



***Direito em Movimento:  
Saberes Transformadores da  
Sociedade Contemporânea***

**3**

***Adaylson Wagner Sousa de Vasconcelos  
(Organizador)***

**Atena**  
Editora

**Ano 2020**



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**Ano 2020**

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# Direito em movimento: saberes transformadores da sociedade contemporânea

3

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**Edição de Arte:** Luiza Alves Batista  
**Revisão:** Os Autores  
**Organizador:** Adaylson Wagner Sousa de Vasconcelos

## Dados Internacionais de Catalogação na Publicação (CIP) (eDOC BRASIL, Belo Horizonte/MG)

D598 Direito em movimento [recurso eletrônico] : saberes transformadores da sociedade contemporânea 3 / Organizador Adaylson Wagner Sousa de Vasconcelos. – Ponta Grossa, PR: Atena, 2020.

Formato: PDF

Requisitos de sistemas: Adobe Acrobat Reader

Modo de acesso: World Wide Web

Inclui bibliografia

ISBN 978-65-5706-275-3

DOI 10.22533/at.ed.753201008

1. Sociologia jurídica. I. Vasconcelos, Adaylson Wagner Sousa de. II. Série.

CDD 340.115

Elaborado por Maurício Amormino Júnior – CRB6/2422

**Atena Editora**

Ponta Grossa – Paraná – Brasil

Telefone: +55 (42) 3323-5493

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**Ano 2020**



## APRESENTAÇÃO

Coletânea de vinte e dois capítulos que une pesquisadores de diversas instituições, discute temáticas que circundam a grande área do Direito e dos diálogos possíveis de serem realizados com as demais áreas do saber e com as múltiplas ações e reações da sociedade que se exercita por transformações.

Assim, nesse segundo volume, temos dois grandes grupos de reflexões que explicitam as mutações sociais diárias e que o Direito estabelece relações para um regular convívio entre sujeitos.

Em cinco singelas divisões estão debates que circundam o mundo do trabalho, os desafios de um mundo em rede, a governança pública, o debate dos animais não humanos, além do direito e da realidade internacional.

De início, o mundo do trabalho nos traz análises interessantes como as sobre benefício da justiça gratuita e honorários, assédio moral e sexual, a figura do empregado hipersuficiente, a realidade do teletrabalho, trabalho decente para a mulher transexual e para a travesti. Centrais sindicais e experiência na justiça do trabalho do Município de Marabá também estão aqui contempladas.

Em governança pública, são encontradas questões como controle judicial dos atos da administração, a imprescritibilidade do direito ao ressarcimento devido a dano advindo de atos de improbidade, além de contratação pública na realidade espanhola.

No debate dos animais não humanos, aqui é contemplada a personalização jurídica no contexto brasileiro, bem como a senciência ancorada na condição de sujeito de direito.

Por fim, o direito e a realidade internacional atingem os sujeitos do direito internacional público, a ecologia dos saberes e o comércio.

Assim sendo, convidamos todos os leitores para exercitar diálogos com os estudos aqui contemplados.

Tenham proveitosas leituras!

Adaylson Wagner Sousa de Vasconcelos

## SUMÁRIO

<b>CAPÍTULO 1</b> .....	<b>1</b>
BENEFÍCIO DA JUSTIÇA GRATUITA QUANTO AOS HONORÁRIOS PERICIAIS NO PROCESSO DO TRABALHO SOB A ÓTICA DA CRFB/88	
Pedro Henrique Freire Vazatta Larissa Magalhães de Carvalho Sandra Ávila dos Santos	
<b>DOI 10.22533/at.ed.7532010081</b>	
<b>CAPÍTULO 2</b> .....	<b>17</b>
ASSÉDIO MORAL & SEXUAL NO AMBIENTE DE TRABALHO	
Helder Arlindo Soldatti Ana Júlia de Araújo Costa Soldatti Adalberto Zorzo	
<b>DOI 10.22533/at.ed.7532010082</b>	
<b>CAPÍTULO 3</b> .....	<b>27</b>
HIGH COST OF ORGANIZATIONAL MORAL HARASSMENT FOR COMPANIES WHO PRACTICE IT	
Marlene Valerio Dos Santos Arenas Miguel Angel Arenas Rubio Filho Diego Alexis dos Santos Arenas Rosália Maria Passos da Silva Miguel Angel Arenas Rubio	
<b>DOI 10.22533/at.ed.7532010083</b>	
<b>CAPÍTULO 4</b> .....	<b>42</b>
O EMPREGADO HIPERSUFICIENTE: UMA NOVA CATEGORIA SOB O PRISMA COLETIVO E A ARBITRAGEM COMO SOLUÇÃO DE CONFLITOS NESSAS RELAÇÕES	
Ricardo Nogueira Monnazzi Felipe Freitas de Araújo Alves Maria Cristina Vidotte Blanco Tarrega	
<b>DOI 10.22533/at.ed.7532010084</b>	
<b>CAPÍTULO 5</b> .....	<b>60</b>
O ISOLAMENTO DO TELETRABALHADOR NA SOCIEDADE: UMA REFLEXÃO SOB A ÓTICA DOS DIREITOS HUMANOS	
Luciana Lara Sena Lima Rafael Lara Martins	
<b>DOI 10.22533/at.ed.7532010085</b>	
<b>CAPÍTULO 6</b> .....	<b>69</b>
A GARANTIA DO TRABALHO DECENTE PARA A MULHER TRANSEXUAL E PARA TRAVESTI, À LUZ DA PROTEÇÃO SOCIAL DO TRABALHO	
Simone Florindo Costa	
<b>DOI 10.22533/at.ed.7532010086</b>	
<b>CAPÍTULO 7</b> .....	<b>82</b>
AS CENTRAIS SINDICAIS BRASILEIRAS E SEU FINANCIAMENTO À LUZ DAS INOVAÇÕES DA LEI Nº 11.648/2008 E DA LEI Nº 13.467/2017: UMA RELEITURA DE T.H. MARSHALL A PARTIR DA PROPOSIÇÃO DE UMA CIDADANIA SINDICAL	
Felipe Oswaldo Guerreiro Moreira Anne Ferreira	
<b>DOI 10.22533/at.ed.7532010087</b>	

<b>CAPÍTULO 8 .....</b>	<b>94</b>
EXPERIÊNCIA EXITOSA: MEDIDA HETEROGÊNEA DA JUSTIÇA DO TRABALHO EM PROL DOS SERVIDORES DA SAÚDE DO MUNICÍPIO DE MARABÁ EM 2016	
Mauricia Macedo Ramalho Rafael Oliveira Chaves Marcus Vinicius Henrique Brito	
<b>DOI 10.22533/at.ed.7532010088</b>	
<b>CAPÍTULO 9 .....</b>	<b>109</b>
DESAFIOS E RISCOS DE ORDEM COSMOPOLITA PARA UM APROFUNDAMENTO DEMOCRÁTICO: A INTERNET COMO BEM COMUM NA SOCIEDADE EM REDE	
Guilherme Pittaluga Hoffmeister Roger de Moraes de Castro	
<b>DOI 10.22533/at.ed.7532010089</b>	
<b>CAPÍTULO 10 .....</b>	<b>122</b>
AS MÚLTIPLAS IDENTIDADES NA ERA DOS PERFIS DA SOCIEDADE DA INFORMAÇÃO: DESAFIO FAVORÁVEL OU DESFAVORÁVEL AO ESTADO DEMOCRÁTICO DE DIREITO	
Ronny Max Machado Paulo Victor Alfeo Reis	
<b>DOI 10.22533/at.ed.75320100810</b>	
<b>CAPÍTULO 11 .....</b>	<b>138</b>
PERSPECTIVAS E APLICABILIDADES DO <i>HABEAS DATA</i> NA INTERNET	
Caio Graco Brasileiro Anna Christina Freire Barbosa	
<b>DOI 10.22533/at.ed.75320100811</b>	
<b>CAPÍTULO 12 .....</b>	<b>150</b>
OS CAMINHOS PROTETIVOS NA SOCIEDADE DA INFORMAÇÃO: A JUDICIALIZAÇÃO DA PROTEÇÃO DE DADOS E O PAPEL DA ÉTICA NA INTERNET	
Osmar Fernando Gonçalves Barreto Ronny Max Machado	
<b>DOI 10.22533/at.ed.75320100812</b>	
<b>CAPÍTULO 13 .....</b>	<b>167</b>
A TRANSFORMAÇÃO DO CONCEITO DE DIREITO DE AUTOR E OS DESAFIOS DAS NOVAS TECNOLOGIAS	
Marcos Henrique Costa Leroy Fernanda Amaral Duarte	
<b>DOI 10.22533/at.ed.75320100813</b>	
<b>CAPÍTULO 14 .....</b>	<b>180</b>
BULLYING E CIBERBULLYING: A INTIMIDAÇÃO SISTEMÁTICA NO ÂMBITO ESCOLAR	
Catharina de Mello Candido Halan Cunha Rios	
<b>DOI 10.22533/at.ed.75320100814</b>	
<b>CAPÍTULO 15 .....</b>	<b>186</b>
SOCIEDADE CIVIL E AS NOVAS PERSPECTIVAS INSTITUCIONAIS DEMOCRÁTICAS: BREVES APONTAMENTOS SOBRE A INFLUÊNCIA DA SOCIEDADE NA SEGURANÇA PÚBLICA	
Ronald Jean de Oliveira Henriques	
<b>DOI 10.22533/at.ed.75320100815</b>	

<b>CAPÍTULO 16</b> .....	<b>196</b>
A IMPRESCRITIBILIDADE DO DIREITO AO RESSARCIMENTO POR DANOS DECORRENTES DE CONDUTAS ÍMPROBAS	
Luiz Egon Richter	
<b>DOI 10.22533/at.ed.75320100816</b>	
<b>CAPÍTULO 17</b> .....	<b>216</b>
LA PROVISIÓN DE SERVICIOS DE ATENCIÓN A LAS PERSONAS EN EL ESTADO ESPAÑO EN EL MARCO DEL DERECHO EUROPEO DE LA CONTRATACIÓN PÚBLICA	
Josep Ramon	
<b>DOI 10.22533/at.ed.75320100817</b>	
<b>CAPÍTULO 18</b> .....	<b>232</b>
PERSONALIZAÇÃO JURÍDICA DE ANIMAIS NO BRASIL	
Fernanda de Siqueira Chaves	
<b>DOI 10.22533/at.ed.75320100818</b>	
<b>CAPÍTULO 19</b> .....	<b>249</b>
O CRITÉRIO DE SENCIÊNCIA DOS ANIMAIS HUMANOS E NÃO HUMANOS E SUA CONDIÇÃO COMO “SUJEITO DE DIREITO”	
Robson Oliveira Costa Domingos	
Edivania Lazzari Domingos de Souza	
<b>DOI 10.22533/at.ed.75320100819</b>	
<b>CAPÍTULO 20</b> .....	<b>256</b>
SUJEITOS DE DIREITO INTERNACIONAL PÚBLICO	
Ana Gabriela Carneiro Franco	
Jennainy Alves Pereira Rosa	
<b>DOI 10.22533/at.ed.75320100820</b>	
<b>CAPÍTULO 21</b> .....	<b>262</b>
DA ORDEM DO DISCURSO À ECOLOGIA DE SABERES: HERMENÊUTICAS E COSMOPOLITISMOS PARA AS TWAIL	
Guilherme Pittaluga Hoffmeister	
Roger de Moraes de Castro	
<b>DOI 10.22533/at.ed.75320100821</b>	
<b>CAPÍTULO 22</b> .....	<b>275</b>
O COMÉRCIO, COMO ELEMENTO DA PROPOSTA KANTIANA, FAVORECENDO A PAZ PERPÉTUA NA SOCIEDADE INTERNACIONAL	
Angélica Godinho da Costa	
<b>DOI 10.22533/at.ed.75320100822</b>	
<b>SOBRE O ORGANIZADOR</b> .....	<b>284</b>
<b>ÍNDICE REMISSIVO</b> .....	<b>285</b>

## HIGH COST OF ORGANIZATIONAL MORAL HARASSMENT FOR COMPANIES WHO PRACTICE IT

*Data de aceite: 03/08/2020*

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**ABSTRACT:** The purpose of this article is to identify the most relevant court decisions in the second instance, in order to verify the amount of convictions applied by the Regional Labor Courts to companies that practice organizational or collective moral harassment as a form of management, also called stress management. It also seeks to assess what types of bullying practices and whether there has been a repeat offense. For that, an exploratory research was carried out, with online documentary analysis, quali / quanti, from 2006 to 2016. In order to study the theme, the research was conducted at <http://liber.advisebrasil.com.br> / liber, which stores the publication of the sentences issued

in second degree of all courts including the 24 Regional Labor Courts. We used search filters for public civil action, second-degree sentences, type of organizational harassment practices. It was found that the convicted companies were convicted of various harassment practices, such as aggressive management by shouting, swearing, pejorative nicknames, subjecting workers to vexatious situations in public, abuse in the demands of unattainable goals, accomplishment of tasks above or below capacity, retaliate against strikers, prevent workers from striking, racial discrimination, aesthetics, pregnancy and homosexuality, prejudice, employee isolation, threats of dismissal, forcing an employee to resign, using subterfuges to find fault in the work of the employees, persecution of the workers, intimate magazines, to prevent the worker from taking water or use of the bathroom, to maintain work environment in unhealthy conditions and with risks of illnesses and accidents at work. There was a recurrence in the practice of aggressive management, demonstrating that the value of condemnation of pedagogical-punitive character, did not have an effect, in the case of large drink companies and financial institutions.

**KEYWORDS:** Organizational harassment. Directive power. Abuse.

**RESUMO:** O presente artigo tem como objetivo identificar as sentenças prolatadas em segunda instância mais relevantes, a fim de verificar qual o montante das condenações aplicadas pelos Tribunais Regionais do Trabalho, às empresas que praticam assédio moral organizacional ou coletivo, como forma de gestão, também chamadas de administração por estresse. Visa também verificar quais os tipos de práticas de assédio moral e se houve reincidência. Para tanto, fez-se uma pesquisa exploratória, com análise documental on line, quali/quantitativa, no período de 2006 a 2016. A fim de estudar o tema, a pesquisa foi realizada no site <http://liber.advisebrasil.com.br/liber>, que realiza a publicação das sentenças prolatadas em segundo grau de todos os tribunais inclusive dos 24 Tribunais Regionais do Trabalho. Utilizou-se filtros de busca por ação civil pública, sentenças de segundo grau, tipo de práticas de assédio moral organizacional. Verificou-se, que as empresas condenadas foram condenadas por várias práticas de assédio moral, como gestão agressiva por gritos, xingamentos, apelidos pejorativos, por submeter os trabalhadores a situações vexatórias e ridicularizações em público, abuso na cobrança de metas inatingíveis, realização de tarefas acima ou aquém da capacidade, retaliação a grevistas, impedir que trabalhadores aderissem a greves, discriminação racial, estética, gestantes e homossexualidade, preconceito, isolamento de empregado, ameaças de demissão, forçar empregado a pedir demissão, uso de subterfúgios com intuito de encontrar falhas no trabalho dos empregados, perseguição aos trabalhadores, revistas íntimas, impedir o trabalhador de tomar água ou uso de banheiro, manter ambiente de trabalho em condições insalubres e com riscos de doenças e acidentes laborais. Houve reincidência na prática de gestão agressiva, demonstrando que o valor da condenação de caráter pedagógico-punitivo, não surtiu efeito, no caso de grandes empresas de bebida e instituições financeiras.

**PALAVRAS-CHAVE:** Assédio organizacional. Poder diretivo. Abuso.

## 1 | INTRODUCTION

This article deals with private organizations convicted in public civil action, through denunciation by the category union, for the practice of organizational moral harassment. Convictions by the judiciary aim at a pedagogical-punitive character, as a form of combat to this type of aggressive management.

Everyone knows that the employee is the disadvantaged part of the work relationship, and there are employers who opt for a more aggressive management, in addition to various types of abuse such as restraint in the time of use of the bathroom, video cameras installed in bathrooms in department stores, vexatious situations that are submitted to sellers when they do not reach goals often unattainable, gender, color, sex, religion, among others.

Since the enactment of Constitutional Amendment (CA) 45/2004 in its art. 114, which defined that the Labor Court is competent to assess damages for material and moral damages in remedial actions that enter the Labor Judiciary. In cases of proven organizational

or collective moral harassment, the convictions are high values, but proportional to the economic and financial conditions of the condemned company, not to bring about the closure of the same, or even the unemployment of many employees. Is the value applied in condemnations of a pedagogical-punitive nature for companies that have management style as organizational moral harassment really having an effect?

Its purpose is to identify the most relevant sentences in the second instance, in order to assess the amount of convictions in the period from 2006 to 2016 and if there was repeated offense, and the types of practices of these convicted organizations. To study the topic, the research was conducted at <http://liber.advisebrasil.com.br/liber>, which publishes the decisions of all courts, including the 24 Regional Labor Courts.

In order to meet the objective, the sentences were analyzed considering the following aspects: public civil action, second degree sentences, type of practices of harassment, organizational or collective harassment.

This article is structured in four sections, including this introduction. Following is the theoretical reference with the contextualization of organizational moral harassment and public civil action, followed by a description of the methodological procedures used, analysis of the results and finally the final considerations.

## **2 | THEORETICAL REFERENCE**

### **2.1 Contextualizing organizational moral harassment**

In order to keep up with changes in the economic context, organizations are looking for more flexible hierarchical compositions, organized in networks, with a focus on projects and temporary contracts, to respond quickly to market demands and maintain competitiveness standards (ARENAS, 2013).

According to Eberle; Soboll; Cremasco (2009) we live in a reality of work in which “there is no long term”, in which the market is governed by an impatient capital, that demands fast return, it reaches the relations and the social bonds, corroding the trust, the loyalty and mutual commitment.

Barreto (2006) goes on to say that the reflexes of these changes in the ways of producing and organizing work marked the last two decades of the last century, bringing, among other consequences, the breaking of social rights, reforms in the labor contract, outsourcing and quarantine, growth of the informal sector, increase of underemployment, precariousness of labor, massive unemployment and increase of urban misery. The repercussions on workers’ lives were immediate, demanding more technical efficiency, competitive and aggressive spirit, flexibility and multi-functionality, restructuring and the consequent downsizing of the business machine began to demand more work with fewer people.

The demands imposed on the workers grow, such as excellence in quality, commitment to achieve it, overtime, production quotas to be achieved, more creativity in solving problems, increasing the pace, more productivity without offering adequate conditions. Soboll (2008) comments that the sale of products is marked by abusive goals, increasing and unrealistic in relation to the market, determined without the participation of the workers, imposing extreme dedication to reach, at times, at almost unattainable levels.

Even with the technological advance, the new work organization did not bring the announced end of the hard work; on the contrary, inequalities and social injustice, and forms of suffering that are qualitatively more complex and subtle, especially from the psychic point of view, have been accentuated, thus removing from work their ontological character as a promoter of well-being and way of constructing history individual, social identity and, mainly, source of pleasure and personal growth (ARENAS, 2013).

Heloani (2004) argues that when a dose of moral perversion is encouraged by harmful organizational practices it can easily lead to a process of moral harassment. According to Soboll (2008) inhuman and inappropriate strategies are used in group management, with offensive words, shouts, curses, relegations and contempt. In these cases there is a formal abuse of power, which is often repeated at all hierarchical levels.

The prospect is that individuals will survive in the labor market, surpassing themselves, becoming increasingly competitive and efficient than peers or competitors, pushing for individualism. This competitiveness according to Dejours (2006) instigates the banalization of unfair behavior among co-workers. For Hirigoyen (2005) when they are pressuring us, charging, treading, we forget the other as a person, we no longer have to let ourselves be emotionally involved, there is no space, and rare expressions of companionship, solidarity and appreciation of others .

According to Dejours (2006), the machinery of the “economic war”, which does not represent military equipment but competitiveness, is only effective because people who are subjected to it and those who are not able to fight in this “economic war” are dismissed from the companies or pressured to resign. Freitas (2001) explains that some organizations use various tactics or techniques to force people who are considered to be unwanted or have no great contribution to make, in order to overcome them by fatigue and cause them to resign. This is the kind of practice used to cut costs and has occurred quite frequently, especially in cases of mergers and acquisitions, where certain tasks and positions are duplicated. It is also very common to use the quarantine or freezer tactic or symbolic death by means of simple facts to destabilize, taking the person’s table or chair to sit, reinforcing their uselessness (HIRIGOYEN, 2005; GUEDES , 2008).

The manipulation and domination behaviors adopted by some managers, in the form of threats of punishment, damages, exclusion and dismissal, contribute to the emergence or maintenance of fear, and even anguish, in work environments (EBERLE; SOBOLL; CREMASCO, 2009). It has a management strategy effect in formatting the



workers' collective, providing submission and adherence to organizational objectives, without questioning (SOBOLL, 2008). This fear is permanent and leads to obedience and submission (DEJOURS, 2006). They are used by organizations and management to achieve their interests, such as control, submission of workers, increase of productivity, acceleration of work, causing workers to submit fearful of not complying with company requirements, being fired, etc., increases the control of the subjectivity and conduct of workers by the company (EBERLE; SOBOLL; CREMASCO, 2009).

Einarsen (2000) describes organizational harassment as situations in which managers, individually or collectively, reinforce perceived organizational structures and procedures as oppressive, degrading, humiliating, and when frequent and persistent, reach many workers simultaneously. Dejours (1987) states that fear is also an instrument of social control, and is used by management as a real lever to make work work, to achieve productivity goals. Fear serves productivity, for the fear of losing employment makes workers especially sensitive and attentive to any anomaly, any incident in the development of the production process.

Eberle, Soboll and Cremasco (2009) explain that the instrumental use of fear occurs in a context of superficial relations, with a predominance of individualism and lack of solidarity, favoring the occurrence of abuse and disrespect, including practices of interpersonal and / or organizational structure. Hirigoyen (2005) emphasizes the fundamental role of fear in the practices of bullying as an indispensable motor, because it is out of fear that one becomes violent, adopts hostile and even aggressive behaviors in the sense of attack before being attacked. He shows panic at the thought that someone can prove to be better than taking his position or replacing him (Guedes, 2008). The managers' fear is that their own difficulties become apparent, that this is attributed to their incompetence, that their colleagues use this information against them, that it will serve as an argument to include them in the next list of layoffs (DEJOURS, 2006 ).

Dejours (2006) argues that managers, through their own experience of fear, know that, with the threat of dismissal, they can intensify the work of the operators, allied to competition between job seekers, between new and old, more fierce. Hirigoyen (2005) states that in the face of the ghost of unemployment and the increase of psychological pressures, mainly related to management practices, fear became a determining factor and a permanent tension between the workers and their hierarchical level, with the risk of losing everything at any time and being fired if it is not considered productive or adapted.

The workers are coerced to obtain great results in their individual evaluations and fulfillment of goals, constant overcoming, with this creates in the organization a climate of competitiveness and rivalry between them. Dejours (2007) believes that this competitiveness and competition, when associated with the threat of unemployment, provokes radical changes in social relations in the work environment.

## 2.2 Public civil action and the public ministry of labor

The performance and institutional function of the Public Prosecutor's Office (PPO) is foreseen in the 1988 Constitution, Articles 127 to 129, as well as Complementary Law 75/1993 in articles 83 to 85.

In Articles 83 to 84 of Supplementary Law 75/1993, it has, besides the competence of the Public Prosecutor's Office, a non-exhaustive list of the attributions of the same to the organs of Labor Justice, since it is extensive, in view of the provisions also in articles 6 to 8º.

Among other functions of the Public Prosecutor's Office foreseen in art. 129 of the Federal Constitution and art. 83 of Complementary Law 75/93 is to promote the Public Civil Action (PCA), to defend collective interests, when disrespected the constitutionally guaranteed social rights.

The public civil action can be promoted by the PPO based on denunciations of the unions of the categories to defend workers' individual and social interests, the environment of the work or the condition of its associates, affected by the noncompliance with the law on working conditions, when not resolved administratively between the PPO and the company.

The public civil action is used by the PPO in the defense of diffuse and collective interests, according to what is foreseen in art. 129, item III of the Federal Constitution and Complementary Law 75/1993, which aims to fulfill the obligation to do or not do, in order to restore the injury to the diffuse, collective or individual right.

To Milk (2010, p. 1201) the civil action "may have preventive or reparatory, damning, constitutive, declaratory or writ, given that its object is always the protection of any diffuse interest, collective or homogeneous individual."

In the case of compensation for collective moral damages, the conviction of the company that did not comply with the law on working conditions is particular. Zanetti (2009, p. 97) states that the character of the penalty is reparation and that reparation is "intended for a third party who suffered nothing and had no bond with the aggressor."

When the damage or injury can not be remedied, compensation is sought in pecunia. This compensation for the conviction is not directed directly to the injured workers, but to a specific fund, which in most of the decisions are issued to the Workers' Assistance Fund (WAF), the Fund for the Defense of Diffuse Rights (FDR), Cancer Hospital or some nonprofit entity in the county or state.

Usually these convictions are of exacerbated values with the sole intention that condemnation serves as an example for society as a way to prevent further unlawful conduct, for both a convicted company and other companies. Usually has a "pedagogical", in some situations has a punitive function, to inhibit the practice, or to end the omission, in other words, it is a question of penalizing in the future not to repeat such conduct again.

In the legislation there is no clear definition of the destination of the condemnation values, and can be reverted to a non-profit institution of the state or municipality, being at the discretion of the judge. Araújo Maltz (2013) opposes the allocation of the values of corporate conviction to the FAT, since it understands that pecuniary compensation as collective moral damages should be assigned to the affected community and when the indemnity goes to the FAT, it is not effectively therefore does not occur fairly and efficiently. When the pecuniary portion is directed to the FAT, the condemnation imposed on the offender is not reverted to the affected collective, on a motorcycle that the injured assets and interests are not repaired.

### 3 | METHODOLOGICAL PROCEDURES

To better understand the criteria used in this exploratory research that according to Martins e Silva (2005) constitutes an attePPO to describe and make predictions through information obtained in the research, and are intended to provide support to support the theory or not.

The methodological procedures that were used are described in Table 1, indicating the typology for the theoretical-empirical investigation of the research:

Procedures	Description
<b>Field of Science</b>	It is an applied social research, belonging to the field of interdisciplinary science between administration and law.
<b>Bibliographic research</b>	Study of publications dealing with the problem of moral harassment, particularly those works that address different aspects of the phenomenon, and the legal issue.
<b>Documentary research</b>	Analysis of the current legal and infralegal legislation, which may frame the conduct of organizational moral harassment; on-line documentary analysis of sentences handed down by the 24 TRTs.
<b>Research on the Internet</b>	Quantitative and qualitative data referring to the pertinent sentences, proclaimed by the 24 TRTs, through the site <a href="http://login.advisebrasil.com.br/liber">http://login.advisebrasil.com.br/liber</a> accessed from May 9, 2016, from 2006 to 2016.
<b>Qualitative research</b>	The qualitative approach aims to understand and interpret elements, motivations, non-quantifiable behaviors.
<b>Quantitative research</b>	The approach aims to identify the quantification of the information collected.
<b>Data analysis</b>	Analysis and interpretation of the quantitative and qualitative data collected regarding the recording of phenomena and observation of the object.

Table 1: description of methodological procedures.

**Source:** Elaborated by the authors.

In this article the methodological procedures are divided into two stages: in the first stage, the judgments judged in the second instance were analyzed on the practice of aggressive management by moral harassment, limiting the study to the period from 2006 to 2016, shown in Table 2, and the second the analysis of the data obtained:

Discrimination	Description
Technique	The term sought in the sentences were “organizational moral harassment” or “collective harassment”, “public civil action”
Reasons for the choices	The judgments that explicitly presented the searched terms were chosen, at the initiative of the Public Prosecutor’s Office for denunciation or initiative actions of the unions of the categories, which were directly related to the study.
Classification of sentences	Each sentence containing the terms was read, checked the value of the conviction, type of management practiced, the region and the identification of the convicted company, and recidivism.

Table 2: Summary of the technique used in sentence analysis

Source: Elaborated by the authors.

## 4 | DATA ANALYSIS AND RESULTS

Of a total of 51 actions published on the site of initiative of the Public Prosecutor’s Office, by denunciation or initiative actions of the unions of the category, which had direct relation with the focus of this study “organizational moral harassment or” collective harassment “,” public civil action. “

Of the total number of judgments analyzed in the second degree, four were considered unfounded and 47 were considered proceeds. Of the judgments analyzed, the companies appealed to higher courts, and two (2)% of the sentences were amended with a reduction in value, while maintaining the conviction, and the other sentences were maintained, with a “pedagogical-punitive” character.

From the judgments considered appropriate, the convictions have values considered high, by the practice of aggressive management, shown next in Table 3:

DATE	COMPANY	STATE	VALUE
2016	BANCO BRADESCO	RN	1.000.000,00
2016	BANCO BRADESCO E O BRADESCO VIDA E PREVIDÊNCIA	AL	5.000.000,00
2016	HSBC BANK BRASIL S.A	RJ	3.000.000,00
2016	SATTE ALAM VEÍCULOS E PEÇAS LTDA	RS	50.000,00
2016	PETRO ITA TRASPORTES COLETIVOS DE PASSAGEIROS LTDA	RJ	100.000,00
2016	RANDON S/A IMPLEMENTOS E PARTICIPAÇÕES, FRAS-LE S/A E SUSPENSY S SISTEMAS AUTOMOTIVOS LTDA	RS	200.000,00
2015	BARRY CALLEBAUT	BA	500.000,00
2015	SBF COMÉRCIO DE PRODUTOS ESPORTIVOS LTDA, DETENTORA DAS LOJAS CENTAURO	MG	300.000,00
2015	ESCRITÓRIO DE ADVOCACIA CARLOS TRANCOSO, NAZA PEREIRA E ASSOCIADOS	RO	400.000,00
2015	BANCO DO BRASIL	DF/TO	600.000,00
2015	PROSEGUR BRASIL S.A. - TRANSPORTADORA DE VALORES E SEGURANÇA	RN	700.000,00
2015	HOSPITAL SARAH	MA	300.000,00
2015	AMBEV	AL	150.000,00

2015	EMPRESA BRASILEIRA DE CORREIOS E TELÉGRAFOS (ECT)	DF	1.000.000,00
2015	COMPANHIA PAULISTA DE FORÇA E LUZ E A COMPANHIA PIRATININGA DE FORÇA DE LUZ, DO GRUPO CPFL	SP	12.000.000,00
2015	BANCO SANTANDER S/A	RJ	500.000,00 + UM salário mínimo a cada substituído
2014	BANCO SANTANDER S/A	AL	400.000,00
2014	LINKNET TECNOLOGIA E TELECOMUNICAÇÕES	DF	2.000.000,00
2014	CALCADA EMPREENDIMENTOS IMOBILIARIOS S/A	RJ	5.000.000,00
2014	ATENTO BRASIL S.A. - EMPRESA QUE ATUA NO SETOR DE TELEMARKETING E CALL CENTER -	DF/TO	1.000.000,00
2014	LOJAS CITY LAR	AC	500.000,00
2014	LOJA DA RIACHUELO	AL	10.000.000,00
2014	<i>CARREFOUR</i>	PB	1.000.000,00
2014	BANCO DO BRASIL	BA	2.000.000,00
2014	KUEHNE+NAGEL SERVICOS LOGISTICOS LTDA., TRANSEICH ASSESSORIA E TRANSPORTES S/A		45.000,00
2014	EMPRESA OI - 14 BRASIL TELECOM CELULAR S/A	RO	325.000,00
2013	GRUPO JBS	MT	9.000.000,00
2013	VIAÇÃO VERDUN S.A	RJ	1.000.000,00
2013	RICARDO ELETRO	ES	300.000,00
2013	HSBC BANK BRASIL S/A – BANCO MÚLTIPLO E O HSBC SERVIÇOS E PARTICIPAÇÕES LTDA.	RJ	2.500.000,00
2013	BRASIL KIRIN, DONA DAS MARCAS NOVA SCHIN E DEVASSA	SP	700.000,00
2012	<i>CARREFOUR</i>	DF	100.000,00
2012	AMBEV		50.000,00
2012	BANCO CENTRAL –		500.000,00
2012	ITAU	RJ	150.000,00
2011	<i>SAMSUNG DO BRASIL</i>	SP	10.000.000,00
2011	EMPRESA DE BEBIDAS RENOSA (ENGARRAFORA COCA COLA)	MT	300.000,00
2011	AMBEV	RJ	25.000,00
2011	WALMART	SP	140.000,00
2010	SAMSUNG	SP	10.000,00 por funcionário
2010	EXTRA HIPERMERCADO	MS	1.000.000,00
2010	<i>RBS (AFILIADA REDE GLOBO NO RIO GRANDE DO SUL)</i>	RS	300.000,00
2010	BANCO DA AMAZÔNIA S/A	SP	10.000.000,00
2009	AMBEV-COMPANHIA DE BEBIDAS DAS AMÉRICAS	MG	1.000.000,00
2008	UNIBANCO	RS	50.000,00
2006	AMBEV – COMPANHIA BRASILEIRA DE BEBIDAS	RN	1.000.000,00
2006	AMBEV	RS	1.000.000,00

Table 3: Convictions imposed on companies that practice organizational moral harassment

Fonte: elaborado pelos autores

Analyzing the sentences that have been issued, it can be seen that the convicted companies extrapolated the executive power of the employer, either by action as a practice

and management philosophy, or by omission for not restraining the action of the managers of their managers.

In the sentences it is verified that 99% of the companies were condemned by several practices of organizational moral harassment, as shown in Table 4 below:

TYPE OF HARASSMENT	AMOUNT
The use of slang words when addressing employees, shouts, name-calling, pejorative nicknames such as “Neanderthal”, “imbecile”, “incompetent”, “tabajara administrator”, “dumb college”, “idiot idiot” “you’re a bitch?”, “troublemaker”, “credit freak”, slow, incompetent	22
Prejudice. “Ugly and stinky people”	1
Remuneration based exclusively on commissions to force to achieve goals, abusive demands to achieve goals	15
Public harassment and ridicule, such as “wearing t-shirts with derogatory phrases”, “threatened with dismissal,” were forced to “lie in a coffin” (which represented a dead professional), or forced to “dance alone” doing push-ups “in front of the others,” wearing diapers, wearing skirt, helmet with ox horns, colored wigs, lipstick.	15
Vexatious situations when the worker who did not meet the so-called “wrestling” goals were forced to serve pizza, in waiter’s clothes, to other employees who were able to achieve the goals and received the title of “full ball”, and subjected to degrading situations	7
The performance of services for which they are not qualified or short of their qualification, determination of removal of trash and loading buckets of water after working hours to carry out cleaning the next day.	
Vexatious situations with objects: “turtle trophy” and “lantern trophy”, “hanged rats and chickens” that were left on the tables or in the boardroom	2
The most productive were “rewarded” being forced to participate in festivals on farms with prostitutes, received “prostitute tickets”, and those who even being more productive, religious and did not want to participate were tied and forced to watch porn movie and witness “strip-teases.	1
Striking retaliation to strikers, decommissioning as a form of punishment for filing a lawsuit, preventing participation in strikes under threat of dismissal, thus preventing the fight for better wages and working conditions	3
Racial and aesthetic (with obese workers) discrimination, to the point of forcing the worker to lose weight saying that “customer does not like sloppy, fat person.”	4
Preventing the hiring of an indebted worker	1
Isolation of an HIV-positive employee, homophobic offenses such as “had a gay voice”, “homeless kid.”	2
Pregnant women in several of these companies became the main victims, interfering with the maternity leave of the maid days after delivery, pregnant women forced to stay in isolated rooms of other employees, without performing any assignment, in places with little ventilation and with distant toilets, with threats of dismissal after the legal deadline for return to activities and pregnant women coerced and suffered on board due to pressure.	4
Forced to work even sick, for fear of being fired, were constantly threatened with dismissal without just cause, to force the worker to accept contractual changes regarding the work day.	7
Reprimands with false motives, unmotivated or disproportionate to the misconduct, use of subterfuges in order to find flaws in the work of employees, unmotivated threats of dismissals, reprisals against those who did not comply with their treatment.	2
Persecution of workers with dissemination of inquiries, disciplinary administrative proceedings with unreasonable lengths on old and even investigated allegations	3
Insertion of pornographic magazines into employee handbags and belongings, acts that result in invasion of privacy and intimacy of female employees, as well as sexual assault on female employees.	2

Failure to comply with labor legislation, long working hours, excessive work hours that lasted up to 14 hours a day, or strenuous work, not granting paid rest every six days, reassignment of holidays, fulfillment of several tasks with too little time, payment of extra hours off the pay stubs.	8
Forcing workers to formally show their intention to leave the company, Forcing the worker to resign, to get rid of the costs of termination.	2
Transfer to workers the risk of enterprise ventures	3
Prevent workers from “taking water or going to the bathroom,” requiring supervisory approval so the worker can get up or go to the bathroom, impose pace and work system that required employees to dine and their physiological needs within vehicles strong car	3
Maintain working environment in unhealthy conditions, with the risk of contracting illnesses, risks of accidents at work, exposing workers to ammonia gas leakage, having lunch in a place without the minimum hygiene, exposed to insects from a dump, without personal protective equipment.	3
Employee isolation	3
Performing tasks above capacity or below capacity	4
Prevent communication between employees	2
Obliging employee to present the ICD (international classification of the disease) under threat of dismissal, discount of absences	1

Table 4: Harassment practices that led to corporate conviction

Source: elaborated by the authors

Analyzing the sentences that have been issued, it can be seen that the convicted companies extrapolated the directive power of the employer, either by action as a practice and management philosophy “management by stress, or by omission for not restraining the actions of those who exercise managerial positions, confirming the research done by Heloani (2004).

It is clear the disrespect for the dignity of the human person, imbricated with individual and collective moral damage, as well as the social value of work, provided for in the Federal Constitution of 1988 in its article 1, items III and IV, when it is verified in the sentences humiliating and vexatious actions that were submitted to the employees.

It is observed that the adoption of policies of aggressive management with constant use by the managers and managers of words of low slang when addressing the employees, shouts, curses, pejorative and prejudiced nicknames, reported and proven in the testimonies corroborate with the investigations of Soboll (2008) and Hirgoyen (2005).

It is noted in sentences the abusive demand to achieve goals. These goals are often unattainable, when the worker reaches them, new goals are established. The situations reported by the workers in the initial petitions and proven during the judicial process, corroborate the investigations carried out by Dejours (1987), Hirigoyen (2005), Soboll (2008) where in the group management the inhumane strategies for the collection of abusive and unreal goals.

The workers who did not reach the targets were subjected to discriminatory, humiliating situations and vexatious situations that had no limits. Even creating trophies and symbols

that were exposed in the sense of shaming the workers, because they were exposed on the tables and in the meeting rooms.

No less vexatious were the prizes to the most productive ones who were forced to participate in parties in chambers with prostitutes, received “prostitute card”, and accepted to participate, being tied and forced to watch pornographic film and to witness strip-teases.

It is noted in the statements evidences of retaliation against strikers , decommissioning as a form of punishment for filing a lawsuit, and forbidding employees to join strikes under threat of dismissal, thus preventing the fight for better wages and working conditions, hurting the fundamental and social rights provided for in articles 5 and 7 of the Federal Constitution.

In the research carried out in the sentences, the practice of harassment with women, homosexuals, blacks, obese, racial discrimination, regional, confirms previous studies by Freitas (2001).

The abuses of the directive power on the part of the companies with the intention to force the worker to resign are clear, in order to reduce the costs of the rescission. Harassment targeted at a specific group of workers, as in the case of pregnant women. These situations confirm the data found in the surveys of Freitas (2001), Hirigoyen (2005) and Guedes (2008).

Bankers reported and proved that they were forced to work even sick, for fear of being dismissed, were constantly threatened with dismissal without just cause, to force the worker to accept contractual changes regarding the work day, which corroborates the submission in the Eberle surveys, Soboll and Cremasco (2009).

Companies that used reprimands with false motives, unmotivated or disproportionate to the misconduct, use of subterfuges in order to find flaws in the work of employees, unmotivated threats of dismissals, reprisals against those who did not comply with their treatment, even dissemination of disagreeable lengths over old and even investigated allegations. These behaviors used by companies are manipulation and domination, contribute to the emergence and maintenance of fear, anguish, which confirm the research done, by Eberle, Soboll and Cremasco (2009), Dejours (1987), Hirigoyen (2005).

Constraints with intimate magazine on employee handbags and belongings, acts that deal with invasion of privacy and the intimacy of the employees, as well as invested of sexual nature on the maids women, causing embarrassment in the work environment.

Failure to comply with labor legislation is highlighted by non-observance of breaks, long periods of working hours, excessive working hours that lasted up to 14 hours a day, or strenuous, non-granting of paid rest every six days, relocation of taking over various tasks with too little time, transferring employees, requiring employees to perform services for which they are not qualified or short of their qualification, incurring illegality in the exercise of the directive power, clearly demonstrate the intention to harm the rights of workers, frontally wounding the labor rights and the obligation to maintain a healthy environment



guaranteed in the Federal Constitution.

In the protracted sentences, companies were convicted for preventing workers from “drinking water or going to the bathroom,” for forcing employees to eat their meals and their physiological needs in the wrong place. By keeping their working environment in unhealthy conditions, with the risk of contracting illnesses, risk of accidents at work, exposing workers to ammonia gas leakage, having lunch in a place without the minimum hygiene, exposed to insects from a dump, without protective equipment. Situations already reported in the surveys of Barreto (2006), Dejours (1987) and Hirigoyen (2005) in which workers submit for fear of unemployment.

The convicted companies inflicted on workers a veritable climate of horrors. In many sentences workers’ testimonials were classified as “shocking”.

In the statements of the workers, they verified the situation of collective harassment practiced by managers or managers, in which it was evidenced that they had full knowledge of the aggressive management and total connivance of the management of the company in the acts practiced.

In the judgments it clearly shows that companies have extrapolated the directive power, their regulatory power and direction of employee activities, allowing or practicing management that goes against the fundamental and social rights present in the 1988 Constitution.

The convictions although with high values were proportional to the economic and financial situation of the company, which even punctuating-pedagogical, shows that for some companies has not had an effect, since they are repeat offenders, as is the case of AMBEV, which was condemned in six public civil actions in different states, and continues with the same abusive practice of collecting goals, and subjecting employees to vexatious and humiliating situations.

Other companies also had the repeated conduct of collective harassment, and were twice convicted as Banco Bradesco, Banco Santander, Banco do Brasil, Banco HSBC and others.

The fine in almost 95% of convictions, the amounts were reverted to the Workers’ Assistance Fund (WAF) and the other amounts were reverted to the Fund for the Protection of Diffuse Rights (FDR) and the Nucleus for the Support of Childhood Cancer (NSCC).

## **5 | FINAL CONSIDERATIONS**

The objective of this article was to show that the high cost of bullying has not prevented some companies from continuing in aggressive management, failing to achieve the pedagogical goal of inhibiting and preventing the practice of stress management

In the judgments it clearly shows that corporations have extrapolated the directive power, their regulatory power to govern the activities of the employees, permitting or

practicing a management that contradicts the fundamental and social rights present in the 1988 Constitution.

The high cost of convictions has not inhibited the recurrence of crime by some companies, which have maintained abusive targeting practices, and continued to subject employees to vexatious, humiliating and disrespectful labor laws.

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## ÍNDICE REMISSIVO

### A

Administração pública 18, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 211, 212, 213, 214, 215

Ambiente de trabalho 17, 18, 19, 20, 23, 24, 26, 28, 76, 88, 95, 96, 98, 103

Âmbito escolar 180, 181

Animais 100, 172, 176, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 253, 254, 255

Arbitragem 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59

Assédio moral 17, 18, 19, 20, 22, 23, 25, 26, 28, 40, 41, 74, 76

Assédio sexual 18, 23, 24, 40

### B

Brasil 5, 6, 3, 4, 15, 25, 26, 34, 35, 39, 40, 41, 46, 58, 60, 61, 62, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 78, 79, 80, 82, 83, 84, 85, 86, 87, 88, 90, 91, 92, 93, 99, 105, 107, 108, 127, 128, 136, 137, 139, 140, 144, 145, 146, 147, 148, 150, 152, 153, 155, 156, 160, 164, 165, 166, 175, 178, 181, 186, 188, 190, 191, 193, 194, 198, 200, 201, 209, 210, 211, 212, 214, 232, 233, 234, 235, 236, 238, 239, 242, 244, 245, 246, 247, 253, 255, 261, 283, 284

Bullying 18, 27, 31, 39, 40, 180, 181, 182, 183, 184, 185

### C

Centrais sindicais 82, 83, 85, 86, 87, 88, 90, 91, 92, 93

Ciberbullying 180

### D

Democracia 72, 80, 85, 109, 110, 111, 112, 113, 117, 118, 119, 120, 121, 123, 133, 134, 135, 136, 137, 186, 188, 189, 190, 191, 193, 194, 198, 204, 206, 267

Direito 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 24, 25, 26, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 62, 67, 68, 69, 70, 71, 73, 74, 76, 79, 80, 85, 87, 89, 92, 93, 95, 96, 99, 103, 104, 106, 107, 113, 115, 118, 121, 122, 123, 126, 127, 128, 130, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 147, 148, 149, 152, 153, 156, 157, 158, 159, 161, 162, 163, 164, 165, 166, 167, 169, 170, 171, 172, 173, 174, 175, 176, 177, 179, 187, 190, 192, 196, 197, 198, 199, 200, 202, 203, 204, 205, 206, 207, 208, 209, 211, 212, 213, 214, 215, 219, 228, 230, 231, 232, 233, 234, 235, 236, 237, 238, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 272, 273, 274, 275, 276, 279, 280, 281, 282, 283, 284

Direito internacional público 256, 257, 259, 260, 261

Direitos humanos 13, 60, 61, 62, 68, 72, 73, 76, 77, 78, 79, 80, 117, 188, 203, 257, 258, 262, 265, 267, 268, 269, 270, 271, 272, 273, 274, 282, 283, 284

## **E**

Espanha 164

## **I**

Informação 55, 56, 61, 63, 65, 67, 109, 110, 111, 114, 115, 116, 118, 120, 121, 122, 123, 126, 127, 128, 129, 130, 133, 135, 136, 137, 139, 141, 142, 145, 150, 151, 152, 153, 154, 155, 160, 164, 165, 166, 168, 181, 206, 215

Internet 33, 55, 56, 64, 109, 110, 111, 112, 113, 114, 115, 116, 117, 119, 120, 121, 123, 127, 128, 129, 130, 131, 132, 133, 135, 136, 137, 138, 139, 141, 142, 143, 144, 145, 146, 147, 148, 150, 151, 152, 153, 154, 155, 156, 157, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 172, 173, 174, 177, 178, 181, 183, 185

## **J**

Justiça do trabalho 4, 8, 9, 11, 14, 15, 20, 42, 44, 49, 53, 55, 56, 68, 76, 92, 94, 95, 96, 100, 106, 108

Justiça gratuita 1, 2, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15

## **K**

Kant 249, 275, 276, 277, 278, 279, 280, 281, 282, 283

## **M**

Movimento 72, 83, 85, 92, 93, 123, 132, 192, 232, 233, 238, 239, 243, 253, 262, 263

Mulher transexual 69

## **N**

Não humanos 170, 172, 173, 176, 232, 233, 234, 238, 240, 241, 247, 249, 250, 251, 253, 254, 255

## **P**

Paz perpétua 275, 276, 277, 278, 280, 283

Processo do trabalho 1, 2, 6, 7, 8, 9, 11, 15, 16, 53, 59

Proteção de dados 121, 150, 155, 156, 157, 158, 159, 164, 166

## **S**

Saber 175, 182, 196, 197, 208, 213, 222, 265, 268, 269, 272, 278

Senciência 249, 250, 251, 254, 255

Sociedade contemporânea 60, 128, 129, 153

Sujeito de direitos 235, 253

## T

Tecnologia 3, 4, 5, 7, 35, 64, 67, 110, 112, 113, 119, 120, 128, 130, 131, 132, 137, 146, 148, 151, 152, 153, 158, 163, 164, 165, 166, 168

Teletrabalho 60, 61, 63, 64, 65, 66, 67, 68

Transformação 112, 114, 129, 154, 164, 167, 168, 174, 270




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