of five years, renewable for an equal term, after which it may be converted into an authorization of indefinite duration (Art. 90 of Decree No. 9,199/2017). To comply with legal requirements for labor activities, a Work and Social Security Card (Carteira de Trabalho e Previdência Social – CTPS) may be issued, indicating its restriction to the municipality where the cross-border worker is authorized to exercise their rights under the Migration Law (Art. 93 of Decree No. 9,199/2017). Taken together, Law No. 13,445/2017, Decree No. 9,199/2017, and Ministry of Labor and Employment Ordinance No. 1 of January 28, 1977, provide that the processes of entry, registration, CTPS issuance, and the exercise of civil and labor rights involve: (a) requesting a special border identification document at the Federal Police office in the border municipality where the individual intends to work, by presenting proof of identity and residence; (b) registering with the Individual Taxpayer Registry (Cadastro de Pessoas Físicas – CPF) at the Federal Re-

venue Service; and (c) applying for a Work and Social Security Card at the Regional Labor and Employment Office.

However, despite representing progress, the Migration Law's lack of specific provisions for informal border workers prevents them from fully accessing labor and social rights. The majority of cross-border workers operate under precarious conditions, without formal employment contracts, social protection, or legal assistance. Informality exposes them to a range of vulnerabilities, including low wages and hazardous working conditions; long, exhausting work hours, often without weekly rest; harassment and xenophobia from local authorities and society; as well as risks of police repression and confiscation of goods during inspections.

Therefore, although the 1988 Constitution and the new Migration Law broadly guarantee universal social rights regardless of legal status, a lack of adequate documentation restricts access to these rights. Many migrant workers face precarious employment arrangements, including temporary contracts, long working hours, and unstable conditions—particularly in sectors such as garment production and agribusiness, where shifts of up to 17 hours per day are not uncommon.

This scenario of precarious cross-border labor and exposure to hazardous and informal conditions aligns with strategies often adopted by economically developed countries, which channel vulnerable migrant workers into low-skilled, low-wage occupations. As Siciliano (2019, p. 29) notes, countries with relatively high-skilled labor markets, such as the United States, tend to benefit from restricting entry to low-skilled migrants, who fill jobs typically rejected by the native workforce—thus minimizing labor competition and wage pressure.

In this context, it is essential to highlight Advisory Opinion No. 18/03 of the Inter-American Court of Human Rights (IACHR), which addressed the rights of undocumented migrants—a pressing global issue—affirming that:

Positive measures must be adopted to prevent discrimination against undocumented migrants; failure by States to respect and guarantee human rights entails international responsibility; the principles of equality and non-discrimination are fundamental and constitute *jus cogens* norms; such *jus cogens* principles give rise to obligations *erga omnes*; the general obligation to respect and ensure human rights is binding upon States; due process must be guaranteed to all migrants, including those who are undocumented; migration status cannot be used to justify human rights violations; States are obligated to respect and ensure labor-related human rights and must not tolerate discrimination; workers must be afforded all necessary means to exercise

their labor rights; and States may not condition respect for these principles on the implementation of public policy.

In the judgment of the case *Damião Ximenes Lopes v. Brazil*, submitted to the Inter-American Court of Human Rights (IACHR) on October 1, 2004 (Petition No. 12,237), then-President of the Court, Antônio Augusto Cançado Trindade, emphasized in his opinion the vulnerability of marginalized individuals, with particular attention to irregular migrants. Although the case specifically addressed the violation of the rights of a mentally disabled person who was institutionalized and died while in the custody of a hospital affiliated with Brazil's Unified Health System (SUS), the jurist highlighted the heightened vulnerability of irregular migrants, thereby evidencing the need for reinforced legal protection for this group.

In his statement, Cançado Trindade emphasized the *jus cogens* nature of fundamental human rights principles, which transcend treaty law and apply to all acts of states and international legal systems. He asserted that International Law is undergoing a process of "humanization," and he drew attention to the emergence of the human right to humanitarian assistance, which encompasses two primary dimensions: one centered on the obligations of the state, and the other rooted in human dignity.

He further stressed the structuring role of principles as foundational pillars of the international legal order and of the legal system as a whole, which are directed toward: (a) promoting the common good; (b) the pursuit of justice; (c) the supremacy of Law over the use of force; and (d) the maintenance of peace. For Cançado Trindade, the centrality of legal principles guides the interpretation and application of human rights norms, ensuring their effectiveness and preventing violations, particularly in situations of structural vulnerability.

Therefore, although the Migration Law constitutes normative progress, its improvement is essential—especially with regard to the protection of informal cross-border workers. In this regard, both the Advisory Opinion of the Inter-American Court of Human Rights and the guidelines set forth by Cançado Trindade in his opinion may serve as a basis for addressing the regulatory gap that disproportionately affects undocumented workers, who are often concentrated in labor sectors marked by high demand and low wages, owing to their heightened vulnerability.

5.3. International social security agreements signed by Brazil

As previously discussed, with the intensification of globalization, the movement of people has become increasingly common—whether motivated by the search for better living and working conditions or driven by political, economic, or social factors. In this context, international treaties aimed at the social protection of migrant workers have proliferated, particularly through reciprocal agreements designed to ensure the continuity of social security coverage and prevent the loss of acquired or maturing rights.

The Vienna Convention (1969) defines an international agreement as a written instrument between States that is governed by International Law (Art. 24). Walter Arrighi (2006, p. 178) defines it as follows:

It is an agreement signed by two or more countries, governed by Public International Law, through which reciprocal rules are established to be followed by individuals falling within its scope in order to obtain the social security benefits provided under the legislation of each contracting country.

Faced with this challenge, the International Labour Organization (ILO) consistently recommends the adoption of bilateral or multilateral agreements to coordinate social security systems, thereby avoiding interruptions in social protection. Castro and Lazzari (2023, p. 151) clarify:

The ILO proposes, through successive recommendations to its member states, the drafting of social security agreements among them. However, as Priscila Gonçalves de Castro observes in her study on the topic, Brazil concluded its first International Social Security Agreement only in 1965 (with Luxembourg), which came into force on March 1, 1967. According to official data (Ministry of Foreign Affairs), approximately 2.5 million Brazilians live abroad, of whom only 950,000 have their social security rights guaranteed by international social security agreements.

In summary, there are two types of agreements addressing social protection: bilateral agreements between two countries and multilateral agreements, such as those established by regional blocs (e.g., the European Union, Mercosur).

Coverage depends on the specific provisions established in each agreement and may include reciprocal treatment for citizens of the signatory countries, including refugees and stateless persons residing in those countries. Alternatively, they may

be framed as “open agreements” that do not limit their effects solely to nationals, thus extending benefits to resident foreigners as well.

In Brazil, there are no such restrictions, as the Federal Constitution, in Article 5, guarantees equal treatment to both Brazilian citizens and resident foreigners. Moreover, the Social Security Benefits Law (Law No. 8.213/1991) and the Social Security Financing Law (Law No. 8.212/1991) do not impose Brazilian nationality as a condition, but rather the performance of work within the national territory as the guiding criterion.

Accordingly, certain fundamental principles must be observed in the drafting of these international agreements, such as: equal treatment in matters of social security (as outlined in ILO Convention No. 118); prohibition of clauses that condition the acquisition of rights on residence in the contracting state; prohibition of double taxation or contribution overlap; and guarantees of access to essential basic services during temporary stays in another contracting country.

These aspects aim to harmonize the national legislation of the signatory states, facilitate the application of international norms, and ensure access to the benefits provided under each agreement, including provisions concerning the temporary movement of workers, as outlined in Article 393 of INSS/PRES Normative Instruction No. 128/2022.

However, the increasing diversity of social security regimes and administrative models poses challenges to the international coordination of social protection systems. In this regard, it is essential that states incorporate provisions ensuring the portability of social security **contributions**, particularly in countries that adopt individual capitalization systems. Moreover, structural or incremental reforms in national social security systems may impact the implementation of existing international agreements. As such, it is crucial that these reforms take into account their potential effects on such treaties to avoid harm to protected workers, as highlighted by Castro and Lazzari (2023, p. 153). The Federal Regional Court of the 4th Region (TRF4) has already ruled on this matter:

SOCIAL SECURITY. PERIOD OF SERVICE ABROAD. SOCIAL SECURITY AGREEMENT BETWEEN BRAZIL AND PORTUGAL. RECIPROCAL RECORDING AND COUNTING. The Social Security Agreement between the Federative Republic of Brazil and the Portuguese Republic adopts, as the connecting criterion for determining social security rights and obligations, the law in force in the place where the worker performs their duties (*lex loci executionis*). The insurance period contributed in Portugal is valid for purposes of retirement based on length of service or contributions in Brazil, provided

it corresponds to the actual exercise of professional activity in the foreign country. The bilateral agreement guarantees the certification of contribution periods for the specific social security regimes of public servants in Brazil. (*TRF-4, AC 5001541-19.2015.4.04.7110, 5th Panel, Rapporteur Osni Cardoso Filho, ruling on 12/17/2020.*)

This ruling reinforces the role of international agreements as instruments for guaranteeing the fundamental right to social security and the protection of migrant workers, including within specific social security regimes increasingly implicated in patterns of inter-federative and international mobility.

Castro and Lazzari (2023, pp. 155–158) highlight the International Social Security Agreements signed by Brazil (considering the date of international effectiveness, rather than domestic effectiveness, which occurs after ratification and publication of the corresponding decree):

Germany: signed on 12/3/2009 (Decree No. 8,000 of 5/8/2013) – Effective 5/1/2013; Belgium: signed on 10/4/2009 (Decree No. 8,405 of 2/11/2015) – Effective 12/1/2014; Cape Verde: signed on 2/7/1979 (registered with the UN Secretariat on 12/28/1979, No. 18,216) – Effective 2/7/1979; Canada: signed on 8/8/2011 (Legislative Decree No. 421 of 11/28/2013 and Decree No. 8,288 of 7/24/2014) – Effective 8/1/2014; Chile: signed on 10/16/1993 (Legislative Decree No. 75 of 5/4/1995) – Effective 3/1/1993. New Agreement – Effective 9/1/2009; Korea: signed on 11/22/2012 (Legislative Decree No. 152 of 7/17/2015) – Effective 11/1/2015; Spain: signed on 5/16/1991 (Decree No. 1,689 of 11/7/1995) – Effective 12/1/1995. Complementary Revision Agreement of the Convention signed on 6/24/2012 (Decree No. 9,567 of 11/16/2018) – Effective 3/1/2018; United States: signed on 6/30/2015 (Decree No. 9,422 of 6/25/2018) – Effective 10/1/2018; France: signed on 12/15/2011 (Legislative Decree No. 2 of 1/16/2014 and Decree No. 8,300 of 8/29/2014) – Effective 9/1/2014; Greece: signed on 9/12/1984 (Legislative Decree No. 3 of 10/23/1987) – Effective 9/1/1990; Italy: signed on 12/9/1960 (Legislative Decree No. 57,759 of 2/8/1966) – Effective 8/5/1977; Japan: signed on 12/27/2010 (Legislative Decree No. 298 of 9/30/2011; promulgated by Decree No. 7,702 of 3/15/2012) – Effective 3/1/2012; Luxembourg: signed on 9/16/1965 (Legislative Decree No. 52 of 1966) – Effective 8/1/1967. New agreement signed in Luxembourg on 6/22/2012 (Decree No. 9,564 of 11/14/2018) – Effective 3/1/2018; Portugal: signed on 10/17/1969 (Decree No. 67,695 of 12/3/1970) – Effective 3/25/1995. Additional Agreement with administrative adjustment (Decree No. 7,999 of 5/8/2013) –

Effective 5/1/2013; Quebec: signed on 10/26/2011 (Legislative Decree No. 97 of 5/12/2015) – Effective 10/1/2016; Switzerland: signed on 3/3/2014 (Legislative Decree No. 54 of 6/18/2019) – Effective 10/1/2019.

They also refer to the Multilateral Agreements signed:

IBERO-AMERICAN: *Ibero-American Multilateral Social Security Convention* (Argentina, Bolivia, Brazil, Chile, El Salvador, Ecuador, Spain, Paraguay, Peru, Portugal, and Uruguay), signed on November 10, 2007; in force since May 19, 2011. The text was promulgated by Decree No. 8,358 of November 13, 2014. MERCOSUR (Argentina, Brazil, Paraguay, and Uruguay): *Multilateral Social Security Agreement of the Southern Common Market*, signed on December 15, 1997, approved by Legislative Decree No. 451 of November 14, 2001, and in force since June 1, 2005.

It is important to emphasize that responsibility for this area currently lies with the Special Secretariat for Social Security and Labor. Within this structure, the General Coordination of Cooperation and International Agreements is the sector responsible for negotiating and signing international agreements, as well as for monitoring and evaluating their implementation and functioning.

This institutional role is of significant relevance, as the international agreements signed by Brazil should be understood not only as legal cooperation instruments between States but also as concrete mechanisms for the realization of human rights—especially concerning the social security of vulnerable populations, such as migrants, refugees, and cross-border workers.

5.4. The international protection of frontier workers in the MERCOSUL

Mercosur was established through the *Treaty of Asunción* on March 26, 1991, and was promulgated by Decree No. 350 of November 21, 2021, with Argentina, Brazil, Paraguay, and Uruguay as founding members. Its primary objective is to strengthen economic relations among the Member States by consolidating an integrated economic bloc.

In this context of regional integration—which also includes associate members such as Bolivia and Chile—specific treaties and declarations have been developed to safeguard the rights of migrant workers, with particular attention to those engaged

in activities in border areas.

Among the main normative instruments ensuring such protection, the 2015 Mercosur Socio-Labour Declaration stands out. It is one of the most significant documents for the protection of border workers, as it enshrines fundamental principles of equal treatment between migrant and national workers. The document defines the framework and guiding principles of regional integration in the field of labor and social rights. It begins by reaffirming the Member States' commitment to a model of economic development based on social justice, updating the previous version of the Declaration from 1998.

Subsequently, it recognizes that economic and social integration is essential for the realization of social justice, which depends on policies focused on employment and the improvement of working conditions. These policies are presented as central to poverty reduction and the strengthening of democratic governance within the bloc.

Additionally, the Declaration emphasizes the importance of building an inclusive and participatory society, in which democratic values permeate all dimensions—political, economic, social, and cultural. To this end, it underscores the necessity of active engagement by all sectors of society in fostering equitable and sustainable development.

In line with this perspective, the Member States reaffirm their commitment to the principles of the International Labour Organization (ILO), with particular emphasis on the 1944 Declaration of Philadelphia, which guarantees fundamental rights such as freedom, dignity, economic security, and equal opportunities for all individuals.

Moreover, the Declaration reiterates adherence to universal human rights, as established in international treaties such as the Universal Declaration of Human Rights and the International Covenants on Civil, Political, Economic, Social, and Cultural Rights. It also underscores the importance of aligning economic progress with social well-being, in accordance with concerns already expressed in international forums such as the Copenhagen Summit (1995).

With specific regard to border workers, the Declaration dedicates an entire article to this group, without prejudice to the other rights guaranteed throughout the document.:

ARTICLE 7 - Migrant and frontier workers 1. All workers, regardless of nationality, are entitled to assistance, information, protection, and to equal rights and working conditions, as well as access to public services granted to nationals of the country in which they are engaged in professional activities,

in accordance with the legislation of each respective country. 2. The States Parties shall take into account the rights established under the *Agreement on Residence for Nationals of the MERCOSUR States Parties, Bolivia, and Chile*, as well as other complementary instruments to which they are party. 3. The States Parties undertake to adopt and coordinate measures aimed at establishing common standards and procedures for the movement of workers in border areas and to take necessary actions to improve employment opportunities and the working and living conditions of such workers, in accordance with specific agreements applicable to this population and based on the rights recognized in current residence and immigration agreements. 4. The States Parties also commit to developing coordinated actions in the fields of legislation, labor policy, migratory institutions, and other related areas, with the goal of promoting the free movement of workers and the integration of labor markets in a manner that is compatible and coherent with the broader regional integration process.

Thus, the Mercosur Socio-Labour Declaration represents a significant step forward by establishing a normative framework that transcends mere economic cooperation, moving toward the realization of social justice and human rights at the regional level. By ensuring equal rights for migrant and national workers, the instrument promotes social inclusion and combats discrimination, helping to mitigate vulnerabilities inherently faced by border populations.

Moreover, the provision for coordinated actions and common standards reflects a concerted effort by the States to harmonize legislation and public policies—an essential step toward overcoming the legal and institutional barriers that have historically obstructed the full integration of these workers. This normative commitment reaffirms Mercosur's role not only as an economic bloc but also as a forum for the construction of a regional system grounded in social and human rights.

Another key document aimed at protecting the rights of migrant workers is the 2002 Agreement on Residence for Nationals of Mercosur Member States, Bolivia, and Chile. This agreement seeks to facilitate the granting of residence to workers who wish to live and engage in professional activities in another Mercosur country. For border workers, the agreement provides for the granting of temporary residence, which may be renewed and subsequently converted into permanent residence, provided the worker can demonstrate sufficient means of subsistence.

A critical aspect of this agreement is the guarantee of the right to enter and leave the country in which the worker performs their activities, thereby ensuring freedom of movement for cross-border workers. Furthermore, it allows these indi-

viduals to carry out remunerated activities in the neighboring country under the same conditions as local workers, without requiring complex visas or burdensome migration restrictions.

In summary, the agreement constitutes a practical and effective mechanism for overcoming migration barriers that frequently limit labor mobility and the integration of border workers. By guaranteeing temporary residence and equal rights with nationals, the instrument provides greater legal certainty for these workers and grants them access to public services and essential social protections.

This facilitation of cross-border mobility not only enhances regional economic efficiency but also upholds the dignity and social stability of the individuals involved, contributing to the reduction of informality and labor exploitation. However, it is essential that the implementation of the agreement be accompanied by effective public policies to ensure the full exercise of these rights, thereby preventing the legal provisions from becoming merely formalistic or symbolic.

Finally, it is important to highlight the 1997 Mercosur Multilateral Social Security Agreement, which establishes that periods of employment in any of the Mercosur countries may be counted toward the eligibility for social security benefits such as retirement, survivor pensions, and disability benefits.

As such, a border worker who contributes to the social security system of one country may combine that period with those required to obtain social security rights in their country of origin. This mechanism ensures that, even if a worker has been professionally active in multiple countries throughout their career, their social security rights are not compromised. Moreover, each country is responsible for contributing proportionally to the period the insured individual worked within its territory, thus ensuring the social protection of these workers. According to Castro and Lazzari (2023, p. 155):

Within the scope of Mercosur, the Multilateral Social Security Agreement, signed on December 14, 1997, and adopted by Brazil through Legislative Decree No. 451/2001, stipulates in its Article 2 that “social security rights shall be recognized for workers who provide or have provided services in any of the Member States, with the same rights extended to their family members and dependents. Furthermore, they shall be subject to the same obligations as nationals of specific Member States regarding the matters expressly covered by this Agreement.

The authors also reference a judicial ruling that applied the aforementioned agreement in cases concerning retirement claims, as follows:

(...) 3. The Multilateral Social Security Agreement of Mercosur, integrated into our legal system by Legislative Decree No. 451/2001 and Decree No. 5.722/2006 of the Presidency of the Republic, contemplates only the granting of benefits due to old age, advanced age, disability, or death. Interpretation of Article 7, item 1. 4. The insured person is not entitled to retirement by length of contribution if, by summing the time judicially recognized with the time administratively computed, they do not meet the required time or other criteria for the benefit. (TRF-4, AC 5006581-78.2016.4.04.7002, TRS-PR, Rel. Luiz Fernando Wowk Penteado, judgment on May 22, 2020).

Accordingly, the Multilateral Social Security Agreement represents a significant advancement in the social protection of border workers, whose mobility might otherwise jeopardize their social security rights. By allowing the reciprocal recognition of contributory periods, the agreement reduces the fragmentation of employment histories and facilitates a fairer, more effective retirement process. This mechanism fosters equity between migrant and national workers, reinforcing the social dimension of the regional integration process.

Nonetheless, the operational complexity and administrative requirements involved in recognizing periods of employment may limit the agreement's practical effectiveness, necessitating joint efforts among the States to ensure full implementation and accessibility for beneficiaries. The cited legal precedent demonstrates the concrete application of the agreement, highlighting its importance within regional jurisprudence and the judiciary's role in upholding cross-border social rights.

5.5. Brazil's bilateral agreements on frontier workers

In addition to Mercosur instruments, Brazil has entered into bilateral agreements with some of its neighboring countries to specifically regulate the situation of frontier workers. These agreements aim to establish more practical and detailed rules for employment and access to services in border regions, taking into account local realities and the particularities of each area.

Among these, the Brazil–Uruguay Agreement (2002) is especially noteworthy. It allows Brazilian and Uruguayan frontier workers to reside, work, and study in border municipalities of the neighboring country, encompassing nine cities on each side. This agreement guarantees labor and social security rights, as well as the right to attend public or private educational institutions in the neighboring State.

In 2010, Decree No. 7,239 introduced a supplementary provision granting access to healthcare services in both countries, including hospitalizations and surgical

procedures. This measure facilitates ambulance transport and ensures that documents and contracts are accepted in both Portuguese and Spanish, thus simplifying access to medical care. While these advances represent meaningful progress in social and economic integration, the practical implementation of these rights remains a concern. Although the simplification of documentation is a positive development, effective access to public services may still be obstructed by bureaucratic inefficiencies and a lack of institutional coordination between the countries. Thus, despite the inclusive nature of the agreement, its application faces challenges that may hinder the full enjoyment of the guaranteed rights.

On the other hand, the Brazil–Argentina Agreement (2005) is one of the most comprehensive frameworks for frontier workers between the two countries. It includes ten Brazilian cities and nine Argentine cities, allowing for residence, employment, and education under labor, social security, and tax obligations equivalent to those of nationals in the country where the activity is performed. Furthermore, it introduces the Cross-Border Vicinal Transit Card, which grants extensive freedom of movement within the designated areas.

The agreement also provides for educational cooperation, including teacher exchanges and shared curricular content in subjects such as History and Geography, with the goal of emphasizing common historical and geographical features of the border regions. It further establishes a joint urban development plan to improve infrastructure, environmental preservation, and cultural identity in the interconnected cities, as noted by Santos and Farina (2018, p. 169). The authors also emphasize that the agreement addresses public health, calling for coordinated action in epidemic control and sanitary surveillance by the relevant national authorities—pointing to the emergence of a shared cultural identity and common public policy development. Another noteworthy provision is that all documents must be accepted in either Spanish or Portuguese, without requiring translation, especially when applying for the Cross-Border Vicinal Transit Card.

In sum, this agreement stands out as one of the most comprehensive, covering rights related to labor, education, mobility, educational cooperation, and joint urban development. The inclusion of joint public policies, particularly in public health and epidemic prevention, reflects a clear recognition of the need for integrated approaches that extend beyond labor issues alone.

Lastly, the Brazil–Bolivia Agreement (2004) is another key legal instrument regulating the status of frontier workers in four Brazilian and four Bolivian cities. It guarantees essential rights such as residence, work, and education, and establishes a special identity card for these workers, granting them specific rights in the host

country while observing social security and tax obligations.

However, the creation of this special frontier worker identity warrants deeper examination. By granting rights tied to a specific status, the agreement seeks to create a legal distinction between regular and frontier workers, promoting differentiated treatment that may facilitate their integration into the local labor market. This regulatory distinction is crucial for balancing state sovereignty with regional integration needs and for ensuring the fiscal sustainability of social security systems in both countries.

Additionally, the agreement underscores the importance of linguistic tolerance by public authorities, enabling frontier workers to access public services and official documentation without the need for translation between Portuguese and Spanish. This operational feature is vital to the agreement's effectiveness, as it removes bureaucratic barriers that could otherwise hinder essential rights and limit labor mobility.

In conclusion, although the bilateral agreements signed by Brazil to protect frontier workers represent meaningful normative progress, structural weaknesses persist that limit their practical effectiveness. As this section has demonstrated, despite the commitments and cooperative intentions articulated by signatory countries, there remains a significant gap between formal commitments and their actual implementation.

The criticisms directed at these agreements reveal recurring shortcomings that hinder their success, including the absence of robust monitoring mechanisms, insufficient practical regulation, and ambiguity in operational procedures. For example, while the proposed initiatives for educational, urban, and linguistic integration are innovative, they lack concrete implementation instruments, which calls for sustained and coordinated efforts by the responsible institutions.

Therefore, although the analyzed agreements represent important milestones in the institutionalization of transboundary social protection, they still lack sufficient operational capacity and a governance system capable of ensuring their efficient and coordinated execution. Realizing the rights enshrined in these instruments requires more than political will and financial investment—it also demands effective monitoring systems, trained stakeholders, and the active participation of the workers themselves.

In this context of partial progress, one strategic shortcoming in Brazil's bilateral policy becomes particularly evident: the absence of an agreement with Paraguay. This omission is paradoxical, considering that the Triple Border region—comprising Ciudad del Este (Paraguay), Foz do Iguaçu (Brazil), and Puerto Iguazú

(Argentina)—is one of the most densely populated and economically dynamic zones in South America. The lack of a normative framework between Brazil and Paraguay undermines the legal and operational harmonization necessary for deeper and more effective cross-border integration. Santos and Farina (2018, p. 170) highlight this integrative gap:

The most significant shortcoming lies in the absence of a bilateral agreement between Brazil and Paraguay, despite this border region being the most densely populated and generating the highest level of economic activity—as exemplified by the area comprising Ciudad del Este (Paraguay), Foz do Iguaçu (Brazil), and Puerto Iguazú (Argentina), which represents the most interconnected cluster of border cities in South America

On the other hand, this gap may soon be resolved, as the Agreement between the Federative Republic of Brazil and the Republic of Paraguay on Linked Border Localities, signed in Brasília on November 23, 2017, is currently pending legislative approval (Legislative Decree Bill No. 765/2019). Once promulgated by the Executive Branch, the agreement will become legally effective within Brazilian territory. The draft includes specific provisions regarding cross-border workers:

According to Article III of the agreement, frontier citizens holding the Border Transit Identification Card (*Carteira de Trânsito Vicinal Fronteiriço*) shall be guaranteed: i) the right to engage in employment, trade, or a profession in the neighboring country's border locality; ii) access to public education in the neighboring country's border locality, under conditions of gratuity and reciprocity; iii) access to public healthcare services in the neighboring country's border locality, under the same terms; and iv) access to a special border trade regime for subsistence goods and products, exempting them from import and export duties when acquired by frontier citizens in the neighboring locality.

Therefore, the proposed agreement between Brazil and Paraguay—currently under review—aims to close this regulatory gap. Among other provisions, it guarantees the right to work, access to public education and healthcare on the basis of reciprocity and gratuity, and a special regime for cross-border trade. This initiative reinforces the legal recognition of the specific needs of cross-border workers and reflects a broader regional commitment to fostering socioeconomic integration through more structured and comprehensive measures.

Conclusion

The main objective of this article was to analyze the lived reality of frontier workers in border regions during their cross-border commuting, with particular attention to working conditions, the presence (or absence) of public policies, and the adequacy of the existing legal protection framework. The study first sought to outline the geographical and demographic specificities of the border zone, aiming to understand its territorial and social dynamics.

Subsequently, a dialogue was established between human rights and the concrete reality of these workers, with emphasis on aspects related to occupational health, safety, and hygiene. Finally, the article examined national and international normative instruments applicable to the protection of this population, including bilateral and multilateral agreements, with the aim of identifying gaps and proposing structural improvements.

The investigation demonstrated that the absence of structured and permanent public policies—sensitive to the dynamics of cross-border commuting—significantly contributes to the social, labor, and legal vulnerability of frontier workers. The analysis of twin cities and the concept of lived borders, as proposed by Oliveira Neto and Crivelatti (2014, p. 118), revealed that the sense of belonging and the effectiveness of rights are intrinsically linked to daily participation and the institutional recognition of local particularities. Nevertheless, cross-border workers continue to face challenges related to informality, job insecurity, and institutional invisibility.

From a normative standpoint, although relevant instruments exist—such as the Consolidation of Labor Laws (CLT), the Brazilian Migration Law, the 1990 UN Convention, and multilateral and bilateral agreements within the framework of Mercosur—the effectiveness of these mechanisms depends directly on their articulation with intersectoral public policies.

Such policies must be developed in accordance with the United Nations Guiding Principles on Business and Human Rights (Protect, Respect, and Remedy), which reinforce both the State's responsibility to prevent human rights violations by corporations and the duty of companies to respect those rights, while also ensuring that victims have access to adequate remedies.

However, it is important to note that recent setbacks in Brazil's political and economic landscape have further undermined the realization of the human rights of migrants and frontier workers. In 2024, Brazil tightened its migration rules by requiring transit visas and adopting stricter criteria for asylum seekers—measures

that disproportionately affect migrants in vulnerable situations. Cases such as the death of Ghanaian migrant Evans Ossêi Ússu, which occurred at São Paulo's Guarulhos International Airport after more than 20 days of detention under precarious conditions—without adequate access to food, water, or hygiene—expose the absence of minimum protection guarantees. The episode generated strong national and international repercussions and was denounced by civil society organizations and the Federal Public Defender's Office, which filed a public civil action seeking compensation for collective moral damages due to the violation of fundamental rights.

Rather than mitigating the situation, these measures have deepened the marginalization of migrant populations and underscore the urgency of resuming a migration policy grounded in human rights. Thus, directly addressing the problem outlined in the introduction, it is concluded that the existing legal frameworks, by themselves, are not sufficient to ensure comprehensive protection for frontier workers. These legal norms must be accompanied by public policies rooted in a real and context-specific understanding of life in border areas.

The implementation of the UN Guiding Principles (Protect, Respect, and Remedy) may represent a turning point in this process, as they offer a model oriented toward the prevention of violations, the accountability of both public and private actors, and the adequate redress of harms suffered. From a theoretical standpoint, this research contributes to advancing the debate on the intersection between human rights, cross-border labor mobility, and public policy.

In practical terms, it reinforces the urgency of adopting public policies that not only formally recognize the rights of frontier workers but also ensure their effectiveness in everyday life. These policies must be interinstitutional, continuous, adapted to regional specificities, and centered on the human being as a rights-bearing subject.

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