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The criminalization of Black people in Brazilian history: between state omission and the naturalization of racism.

The criminalization of black people in Brazilian history: between state omission and the naturalization of racism

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SUMMARY

This article presents a study on the criminalization of Black people in Brazil, an immediate result of the colonization and slavery process instituted in the country from the 16th century onwards, providing a historical overview of the slavery period and emphasizing racial discrimination in Brazil.

Furthermore, it was important to highlight how the process of culturalization of racism actually occurred, and a conclusion was reached regarding some updated data concerning the inertia and ineffectiveness of the state in the face of the criminalization of Black people. The objective of this study is to analyze the statistical and historical data surrounding the criminalization of Black people in marginalized communities, relating it to the country's development, which, in a way, culturalized racial discrimination in Brazil. The specific objectives are: to discuss the initial landmark of racial discrimination in Brazil; to analyze the process of culturalization of racism; and to analyze the supporting data that demonstrate the inertia and ineffectiveness of the state. The type of research conducted in this work was a literature review, adopting bibliographic research based on consultation of books, dissertations, scientific articles, and material on the subject from websites. The results obtained through selected periodicals clarify that the historical trajectory of Black people has been marked by suffering and prejudice; social inequality has always been part of their lives. However, something has changed, not as it should have, but Black people are now integrated into society and actively participate in its development process.

Therefore, it is concluded that the State cannot evade responsibility by placing blame solely on the agents who participate in this discriminatory process. The disinterest shown towards this problem only strengthens its position as a participant in the problem.

Keywords: Criminalization. Stigmatization. Black. Prejudice.

ABSTRACT

This article contemplates a study on the criminalization of black people in Brazil, an immediate result of the colonization and slavery process instituted in the country from the 16th century, making a historical overview of the slavery period, highlighting racial discrimination in Brazil. In addition, it was important to point out how the process of culturalization of racism actually took place and a conclusion was made on some updated data regarding the state's inertia and inefficiency in the face of the criminalization of blacks. The aim of this study is to analyze the statistical and historical data surrounding the criminalization of peripheral blacks, making a relationship with the development of the country that, in a way, culturalized racial discrimination in Brazil. And the specific ones are: to talk about the initial mark of racial discrimination in Brazil; analyze the process of culturalization of racism; and analyze the approving data that presents the inertia and ineffectiveness of the state. The type of research carried out in this work was a literature review, adopting bibliographical research based on the consultation of books, dissertations, scientific articles and material on the subject on internet sites. The results obtained through selected periodicals clarify that the black historical path was marked by suffering and prejudice, social inequality has always been part of these people's lives, however, something has changed, not as it should, but black people are already introduced to society



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and participate actively involved in the development process. Therefore, it is concluded that the State cannot deviate from the blame, placing it only on the agents who participate in this discriminatory process. The disinterest shown in the face of this problem only strengthens him to be a participant in the problem.

Keywords: Criminalization. Stigmatization. Black. Harm.

1. Introduction

Brazil, marked by being the last nation in the West to abolish slavery at the end of the 19th century.

In the 19th century, it was not established that there were adequate conditions for the dignified inclusion of the black population in society. In contrast, there was the consolidation of a myth of racial democracy, disseminated by through works and institutions that preached harmonious social coexistence, obscuring the structural racism that has been perpetuated since the colonial period (Pires, 2020).

This historical legacy allowed for the absorption and normalization of discriminatory attitudes in everyday social life, generating conflicts and contempt motivated by ethnicity (Ribeiro, 2019).

Consequently, the black population is the most severely affected by inequality and by

Violence in the country, as warned by the United Nations (UN). In the market of

In the workplace, there is a disparity in career progression and salary equality. Within the scope of

Regarding security, data from the Atlas of Violence (2017) shows that black individuals correspond to to the majority of homicide victims, which reinforces the sensitive and priority nature of the issue.

(Martins; Martins, 2017).

The analysis of this phenomenon necessarily involves the role of the State. Lethal violence is...

a founding mark of former colonial nations like Brazil, historically manifesting itself in

massacres and exterminations against indigenous and black people (Milanez *et al*, 2019). Critically, it is observed that

State inaction in the face of the culturalization of racism, a process that enabled the perpetuation of this

ideology and is reflected in the high homicide rates of black people from marginalized communities, frequently perpetrated by police forces (Silva, 2024).

The central objective of this study is to analyze the statistical data and the process.

a historical overview of the criminalization of Black people in marginalized communities, establishing a connection with the

The development of a country that has normalized racial discrimination. The specific objectives are:

To discuss the starting point of racial discrimination in Brazil; to analyze the process of culturalization.

of racism and, finally, to examine the data that point to the inertia and ineffectiveness of the State.

For the completion of this study, the methodology of bibliographic research is adopted and

documentary (Gil, 2010), with a qualitative approach, based on the review and critical analysis of

specialized works, scientific articles and reports from institutions such as IBGE, Oxfam and the Forum

Brazilian Public Security. The theoretical framework draws on authors such as Skidmore (1998),

Almeida (2018), Santos (2022) and Munanga (2006).

The work is organized into three analytical topics: the first addresses the historical context.



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the first part analyzes racial discrimination in Brazil; the second analyzes the process of culturalization of racism and its structural developments; and the third examines state inefficiency and public policies of confronting racism. Finally, the concluding remarks of the study are presented.

2. Starting point of racial discrimination in Brazil

According to Ribeiro (2019), it is necessary to understand racism in Brazil by... to differentiate it from other known experiences, such as the Nazi regime, South African apartheid, or the The situation of the Black population in the United States in the first half of the 20th century, in which the Racism was explicit and institutionalized through laws and official practices.

During the colonization process of Brazil, initiated in 1500 by Pedro Álvares Cabral Upon arriving in Brazil, more precisely on the island of Vera Cruz, it is marked by strong commercial activity of black people, where they were bought and sold like animals, to colonies all over the world. at that time. In the Portuguese colony it was no different, these black people arrived on ships. known as slave ships, they were in terrible condition for travel, where many suffered from lack of resources. Nutrition, hydration, and especially the unhealthy environment, trigger many diseases that ended in death.

According to historian Thomas E. Skidmore, starting in 1580, they arrived in the northeast. Brazilians brought at least two thousand African slaves per year. These slaves originated from various regions of Africa, but historians suggest that, for the most part, they belonged to the ethnic group... of the Sudanese and Bantu peoples (Skidmore, 1998). These arrived as laborers in the service of the crown. Portuguese. Slaves were used in a wide variety of jobs, the main one being... activity in sugar mills and mining centers. It is estimated that around 4 Millions of enslaved Black people arrived in Brazil.

Thus, the slavery system in Brazil imposed a work regime on Africans. exhausting and inhumane. Furthermore, the slaves were kept in precarious conditions, often Malnourished and victims of all kinds of violence. Black women excavated, many They served as "maids" for the wealthy landowners, also suffering mistreatment and abuse. sexual (Santos, 2022).

The enslavement of Africans profoundly affected Brazilian society. Culturally, the The presence of Africa has influenced Brazilian culture in many ways: music, food, language, etc. Furthermore, it perpetuates racial prejudice, which has repercussions in the 21st century, and measures are needed to address it. to reduce existing social inequalities.

The process of ideological construction in Brazil, in the same way as it occurred in other countries, Latin American countries, it was seen as a mestizo nation. It began in the 19th century and is sustained by... the fact that a "harmonious" fusion of races and cultures would have occurred, later termed,



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of "racial democracy" (Santos, 2022).

As the author rightly points out in her approach, when highlighting that miscegenation cannot mask the structural racism that exists (2022, p. 45):

Racial mixing, elevated to the status of a national symbol, was the mainstay of this ideology, functioning as a narrative of whitening that, under the veil of cordiality, perpetuated hierarchies and exclusions. Despite its illusory nature, racial democracy proved to be an efficient instrument of domination, insofar as, by inverting the meaning of reality, it naturalized the inferiorization of the black population and attributed to black people themselves the responsibility for their subordinate condition, exempting the State and white society from any guilt or reparative obligation.

That being said, it is understood that there has been some evolution in this racial harmony, considering that... Situations of prejudice are encountered daily at all levels of society (Pires, 2020).

Similarly, Telles's (2012) position confirms that slave labor, the core of the productive system of colonial Brazil grew and was replaced by free labor. This shift, however, occurs in a particularly exclusionary way, extending from the 19th century onwards. Let's see:

In the case of Brazil, European colonizers and their descendants enslaved and imported seven times more Africans than North American colonizers. At the end of the 19th and beginning of the 20th centuries, both countries received thousands of immigrants from Europe destined to support industrialization efforts. Since then, the descendants of these light-skinned immigrants in the United States and Brazil have come to dominate their darker-skinned compatriots through discriminatory practices derived from a racial ideology, creating what sociologists call racially stratified societies. Both societies have implemented affirmative action policies aimed at promoting Black people and other disadvantaged groups – in the United States in the early 1960s, and in Brazil more recently (Telles, p. 2).

It is clear, therefore, that the Brazilian State was a pillar in the construction and legitimization of racism. as a social order. This direct historical role in perpetuating racial inequality is what Today, it provides a moral and political foundation and justification for the implementation of affirmative action. Such Policies then emerge as an essential response to the complexity of a problem that was, largely officially established.

3. The multiplier effect of racism: mapping inequities in socioeconomic and victimization indicators (wage equality, violence, incarceration, education, and the labor market)

The black population has always been the most affected by inequality and violence in Brazil. This is a statement made by the United Nations (UN). In the labor market, For example, Black and mixed-race people face more difficulties in career advancement and equality. Salary-related issues make them more vulnerable to workplace harassment (Martins; Martins, 2017).

Thus, scholars point out that only in 2089, that is, in 68 years, will whites and Black people may have a similar income in Brazil. This projection is made by the research "The distance that we..."



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"une – A portrait of Brazilian inequalities" by the British NGO Oxfam, dedicated to combating inequality.

poverty and promoting social justice (Martins; Martins, 2017).

Therefore, if economic equality between whites and blacks is presented as a goal

From a distance, the repercussions of these disparities are not limited to the financial field, but echo in a broader sense.

brutal in its impact on the physical integrity and lives of Black women. The same structural logic that postpones

For generations, equal pay has also placed them on the front lines of gender-based violence.

making them the main victims of lethal assaults and institutional mistreatment.

In turn, Black women have been the biggest victims of this domestic violence:

58.68%, according to information from Ligue 180 – Women's Helpline, from the year of

2018. They also end up being the most affected by obstetric violence (65.4%) and by

Maternal mortality (53.6%) (Martins; Martins, 2017). The violence of which women are victims.

Black women's suffering manifests itself not only in the domestic sphere or in the neglect of the health system, but

It also manifests itself explicitly in the criminal justice system. The same racial selectivity.

What makes them prime targets for obstetric violence and femicide is the one that operates to fill

the country's prison establishments, where the black population, predominantly young and male,

This forms the basis of mass incarceration.

It should be noted that Brazil has the fourth largest prison population in the world, ranking behind...

only from the United States, China, and Russia. To give more approximate figures, they are...

That's 622,000 fewer Brazilians deprived of their freedom, more than 300 prisoners for every 100,000 inhabitants.

More than half (61.6%) are black and mixed-race, confirms a National Information Survey.

Prisons (INFOPEN) (Martins; Martins, 2017).

Thus, the same structural racism that selectively fills the cells of the system...

The penitentiary system operates, at an earlier stage, creating barriers and gaps in the educational path of...

Black population. While the justice system acts in a punitive and massifying way on the bodies

Black people, the education system, through historically denied access and quality.

Unequal, failing in its social function, limiting opportunities and reinforcing the cycle of exclusion that

It has one of its cruelest expressions in prison.

On the other hand, in relation to the context of education, racism manifests itself in this way,

as well explained by Silveira (2017):

The percentage of Black people in higher education jumped and almost doubled between 2005 and 2015. According to IBGE data from 2015, in 2005, a year after the implementation of affirmative action policies such as quotas, only 5.5% of Black or mixed-race young people of university age attended college. Ten years later, 12.8% of Black people between 18 and 24 years old reached higher education. In primary education, for example, white people studied for an average of 6.7 years, while Black people stopped at 4 and a half years – the equivalent of the first cycle of education. This was due to the conditions of access to education that Black people had compared to white people.

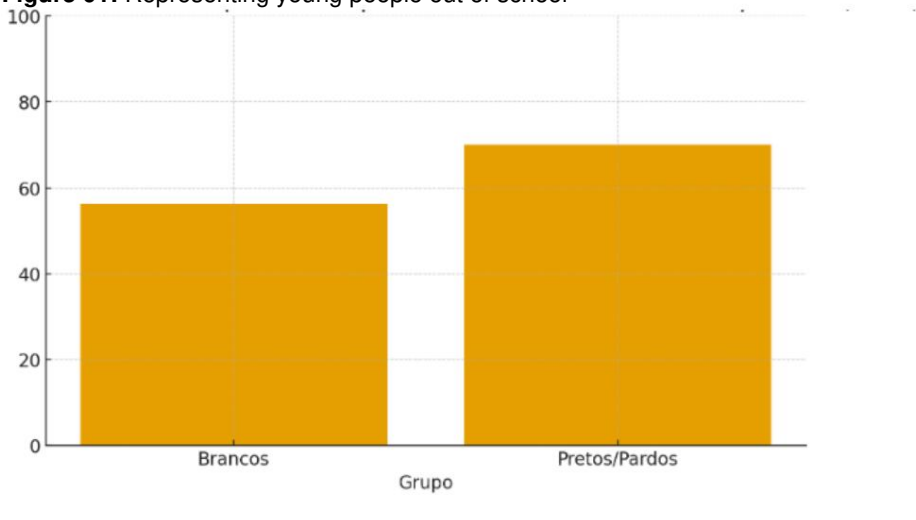
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This difference, compared to research from previous years, indicated almost no progress. invisible, in comparison to white people, which is reflected in the presence of black people in high school, In undergraduate and postgraduate studies, the rate remains significantly lower than that of whites – This difference becomes exponential at higher levels of education.

Given this context, a striking difference can be observed between whites and blacks or mixed-race people. with regard to educational trajectory. According to IBGE data (2024), among young white people, 37.6% were still studying and 37.4% were in the stage corresponding to their age. Among those... Of young Black or mixed-race people, only 27.1% were attending some educational institution, and a An even smaller contingent, 20.6%, was following the school curriculum at a pace considered appropriate. (Bello, 2024).

This discrepancy becomes more apparent when analyzing the group that does not They attend school but haven't completed the ideal stage: this condition affects 70.0% of young Black people. or mixed-race, while among whites the rate is 56.2%, producing a difference that This is close to 14 percentage points. Inequality is also evident in the completion of education. superior, since 6.2% of young white people had already completed their undergraduate studies, compared to only 2.9% of young black or brown people (Bello, 2024).

Figure 01: Representing young people out of school



Source: Graphs prepared by the author based on IBGE data (2024)

In this context, in recent years, the schooling of Brazilian youth has shown... Progress has been made, but it hasn't been enough to consistently reduce the gap. which separates whites and blacks in education. According to IBGE data, among young people aged 18 to 24 At the time of their death, 37.6% of white people were studying in 2023, and 37.4% were in the middle school stage. considered appropriate for their age. Among young Black or mixed-race people, however, this reality is substantially different: only 27.1% were studying, and only 20.6% were at the ideal stage. revealing a persistent pattern of school delay for this group (Bello, 2024).

The inequality becomes even more evident when observing the group of young people who do not



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They attended school but had not completed the expected stage. This condition affects 70.0% of them.

Black or mixed-race individuals have a higher rate of black or brown people, while among whites the rate is 56.2%, a difference of approximately 14 points.

percentages, which reinforces the asymmetry of opportunities. Furthermore, access to higher education

It remains one of the most striking indicators of racial inequality: 6.2% of young white people

Those aged 18 to 24 had already completed their undergraduate studies, while only 2.9% of young Black or mixed-race people

they reached this level of training (Bello, 2024).

This scenario contrasts directly with Goal 12 of the National Education Plan (PNE).

which set the goal for 2024 of raising the net enrollment rate in higher education to

33%. The country, however, reached 27.1%, falling short of expectations - and, according to IBGE itself,

This objective was only surpassed by the white population, remaining distant from the reality of...

Young Black and mixed-race people. Even among the highest income segments, the gap persists.

(Bello, 2024). The difference in access to and retention in secondary and higher education between whites and blacks.

This remains evident, demonstrating that income, while relevant, does not eliminate the cumulative effects.

The impact of structural racism on educational pathways is evident in this data.

in the educational field is not the result of isolated events, but of a historical process marked by

exclusion and the absence of robust public policies for redress and ensuring equity.

Thus, even though Brazilian society has made progress with affirmative action policies and with

greater recognition of the racial agenda, the set of indicators demonstrates that equality of

Opportunities between whites and blacks remain distant. Without explicit recognition of

Given the existence of racism and its multiple manifestations, it will not be possible to ensure real conditions.

of access, retention, and completion of schooling stages for all students.

Combating prejudice based on race or color is one of the fundamental principles of the Constitution.

Federal Constitution of 1988 and the Anti-Bullying Law of 2024, which provides for awareness and prevention of bullying practices.

of violence in schools. Corroborating this, Nishimura (2021) states in his book "Small

The "Anti-Racist Manual" argues that it is necessary to break the idea that racism is exactly the same for everyone.

The countries of the world, since each place has its own history and its own wounds.

The fact that Brazil has not faced the situations mentioned does not make it a country free of racism; it is

It is necessary to understand more deeply the complexity of how it is rooted in the people, in

their habits, actions, sayings, stories, among other elements that make up the essence of a

civilization.

Indeed, in the daily life of Brazilian society, the language and attitudes of racism and

Prejudice is regulated whether it's when joking, placing black and indigenous people in

a situation of suffering, degradation or crime, or attitudes based on prejudice, such as distrust.

based on someone's nature through skin color. That being said, Brazilian society is marked by a

A rich and complex ethnic plurality, the result of a historical process involving the indigenous population.



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native peoples, European colonizers (predominantly Portuguese), and African and Asian peoples, whose contribution was fundamental to national development. This cultural exchange resulted in a mixed-race and multifaceted country, although not free from antagonisms and unpredictability.

In this context, culture is consolidated as a fundamental right, and multiculturalism...

It should be the cornerstone for individuals to achieve freedom and critical thinking, respecting the

The diversity inherent to the nation. To reflect this reality, it is imperative that the curriculum

The educational system should be reformulated to address, in a critical and balanced way, both aspects

Both the positive and negative aspects of our multiethnic makeup are in tune with social reality.

Brazilian. Consequently, it becomes essential that Brazil establish a coordinated set of

Public and private policies – of a mandatory, optional or voluntary nature – aimed at combating

Effective against racial and gender discrimination. Such policies should act to correct the structural effects.

and historical legacies of slavery and social exclusion, ensuring the full universalization of

rights.

It is important to consider the cultural diversity within our society; this is indeed

essential for us to better understand the country in which we live. Especially because this diversity does not

It is made up only of ideas; it is also related to ways of acting in social life, it is a

an element that is part of social relations in the country. Diversity is also constituted in ways

different ways of living, the reasons for which can be studied, thus contributing to eliminating

prejudices and persecutions suffered by groups and categories of people (Santos, 2022).

Therefore, simply acknowledging cultural plurality is not enough to dismantle structures of

oppression. It is imperative that the recognition of this diversity translates into action.

concrete social and public policy initiatives that challenge the hierarchical organization of these cultures. To value the

The contribution of Black, Indigenous, and other marginalized groups to national formation means,

Therefore, to actively engage in the fight against racism and all forms of prejudice,

transforming Brazil's multicultural richness into a genuine foundation for a society

democratic and truly egalitarian.

3.1 Detailed analysis of indicators: empirical evidence of state ineffectiveness and inertia in the implementation of public policies.

An analysis of Brazilian society reveals the persistence of a culture imbued with practices and

unacceptable customs that result in unequal treatment between white and black individuals,

culminating in the consolidation of structural racism. This phenomenon manifests itself in multiple spheres,

from everyday microaggressions, such as tasteless jokes made in work environments,

From study and leisure to discriminatory attitudes and merciless violence directed at Black people.

These occurrences, notably less frequent against white people, demonstrate the entrenchment

racism in the country's culture and institutions.



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In contrast to this reality, the growth of the anti-racist movement can be observed in Brazil. According to Reis (2020), engagement in this cause has experienced a significant increase in 46% in three months, driven by global events such as the death of George Floyd. However, social mobilization alone is not enough to eradicate racism. The adoption of [other measures] is essential. of constant work and affirmative action, concurrently with the formulation and implementation of Robust public policies that guarantee better opportunities and historical reparations for the population. black.

In this context of struggle and pressure, anti-racist movements and their allies achieved a A crucial achievement with the 1988 Federal Constitution, which elevated the practice of racism to the *status of...* of a crime that is not subject to bail and is not subject to the statute of limitations, punishable by imprisonment (Brazilian Federal Constitution of 1988, Article 5, XLII), establishing thus an essential legal basis for confronting discrimination.

However, since 1951, with the Afonso Arinos Law, Brazilian legislation has already defined the Early concepts of racism, although not classified as a crime, but as a misdemeanor. The Caó Law (Law No. 7,716/1989) also defined inducing or to incite the act, on grounds of race or color, and to censor or bar an individual from entering a In a commercial establishment, refusing to serve or receive a customer or buyer is perfectly acceptable. defined in article 5 of the aforementioned legislation.

Despite the formal recognition of legal equality, discrimination persists. The racial imbalance in Brazil is undeniable, highlighting the need for state intervention. In this context, the Criminal law has evolved to punish discriminatory acts: racial slurs - the crime of To offend the dignity or decorum of someone by using elements related to race, color, or religion. or ancestry - is punishable by imprisonment and a fine, currently Law No. 14.532/2023 (Brazil, 2023).

Although society often tries to conceal its prejudices, the State recognizes the The urgency of ensuring equity between black and white populations, an equality that historically... It did not materialize. To understand this persistence, the sociological field establishes a crucial conceptual distinction:

Some sociologists end up differentiating between institutional racism and structural racism (at (sometimes referred to as structured racialization). Thus, the first focuses on norms and practices. within an institution; the second, the interactions between institutions, interactions that produce racialized outcomes against non-white people (Prado, 2020).

This conceptual distinction is vital for guiding public policies, because racism Institutional reform requires the reform of internal state norms, while structural racism demands... intervention in social interactions and in market, health and safety outcomes that perpetuate the inequality.



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Institutional racism, as a system of domination, operates by redefining places of power.

and privilege. In this way, the strength of institutional racism lies precisely in continuing in a certain way.

vigorous even with the consensus of the non-existence of races in biological terms (and the doctrines thereof).

arising from), even if explicitly racist attitudes or opinions are not part of the core of

discussion. In this vein, for a better understanding of racism, it is necessary to analyze what this institution...

it addresses.

Munanga (2006, p. 49) states that:

Racism is a behavior, an action resulting from aversion, sometimes hatred, towards people who possess a racial belonging observable through signs such as skin color, hair type, eye shape, etc. It is the result of the belief that there are superior and inferior races or human types, which is attempted to be imposed as the only true one. Examples of this are the racial theories that served to justify slavery in the 19th century, the exclusion of black people, and racial discrimination.

The complexity of racism in Brazil demands an accurate analysis that considers its...

Multiple dimensions, including and especially the legal one. From the perspective of the legal system.

Nationally, racism is understood in two spheres of conduct that are codified: racial insult, as provided for

in article 140, § 3, of the Penal Code (Brazil, 1940) which affects the subjective honor of a victim

determined using elements related to race, color, ethnicity, religion, or origin; and the crime of

Racism, as defined by Law No. 7.716/1989 (Brazil, 1989), is transindividual in nature.

offending an entire community or racial segment, and therefore being imprescriptible and non-bailable,

as established by the Supreme Federal Court (STF) and enshrined in article 5, XLII, of

Federal Constitution of 1988 (Melo, 2025).

Despite the robust legal framework, there is a significant gap in its application.

concrete. The Judiciary often tends to individualize cases that, in their essence,

They have a collective character, restricting the interpretation to the crime of racial insult when the act could

to be framed within the racism law. This distinction is not merely semantic, but carries profound implications.

Implications: classifying it as defamation reduces the severity of the offense, making it subject to a statute of limitations and...

Bailable, which, in practice, mitigates the penal repression of one of the most perverse faces of racism.

which is its institutional manifestation (Lima, *et al*, 2025).

Therefore, the persistent racial inequality in the country stems not only from the absence of laws,

but from a systemic failure in their correct interpretation and application. It is imperative that the system of

The justice system should recognize the multifaceted nature of racism and act to curb both offenses.

Individual issues as well as structural practices that perpetuate segregation and exclusion of the population

black, thus giving effect to the constitutional principle of human dignity and the fight against

racism in its fullest form.



4. Structural racism in Brazil

Structural racism can be understood as a form of social organization.

in which racial inequality is not merely the result of prejudiced individual behaviors, but of a

A historical, economic, political, and legal arrangement that distributes rights unequally.

Opportunities and recognition between whites and blacks. In this model, race functions as a criterion.

A silent process of social hierarchy, guiding who occupies positions of power, who is considered

I suspect who dies earlier and who has effective access to public policies (Almeida, 2018).

In the Brazilian case, this arrangement was consolidated from colonial slavery and reproduced itself.

in the post-abolition period, through mechanisms of exclusion that kept the Black population marginalized.

formal employment, schooling, and political participation. The absence of integration policies.

after 1888, coupled with state incentives for European immigration, it produced a selective citizenship, in

that racial affiliation directly influenced the possibility of accessing basic rights.

(Almeida, 2018). Abolition without reparation turned the formerly enslaved person into a “citizen without a state”.

thrown into informality, violence and urban poverty (Pires, 2017).

Thus, the ideology of "racial democracy" played a decisive role in

maintaining this pattern. By spreading the image of a cordial, mixed-race, and supposedly [friendly] country.

Despite its aversion to racism, this discourse functioned as a mechanism to silence accusations of

Discrimination and delegitimization of the demands of the Black movement. Instead of recognizing

Racism is seen as a structural problem, and society has come to attribute exclusion to supposed failures.

individual prejudices, reinforcing stereotypes of inferiority and blaming the Black population itself for

their social condition (Santos, 2022).

At the institutional level, structural racism manifests itself through bureaucratic routines.

seemingly neutral criteria and administrative practices that systematically produce results

unfavorable to Black and mixed-race people. The selection of workers for management positions, the referral

of patients in health services, police approach in peripheral territories and the distribution of

University places are examples of areas where formally identical decisions generate effects.

distinct concrete examples, reinforcing the distance between racial groups (Silveira, 2017; Martins; Martins, 2017).

On the other hand, the criminal justice system is one of the areas where this logic is expressed.

With greater clarity. Black youth are disproportionately monitored, harassed, arrested, and killed.

forming the basis of mass incarceration and homicide statistics in the country. Selectivity

Criminal justice does not stem solely from the individual actions of police officers, prosecutors, or judges, but from a...

A mechanism that combines security policies centered on the war on drugs, criminalization of

Poverty, lack of effective procedural guarantees, and institutional tolerance of violence against bodies.

blacks (Oliveira Filho, 2016; Silva *et al.*, 2025).



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From a legal standpoint, the existence of advanced legislation – which makes racism

This non-bailable and imprescriptible crime defines racial insult and provides for accountability for such practices.

discriminatory measures – this has not been enough to dismantle this situation. Frequently, conduct

Attacks that collectively target the Black population are treated only as individual offenses.

Classified as defamation, this diminishes the seriousness of the act and reduces the possibilities of punishment.

The distance between the constitutional text and the concrete application of the law reveals how the law can...

to function simultaneously as an instrument of symbolic protection and maintenance of

inequality (Da Silva; Cortizo, 2024).

It is at this point that the category of structural racism becomes central to legal analysis.

By shifting the focus from individual "intentions" to the results produced by institutions, this

This perspective allows us to identify racism even when it is not explicitly manifested.

The question is no longer just "who offended" but becomes "what decisions and policies, apparently..."

"Neutral views systematically generate harm to the Black population." This shift in perspective is fundamental.

for the development of a jurisdiction committed to substantive equality and redress.

historical (Prado, 2020).

Furthermore, everyday social life is also permeated by symbolic practices that fuel the

Structural racism: jokes, linguistic expressions, stereotypes in soap operas and advertising campaigns.

use of euphemisms to avoid the word "black" and automatic associations between blackness,

criminality and intellectual disability. Such manifestations are often normalized as

"jokes" create an environment of dehumanization that sustains physical violence and

institutional, making it difficult to report and hold perpetrators accountable (Da Silva; Cortizo, 2024).

At the same time, structural racism is reinforced by the unequal way in which the State

It organizes urban space and distributes public facilities. With this, the peripheral neighborhoods, where the

The black population is the majority, yet they experience the worst indicators in sanitation, health, and mobility.

education, while central regions, predominantly white, receive more investment and

better quality services. This geography of inequality highlights that race and territory are...

interconnected, producing what some authors call "racialized socio-spatial segregation"

(Silva *et al.*, 2025; Milanez *et al.*, 2019).

In this vein, affirmative action policies, such as quotas in higher education, reservation of

Job openings in public service exams and incentive programs for hiring Black people are emerging as

Partial responses to this situation. They not only broaden access to historically denied spaces,

but they also produce symbolic shifts, by affirming the right of the black population to occupy

Universities, courts, management positions, and decision-making spaces.

Indeed, such policies face resistance and are frequently questioned.

Legal measures alone cannot reverse centuries of exclusion without broader change.



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in social and institutional structures (Pires, 2017).

Therefore, talking about structural racism in Brazil means acknowledging that racial inequality exists. It is not an occasional deviation in a supposedly just system, but a constitutive element of it. The very way in which the State and society were organized. Confronting it requires going beyond punishment of individual behaviors, implying a review of institutional practices, redistribution of resources, Valuing Black memory and culture and strengthening reparative policies.

In this context, without this comprehensive approach, the criminalization of Black people and the The normalization of violence against the Black population tends to reproduce itself, keeping the country distant from the norm. of the constitutional ideal of equality and dignity for all people.

5. Final considerations

This study sought to analyze the historical process and criminalization of marginalized Black people. In Brazil, confronting the persistence of structural racism with the State's inaction in promoting... effective equity. The analysis demonstrated that, despite the rich cultural background and the inevitable Despite the miscegenation of Brazilian society, acts of racial discrimination persist, demonstrating that... Formal equality does not translate into substantive equality.

The fight for recognition and the elucidation of racism has been led by The Black Movement, which has established itself as a true advocate for human rights. achievements resulting from this social mobilization, notably Law No. 10.639/2003 and the policies of Affirmative action represents undeniable progress in the country's political and educational agenda. However, The periodicals analyzed confirm that, although the black population is integrated into society and actively participate in its development, its historical trajectory is still marked by Inequality and vulnerability.

Furthermore, it was found that the population's lack of knowledge about their rights is a significant factor. as a significant obstacle to effective access to justice. Any strategy aimed at inclusion The socially excluded class must therefore fight not only financial and physical barriers, but also the psychological and informational obstacles.

In light of the foregoing, it is reiterated that the State cannot evade its responsibility. limiting blame only to those who manifest prejudice. Inertia and disinterest. Demonstrations of structural racism not only strengthen it, but also make the apparatus itself... The state plays an active role in perpetuating inequality. Correcting this deficit requires not Not only compliance with existing legislation, but also the adoption of more incisive public policies. and reparative measures, based on data that acknowledge and combat the racial divide in Brazil.

This study is expected to contribute to fostering academic debate and guiding future research. research that delves deeper into the analysis of the effectiveness of public policies in dismantling the mechanisms



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selective criminal justice and socioeconomic exclusion that affect the black population.

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