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**Sex trafficking in Brazil:**

**Formal and Informal Institutions in the Fight Against the**

**Crime**

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## **Abstract**

Sex trafficking of women is an increasing phenomenon that affects mostly black women in Brazil. Governmental attempts to confront the crime have been made, however, the number of victims in the country continues to grow. The aim of this thesis is to examine the processes that impede the effectiveness of the policy and legislation in place which are made to protect the victims and counter the crime. For that, I want to unveil the informal structures that may interact with the formal strategies and to understand how this interaction takes place. I use the theoretical framework of feminist intersectionalities and of institutions to make qualitative analysis of both primary and secondary data. The historical processes of inequality that include gender, race and class struggles in Brazil are central in this work, as well as the weaknesses in Brazilian policy making and implementation. Through the empirical data I found that the role played by informal institutions is dysfunctional to the fight against sex trafficking in Brazil.

Key words: Brazil, sex trafficking, formal and informal institutions, gender, race and class discrimination.

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# 1. Introduction

Human trafficking is an increasing phenomenon that affects virtually all countries in the world. It is generally recognized as a violation of human rights, which according to *Amnesty International* are the “basic rights and freedoms that all people are entitled to regardless of nationality, sex, national or ethnic origin, race, religion, language, or other status” (Amnesty International).

Human trafficking may involve recruiting, harboring, transporting, transferring, and/or receiving men, women and/or children with the aim of exploiting their work force and bodies. Trafficked persons are often subjected to involuntary servitude, peonage, debt bondage, or slavery (TVPA, 2000). This is a process that occurs both on transnational level, when people are displaced from one country to another, and in the local level, when the processes of exploitation occur in the victim's country, where they are pushed to areas “in need” of their work.

The most important international document that addresses the issue on a transnational level is commonly known as Palermo Protocol. It was signed in December 2000 by over 80 of the 148 countries in the United Nations Convention Against Transnational Organized Crime. According to the Palermo Protocol<sup>1</sup>, trafficking in persons shall mean:

the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payment or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation (Palermo Protocol, Art. 3a: 2).

Although the global scale of human trafficking is difficult to measure, there are according to the International Organization for Migration about 800,000 adults and children trafficked across international borders annually (IOM). The U.S. government estimated that 2 to 4 million people are trafficked every year within countries (Seelke,

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<sup>1</sup> The Palermo Protocol recognizes the need for a combined approach that integrates effective prevention of trafficking, with the prosecution of the traffickers and the protection of human rights and assistance to victims.

2009: 3).

Despite not exclusively for the sex industry, human trafficking is strongly related to sex work. Women and children are specially affected by human trafficking for the purpose of sexual exploitation, serving as prostitutes to national and international men. The International Labor Organization (ILO) estimates that women and girls account for 56% of victims in forced economic exploitation, such as domestic service, agricultural work, and manufacturing – and 98% of victims in forced commercial sexual exploitation (ILO, 2009: 1).

Recent assessments suggest that sex trafficking is on a rise in Latin America and the Caribbeans. As stated by Grimm, the region represents now the third largest source of human trafficking after South and Southeast Asia and former Soviet Union and was recently indicated as the region with the highest rate of migration in the world (2007: 9).

Brazil represents a major economic power within Latin America with over a 190 million inhabitants covering an expansive geographic territory (IBGE, 2010). Its society faces a multiplicity of ideological, political, moral, economical and cultural issues that are in many cases shaped by notions of gender, class and race. According to the U.S. Department of State, sex trafficking of Brazilian women and girls occurs in all 26 Brazilian states and the federal district (capital) and the federal police estimated that more than 250,000 children are involved in prostitution (Refworld, 2011).

Although the Brazilian government and non-profit organizations have been implementing some strategies to confront trafficking in the country, surveys indicate that human trafficking is still an increasing problem. Inequalities of gender, race and class as well as globalization are pointed out as the most prominent pushing factors for human trafficking in the country. However, as suggested by Blokhuis (2008), the root causes of the problem are often not adequately addressed in existing anti-trafficking measures in source and receiving countries.

In Brazil, the most affected group in this process is the poor black women. The existing policy to face the problem seems to be still ineffective in protecting victims, whose

rights have been historically denied through mechanisms of class inequalities, racism and patriarchy.

## **1.1 Purpose and research question**

Some researches about human trafficking in Brazil have already been done by national and international non-profit organizations related to gender and child exploitation, as well as for Brazilian scholars and academics (Piscitelli, Colares, CECRIA, ICMPD). The surveys served as waking up calls for the Brazilian government and society to start paying more attention to the problem of sex trafficking in Brazil.

Important aspects of the problem were revealed in those studies, such as causes, profile of the victims, the location and routes of trafficking networks, potential abusers, motivation of the victims to fall into pitfalls, lack of knowledge about trafficking, etc. However, although a political agenda to confront the problem was developed in Brazil based on these findings, there still miss investigations about the effectiveness and implementation of those governmental proposals and actions.

The purpose of this work is twofold. First, taking into consideration the political efforts that are being made to address the issue vis à vis the growing numbers of trafficking in the country, it is an effort to reveal the informal structures that are central to the debate of sex trafficking and lead to an over-representation of black women as victims of the crime in Brazil. Second, it is to understand how these informal structures interact with the legal strategies and the outcomes of this interaction in reality.

Although children and transgenders also represent vulnerable groups for sex trafficking in Brazil, this work intends to focus on the question of black women.

The research questions for this work are the following:

- What are the informal institutions related to sex trafficking of women and how have they been developed in the Brazilian society?

- How do these informal institutions interact with the formal apparatuses of the Brazilian government to address the fight against women trafficking for sexual exploitation in the country?

## **1.2 Outline of Study**

In the next chapter, I expose some research contributions about sex trafficking in Mexico and the Caribbeans in order to illustrate the situation in other Latin American countries. In chapter 3, gender, race and class inequalities are theorized through the theoretical framework of intersectionalities. In addition, I suggest the theoretical framework of institutions, that is about how formality and informality (formal and informal institutions) work together in governmental structures shaping the effectiveness - or ineffectiveness - of law and policy enforcement. Then, in chapter 4, I present the methodology used in the study and the limitations of this work. In chapter 5, I present the data material of this study. Historical references of Brazilian economic development are made in order to explain the reasons of black women's vulnerability today. Then, governmental documents and previous researches in Brazil, as well as interviews with actors that work with the issue in practice are presented. In chapter 6, I make an analytical discussion of the data based on the suggested theories. Lastly, in chapter 7, I give the conclusion remarks of the study.

## **2. Previous Research**

There are relatively few researches about human trafficking in Latin America and the Caribbeans despite the increasing incidence of the crime in the region. Most information about the problem is offered through the TIP reports<sup>2</sup>. However, some scholars have also

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<sup>2</sup> The United States Department of State evaluates the countries involved in trafficking in the Trafficking in Persons reports (TIP reports) in accordance with how it complies with the requirements of the standards in the Trafficking Victims Protection Act (TVPA). Tier 1 countries comply fully with the minimum standards for eliminating trafficking outlined in the Victims of Trafficking and Violence Protection Act. In contrast, Tier 2 nations are not in full compliance but are making "significant" efforts to meet those standards. The Tier 2 Watch List includes countries where the number of victims

contributed to the debate with their studies.

One example is the work of Risley (2008). Her study has shown that women, like in most countries, are specially vulnerable for trafficking networks operating in Mexico. According to Risley, economical hardship is a common cited cause of trafficking worldwide. However, she states that poverty alone is not a satisfying explanation for the crime. Instead, she calls for the enormous gender inequality that characterize the cultural, social and legal spheres of Mexican society.

She discusses about the relationship between Mexico and the U.S. in relation to human trafficking. Thereby she reveals that the migrants' vulnerability is due to reliance on smugglers and their undocumented status which increase their chances to be trafficked to America. Migrants, in this case, do not include exclusively Mexicans, since the country is a transit for migrants from other Latin American and Caribbean countries.

Risley argues that “gender violence and impunity are manifestations of deeply rooted gender inequalities” (Risley, 2008:2, in 2010:107). She reveals in her study how Mexican women suffer with sex violence, domestic abuse, among others, and she attributes gender inequalities as root causes of this violence. In addition, she says, gender inequalities in Mexico raise the institutionalized impunity and routine violence suffered by women. This process connected to the ineffective law enforcement and weak rule of law in the country are the main causes of sex trafficking in the country according to her. The weaknesses in the rule of law were identified among others as corruption, criminality, impunity and use of excessive force by state authorities. She exemplifies that saying that criminal groups are powerful and operate beyond the reach of the law (2010: 109). She also points to a generalized corruption culture within police authorities and justice system which is reinforced by patriarchal social relation in the country.

Another study was conducted by Seelke (2009) for the Congressional Research Service

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of severe forms of trafficking is “very significant” (or on the rise) or that fail to provide evidence of greater efforts to combat these severe forms of trafficking since the previous year. Tier 3 countries are neither complying with the U.S.’ minimum standards nor taking “significant” steps toward compliance; as a consequence, the U.S. may choose to withhold non-humanitarian, non-trade-related aid (U.S. Department of State 2005: 5 in Risley, 2010: 105)



of the U.S. Congress. She raises that despite the many differences between the countries in the region, they seem to share commonalities that affect directly the way in which sex trafficking functions there. In the study, several countries are identified as major source, transit and destinations for victims of transnational trafficking in persons, such as the Dominican Republic, Haiti, Bahamas, Barbados, etc. Poverty, illiteracy, unemployment, history of sexual abuse, homelessness, drug use, gang membership, among others are also pointed as individual risk factors for the phenomenon in the region. (Seelke, 2009: 4) In addition, she states that “the Caribbeans relatively open borders, lax enforcement of entertainment visa and work permit rules, and legalized prostitution” (Seelke, 2009: 7) may have contributed to the problem of trafficking there.

In another study, Kempadoo (2007) raises the argument that the confrontation of sex trafficking in the region may lead to “a intensification of state surveillance of the migration and income-generating activities of working people and to a greater state control of women's sexual labour and agency” (Kempadoo, 2007: 82). She calls for the analysis of the problem with racial, gendered and class oriented lens. She asserts that ideologies about trafficked women may rest on moral indignation about violation of womanhood and support “migration management” policies and tighter border controls. Which in the end may favor patriarchal, gendered and racialized national and international governments. According to her, the political efforts to confront migration and human trafficking in the region are made through U.S. Government's orientation and surveillance, therefore might not state primarily for victims interests and well-being.

### **3. Theoretical Framework**

In this chapter I attempt to contribute to the debate with the theoretical framework of first, the feminist intersectionalities and second, formal and informal institutions.

### **3.1 Intersectionalities: gender, race and class inequalities in the core of this discussion**

Intersectionality theorists expect that social divisions like gender, race and class are not analyzed in isolation. For example, looking only at either race or gender alone to describe inequalities in Brazilian society does not explain why, as shown in surveys about the Brazilian labor market, white professional women earn more than most black men.<sup>3</sup> For intersectionality feminists race is gendered, gender is racialized, and both are systems of economic stratification. However, as stated by King and Weber (In Browne and Misra, 2003: 487), these social divisions are also not independent analytic categories that can be simply added together. Although sharing some features and being constructed by and intermeshed with each other, they are not reducible to each other since they have different ontological basis (Yuval-Davis, 2006). Instead, gender, race and class should be combined in an analytical approach through the fragmentation and multiplication of the wider categorical identities (Yuval-Davis, 2006:195).

McClintock suggests that:

race, gender, and class are not distinct realms of experience, existing in splendid isolation from each other, nor can they be simply yolked together retrospectively like armatures of Lego. Rather, they come into existence in and through relation to each other – if in contradictory and conflictual ways. In this sense, gender, race and class can be called articulated categories ( McClintock, 1995: 5).

According to feminist intersectional scholars, gender and race are socially constructed categories which contain inherent power differences that are infused into every aspect of social life – “from identities and self concepts, to interpersonal interactions, to the operation of firms, to the organization of economic and legal systems” (Collins 1999, Glenn 1999 & Weber, 2001 in Browne & Misra, 2003: 490). The social constructions of gender and race influence not only individual identities but also the organization of this identities in the social system, creating and maintaining social hierarchies through what is described by Collins as a “matrix of domination”. Matrix of domination, that is based on what bell hooks called “politic of domination”, shall be understood as a historically

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<sup>3</sup> Racial inequality report, IPEA, 2007-2008.

constructed system that operates along interlocking axes of gender, race and class oppressions, and in which ideological beliefs are constructed by notions of domination (Collins, 2009: 4).

### **3.2 Theoretical framework of formal and informal institutions**

Institutions are generally understood as the formal and informal rules and regulations governing economic and political activities in a particular context (Cassion, Giusta & Kambhampati, 2010). In this context, formal institutions are considered the set of rules imposed by official or government bodies, such as laws, constitutions, policies, etc. Informal institutions, as the name already suggests, are created beyond officially recognized structures though also suggesting invisible rules, such as informal markets. Aspects of traditional culture, personal networks, clientelism, corruption, clan and mafia organizations, etc. have also been characterized as informal institutions (Helmeke & Levitsky, 2003: 8).

Douglas North defines institutions as:

the rules of the game of a society, or, more formally, [...] the humanly devised constraints that structure human interaction. They are composed of formal rules (statute law, common law, regulations), informal constraints (conventions, norms of behavior and self-imposed codes of conduct), and the enforcement characteristics of both. (North, 1995 in Putzel, 1997: 940)

Additionally, he states that “ institutions are a set of rules, compliance procedures and moral and ethical behavioral norms designed to constrain the behavior of individuals in the interests of maximizing the wealth or utility of the principals (North 1990: 201-202 in Cassion, Giusta & Kambhampati, 2010: 137).

Some scholars argue, however, that this definition implies that individuals act rationally and free of constrains. Pande and Urdy (2005 in Cassion, Giusta & Kambhampati, 2010) debate against the the notion of “agency” imbued in North's definition saying that institutions are often not “designed”, and even if they are, “their operation may be different to what was originally intended”. (Pande and Urdy, 2005 in Cassion, Giusta &

Kambhampati, 2010: 137) Cassion, Giusta & Kambhampati add that by regulating socio-economic life, informal institutions must be included in all socio-economic analysis of institutions, since they determine individual's position in relation to others (2010: 137).

In the developing countries informal institutions have a significant role in shaping socio-economic life, for many times even prevailing over the formal ones. Thus, it is important to look beyond the rules imposed by legal / official structures to understand the establishment and consolidation of democratic processes.

Helmeke & Levitsky (2003) call for the importance of moving informal institutions from the margin to the mainstream of politic research. They describe informal institutions as the “‘actual rules that are being followed’, the unwritten rules that often shape incentives in systematic ways” (Helmeke & Levitsky in Estrin & Prevezer, 2010:44). They share the idea that “informal institutions are the socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels” (Brinks in Helmeke & Levitsky, 2003: 9). They raise as example the fact that in democratic processes in some African and Latin American countries unregulated private presidential control may prevail over legislative and judicial rules.

Formal institutions, on the other hand, “are rules that are openly codified and communicated through channels that are widely accepted as official” (Helmeke-Levitsky, 2003: 8). They refer to state bodies such as courts, legislatures, bureaucracies, and state enforced rules such as constitutions, laws, and regulations (Estrin & Prevezer, 2010: 44).

Generally, informal institutions are distinguished as either problem solving, when they assist social interaction and improve the performance of formal institutions, or problem-creating, when phenomena like corruption, clientelism, patrimonialism and clan politics undermine the performance of markets, states, democratic regimes, etc.

Helmeke & Levitsky (2003) suggest that formal and informal institutions may interact in four distinct ways depending on the strength or effectiveness of the formal

institutions and the degree of compatibility of formal and informal actors' goals. In this sense, the informal institutions can be described as complementary, accommodating, substitutive or competing.

In a context where the rules of formal institutions are routinely enforced and complied with and the goals of formal and informal actors are compatible, the interaction of formal and informal institutions is categorized as complementary.

Complementary informal institutions generally 'fill in the gaps' left by formal institutions – addressing problems or contingencies that are not explicitly dealt with in the formal rules – without violating the overarching formal rules (Helmeke & Levitsky, 2003:12).

In practice, they can be identified as norms, routines or operating procedures that allow bureaucracies and other complex organizations to function effectively. Additionally, they are often perceived as rules that improve formal institutional performance or efficiency. Accommodating informal institutions arise in situations where effective formal institutions and conflicting actors' goals are combined.

Accommodating informal institutions can be viewed as a 'second best' strategy for actors who dislike outcomes generated by the formal rules but are unable to change or openly break those rules...they often help reconcile key actors' interests with existing formal institutional arrangements (Helmeke & Levitsky, 2003: 13).

Examples might include the operation of a large scale shadow economy in countries with a well-developed property rights system but also high levels of business taxation and regulation.

Substitutive informal institutions combine ineffective formal institutions and compatible goals of formal and informal actors. They “are created or employed by actors seeking to achieve outcomes that formal institutions were expected, but have failed to generate” (Helmeke & Levitsky, 2003: 14). In the interaction between formal institutions and substitutive informal institutions there is a connivance among formal and informal actors to get around what is commonly perceived as inadequate formal institutions, providing alternative methods of institutional functioning and in improving governance performance.

Finally, competing informal institutions exist in a context where weak or ineffective formal institutions and conflicting formal and informal goals are combined. “Competing informal institutions structure actors' incentives in ways that are incompatible with the formal rules: to follow one rule, the actors must violate another” (Helmeke & Levitsky, 2003: 14). They challenge formal institution structures and can often undermine, diminish or reduce their performance. Clientelism, patrimonialism and clan politics can be included in this category.

Complementary and accommodating informal institutions tend to be found in advanced industrialized countries where there is normally a more stable institutional setting, whereas substitutive and competing informal institutions are more likely to be found in developing and post-communist countries where formal institutional weakness is more likely to be in place (Helmeke & Levitsky, 2003). According to the authors, the relationship between formal and informal institutions should not be assumed as static, since this interaction is mutually transforming. In developing countries, informal institutions may have also ambiguous effects and sometimes they can fall into more than one categorization, depending on the complexity of the interaction between the formal and informal ones.

Helmeke & Levitsky (2003) also identify informal institutions by the origin of their emergence. *Reactive* informal institutions are established as a response to incentives created by formal rules. *Spontaneous* informal institutions emerge independently of a formal institutional structure. They are generally assumed as historically or culturally given, though not exclusively.

Some limitations are associated to the theoretical framework of institutions. In the present work the limitations can be identified as: 1) is the lack of precision normally related to the definition of institutions, especially the informal ones. Informal institutions are often seen in very broad terms as relating to the political or economic rules of behavior and/or the bureaucratic efficiency in which they operate (Cassion, Giusta & Kambhampati, 2010: 138). 2) may be the fact that “one needs to build on the framework in order to make the hypotheses that arise from this analysis empirically

measurable” (Estrin & Prevezer, 2010: 43) and 3) there may be also a lack of clarity in the level of analysis which the framework should employ (Estrin & Prevezer, 2010: 43).

However, this framework helps bringing insights on the reasons why policies and legislation in Brazil are hindered to have impacts in reality. During the analysis of the empirical data, I try to identify the formal and informal institutions that surround the fight to counter trafficking in Brazil and reflect on the ways they interact.

## **4. Methodology**

In this chapter I expose the methodological approach used in the present work, as well as the methods applied for the data collection and analysis. Finally, I expose the limitations of this research.

### **4.1 Qualitative research**

The methodology used in this work is based on qualitative research analysis, which according to Denzin & Lincoln “consists in a set of interpretive, material practices that makes the world visible” (in Snape & Spencer in Ritchie & Lewis, 2003: 3).

It involves an interpretive approach to the world, as qualitative researchers study things in their natural settings and attempt to make sense of a phenomenon according to the meanings people bring to them. (Denzin & Lincon, 2000: 3 in Snape & Spencer in Ritchie & Lewis, 2003: 3). In other words, the purposes of qualitative research are to explore, discover, construct, and describe phenomena experienced by people in specific contexts.

Qualitative researchers typically use certain data collection methods, such as interviews, observations, group discussions, narratives and the analysis of documentary evidences. (Snape & Spencer in Ritchie & Lewis, 2003: 3 ). In qualitative research, reality is subjective, personal and socially constructed (Sullivan *et al*, 2009). They are often used

to address research questions that require explanation or understanding of social phenomena ( Snape & Spencer in Ritchie & Lewis, 2003: 3).

The present work is a exploratory qualitative study about how the issue of sex trafficking of women in Brazil is being handled through the interrelationship between government and informal structures. The study is based in two qualitative research methods: analysis of secondary data and interviews.

## **4.2 Secondary data analysis**

According to Vartanian “[s]econdary data can include any data that are examined to answer a research question other than the question(s) for which the data were initially collected” (2011: 3). He explains that these data are generally collected by governments, research institutions, and/or agencies and provide the researcher with readily available resources to examine and investigate, for example, a particular hypothesis (Vartanian, 2011).

The use of secondary sources have here the purpose of examining the historical background scenario in which the profile of the victims for trafficking in the sex industry is formed; the legal documents of the State to confront the problem, which include the National Policy to Counter Trafficking in Persons, the National Plan to Counter Trafficking in Persons and the Penal Code; and some previous studies made in Brazil and internationally involving the problem.

The historical review was constructed with the support of scholarly of racial and gender inequalities in Brazil as well as from literature about Brazilian history. Most of the information were collected from a publication called “Public Policy and Racial Inequality in Brazil - 120 years after the abolition” (*As Políticas Públicas e a Desigualdade Racial no Brasil – 120 anos após a abolição*), organized by Mario Theodoro. The book is a collection of academic studies about the racial inequalities in the country. Also data from researches made by the Institute for Applied Economic Research (IPEA) and the Brazilian Institute of Geography and Statistics (IBGE) were



used to expose the inequalities in numbers.

The legal documents were found both on the Brazilian Ministry of Justice website and in the report about human trafficking from Brazil to Italy and Portugal called Transatlantic Journeys, from the International Centre for Migration Policy Developments (ICMPD).

The previous researches were found in different sources. The TIP reports were found on website of U.S. Department of State and in the ICMPD report. The research PESTRAF was found on the website of a non-profit organization called “*Na Mão Certa*”, which is an arm of the Swedish “*World Childhood Foundation*”. The article “*The criminalization of trafficking in women: protection of women or reinforcement of gender violence?*” by Castilho was found in a dossier on human trafficking in Brazil made by the Nucleus of Gender Studies of State University of Campinas found on the Scientific Electronic Library Online (SciELO). Many of the bibliography of this study was found on the Lund University's library website (Summon).

### **4.3 Interviews**

Two interviews were used in this work. According to Kvale & Brinkmann (2009: 1), qualitative research interview is a way of understanding the world from the ones' perspectives and to reveal the meanings of their experiences prior to scientific explanations. Polic & Beck define an interview as “a method of data collection in which one person (an interviewer) asks questions to another person (a respondent): interviews are conducted either face-to-face or by telephone” (Polic & Beck, 2006 in Whiting, 2008).

The semi-structured interview is a qualitative data collection strategy in which the researcher asks informants a series of predetermined but open-ended questions. The researcher has more control over the topics of the interview than in unstructured interviews, but in contrast to structured interviews or questionnaires, that use closed questions, there is no fixed range of responses to each question (Lioness, 2012).

The two semi-structured interviews were made in Rio de Janeiro with actors that work directly with the issue, one employed by the government and one from a non-profit organization.

The interviewee from the government is the coordinator of the Anti-Trafficking Center (NETP) that functions within the “Social Welfare and Human Rights State Department of Rio de Janeiro” (“*Secretaria de Estado de Assistência Social e Direitos Humanos do Rio de Janeiro*”). She was reached during a seminar about the issue called “Learning and Multiplying about Confronting Sex Exploitation and Trafficking in Persons” (*Aprendendo e Multiplicando sobre o Enfrentamento da Exploração Sexual e do Tráfico de Pessoas*) on 24<sup>th</sup> and 25<sup>th</sup> of May, 2011, realized by *Projeto Trama*.

Projeto Trama is an initiative that got started through a consortium of four non-governmental bodies: the Human Rights Organization Projeto Legal; the Brazilian Institute of Innovation in Public Health (IBISS); CRIOLA (an organization of Afro-Brazilian women); and the University of Grande Rio – UNIGRANRIO, all based in the state of Rio de Janeiro. This project has the goal to initiate preventative and combative actions against human trafficking by diverse activities, such as realization of seminars, elaboration of fliers and other informative materials<sup>4</sup>, direct interaction with vulnerable groups for trafficking, etc.

The other interviewee is one of the social educators of Projeto Trama. He works weekly with sex workers in some of the most visited spots of prostitution and sex tourism in Rio de Janeiro - Copacabana and Barra beaches and the central station, at night during their working time. He works as a health educator distributing preservatives and talking to sex workers about sexual transmitted diseases. In addition, he informs them about trafficking, how it works, how to identify it, places where they can look for help, etc. I got his contact through a friend who met him while making an internship in Projeto Trama.

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<sup>4</sup> One of the most recent work of Projeto Trama was the creation of an interactive webpage where people who have the interest of going abroad searching for the dream of a better life can get diverse information about life out of Brazil. This material is released to potential victims through the work of the social educators. [www.prontaparadecolar.com.br](http://www.prontaparadecolar.com.br)

#### **4.4 Limitations of the work**

The fact that sex trafficking is narrowed down to the experience of black women in the present work may represent a limitation. The choice for the analysis of this specific group was due to the social vulnerability in which black women are submersed. Furthermore, they are expected to be the most affected victims in the crime.

Unfortunately the field study was affected by the limitation of time. Only two people were reachable during the course of the investigation, despite the efforts that have been made to access other actors involved with the problem. Several mismatches of schedules between me (the interviewer) and other planed interviewees, that included a group of sex workers of Copacabana beach, occurred. That explains the reduced amount of interviews in the work.

Additionally, because the respondents of the questions were not the victims of trafficking, their statements may not be completely accepted as the truth. The contribution of sex workers in the study would have enriched significantly the work. On the other hand, those interviewed are people who work very closely with victims of trafficking, which give them also some credibility on what they say.

In relation to the secondary data, one big limitation is that the selected data is limited to what was studied by other researchers. Other academic works, though not many, have been made in the country. However, for the purpose of the present work, these were the ones I found with the most suitable information to meet the goals of my research.

### **5. Empirical work**

In this chapter both the secondary data and the interviews are exposed and analyzed. Further analytical discussions come in the next chapter.

## 5.1 Historical background of the victims

Brazil is a country with continental dimensions and with a big potential to rise as an economic power in the global scene. In 2010, Brazil became the 7<sup>th</sup> biggest economy in the world, and according to Guido Mantega, current finance minister, it has also reached the 5<sup>th</sup> strongest position among the G20<sup>5</sup>, behind China, India, Argentina and Turkey (Merco Press.). Yet, as reported by Beghin, the country's wealth concentration can be revealed in numbers:

[...] the richest one per cent of the population – less than 2 million people – have 13 per cent of all household income. This percentage is similar to the poorest 50 per cent – about 80 million Brazilians (Beghin, 2008: 1).

Poverty levels in Brazil are discrepant in relation to the size of its economy, and inequality can be felt both in rural and urban areas of all regions of the country. The black population, specially black women, appear as the most affected social group in this process since the formation of the country (Nunes, 2011).

If we look back in history, the modernization process in Brazil started in the early 19<sup>th</sup> century, after the end of colonization in 1822. The birth of the republic in 1889 coincides with the abolition of slavery in 1888. However, the ideas of equality and citizenship attached to the republican principles did not correspond to the promotion of expanding opportunities to the freed black population. The country developed within a context where a significant number of extremely poor people had no fair access to education, labor market, housing, etc., while a small elite profited from its development.<sup>6</sup>

Although industrialization started slowly to be part of Brazil's economy in the end of the 19<sup>th</sup> century, it was in the 20<sup>th</sup> century that it got really stronger (Sua Pesquisa –

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<sup>5</sup> G20 is the Group of Twenty (G-20) Finance Ministers and Central Bank Governors was established in 1999 to bring together systemically important industrialized and developing economies to discuss key issues in the global economy. The inaugural meeting of the G-20 took place in Berlin, on December 15-16, 1999, hosted by German and Canadian finance ministers. ([http://www.g20.org/about\\_what\\_is\\_g20.aspx](http://www.g20.org/about_what_is_g20.aspx))

<sup>6</sup> The development process, which 'manages poverty, has been described by development experts as a 'conservative modernization' model, describing a situation that promotes significant changes in the economy without breaking the established economic-social order, or by breaking it only very slowly (Beghin, 2008: 2).

Brazilian Industrialization). During this period, the ex-slaves<sup>7</sup> were not absorbed by either the agricultural or the emerging industrial sectors. Instead, a policy of immigration encouragement to Europeans took place in the country in order to fill the new job opportunities and to “whiten” the population (See more in Jaccoud, cap. 2 in Theodoro, 2008). According to available data in the beginning of the 20th century 92% of the industrial workers in São Paulo (biggest industrial pole in Brazil) were foreigners, mainly from Italy. In Rio de Janeiro, the capital and most important city of Brazil at the time, foreigner participation represented almost half of the working force in place, in this case mainly from Portugal and Spain (Kowaric, op. Cit.:92, in Theodoro, 2008: 31, 32).

The blacks remained in the margins, mainly in what Furtado called subsistence sector, and/or developing small service work with no formal employment or protection from the State. Black women continued developing domestic work to the privileged white society and working as informal street sellers or sex workers, being already often the breadwinner of their families.<sup>8</sup> Some call this period as the birth of the informal sector in Brazil (Theodoro, 2008: 26).

The years from 1930 to 1980 were marked by a big development in Brazilian economy. Especially the 1960's and 70's were considered the “miracle years” when Brazil was the second-fastest-large economy in the world. Again, the economic modernization in the period did not reflect a big change in the indicators of income and occupation among black and white families. Color was actually for many times a selection criteria in job opportunities depending on the salary and the type of occupation. Scholars like Theodoro argue that the higher the level of occupation the more retracted was the absorption of black workers, and the higher the required educational level for the job the bigger was the racial discrimination due to inequalities in educational access between

<sup>7</sup> The abolition process occurred in phases, starting with the extinction of black trafficking in 1850. In 1871 the Lei do Ventre Livre freed all blacks that were born. In 1885, all black older than 65 were also freed from slavery and in May 13<sup>th</sup>, 1888, Lei Áurea was signed, eliminating slavery from the country.

<sup>8</sup> It is noteworthy that gender was a decisive force in shaping slave society. The experiences of slave men differed from those of slave women, who were exploited both in their reproductive as well as productive capacities. “Gender relations and expectations within the slave societies of Americas constituted a powerful force that shaped the lives of slaves in such a way that slave women experienced slavery quite differently from slave men, although it is difficult to identify strong sense of such differentiation in slave laws.” (GARPAP, David Barry and HINE, Darlene Clark: ix)

blacks and whites (2008: 26).

Feminist ideas got also stronger in this period. White and middle class women began a liberalizing movement reflecting about the role they played and the spaces they occupied in the society. Inspired by feminist movements abroad they intensified the discussion about patriarchy<sup>9</sup> and the gender divisions in private and public spheres in Brazilian society. However, by questioning the oppression suffered by women as a uniform category, they lacked initially to include the question of black women which involved further reflections. This discussions got enriched later with the participation of the black-feminist movement that brought also race and class perspectives into the feminist movement.

The 1980's, despite marked by a deep economic crisis, meant an advance in relation to social and human rights in Brazil. The approved new Brazilian Constitution in 1988 established the democratic principles in the country after the end of more than 20 years of military dictatorship. In this period the racial inequality in the country was officially recognized, meaning that it was no longer a problem of the black people but of the country as a whole. The new constitution guaranties public access to health, education and governmental social programs, which benefited a great part of blacks for representing the majority of the poor.

In the 1990's the ideas of globalization were gradually introduced in Brazil. By globalization is meant that it is as a process which tends to be seen partially as an outcome of the intensification of global market rule as individual states have gradually removed regulatory impediments on capital financial markets and accumulation. In this process space is compressed by fast modes of communication making it possible for money, ideas, goods and people to flow around the world ever more quickly and with significant implications for the organization of economic activities and the security and stability of employment (Perrons, 2006: 1, 3).

Brazilian government imposed in this context a series of sweeping economic and

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<sup>9</sup> According to Castells, patriarchy is characterised by the institutionally enforced authority of males over females and their children in the family unit. (Perrons, 2004: 118)

political reforms designed to resolve the crisis and to integrate the country into the globalized world economy. Companies closed down, jobs were lost, and technological and managerial changes came into play. At the same time, liberalizing measures, opening the market to foreign competition, and several modernizing strategies associated with big corporations took place in the country (Burity, 2008: 743).

The proportion of regular paid jobs has been reduced, and feminization of employment, specially to fill in informal work structures, has gradually increased. Feminist scholars have highlighted that trafficking involving women represents the gendered component of economic globalization (Farley, 2009: 311). As Acker stated,

new class inequalities are arising from global, national, and local changes in capitalism production and politics, altering the daily lives of ordinary people in cross-cutting and contradicting patterns of gender, race, ethnicity, class, and nation' (Acker, 2006: 1).

On the other hand, the economic growth as a result of a neoliberal economical agenda with emphasis on competition, free market, and privatizations, led Brazil to the position in which it is today: a potential global power.

With the election of president Lula from the Workers Party (in January 2003) inequality rates in Brazil seem to be gradually decreasing thanks to social programs, such as the Family Grand (*Bolsa Família*) that transfers amounts from about 15 to 150 euros per month to families who live in extreme poverty.<sup>10</sup> Nevertheless, the decrease on inequality did not mean either a more even income distribution among the workers or a better participation of social minorities into occupations with higher remuneration. On the contrary, the struggle in the labor market has increased due to changes on work regulation, such as the precarious employment relations from outsourcing contracts, and to an ever growing demand for qualified workers, even for jobs that do not necessarily demand it.

The Institute for Applied Economic Research (IPEA) showed in the Annual Report on Racial Inequalities in Brazil 2007-2008, among other indicators, how unequal the

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<sup>10</sup> Family Grand is given if they earn below 30 euros per capita. If they have children, Family Grand is also given when they earn amounts until 70 euros monthly per capita.

health, education and income distribution is among black and white Brazilians, and that the gap between blacks and whites increases as the wealth of the people grows (IPEA, 2007-2008). The survey also reviewed that the inequalities in Brazilian labor market are marked by both gender and racial inequalities. White men represented the group with major advantages in the labor market, followed by white women. Among the black population, the men have more chances than the women, who appear as the most vulnerable group for employment (IPEA, 2007-2008: 186).

The inequalities in the labor market, associated to low educational levels, bad access to quality health structures, and the fact that most black women are single mothers and breadwinners, among others, push black women to a higher level of vulnerability to trafficking networks that operate in the country.

Based on the theory of intersectionalities, one can visualize that the profile of the victims is formed by interactive processes of discrimination that “form unique meanings and complex experiences within and between groups in society” (Hankivsky & Cormier, 2010: 217), making certain social groups easier to be captured than others. In other words, the historical racialized, gendered, and class based processes of discrimination do not create only the profile of the victim of sex trafficking in Brazil, but also a common thinking that naturalizes violence against vulnerable groups.

## **5.2 Official documents of Brazilian government: Policy and legislation**

In this section I present the official documents of the Brazilian government to confront human trafficking. They include the National Policy and the National Plan to Counter Trafficking in Persons and the Brazilian Penal Code.

### **The National Policy and National Plan to Counter Trafficking in Persons**

The initial discussion about a policy to counter human trafficking in Brazil began with the creation of a working group in 2005, coordinated by the Ministry of Justice, the Special Secretariat for Women Policies and the Special Secretariat for Human Rights.



After the realization of a national seminar that gathered the civil society and the working group, the National Policy to Counter Trafficking in Persons was approved by the Decree No. 5.949 in October, 2006.

The national policy is in agreement with international rules against trafficking and defines the crime exactly as the Palermo Protocol. The document has also a broad definition of exploitation, including sexual exploitation, forced labor, slavery or practices similar to slavery, servitude or the removal of organs, among others.

It establishes a set of guidelines, principles and actions directing the government to fight human trafficking and it presents three major strategic goals: prevention; suppression of trafficking and accountability of the perpetrators; and support to the victims. The principles and guidelines of the policy include protection of human rights, non-discrimination on basis of gender, sexual orientation, ethnicity or social origin, place of birth, professional activity, among others. It also predicts full assistance and protection to the victims, and the respect of international treaties and conventions about the theme. The work was divided in the areas of justice and public safety, foreign relations, education, health, social assistance, racial equality, labor and employment, agrarian development, human rights, women rights, tourism, and culture.

In 2007, another working group was created. It was composed with representatives from the government and the organized civil society, including international bodies, non-profit organizations, and specialists. As a consequence, the National Plan to Counter Trafficking in Persons (PNEPT) was approved with the Decree No. 6347 in January 2008, with the aim of implementing the goals set up in the national policy.

The PNEPT is also divided into three main axes: preventing trafficking, assistance to the victims, and repression and accountability of its authors. The Ministry of Justice with the support of an Evaluation and Dissemination Advisory Group<sup>11</sup> is responsible for evaluate and monitor the PNEPT as well as to set the short, medium, and long term

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<sup>11</sup> The Evaluation and Dissemination Advisory Group is composed by representatives of the following organs: I- Ministries: Justice, Social Development and fight against Hunger, Health, Employment, Agrarian Development, Education, Foreign Affairs, Tourism, and Culture; II- Republican Presidency: Special Secretariat of Human Rights, of Women Policies and of Racial Equality Policies; and III- General Advocacy of the Union.

goals for its implementation.

Several Anti-Trafficking Centers (NETP) and outposts were created in different States and municipalities of Brazil. The outposts were created to provide reception service to Brazilians who were deported or not allowed in countries abroad. They are located in the main spots of entry/exit of the country where an interdisciplinary team is suppose to work to identify the ones who were victims of trafficking. The anti-trafficking centers work in the State level and have as objective the articulation and planning of actions against trafficking, besides giving technical support to the outposts. Currently there are anti-trafficking centers in the States of Acre, Bahia, Ceará, Goiás, Pernambuco, Rio de Janeiro, Pará and São Paulo.

The coordinator of a NETP said in a interview that the main role of the center is to gather the organizations that work with the issue in the area, articulating their discussions with governmental structures. For her, the fight against trafficking is still very new and even though the theory behind it is very broad the reality is not as promising. Also, because the crime itself is so difficult to be identified, sometimes the work can be a little frustrating. “Only four cases were concluded in a period of four years... We know much more women who were trafficked but it is very hard to prove...” (Coordinator, 2011.05.25).

According to her, one of the main obstacles for resolution of crimes is that the Brazilian legislation concerning human trafficking is not in total accordance with the international law. Although the National Policy agrees with international rules, the Brazilian Penal Code doesn't define trafficking in its totality, which provokes a discrepancy within the legal apparatus of the government.

Bilateral international communication should be also improved to facilitate investigations of crimes involving Brazilian people abroad. Sometimes the legal processes get stuck or develop very slowly because of a lack of communication between Brazil and the countries where the crime has occurred.

Another complication is the criminalization of the victim, in this case, the sex workers.

“They are for many times blamed as facilitators of the crime for working with prostitution” (Coordinator, 2011.05.25). Even though the Brazilian Penal Code does not criminalize the exercise of prostitution, sex workers carry with them the stigma of criminals<sup>12</sup>.

### **Brazilian Penal Code – human trafficking definitions**

The Brazilian Penal Code is the instrument of Brazilian legislation where the crime of human trafficking can be found and penalized. Since 1940, when it was promulgated, it has been suffering some changes, however there are still legal gaps relating to definitions of the crime.

In the first version of the criminal law (1940) the document only mentioned in Art. 231 “trafficking of women” who are entering or exiting the country for the purpose of prostitution (See Appendix 1). The Art. 228 criminalized the induction and facilitation of prostitution in the country. Here, the penal code excludes many other forms of human trafficking, narrowing down the possibilities to identify and fight the crime. Also things like coercion, fraud, abduction are not at all mentioned on the document, making it difficult to identify offenders.

In an attempt to adjust it to the increasing discussions about the theme, the Penal Code suffered a reformulation in 2005 , by the law No. 11106. With that, the Art. 231 was changed to “international trafficking in persons” and the “internal trafficking of a person” (Art.231-A) was included. Now, the trafficked subject is broadened to “person”, which includes men, transgenders, and children on its definition. However the kind of exploitation was still reduced to the exercise of prostitution, excluding other forms of exploitation to the practice of human trafficking. Again, the document defined trafficking as only as promotion, intermediate or facilitation of a person in Brazil or abroad for sexual exploitation and still lacked in including other ways of trafficking such as through fraud, threat and coercion, for example (See Appendix 2).

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<sup>12</sup>The profession of sex work is even included in the Brazilian Classification of Occupations (CBO) of the Ministry of Labor and Employment under the code 5198-05 (ICMPD, 2011, p.35). What is described as a crime is the exploitation of a house of prostitution and/or pimping.

In 2009, another reform on the legislation (law No. 12015) altered both Art. 231 to “international trafficking in persons for the purpose of sexual exploitation” and Art. 231-A to “internal trafficking of a person for the purpose of sexual exploitation.” It considers human trafficking now as the promotion or facilitation of the entry or displacement of any person in and/or out the country for the purpose of prostitution or any other form of sexual exploitation. The person who “mediates, recruits or buys the trafficked person or, being aware of the person's status, transports, transfers or accommodates such a person” (Art. 231, Penal Code, 2009) are finally identified as traffickers (See Appendix 3).

Slave labor and recruitment for migration with the purpose of other forms of exploitation such as to domestic work are still referred in the Code under other articles, disconnected to human trafficking (Art. 149 and 206). With that, those victims are excluded from the benefits that a victim of human trafficking possesses, because they are not considered victims of trafficking. The international trafficking of organs are not at all mentioned in the criminal law as a crime.

### **5.3 Some research about the theme**

#### **PESTRAF**

In 2002, PESTRAF (Study on Trafficking in Women, Children and Adolescents for Commercial Sexual Exploitation in Brazil - *Pesquisa sobre Tráfico de Mulheres, Criança e Adolescentes para fins de Exploração Sexual Comercial no Brasil*) exposed the alarming numbers of the occurrence of human trafficking in the country, besides identifying the main routes for trafficking within and outside of Brazil. The work reached all regions of Brazil, 19 of its 26 states and the federal district, where the capital, Brasília, is located. It also identified the trafficking networks existing in the country, 241 national and international routes for trafficking, the profiles of the victims and traffickers, and gave several suggestions on how to face the problem. Black women were pointed in PESTRAF as the most trafficked group in Brazil.

PESTRAF revealed that sex trafficking in Brazil is a result of social contradictions that, intensified by globalization and the fragility of the Nation-State, deepen inequalities of gender and race. It showed that there are clear differences between men and women in the labor market, not only in the job positions but also in terms of salary. Also the number of women leading families with children until the age of 14 is increasing. Black women are the ones who occupy the most vulnerable place on the labor market, working mostly as domestic workers or in the informal sector. They have very low levels of education being 13% of the women older than 15 considered illiterates. Most of them live in the periphery where there is low level of sanitation and other social necessities, such as transport and leisure. Most of them have children and are the breadwinners of their families. They are mostly between 15 and 25 years old. (PESTRAF, 2002: 58, 59)

Most of the women in the survey have had some kind of experience with domestic labor, sexual abuse, with early pregnancy and/or drug abuse. The absence of a good welfare state increases the vulnerability of these women for trafficking (PESTRAF, 2002: 57).

### **TIP Reports**

The Trafficking in Persons Reports (TIP) were created by the U.S. Department of State to the fight against human trafficking. Brazil has been for a long time located in the Tier 2 of TIP reports, which means that its government does not fully comply with the *Trafficking Victims Protection Act's* (TVPA) minimum standards, but is making significant efforts to bring itself into compliance with those standards (U.S. Department of State).

According to the TIP reports, Brazil is a source, transit and destination country of women and children for trafficking, and continues to lack a centralized system to collect, analyze and report data on anti-trafficking law enforcement efforts throughout the country. They pointed that the Brazilian Criminal Code still doesn't adequately criminalize human trafficking, because:

[...], it does not adequately criminalize other means of coercion or non-physical fraud used to subject people to situations of forced labor, such as threats of deportation made against foreign migrants should they continue to work systematically (TIP 2009 in ICMPD, 2010: 32).

According to the TIP 2010, when trafficking occurs across borders, a large number of Brazilian women and girls are trafficked for sexual exploitation to destinations in South America, the Caribbean, Western Europe, Japan, United States and the Middle East. Brazil is a destination country for women trafficked, for instance, from China, the Andes and some Caribbean countries, such as Dominican Republic (TIP 2008 and 2010).

**Article: The criminalization of trafficking in women: protection of women or reinforcement of gender violence?**

In the article "*The criminalization of trafficking in women: protection of women or reinforcement of gender violence?*", Castilho tries to make a qualitative analysis of 23 judicial decisions between 2004 and 2008 of cases related to trafficking in women for prostitution. The majority of conducts took place before March 29<sup>th</sup>, 2005, when the penal code suffered its first adjustment related to trafficking in persons. The set of sentences and judgments used in this work was compiled by the United Nations Office on Drugs and Crime in Brazil as part of an international survey of how different countries around the world are facing traffic in persons.

In her findings Castilho reveals that the penal system in Brazil is ineffective to protect women, because:

it doesn't prevent further violence, doesn't listen to the different interests of victims and doesn't contribute to the understanding of their sexual violence and conflict management, and much less for the transformation of gender relations (Castilho, 2008:121).

She bases her analysis on the theoretical context of the Feminist Critical Criminology that aims to show how the penal system is sexist and how it reproduces the inequalities between men and women, even when, apparently, its rules are made in order to protect women. According to her, the Brazilian justice system is sexist and ineffective, since it carries in itself discriminatory gender notions that influence on its decisions (Castilho,

2008:109).

She also states that during legal processes, the victims don't have access to their rights:

it appears that the victims are heard in court and police only to prove trafficking. There is no mention of measures for victims, such as compensation, indemnification and social assistance. Unless they are threatened..." (Castilho, 2008: 119).

For many times the criminalization of the victims occur when they are positioned as facilitators of the crime: "the judge assessed that the practice of victims contributed to the crime for accepting willingly the proposal to work as prostitutes abroad" (Castilho, 2008: 120).

Castilho's analysis reveal that in judicial decisions the women are still strongly pictured in their traditional roles in the family and that their "obscene behavior" (of the sex workers) often helps the judges to be less strict when condemning the accused person. According to Dolores Juiano, mentioned on her work, "sex work, although not a crime, produces the same stigma reserved for criminals" (Castilho, 2008: 121).

#### **5.4 The experiences of a social educator dealing with human trafficking in Rio de Janeiro**

The social educator works with both women and transgenders, but according to him, the women are the most vulnerable gender group for trafficking.

To gain trust of the prostitutes, I offer them a health service, talking about HIV, other sexual transmitted diseases, the importance of making regular check ups, etc. Later, when I feel they trust me, I start talking about trafficking, how to prevent, how to identify it, etc (Social Educator, 2011.05.04).

According to him, even though trafficking occurs in a quite high frequency in Rio de Janeiro, the most affected places for human trafficking in Brazil are in the north and northeast regions of the country, because the families there are the ones who negotiate the lives of their own children.

The worst places to confront trafficking in Brazil are Belém e Ceará. In Ceará

the mothers sell their own children. In the northeast of Brazil the mothers sell their daughters, then it is difficult to control. The work is done but in the end we lose it (Social Educator, 2011.05.04).

He mentions the level of vulnerability of the victims and their lack of knowledge and information:

Another day the woman told me: she offered me to go to Spain, but she want 12,000 euros. I asked her if she has an idea of how much it costs in the Brazilian currency. She had no idea [...] (Social Educator, 2011.05.04).

He says that sex workers state that job offers in Rio de Janeiro are getting reduced. He observes that the sex workers are starting with sex work younger than before. Also he says that most of them don't like to be prostitutes, they got into the situation and got used to it, because they earn more than as a normal worker. For many times he has seen people getting out of prostitution and coming back again for not succeeding in the "real life". He has also seen people going abroad and even after living a situation of trafficking, come back to Brazil and return to the streets.

He also mentions that the sex workers are often threatened by police officers, although prostitution is not a crime anymore. He mentioned that they are for some times forced to serve policeman sexually in order to be able to proceed with their work on the streets of Copacabana.

According to his experience, the black women are the most vulnerable for trafficking, for facing a higher social vulnerability. They are overly represented in sex work in Rio de Janeiro and have their image exploited for sexual tourism in the country.

Brazil itself is the one making propaganda of its black women, specially for carnival. They exploit their image and sell them to profit from tourism (Social Educator, 2011.05.04).

When asked about whether he sees governmental initiatives working directly with the sex workers, as he is constantly in contact with them, his answer is no. According to him, the only ones working with preventions with sex workers are he and the other social educators of the project.

He does not believe in the National Police to Counter Trafficking in Persons. He



reminds about the existence of a number of public policies in Brazil that doesn't guarantee improvements in peoples' lives, such as the Statute of Children and Adolescents. He says that the struggle against trafficking is constant and that much has to be done in practice to change current reality.

He says that he loves what he does and that he understands the life of a prostitute for having lived the same situation in Paris, in the 80's, as a transgender sex worker.

## **6. Discussion**

All the exposed material served as evidence of Brazil's governmental inefficacy towards combating sex trafficking in the country, despite all the efforts that have been done to improve the fight. To answer the first research question, which is “*What are the informal institutions related to sex trafficking of women and how have they been developed in the Brazilian society?*” I consider the historic review of Brazilian development and the results of PESTRAF, because the first indicates the construction of what I consider the informal institutions through a time line of black women vulnerability and the second shows empirically the disadvantages suffered by them.

According to the theory of intersectionalities, gender, race and class are integrated social constructions that influence every realm of social interaction. Intersected to each other, they influence the construction of individual identities, the social imaginary about the different groups in the society and social hierarchies that divide the society into the ones who have access to employment, quality health and educational systems, etc. and the ones who have not.

Browne & Misra state that the experiences of black women in the labor market reflect social constructions of gender that are racialized and of race that are gendered creating the particular experience of this group that, at the same time, is related to the experiences of other gender and racial groups – white men and women, and black men (2003: 490). In Brazil, black women have been historically pushed to the margins of the

society. Without many opportunities of formal employment, they engage into informal activities as a solution for their survival. Prostitution represents as one of those activities.

To identify the informal institutions related to sex trafficking of black women in Brazil, I use the concept of matrix of domination defined in chapter 3. As suggested by Collins, matrix of domination are historically constructed systems that constitute interlocking axes of gender, race and class oppressions, and in which ideological beliefs are constructed by notions of domination. I would argue that, as unwritten rules that govern a society, the informal institutions are a set of ideological beliefs created through the historical processes of discrimination and exclusion lived by black women in the country.

These beliefs naturalize both the over-representation of black women in prostitution and their “guilt” when falling into trafficking traps, as it would be at some level also their fault. They also influence what people expect from this group as well as how people act when dealing with them. Attached to processes of corruption they affect how officials work with trafficking cases and the way in which the society sees violence against these women. That include criminals, government actors, judges, police officers and the ordinary people, specially sex clients, who consume those bodies without questioning the fact that they might have been suffering tremendous abuses.

Considering the theory of institutions proposed by Helmeke & Levitsky, I would infer that the emergence of these informal institutions is spontaneous, because they do not appear in response to formal institutional incentives, but it relates to historically constructed processes of gender, race and class discrimination. Additionally, I would say that they are problem creating, since they undermine the performance of legal documents, instead of cooperating with their efficacy (Helmeke & Levitsky, 2003).

Yet in relation to the second research question which is: *“How do these informal institutions interact with the formal apparatuses of the Brazilian government to address the fight against women trafficking for sexual exploitation in the country?”* I focus on the TIP reports, on Castilho's article, the statements made by the interviewees, and the

processes of policy creation and implementation and their interaction with the informal institution described above.

As defined in chapter 3, formal institutions are rules that are openly codified and communicated through officially recognized channels. The National Policy and the National Plan to Counter Trafficking in Persons, as well as the Penal Code represent in this work the formal institutions in Brazil in the fight against women trafficking.

As shown in the policy and law descriptions, Brazil has made significant efforts to confront sex trafficking. However, although the several discussions and changes to improve the current legislation and to implement the policy, Brazilian government still lacks on efficiency to do so.

The conflicts in definitions of trafficking among documents is one of the biggest problems. For example, if a crime is identified based on the policy, it might not be recognized by the penal code, which is ultimately the legislation in which legal processes have to be based at. Internationally, as shown in the TIP reports, Brazil is seen as a country that does not fully comply with the minimal established standards to deal with the crime. Internally, both the Catilhos's article and the statements made by the interviewees are evidences of Brazilian inefficacy in dealing with the problem, both preventing the crime and caring for the victims.

In the article, Castilho describes how the ideological constructions about sex workers are decisive on the way they are treated by judges. The first interviewee identifies problems on both, the strength of the government (penal code and international politics), and in the way official actors deal with the victims. And the second interviewee mentions not have seen any action of the government dealing with vulnerable groups in the streets. On the contrary, he mentions a lack of support and police abuse suffered by sex workers.

With that said, I would infer that this inefficiency is due to the impact of informal institutions on policy making and law implementation. They influence them with unregulated norms of racism, patriarchy and disrespect towards sex workers and

trafficking victims.

The interaction of formal and informal institutions in this context occurs between weak formal institutions and competing informal institutions, since the legal instruments regarding human trafficking still lack in strength concerning definitions and strategies. In addition, they have conflicting goals, since the legal framework aims to confront the crime and to protect victims, while the described “ideological beliefs” reinforce the oppression lived by them, besides the ever lasting demand for sex work.

## **7. Conclusion**

Sex trafficking in Brazil is one of the outcomes of the multidimensional inequalities in the country and involve questions of gender, race and class that are deeply rooted in Brazilian society. The present work had the aim of understanding the mechanisms that impede the efforts made by Brazilian government to confront the crime in the country. Although many strategies were outlined and started to be implemented in all regions of Brazil, they seem to have little impact on the reality of vulnerable groups for the crime, specifically in this work, the black women.

Despite the existing studies that problematize human trafficking and investigate the operation of the crime in Brazil, there is still a lack of investigations evaluating the actions already in place. I intended within the limits of this thesis to fill the gap of studies questioning the effectiveness of current governmental strategies to confront sex trafficking in Brazil, although recognizing the limitations of the work.

With a qualitative analytical approach, I discussed both interviews and secondary data. That involved interviews with actors who work with trafficking in practice, official documents related to the issue, studies made in the country and internationally and a historical review, fundamental to understand the inequalities in Brazil. Based on the theoretical framework of intersectionalities and institutions, I identified that what impede the official strategies to address sex trafficking are a set of informal rules that

are conflicting with the interests of the formal ones, the so called interaction between formal and informal institutions.

Formal and informal institutions in this work were identified respectively as the official documents to counter trafficking and the “ideological beliefs” of black women's inferiority. They interact in Brazil through the subjects who deal with the crime. The relationship between formal and informal institutions prevent sex workers to be protected before, during and after the crime. I conclude that the long lasting discriminatory processes in Brazil affecting black women can be felt by victims not only in material but also in abstract ways. Gender, race and class inequalities are not only causes for trafficking, as researches suggested, but also hinder governmental laws and policies from being implemented, even though it is difficult to prove.

As suggested by Risley, I reinforce that “empirically rich, theoretically informed, and methodologically rigorous” (Risley, 2010: 112) studies about the issue shall be further developed in the country in order to enrich the discussion and contribute to the knowledge building about the theme.

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## Appendix 1

- Penal Code 1940

Art. 227 - To bring someone to satisfy the lust of others:

Penalty - detention of 1 (one) to 3 (three) years.

1 - If the victim is older than 14 (fourteen) and younger than 18 (eighteen) years, or if the agent is your ascendant, descendant, husband, brother, guardian or trustee or person to which is entrusted for the purpose of education, treatment or care:

Penalty - imprisonment of 2 (two) to 5 (five) years.

2 - If the crime is committed with the use of violence, serious threat or fraud:

Penalty - imprisonment of 2 (two) to 8 (eight) years, in addition to the penalty corresponding to violence.

3 - If the offense is committed for the purpose of profit, also applies fine.

Facilitating the prostitution

### Trafficking of Women

Art. 231 – To promote and facilitate the entry of a woman in national territory who is coming to exercise prostitution, or exit of a woman who is going to exercise it abroad:

Penalty: confinement from 3 (three) to 8 (eight) years.

§1 – If any of the instances set out in §1 of Art. 227 occur:

Penalty – confinement from 4 (four) to 10 (ten) years.

§2 – If violence, serious threat or fraud be used, the penalty shall entail a prison sentence of between five and twelve years, in addition to the penalty for violence.

§3 If the crime be committed in order to make a profit, a fine shall also be imposed.

## Appendix 2

- First Reformulation: Law No. 11106/2005

### International Trafficking in Persons

Art. 231 – To promote, intermediate or facilitate the entry of a person in national territory who is coming to exercise prostitution or the exit of a person who is going to exercise it abroad:

Penalty: confinement from three to eight years, plus fine.

§1 – If any of the instances set out in §1 of Art.227 occur:

Penalty – confinement from 4 (four) to 19 (ten) years, plus fine.

§2 If violence, serious threat or fraud be used, the penalty shall entail a prison sentence of between 5 (five) and 12 (twelve) years, in addition to the penalty for violence.

### Internal Trafficking in Persons

Art. 231 – A – To promote, intermediate or facilitate the transport, transfer, accommodation or shelter in national territory of a person who shall exercise prostitution:

Penalty: confinement from 3 (three) to 8 (eight) years, plus fine.

Sole paragraph. The provisions set out in §1 and §2 of Article 231 of this Decree-Law shall apply to this crime.

## Appendix 3

- Second reformulation: Law No. 12015/2009

### International Trafficking in Persons for Purposes of Sexual Exploitation

Art. 231 – To promote or facilitate the entry of and person within the national territory who is entering for the purpose of exercising prostitution or any other form of sexual exploitation or the exit of someone who shall exercise it abroad.

Penalty: confinement from 3 (three) to 8 (eight) years.

§1 Any person who mediates, recruits or buys the trafficked person or, being aware of the person's status, transports, transfers or accommodates such a person shall be liable to the same penalty.

§2 The penalty shall be increased by half if:

I- the victim is under 18 (eighteen) years old;

II- The victim, by way of illness or mental disability, does not have the necessary discernment to practice the act;

III- if the accused is in ascending line of parentage, stepfather, stepmother, brother, stepchild, spouse, partner, tutor or guardian mentor or employer of the victim or the accused has accepted to care, protect, or look after the victim; or

IV- violence, serious threats or fraud are used.

§3 If the crime be committed for the purpose of gaining economic advantages, a fine shall also be imposed.

### Internal Trafficking of a Person for Purposes of Sexual Exploitation

Art. 231-A- To promote or facilitate the displacement of any person within the national territory to exercise prostitution or any other form of sexual exploitation:

Penalty: confinement from 2 (two) to 6 (six) years.

§1 Any person who mediates, recruits, sells, or buys the trafficked person or, being aware of the person's status, transports, transfers or accommodates such a person shall



be liable to the same penalty.

§2 The penalty should be increased by half if:

I- the victim is under eighteen;

II- the victim, by way of illness or mental disability, does not have the necessary discernment to practice the act;

III- if the accused is in ascending line of parentage, stepfather, stepmother, brother, stepchild, spouse, partner, tutor or guardian mentor or employer of the victim or the accused, by law or any other form, has accepted to care, protect, or look after the victim;  
or

IV- violence, serious threats or fraud are used.

§3 If the crime be committed for the purpose of gaining economic advantages, a fine shall also be imposed.