



The Evolution of Black Rights in Brazil: Between Historical Roots, Cultural Resistance, and Literary Representation

A Evolução do Direito dos Negros no Brasil: Entre Raízes Históricas, Resistência Cultural e Representação Literária

La Evolución de los Derechos de la Población Negra en Brasil: Entre Raíces Históricas, Resistencia Cultural y Representación Literaria

José Roberto Dos Santos – Faculdade Católica de Rondônia, José.roberto@sou.fcr.edu.br
Lilian Maria Mouser – Faculdade Católica de Rondônia, lilian.moser@fcr.edu.br

Abstract:

This research analyzes the evolution of the rights of the Black population in Brazil from an interdisciplinary perspective, relating historical, legal, cultural, and literary aspects. The study is based on the understanding that the process of constructing the rights of the Black population occurred gradually, marked by tensions between legislative advances and the structural permanence of racism. Initially, the historical context of the Black population is examined from the slavery period to contemporary times, highlighting how social exclusion and the absence of public policies contributed to the consolidation of racial inequalities. Subsequently, the research investigates the forms of cultural resistance developed by the Black population, emphasizing the importance of religious, cultural, and identity practices as mechanisms for affirming rights and confronting structural racism. The study also analyzes the representation of the Black population in Afro-Brazilian literature, understanding literary production as an instrument for denouncing social injustices, valuing Black identity, and promoting debates on racial equality. Furthermore, the research addresses the role of custom as a source of Law and the influence of the Black movement's social demands on the construction of legal norms aimed at promoting racial equality, such as the criminalization of racism and racial quota policies. The research has a qualitative and exploratory nature, based on bibliographic review, legislative analysis, and scientific articles. It is concluded that the effectiveness of racial equality depends on the articulation between legal norms, cultural resistance, and social transformation, making the continuity of public policies for inclusion and combating racism essential.

Keywords:

racial equality; structural racism; affirmative action.

Resumo:

A presente pesquisa analisa a evolução do direito da população negra no Brasil a partir de uma perspectiva interdisciplinar, relacionando aspectos históricos, jurídicos, culturais e literários. O estudo parte da compreensão de que o processo de construção dos direitos da população negra ocorreu de forma gradual, marcado por tensões entre avanços legislativos e permanências estruturais do racismo. Inicialmente, examina-se o contexto histórico da população negra desde o período escravocrata até a contemporaneidade, evidenciando como a exclusão social e a ausência de políticas públicas contribuíram para a consolidação das desigualdades raciais. Em seguida, a pesquisa investiga as formas de resistência cultural desenvolvidas pela população negra, destacando a importância das práticas religiosas, culturais e identitárias como mecanismos de afirmação de direitos e enfrentamento ao racismo estrutural. O estudo também analisa a representação da população negra na literatura afro-brasileira, compreendendo a produção literária como instrumento de denúncia das injustiças sociais, valorização da identidade negra e promoção do debate sobre igualdade racial. Além disso, aborda-se o papel do costume como fonte do Direito e a influência das reivindicações sociais do movimento negro na construção de normas jurídicas voltadas à promoção da igualdade racial, como a

criminalização do racismo e as políticas de cotas raciais. A pesquisa possui natureza qualitativa e caráter exploratório, fundamentando-se em revisão bibliográfica, análise legislativa e artigos científicos. Conclui-se que a efetivação da igualdade racial depende da articulação entre normas jurídicas, resistência cultural e transformação social, sendo necessária a continuidade das políticas públicas de inclusão e combate ao racismo.

Palavras-chave:

igualdade racial; racismo estrutural; ações afirmativas.

Resumen:

La presente investigación analiza la evolución de los derechos de la población negra en Brasil desde una perspectiva interdisciplinaria, relacionando aspectos históricos, jurídicos, culturales y literarios. El estudio parte de la comprensión de que el proceso de construcción de los derechos de la población negra ocurrió de manera gradual, marcado por tensiones entre avances legislativos y permanencias estructurales del racismo. Inicialmente, se examina el contexto histórico de la población negra desde el período esclavista hasta la contemporaneidad, evidenciando cómo la exclusión social y la ausencia de políticas públicas contribuyeron a la consolidación de las desigualdades raciales. Posteriormente, la investigación analiza las formas de resistencia cultural desarrolladas por la población negra, destacando la importancia de las prácticas religiosas, culturales e identitarias como mecanismos de afirmación de derechos y enfrentamiento al racismo estructural. El estudio también examina la representación de la población negra en la literatura afrobrasileña, comprendiendo la producción literaria como un instrumento de denuncia de las injusticias sociales, valorización de la identidad negra y promoción del debate sobre la igualdad racial. Además, se aborda el papel de la costumbre como fuente del Derecho y la influencia de las reivindicaciones sociales del movimiento negro en la construcción de normas jurídicas orientadas a la promoción de la igualdad racial, como la criminalización del racismo y las políticas de cuotas raciales. La investigación posee naturaleza cualitativa y carácter exploratorio, fundamentándose en revisión bibliográfica, análisis legislativo y artículos científicos. Se concluye que la efectividad de la igualdad racial depende de la articulación entre normas jurídicas, resistencia cultural y transformación social, siendo necesaria la continuidad de las políticas públicas de inclusión y combate al racismo.

Palabras clave:

igualdad racial; racismo estructural; acciones afirmativas.

INTRODUCTION

The evolution of Black rights in Brazil: between historical roots, cultural resistance, and literary representation. This study proposes an interdisciplinary analysis of the historical process of the formation of the rights of the Black population in Brazil, considering the complex social, political, and cultural relations that permeate the country's history.

How has the historical trajectory of Black people in Brazil influenced the establishment of their legal rights, and how are these transformations reflected and represented in Afro-Brazilian literature?

The research describes the overall objective of analyzing the evolution of the rights of Black people in Brazil, starting from their historical roots, forms of cultural resistance, and their representation in literature, highlighting normative advances and persistent challenges in achieving racial equality. It includes the following specific objectives: To examine the historical-legal context of the Black population in Brazil, from the slavery period to the present day, highlighting the formation of racial inequalities and the legal milestones related to the Black population. To investigate the forms of cultural resistance of the Black population, understanding how social, religious, and identity practices contributed to the affirmation of rights and the construction of mechanisms to confront racism. To analyze the representation of the Black population in Brazilian literature, identifying how literary productions reflect, denounce, and re-signify racial issues, contributing to the legal and social debate on equality and racial justice.

This study hypothesizes that the evolution of the rights of Black people in Brazil has occurred gradually and has been marked by tensions between normative advances and the structural persistence of racism. Although there have been significant legal achievements aimed at racial equality, their effectiveness is still limited by historical inequalities. The cultural resistance of the Black population plays a fundamental role in the affirmation of rights and social transformation. Furthermore, literature acts as a critical instrument for denouncing and making visible racial injustices. Thus, the consolidation of racial equality depends on the articulation between legal norms, culture, and social practices.

Chapter 1 will address custom as a source of law, highlighting its concept, elements, and its relationship with the law, as well as evidencing the role of the Black movement as a producer of demands that influenced the creation of legal norms. Chapter 2 will deal with the historical evolution of the rights of the Black population in Brazil, from the post-abolition period to the 1988 Constitution, with emphasis on the criminalization of racism and the analysis of Law No. 7,716/1989, discussing its limits and its social effectiveness. Chapter 3 will analyze racial quotas as a direct result of these social practices, exploring their origin, the process of transforming custom into law, and their impacts on society, especially on access to higher education and the promotion of social inclusion. In this way, the work demonstrates how social demands are consolidated into legal instruments capable of producing concrete changes in Brazilian reality.

This research is qualitative and exploratory in nature, aiming to understand the relationship between legal custom and the construction of racial equality policies. The study is based on a literature review of doctrinal works, scientific articles, and relevant legislation. Data

collection was carried out through searches in academic databases and digital repositories. The materials were selected according to their relevance and suitability to the topic. The qualitative approach allowed for a critical and contextualized analysis of legal and social phenomena. The exploratory nature allowed for greater theoretical depth. Thus, the methodology contributes to understanding the transformation of social practices into legal norms.

1. Custom as a Source of Law

1.1 Concept of legal custom

Legal custom constitutes one of the oldest and most relevant sources of law, being understood as a repeated social practice accompanied by the conviction of its obligatoriness. According to Tartuce (2021), custom arises from the constant repetition of social behaviors that come to be considered legally binding. This construction demonstrates that law is not only the product of formal legislation, but also of the social dynamics that shape collective behaviors over time.

The classic definition of custom in law involves two fundamental elements: *usus*, which corresponds to the repeated and constant practice of a certain conduct, and *opinio juris sive necessitatis*, which represents the belief that such a practice is legally mandatory.

As Gonçalves (2020, p. 56) teaches:

The mere repetition of a behavior is not enough for it to be considered a legal custom; society must recognize it as obligatory and possessing normative value. This dual requirement ensures that custom is not confused with mere social habits devoid of legal force.

Contemporary doctrine reinforces the importance of distinguishing between social custom and legal custom. Social custom refers to everyday practices that are not legally binding, such as cultural habits or local traditions.

Legal custom, as highlighted by Reale (2019), possesses normativity, being capable of producing legal effects and influencing judicial decisions. This distinction is essential to avoid trivializing the concept of custom as a source of law.

Legal custom plays a relevant role, especially in legal systems that recognize multiple normative sources. In the Brazilian legal system, although law is the main formal source, custom acts as an integrating element, particularly in situations of normative gaps. According

to Venosa (2018, p. 56), "custom can be used as a mechanism for interpreting and integrating the law, contributing to the adaptation of norms to contemporary social realities."

The evolution of the concept of custom is also associated with social transformations and the expansion of fundamental rights. Sarlet (2020) highlights that repeated social practices can influence the construction of new rights, especially when related to the dignity of the human person. This demonstrates that custom is not only a traditional source, but also a dynamic instrument of legal evolution.

In the field of contemporary law, there is a growing appreciation for social practices as formative elements of law. As Barroso (2022, p. 101) points out:

Modern law cannot detach itself from social reality and must incorporate the emerging demands of society. In this context, legal custom assumes a relevant role in the consolidation of rights, especially in areas marked by intense social transformations.

Legal custom highlights the intrinsic relationship between law and society, demonstrating that legal norms do not arise in isolation, but are constructed from social interactions. As Nader (2017) points out, law is a cultural phenomenon, with custom being one of its most authentic manifestations. Thus, understanding legal custom is fundamental to analyzing the formation and evolution of norms in the Brazilian legal system.

1.2 Relationship between custom and law

The relationship between custom and law in the Brazilian legal system is marked by a dynamic interaction, in which custom acts as a subsidiary source of law. According to Diniz (2019), although law is the main formal source, custom plays a complementary role, especially in situations of legislative gaps. This characteristic reinforces the importance of custom as an instrument of normative integration.

Custom can directly influence legislative creation, serving as a basis for the development of legal norms. As Moraes (2021) points out, many laws arise from already consolidated social practices, demonstrating that legislators frequently observe social behaviors before codifying them. This relationship shows that law is not static, but evolves from social transformations.

The transformation of social practices into legal norms is a recurring phenomenon in the history of law. According to Lenza (2020, p. 56), "the legislative process often incorporates



existing customs, conferring formality and coerciveness upon them. This mechanism contributes to the legitimation of norms,” since these reflect practices already accepted by society.

According to Neves (2018), custom can act as an interpretative criterion for the law; courts frequently resort to custom to interpret legal norms, especially when there are ambiguities or gaps. This interpretative function reinforces the role of custom as an essential element in the application of law.

Contemporary doctrine also highlights the influence of custom in the realization of fundamental rights. According to Sarmiento (2022, p. 57):

Repeated social practices can contribute to the realization of rights, especially in contexts of social inequality. In this sense, custom not only complements the law, but also contributes to its fairer and more appropriate application .

Another relevant aspect is the possibility of custom acting against *the law* in certain situations, although this hypothesis is more restricted in the Brazilian legal system. According to Tartuce (2021), custom against *the law* is not widely accepted, but it can be considered in specific contexts, especially when related to the protection of fundamental rights.

The interaction between custom and law also highlights the plural nature of the sources of law. As Bobbio (2016, p. 68) points out, “the legal system is composed of various sources that complement each other, custom being one of them. This plurality contributes to the flexibility and adaptability of the legal system.”

The relationship between custom and law demonstrates that law is the result of a continuous social process, in which formal norms and social practices mutually influence each other. As Reale (2019) points out, law is formed by facts, values, and norms, with custom being a concrete expression of this interaction. Thus, understanding this relationship is essential for analyzing the dynamics of the contemporary legal system.

1.3 The Black movement as a producer of protest customs



The Black movement in Brazil plays a fundamental role in the production of protest customs, characterized by repeated social practices aimed at promoting racial equality. According to Almeida (2019, p. 72):

The structural racism present in Brazilian society has fueled the organization of social movements that have begun to demand rights and legal recognition. The resistance practices developed by the Black movement constitute clear examples of the formation of social customs with legal potential.

According to Gomes (2020), demonstrations, collective organizations, and repeated political actions contributed to consolidating demands for racial equality. These practices, as they became constant, began to influence the State and the legal system.

The social pressure exerted by the Black movement was essential for the construction of public policies aimed at promoting equality. According to Almeida (2019), social mobilization plays a central role in the transformation of Law, since it highlights demands that are not initially contemplated by the legislator, and its claims emerge as an instrument of social transformation.

The consolidation of these practices resulted in a direct influence on Brazilian law. As highlighted by Piovesan (2021, p. 71):

The demands of the Black movement contributed to the creation of legal norms aimed at combating racial discrimination. This process demonstrates that law does not arise spontaneously, but is the result of organized social pressures.

A clear example of this influence is the implementation of affirmative action policies, such as the quota system. According to Santos (2018), these policies were not created randomly, but resulted from decades of social mobilization.

Although the demands of the Black movement played a fundamental role in shaping these policies, changes are still being seen.

The Black movement contributed to a shift in social perception regarding racism. According to Munanga (2020), collective awareness is the result of repeated practices of denunciation and resistance. These actions contributed to the formation of a new legal culture, more sensitive to racial issues.

The actions of the Black movement also highlight the relationship between law and social transformation. According to Fraser (2019, p. 53), "social movements are fundamental



agents in the struggle for recognition and redistribution, directly influencing normative production."

It is possible to affirm that policies such as racial quotas did not arise spontaneously, but are the result of a historical process of social demands. As Ribeiro (2021) points out, the recognition of racial inequalities in Brazil is the fruit of the constant action of the Black movement. Thus, the custom of demanding change is consolidated as a fundamental element in the construction of a more just and inclusive law.

2. HISTORICAL EVOLUTION OF THE RIGHTS OF THE BLACK POPULATION IN BRAZIL

2.1 Post-abolition and social exclusion

The abolition of slavery in Brazil was formalized by the Golden Law in 1888, but it was not accompanied by effective public policies for social inclusion, resulting in the structural marginalization of the Black population. As highlighted by Fernandes (2017, p. 61):

The liberation of enslaved people occurred without any state planning aimed at socioeconomic integration, which contributed to the perpetuation of historical inequalities. This scenario demonstrates that the abolition, while legally relevant, was socially insufficient.

The absence of public policies in the post-abolition period generated a process of systematic exclusion of the Black population from positions of power and economic opportunities. According to Hasenbalg (2016), the Brazilian social structure maintained mechanisms of discrimination that limited the access of the Black population to education, formal work, and property ownership. This exclusion contributed to the formation of a pattern of racial inequality that persists to this day.

The Brazilian state adopted policies that favored European immigration to the detriment of the inclusion of the black population. According to Schwarcz (2019, p. 43):

This strategy aimed to promote the so-called "whitening" of the population, reinforcing racist ideologies present in society. This policy contributed to the consolidation of structural inequalities by privileging certain social groups at the expense of others.

The marginalization of the Black population also manifested itself in the occupation of urban spaces. As Santos (2018) points out, exclusion from the formal labor market led many Black individuals to occupy peripheral areas, without access to basic services. This process resulted in the formation of territorial inequalities that reflect the racial structure of Brazilian society.

Lack of access to education was another determining factor in the perpetuation of inequalities. According to Gomes (2020, p. 68), "the educational exclusion of the black population in the post-abolition period limited their possibilities for social advancement, reinforcing cycles of poverty and marginalization." This reality highlights the importance of education as an instrument of social inclusion.

Contemporary doctrine recognizes that racism in Brazil has a structural character, being present in institutions and social practices. According to Almeida (2019, p. 59):

Structural racism manifests itself not only in individual attitudes, but also in institutional mechanisms that reproduce inequalities. In this context, the exclusion of the Black population in the post-abolition period can be understood as part of a broader system of discrimination.

The absence of historical reparations has contributed to the maintenance of inequalities. According to Piovesan (2021), the lack of reparation policies after abolition prevented the correction of historical injustices, perpetuating social exclusion. This state omission reinforces the need for public policies aimed at promoting racial equality.

The post-abolition period was marked by an incomplete transition, in which formal freedom did not translate into material equality. As Munanga (2020, p. 77) points out, "the Black population continued to face structural barriers that limited their participation in society." However, understanding this historical context is fundamental to analyzing contemporary racial inequalities.

2.2 The 1988 Constitution and the recognition of equality

The 1988 Federal Constitution represents a fundamental milestone in the consolidation of the rights of the Black population in Brazil, establishing principles aimed at promoting equality and the dignity of the human person. According to Moraes (2021), the Magna Carta

inaugurated a new legal paradigm, based on the centrality of fundamental rights and the valorization of diversity.

The principle of equality, enshrined in Article 5 of the Constitution, constitutes one of the pillars of the Brazilian legal system. According to Sarlet (2020, p. 45):

Equality must be understood not only in its formal dimension, but also in its material dimension, requiring the adoption of measures that promote the inclusion of historically marginalized groups. In this sense, the 1988 Constitution recognizes the need for affirmative action to promote racial equality.

The dignity of the human person, established as a foundation of the Republic, also plays a central role in protecting the rights of the Black population. According to Barroso (2022, p. 76):

This principle guides the interpretation of legal norms, guaranteeing the protection of fundamental rights and the promotion of social justice. Thus, the 1988 Constitution establishes normative bases for combating racism.

Another significant advance was the criminalization of racism, provided for in article 5, item XLII, which establishes that racism constitutes a non-bailable and imprescriptible crime. According to Lenza (2020), this provision represents a recognition of the seriousness of racism and the need for its legal repression. It is a milestone in the fight against racial discrimination in Brazil.

The Constitution also recognizes the importance of cultural diversity and the protection of traditional communities. According to Piovesan (2021), this recognition contributes to the appreciation of the identity of the Black population, especially with regard to quilombola communities. This progress demonstrates the expansion of cultural rights in the Brazilian legal system.

The 1988 Constitution establishes guidelines for the implementation of public policies aimed at promoting equality. According to Sarmento (2022, p. 81), "the Constitution does not limit itself to recognizing rights, but also imposes duties on the State, requiring the adoption of concrete measures to reduce inequalities." Affirmative action policies emerge as instruments for the realization of fundamental rights.

The doctrine highlights that the 1988 Constitution represents a landmark of social transformation, incorporating historical demands from social movements. According to Gomes

(2020), the participation of civil society in the constituent process contributed to the inclusion of provisions aimed at promoting racial equality. This process demonstrates the influence of social movements in the construction of law.

As Silva (2019, p. 64) points out, "the effectiveness of fundamental rights depends on the joint action of the State and society." Thus, the Constitution represents an essential instrument in the fight against racism and in the promotion of racial equality in Brazil.

2.3 Law No. 7,716/1989 and the legal repression of racism in Brazil: limits and social effectiveness

Law No. 7,716/1989 constitutes one of the main legal instruments for combating racism in Brazil, by defining crimes resulting from prejudice based on race or color. According to Nucci (2021, p. 66):

The aforementioned law regulates the constitutional provision that criminalizes racism, establishing penal sanctions for discriminatory conduct. This represents a significant step forward in the protection of fundamental rights.

The classification of crimes foreseen in Law No. 7,716/1989 encompasses various behaviors, such as refusal of access to commercial establishments, discrimination in the workplace, and the practice of offensive acts motivated by racial prejudice. According to Capez (2020), the law seeks to curb discriminatory practices in different spheres of social life, promoting racial equality.

Despite its relevance, law enforcement faces significant challenges. According to Almeida (2019, p. 45):

The structural racism present in Brazilian society hinders the effectiveness of legal norms, since many discriminatory practices are not recognized or reported. This scenario highlights the need for cultural and institutional changes. The social effectiveness of the law also depends on the actions of the institutions responsible for its application.

Another challenge relates to the difficulty of producing evidence in cases of racial discrimination. According to Greco (2019), proving the subjective element of the crime, that is, the discriminatory intent, can be complex, which contributes to the low conviction rate. This limitation compromises the effectiveness of the law.

Criticisms regarding the inadequacy of criminal legislation to combat racism. According to Piovesan (2021, p. 70), "combating racial discrimination requires the adoption of complementary public policies, such as affirmative action and educational programs." Law No. 7,716/1989 should be understood as part of a broader set of measures.

The social effectiveness of the law also depends on the actions of the institutions responsible for its application. According to Sarmento (2022), the justice system plays a fundamental role in the realization of fundamental rights, and it is necessary to guarantee access to justice and the training of public agents to deal with cases of racism.

Contemporary doctrine highlights that confronting racism requires a multidimensional approach. According to Munanga (2020, p. 34), it is necessary to act not only in the legal sphere, but also in the social, educational, and cultural spheres. This perspective reinforces the importance of integrated public policies.

It is possible to state that Law No. 7,716/1989 represents an important, but insufficient, instrument in the fight against racism (Brazil, 1989). As Santos (2018) points out, overcoming racial inequalities depends on structural changes in society. Thus, the effectiveness of the law is directly related to the implementation of public policies and the transformation of social practices.

3. Racial quotas as a result of a social custom.

3.1 Origin of racial quotas

The origin of racial quotas in Brazil is linked to the history of social inequality and exclusion faced by the Black population since the slavery period. Even after the abolition of slavery in 1888, the Brazilian state did not implement effective public policies capable of promoting the social inclusion of formerly enslaved people, a fact that contributed to the persistence of racial inequalities in various sectors of society, especially in education and the labor market. According to Almeida (2019), structural racism has become a permanent element of Brazilian social relations, directly influencing the opportunities for social advancement of the Black population.

Throughout the 20th century, the idea of racial democracy became consolidated in Brazil, sustaining the false perception that there were no significant racial conflicts in the country. However, recent studies have begun to demonstrate that racial inequality has remained present in a structural and institutionalized way. As Ribeiro (2019) points out, racism in Brazil

manifests itself not only through individual acts, but also through historical inequalities reproduced by social institutions.

Black movements have played a fundamental role in the fight for racial equality and the creation of inclusive public policies. Gomes (2019) states that the demands of the Black movement have significantly contributed to broadening the debate on affirmative action and the democratization of access to higher education. Social mobilizations have begun to demand concrete measures from the State aimed at reducing historically accumulated racial inequalities.

The 1988 Federal Constitution represented an important legal advance by establishing the principle of equality and criminalizing racism. Furthermore, the constitutional text consolidated principles related to the dignity of the human person and the reduction of social inequalities, creating a normative basis for the implementation of affirmative action policies (Brazil, 1988).

The first experiences with racial quotas occurred in state public universities and were later expanded to federal institutions. According to Corato and Moraes (2024), racial quotas emerged as a result of the historical struggles of the Black movement and the need to democratize access to higher education.

In 2012, the Brazilian Supreme Federal Court recognized the constitutionality of affirmative action in the judgment of ADPF 186, consolidating the understanding that racial quotas are compatible with the constitutional principles of equality and social justice.

Law No. 12.711/2012, subsequently updated, officially established the quota policy in federal universities, setting social and racial criteria for reserving places. (Brazil, 2012). In this way, racial quotas have come to represent an important legal mechanism for social inclusion and historical reparation of existing racial inequalities in Brazil.

4.2 Quotas as a transformation of custom into law

Racial quotas represent the transformation of historical social demands into legal norms enshrined in the Brazilian State. According to Gomes (2018), for decades, Black movements denounced the social exclusion of the Black population and advocated for the creation of public policies capable of guaranteeing material equality and democratic access to education and institutional spaces.

According to Almeida (2019, p. 83), "structural racism directly influences the distribution of opportunities in society, requiring state action to reduce these inequalities."

Initially, affirmative action was discussed only in the political and academic fields. However, the growth of the debate on structural racism and racial inequality led the Brazilian State to recognize the need to adopt specific legal measures. (Almeida, 2019, p. 72).

The 1988 Federal Constitution provided an important legal foundation for the implementation of affirmative action by establishing principles such as equality, human dignity, and the reduction of social inequalities (Brazil, 1988). Although the constitutional text did not expressly provide for racial quotas, its principles allowed for an interpretation favorable to the adoption of these public policies.

The first experiences with affirmative action quotas occurred in state universities before the existence of specific federal legislation. These initiatives demonstrated that Brazilian society was beginning to recognize the need for concrete mechanisms for historical reparation and social inclusion of the Black population (Silva; Melo, 2024).

The legal consolidation of quotas occurred significantly with the Supreme Federal Court's ruling on ADPF 186. The STF (2012) recognized that affirmative action policies do not violate the principle of equality, but rather concretize the material equality constitutionally foreseen.

Subsequently, Law No. 12.711/2012 institutionalized the quota policy in Brazilian federal universities. The legislation established social and racial criteria for reserving places, expanding access for black students to public higher education (Brazil, 2023).

In addition to universities, affirmative action policies have also been extended to federal public service examinations through Law No. 12,990/2014. Oliveira, Viana and Silva (2025, p. 66) state that "the expansion of quotas for public service represents an important advance in institutional democratization and in strengthening anti-racist policies."

The transformation of social demands into legal norms demonstrates the capacity of law to adapt to social changes. In this sense, racial quotas have ceased to be merely political demands and have become legal instruments for promoting equality and combating structural racism.

3.3 Impacts of racial quotas on society

Racial quota policies have produced significant social, educational, and institutional impacts on Brazilian society. Guimarães, Almeida, and Oliveira (2023) discuss the

implementation of affirmative action; public universities were predominantly composed of white students from economically privileged classes. The adoption of quotas contributed to significantly increasing the presence of Black students in higher education.

The expansion of university access has provided greater educational democratization and favored the social inclusion of the black population. According to Gomes (2019), affirmative action represents important mechanisms for reducing historical inequalities and strengthening the citizenship of the black population.

Beyond the educational impact, quotas have also directly influenced the social mobility of the Black population. Access to higher education increases the possibilities of qualified insertion into the job market and broadens prospects for economic and professional advancement (Almeida, 2019).

Another significant impact relates to the increased value placed on diversity within universities and public institutions. The presence of Black students in historically elitist spaces strengthens discussions about racism, cultural plurality, and social inclusion.

However, research shows that quota students have academic performance similar to that of students admitted through open competition, demonstrating the effectiveness of these policies.

According to Silva and Melo (2024):

Quota policies have also contributed to broadening discussions about racial identity and self-identification. Affirmative action has also promoted greater visibility of existing racial inequalities in Brazil.

As Ribeiro (2019) points out, the debate on racial quotas has allowed for greater social awareness of structural racism and the need for public policies aimed at racial equality.

Despite the progress, quotas still face criticism related to meritocracy and alleged reverse discrimination. Affirmative action policies have also had an impact on the federal public service. Although, Oliveira et al., (2025) state that the expansion of racial quotas in public service examinations has strengthened black representation in state institutions and contributed to the democratization of public careers.

In this way, racial quotas go beyond simply reserving places in universities. These policies represent mechanisms for social inclusion, institutional democratization, and addressing the structural inequalities historically constructed by Brazilian society.

FINAL CONSIDERATIONS

This research has made it possible to understand that the evolution of the rights of the Black population in Brazil is the result of a complex historical process, marked by structural inequalities, social resistance, and constant demands for racial equality. Since the slave period, the Black population has faced social, economic, and legal exclusion, a situation that persisted even after the formal abolition of slavery, due to the absence of effective public policies for social inclusion.

Throughout the study, it was found that structural racism remains one of the main obstacles to achieving material equality in Brazil. Although the Brazilian legal system has made significant progress, such as the criminalization of racism, the creation of the Statute of Racial Equality, and the implementation of racial quota policies, profound inequalities related to access to education, the labor market, and the institutional representation of the Black population still exist.

The research also demonstrated that custom plays an important role as a source of law, especially in the context of claims promoted by the Black movement. Social, cultural, and political mobilizations contributed directly to the construction of legal norms aimed at promoting racial equality, showing that legislative transformations often stem from social demands and the collective struggle for recognition and justice.

It has been observed that the cultural resistance of the Black population constitutes an essential element in confronting structural racism. Religious, cultural, and identity-related manifestations strengthen the preservation of historical memory and Black identity, functioning as instruments for affirming rights and valuing Brazilian cultural diversity.

In the literary field, it has been observed that Afro-Brazilian literature plays a relevant social role by denouncing racial injustices, giving visibility to the experiences of the Black population, and broadening the debate about racial equality. Literary production thus becomes an important instrument for social awareness and criticism of the discriminatory structures present in Brazilian society.

Regarding racial quota policies, it was concluded that these affirmative action measures represent important mechanisms for democratizing access to higher education and reducing historically constructed inequalities. Despite existing criticisms, quotas demonstrate effectiveness in expanding social inclusion and strengthening Black representation in historically elitist spaces.

Therefore, it can be concluded that achieving racial equality in Brazil depends not only on the existence of legal norms, but also on the continuity of public policies, the valuing of cultural resistance, and the transformation of social structures that perpetuate racism.

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