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# LETTER TO THE READERS

THIAGO AMPARO & MARYURI MORA GRISALES  
*Editors – Sur International Journal on Human Rights*

SUELI CARNEIRO  
*Guest Editor – Geledés • Black Woman Institute*

## SUR FILE ON RACE AND HUMAN RIGHTS: MOVING STRUCTURES

Data on racial inequality demonstrate the persistence of racism in the world. In 2018, 17 years after the III World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa, and, the end of slavery, after 130 years, is still inconclusive. the legacies of Jim Crow, slavery and the apartheid continue and proliferate in the United States of America, Brazil and South Africa.<sup>1</sup> In other parts of the Global North and South, the situation of historically discriminated groups is no different. Europe has been the stage for xenophobia cases in the context of migration.<sup>2</sup> The United Nations (UN) Special Rapporteur on contemporary forms of racism – one of the authors featured in this edition of Sur – has reported on racism in countries as diverse as Australia, Mauretania, Hungary and Colombia.<sup>3</sup>

To do justice to the complexity and urgency of today's fight against racism, this edition of Sur aims to serve as a space for voices pursuing ways to reposition race at the centre of the human rights agenda. In its 14 years of existence, Sur has published only two articles on racism. This special edition kicks off a new trajectory for the Journal linking racism to other grave human rights violations. We, therefore, acknowledge that race is a structuring element of how rights are historically conceived, denied and exercised unevenly in Brazil – and in the world. The articles published herein share the need to rethink human rights movements – including their strategies, narratives and funding models – if we want to effectively build a new world where racial inequality does not exist.

...

For the first time, Sur Journal awarded three writing fellowships to black authors. The goal of the fellowships was to encourage and support black activists and researchers to write about their experiences and/or research on racism and human rights in the Brazilian context. Each fellow received for three months, between October and December 2018, a stipend equivalent to graduate scholarships granted in Brazil. The authors selected for the 28<sup>th</sup> edition writing fellowships were: Megg Rayara Gomes de Oliveira, Aline Maia Nascimento, and Rosane Viana Jovelino, whose articles Sur Journal is honoured to publish. This edition also features an article from the executive editor, Thiago Amparo, presenting a more detailed overview of the 803 applications received for this edition's writing fellowship, to encourage similar initiatives to support black authors.

## (DE)CRIMINALISING BLACK BODIES

Institutional violence and criminalisation of black bodies constitute the theme of the first set of articles in this edition of *Sur Journal*. Albeit being a recurring topic in the debates on race and human rights – given the persistence of the cruel forms of punishment to black bodies – the contributions in this section show a new perspective on how activists and academics can fight institutional violence. In this regard, *Sur Journal* opens this edition with the research from sociologist **Aline Maia Nascimento (Brazil)**, one of the individuals selected for the writing fellowship, on people's tribunals – specifically, the Winnie Mandela People's Tribunal and the People's Tribunal of Baixada Fluminense in Rio de Janeiro – as forms of political action on the lethal violence perpetrated against black individuals. Aline describes with singular sensibility how institutional violence manifests itself through small losses, *regular sundries* (as she calls them – *miudezas corriqueiras* in Portuguese), comprised by the daily violations to which victims and their families are exposed in the quest for their rights.

Likewise attuned to the regular violence imposed by the genocide against the black population in Brazil, film director **Natasha Néri (Brazil)** gifts this edition with a mini-documentary *Grief for us is to Fight* (*"Luto para nós é verbo"* in Portuguese). Through interviews with the mothers of young black people killed by police forces, Natasha reveals how the pain is transformed into political struggle, such as in the case of *Mães de Maio*, a group of mothers whose children have fallen victim to state lethal violence. The documentary concludes in a visceral manner with a call to a mobilisation for the dignity of black lives.

Attentive to the view that great part of state violence against black bodies in many countries happens under the banner of the so-called war against drugs, **Nathália Oliveira** and **Eduardo Ribeiro (Brazil)** – founders of the Black Initiative for a New Policy on Drugs (*Iniciativa Negra Por Uma Nova Política sobre*

*Drogas – INNPD* in Portuguese) – reflect on the creation of such Initiative in 2015 as an important stakeholder in the design of drug policies. The authors understand the question of racism as a key part of ill devised punitive drug policies. Racism begins to be seen, therefore, not as a collateral damage of the war on drugs but a means for the maintenance of an economy based on violence against the black body.

Another article that links race and gender in this edition was written by **Juliana Borges (Brazil)**. Juliana offers a broad analysis on how black women have been punished in Brazil since the days of slavery when they were subjected to systematic rapes. The author focuses then on the impact of punitive drug policies, observing that 62% of the women currently incarcerated have been arrested on drug charges. The article concludes by inciting black females researchers to amplify the voice of incarcerated black women, as well as set the human rights agenda with a radical racial equality view, aiming at a future where there will be no prisons.

Another set of articles question the effectiveness of the judicialisation of racism, evidencing its potential and limitations. By analysing the case of racial discrimination in the work environment suffered by John Jak Becerra, **Maryluz Barragán González (Colombia)** analyses the institutional barriers which render the antidiscrimination instruments existing in Colombia inefficient, including the lack of capacity of companies and civil servants to look into such complaints. Maryluz narrates Becerra's case tried by the Colombian Constitutional Court in light of these institutional shortcomings, which the Court attempted to overcome by ordering a list of corrective measures to be adopted by companies and the Colombian Labour Ministry in cases of harassment in the work place for racial reasons.

## JUDICIALISING RACE

Colombia and Brazil have detailed norms against racial discrimination, but both countries still lack effective

implementation of such rules, often because of each country's flawed judicial narrative on discrimination. To tackle the issue, **Thula Pires (Brazil)** questions how the standard of humanity determined by the sovereign subject (male, white, cis/straight, Christian, owner and able bodied) defines the legal narrative on race. Based on legal decisions on racism and racial slur usage, the author shows how the Judiciary openly displays in its narrative historical processes of dehumanisation of the black population, not considering them as legal subjects with the same ideal standing of the sovereign subject.

Sometimes, it is the Judiciary itself that perpetuates racism. **Livia Casseres (Brazil)** writes about the crime of abortion in Brazil according to the perspective of black women. The author argues that the criminalisation of abortion represents a policy of death for black women. Through the study of the case pending before Brazil's highest court, in which the constitutionality of abortion caused or consented by the pregnant individual and of the abortion caused by a third party is analysed, the author contends that the antiracism discourse should have a central role in the constitutional interpretation of equality.

## RETHINKING NARRATIVES AND FUNDING

Four articles in this edition question to what extent the strategies, narratives and funding of organisations and human rights movements take race seriously. Two articles look deeply into the matter of funding in human rights. In an article inspired by personal experiences such as being "the only Black woman at the social justice philanthropy dinner party", **Nicolette Naylor (South Africa)**, Regional Director of Ford Foundation's South Africa, questions whether social justice foundations in fact practise what they preach. Several recent cases of sexual harassment, intimidation and racial discrimination in human rights organisations suggest that, according to the author, we have not reflected enough on our values and practises in the philanthropy sector.

Continuing the conversation on the roles foundations play in tackling issues related to race and human rights, Sur Journal features an article written by six authors who work at Open Society Foundations – **Mariana Berbec-Rostas, Soheila Comninos, Mary Miller Flowers, Sue Gunawardena-Vaughn, Michael Heflin, and Nina Madsen (United States)**. The authors employ a racial equality perspective on the challenges of financing human rights. Taking the lessons learned from their professional activities as a starting point, the authors suggest a series of important recommendations to improve the financing of the fight against racism, among them: redistribution of resources to organisations and movements directly affected by racism; developing a frank and open dialogue on diversity and inclusion with civil society organisations, and also ways for donors to take intersectionality seriously.

In order to rethink the connection between race and human rights, it is necessary to also reassess the narratives of human rights movements. **A. Kayum Ahmed (South Africa) and Denise Carrera (Brazil)**, in each of their articles, analyse critically the ways social movements and civil society organisations talk about racism and human rights. Kayum analyses the #RhodesMustFall, a radical black student movement which seeks to address the systemic racism in a white liberal university by demanding the institution's decolonisation. From interviews with student activists, the author reveals how the movement conceives race in post-apartheid South Africa, favouring a decolonising approach focused on black consciousness, and rejecting a human rights perspective. Denise Carrera, on the other hand, analyses the role white activists play in the fight against racism. Denise argues that it is not enough for white activists to support the fight against racism; they also need to join the fight against racism by critically questioning their own privileged condition. In this context, Denise recommends a greater engagement from white individuals and institutions

committed to the promotion, defence and guarantee of human rights in the fight against racism.

## REPOSITIONING RACE IN THE INTERNATIONAL AGENDA

In order to rethink race and human rights, it is necessary for international and regional human rights agendas to put race at their centre. Two articles in this edition are proposing this exact reflection. **E. Tendayi Achiume (Zambia)** – current United Nations Special Rapporteur on All Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance – questions why are people of colour who are at forefront of racial oppression excluded from decision-making and the production of knowledge on human rights? Tendayi argues that the global human rights agenda needs to commit itself clearly to substantial racial equality. Therefore, it is necessary to recognise that racial discrimination is a theme which runs across the whole human rights field, in a structural and intersectional manner. It also means that, according to Tendayi, the role of communities of persons of colour and their defenders should be taken seriously not only in the fight against racial inequality but also in defining the very nature of human rights.

**Roberto Rojas Dávila (Peru)** contributes to this debate by rescuing the historical foundations of racism in the international and regional agenda. Coordinator of the Section on Vulnerable Groups of the Organisation of American States (OEA), Roberto argues that the inclusion of the topic of afro-descendants in Human Rights International Law is relatively new, it is 18 years old counting from the Regional Conference of the Americas held in 2000. Roberto recollects that in 2013 OEA's General Assembly approved the *Inter-American Convention Against Racism, Racial Discrimination, Xenophobia and Related Intolerance* and the *Inter-American Convention Against all forms of Discrimination and Intolerance*, although few Member States have so far ratified these conventions. In this sense, the author considers

fundamental to perceive the International Decade for People of African Descent (2016-2025) as the perfect opportunity to debate racism and racial discrimination in the Americas earnestly, repositioning the question of race at the centre of the regional agenda on human rights.

A series of articles seeks to question a singular vision of blackness, introducing some intersections between blackness and other markers of difference. Two writing fellows do exactly this in this edition, by talking about black travestis and trans women and *quilombola* communities. In her article, **Megg Rayara Gomes De Oliveira (Brazil)** problematises the process of invisibilisation of black travestis and trans women in black social movements in Brazil. Megg rescues the history of many black travestis and trans women in the struggle for rights, as well as addresses the problem with masculinity inside the black movement. Because she is black and travesti, and because she studies in depth the participation of black travestis and trans women in the fight against racism, Megg offers a singular point of view on the contradictions within the black movement, and concludes by proposing new ways to alter the invisibilisation of black travestis and trans women in black social movements.

## INTERSECTIONS

Also offering a unique perspective, **Rosane Viana Jovelino (Brazil)**, the third author to be awarded a writing fellowship in this edition, makes us look in detail into the process of social, political and economic organisation of *quilombola* communities in the Iguape River Basin in the municipality of Cachoeira, in the state of Bahia (in the northeast of Brazil). A lot has been written about *quilombolas* – descendants from enslaved Africans who have for centuries preserved their cultural, social and economic traditions, as the author describes therein –, very few articles, however, bring the view of an author who is a *quilombola* herself, based on an in depth knowledge on how *quilombola*

communities exercise their knowledge and ancestral practices, and their sense of belonging to the lands they have traditionally occupied. Rosane argues that, by having their identities precariously acknowledged, these communities see their land tenure and possibility of rights compromised.

## ART AS A FORM OF FIGHT

In addition to the video directed by Natasha Néri (introduced above), this edition also features three other contributions on art, race and human rights. Sur Journal has the honour to publish a selection of 18 works from the Afro-Atlantic Histories exhibit, curated by **Hélio Menezes** and **Lilia Schwarcz (Brazil)**. Recently considered the best exhibit in the world in 2018 by The New York Times, Afro-Atlantic Histories proposes dialogues and flows between several parts of the Black Atlantic: between Africa and the Americas, the Caribbean and Europe. The exhibit, which remained open until October 2018 in São Paulo (Brazil), gathered a selection of 450 works of art from 214 artists, between the 16<sup>th</sup> and 21<sup>st</sup> centuries, having being organised jointly by the Museum of Art of São Paulo (MASP) and the Tomie Ohtake Institute in São Paulo, Brazil. By featuring in this edition eight different subthemes from the exhibit, we hope that these images reproduced herein may inspire a dialogue on race and human rights among the different regions the journal reaches.

This edition of Sur Journal does not only feature art within its pages, but also suggests two reflections in the form of articles on the role of art in the fight against racism. The young **Rhuann Fernandes (Brazil)** brings to Sur Journal the poetry of the Rio de Janeiro slams. Rhuann compares the social relationships developed between the *slams* and the *rap* cultural circles (*rodas culturais*) in Rio de Janeiro. The author shows the elements of blackness present in the poems and rhymes of these two forms of artistic expression. More than denouncing racial inequalities, the slams and rap cultural circles claim a place for the positive affirmation of black

culture and identity in Brazil. Such vision of affirmation of other aesthetic discourses is present in the article written by **Diane Lima (Brazil)**. By reflecting on how the arts traditionally legitimise beauty standards, who deserves and who does not deserve to be seen, just like other notions of true and false, Diane uses her own experience as an art curator to suggest a curatorial practice from a black woman's perspective. Diane, however, goes further: she calls upon artists and curators to think of new forms of self determination as complex as black bodies and their desires, intersectional as their agendas are, beyond the strict laws of raciality.

Placing race at the centre of the debate on human rights was the main objective of this edition. However, we hope that the reader will see in this edition of Sur Journal something more: the birth of a new generation of black thinkers, with unquestionable ability to re-signify not only the meaning of race but also what will human rights become.

. . .

Conectas would like to emphasize that this edition of Sur Journal was made possible by the support from the Ford Foundation, by means of its Brazil's office. Furthermore, we would also like to thank Open Society Foundations, the Oak Foundation, the Sigrid Rausing Trust, as well as the individual donors who institutionally support the organisation's work.

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Raquel Lima Catalani, Renato Barreto, and Sebastián Porrúa Schiess. Additionally, we would like to specially thank the authors for their collaboration, as well as the editorial team and the Journal's executive board for their arduous work.

As ever, the members of Conectas' communication team deserve great credit for their dedication to this issue.

## NOTES

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1 • "Overcoming Poverty and Inequality in South Africa: An Assessment of Drivers, Constraints and Opportunities," International Bank for Reconstruction and Development / The World Bank, March 2018, accessed December 21, 2018, <http://documents.worldbank.org/curated/en/530481521735906534/pdf/124521-REV-OUO-South-Africa-Poverty-and-Inequality-Assessment-Report-2018-FINAL-WEB.pdf>; "A Distância Que Nos Une: Um Retrato das Desigualdades Brasileiras," OXFAM Brasil, September 25, 2017, accessed December 21, 2018, [https://www.oxfam.org.br/sites/default/files/arquivos/Relatorio\\_A\\_distancia\\_que\\_nos\\_une.pdf](https://www.oxfam.org.br/sites/default/files/arquivos/Relatorio_A_distancia_que_nos_une.pdf); "Um Retrato da Violência Contra Negros e Negras no Brasil," Fórum Brasileiro de Segurança Pública, 2017, accessed December 21, 2018, <http://www.forumseguranca.org.br/wp-content/uploads/2017/11/infografico-consciencia-negra-FINAL.pdf>.

2 • See: SUR – International Journal on Human Rights 23 (June 2016), accessed December 21, 2018, <http://sur.conectas.org/home/edicao-23/>.

3 • "Country Visits," OHCHR, 2018, accessed December 21, 2018, <https://www.ohchr.org/EN/Issues/Racism/SRRacism/Pages/CountryVisits.aspx>.

4 • The title is a play on words, considering that the Portuguese word for "mourning" (*luto*) is equal to the first-person singular tense of the verb "to fight" in Portuguese (*luto*).



# (DE)CRIMINALISING BLACK BODIES



**- voices -**

**FROM WINNIE MANDELA TO THE BAIXADA FLUMINENSE**

Aline Maia Nascimento

**- institutional reflection -**

**THE MASSACRE OF BLACK BRAZILIANS IN THE WAR ON DRUGS**

Nathália Oliveira & Eduardo Ribeiro

**- essay -**

**BLACK WOMEN UNDER FIRE**

Juliana Borges



# FROM WINNIE MANDELA TO THE BAIXADA FLUMINENSE

**Aline Maia Nascimento**

- *People's courts as a strategy to cope with death and make habitable worlds<sup>1</sup>*

## ABSTRACT

*In this article, I draw attention to the experience of establishing the Winnie Mandela People's Court and the People's Court of the Baixada Fluminense as spaces organised and designed by various social actors (relatives of the victims, grassroots movements, social movements and human rights organizations) interested in producing methodologies for political advocacy on rights violations and deadly violence perpetrated against black people. However, I am also interested in analysing them as bearers of experiences of the small points of everyday life: the slight misfortunes and minor calamities that, added to the existing precarious conditions, devastate the ways of living and of making the world for black people. It is a matter of understanding necropolitics from the standpoint of both big events marked by brutal and disruptive processes of black annihilation, and also the small points considered routine – minor losses and potential difficulties encountered in the pursuit of access to certain rights.*

## KEYWORDS

People's Court | Justice | Anti-black genocide | Mothers | Relatives

This article is the result of years of research and reflection on violence from a racial perspective. As a researcher interested in understanding the deadly violence against black youth from its anti-blackness bias<sup>2</sup> and the effects it causes on the black community, I often found myself at a loss to understand how the void left by the premature death of black youths (re)created, among the friends and relatives of the victims, strong and complex networks of self-care, resistance and collective recovery. This difficulty taught me multiple lessons: it encouraged me to revisit theoretical and analytical approaches to the mechanisms of negrogovernance<sup>3</sup> present in the management of bodies, lives and populations; it connected me to the resilience of the relatives of the victims, while at the same time it prompted me to reflect on my own experiences<sup>4</sup> as a researcher and a black woman – whose existence in the social world is crisscrossed by complex black self-care networks that are committed, on a daily basis, to coping with death, managing relationships and building habitable worlds.

In this article, I draw attention to the experience of establishing the Winnie Mandela People's Court<sup>5</sup> and the People's Court of the Baixada Fluminense as spaces organised and designed by various social actors (relatives of the victims, grassroots movements, social movements and human rights organizations) interested in producing methodologies for political advocacy on rights violations and deadly violence perpetrated against black people. However, I am also interested in analysing them as bearers of experiences of the small points of everyday life: the slight misfortunes and minor calamities that, added to the existing precarious conditions, devastate the ways of living and of making the world for black people. It is a matter of understanding necropolitics<sup>6</sup> from the standpoint of both *big events* marked by brutal and disruptive processes of black annihilation, and also the *small points* considered routine – minor losses and potential difficulties encountered in the pursuit of access to certain rights.

The people's court does not in itself have legal validity, since it is not part of the official legal system. In other words, it does not have state powers to enforce its decisions. As a result, many questions are raised about the effectiveness of the people's court as a methodology of political advocacy: why set up a court that has no legal force? Why expose the pain of the relatives of the victims if there is no legal standing? Is the court nothing more than a theater? I am frequently asked these questions.<sup>7</sup> My proposal here is not to answer them all. What interests me in this analytical exercise is what, in the words of Viveiros de Castro,<sup>8</sup> was defended as “taking native thinking seriously”. In practise, this means the exercise of not superimposing the legal sphere over the mundane (or its opposite), but of learning from the people involved in the people's court the meanings they attribute to it.

## 1 • The Winnie Mandela Court: “Our Steps Come From Afar”

The practice of setting up people's courts is not uncommon in Brazil and they have been established in response to very specific and local dynamics and motives. Some of the people's courts that have been set up in the past include: the **Tiradentes Court**,<sup>9</sup> which held its first sessions in the 1980s, on matters of national security and the amnesty law; the **People's Court**

– **110 Norte**, organised in 1987 on the right to housing; the **People’s Court – the Brazilian State as the Defendant**, staged in 2008 on crimes against black youth; the **People’s Court – the Madeira Hydroelectric Dams as the Defendant**,<sup>10</sup> which occurred in 2017, organised by rural social movements in Brazil and Bolivia; and more recently the **People’s Court of Women – Marielle Franco**,<sup>11</sup> held in May 2018 to judge among other matters the machismo culture.

However, since they are grassroots experiences, we are unlikely to find any complete written records about these courts, and it is often only possible to access them and understand their full magnitude orally.<sup>12</sup> For this reason, I invite the reader to accompany the oral reports related to me by Schuma Schumacher,<sup>13</sup> which reveal important aspects of the “Winnie Mandela Court” (1988). Schuma is a Brazilian educationist, feminist activist and coordinator of the non-governmental organization (NGO) *Rede de Desenvolvimento Humano* (Network of Human Development or REDEH). What is described below is important for us to connect with what was discussed at the start of this article, when I mentioned the notions of *self-care*, *big events* and *small points of everyday life* as practices of existence and resistance by black women.

In 1988, the President of Brazil was José Sarney and Schuma served on the National Council on Women’s Rights (CNDM),<sup>14</sup> a body of the federal government directly linked to the Ministry of Justice. The CNDM was structured by thematic commissions, with the “Commission on Black Women” coordinated by Sueli Carneiro. For the centenary of the *Lei Áurea* (the Golden Law, which abolished slavery in Brazil), the Commission on Black Women proposed a programme based on black appreciation, self-care and reporting racism: “*We knew there was nothing to celebrate, we knew we had to convey 1988 critically*,” said Schuma. At the time, black women were the protagonists of this historic struggle intent on denouncing “*the false abolition*”.

The “Commission on Black Women” understood racism as a global phenomenon and that its elimination would require a transnational struggle. Because of this, they chose the name Winnie Mandela for one of the central activities of the centenary: the people’s court that would judge the crimes committed by the state against the black population. See below what Sueli Carneiro highlighted in an interview with Matilde Ribeiro:

*[it was] a symbolic event that was intended to judge the Lei Áurea, considering that it has been incapable of promoting real freedom and inclusion. In this way we denounced the existence of racism in Brazil and apartheid in South Africa [...] The Foreign Ministry was brought in and we had to explain the relationship between this court and South Africa and apartheid, to which we responded with criticisms of the dehumanisation of blacks*<sup>15</sup>

If in the 1980s South Africa was plagued by the apartheid rule that had lasted more than three decades, in Brazil the ideology<sup>16</sup> prevailed – and still prevails – that tries to conceal the existing racial rifts and extols “Brazilianness” based on the myth of racial democracy – a symbolic representation that masks racial tensions and converts them into conceptions

of “harmony” and “cordiality”. As Munanga reminds us, “Brazilian racism acts without demonstrating its rigours, it is not brought to light, it is ambiguous, sticky, viscous, but highly efficient in its objectives”.<sup>17</sup> This was the context of the disputes that arose at the time by various sectors of the black movement. From the outset, the Winnie Mandela court faced the denial of racism by the state, which insisted on the Freyrean ideology of harmony between the races. This is apparent in an article in *Veja* magazine that highlights the clashes between the CNDM and Brossard, the Minister of Justice at the time:

*To begin with, it was the Lei Áurea that would be on trial. But this was not permitted by Minister Paulo Brossard, to whose office the Council on Women's Rights is subject. It was changed to the judgement of racism. Another veto, **on the grounds that there is no racism in Brazil**. Finally, the minister agreed: on trial would be **only the generic topic of racial prejudice**.*<sup>18</sup>

Sueli Carneiro recalls the political pressure exerted by the state and she points out that the staging of the Winnie Mandela court was a feat of negotiation with the federal government. As far as she is concerned, the initiative was only possible “because the council members were very firm that it should take place”.<sup>19</sup>

The session of the Grand Jury of the Winnie Mandela Court was held at the University of São Paulo Law School and it was attended by various civil society organisations and a number of renowned political and legal figures.<sup>20</sup> The João Mendes Júnior Grand Hall of the Law School, whose layout resembled an authentic court, reinforced the sensation that this was the “*trial of the century*” – as claimed by the promotional poster of the Winnie Mandela Court released by the CNDM and the São Paulo State Bar Association (OAB-SP).

According to the CNDM bulletin,<sup>21</sup> the jury heard a heated discussion between the defence and the prosecution. For the defence, Fausto Sucena Rasga Filho denied the existence of racism in Brazil, arguing that nationality was the value that governed social relations, allowing all citizens to enjoy the sensation of national belonging. For the prosecution, Antônio Claudio Martinz de Oliveira vigorously asserted that racism exists and used examples of daily routines experienced by black women to defend his claim of sub-citizenship for the black population. The charges<sup>22</sup> brought by the prosecution were based on the argument that legislation is a product of the dominant sectors of society that do not recognise the value of black women. The claims of the prosecution used the example of one victim – a black woman born in 1887, the daughter of a slave mother who, according to the “law of free birth”, was presumably free to live a life marked by major events of brutal annihilations in Brazilian history – the dehumanisation by the state of the victim and her descendants forced her to establish strategies to resist and form “new worlds” given the hostility.

The experience of this court had a significant impact on the history of the black movement in Brazil and it is used to this day as a reference to assess the response of

black women to the dehumanisation of black people. The court also served to expose the myth of racial democracy, to promote resistance and denouncement on a transnational level, and to give visibility to self-care actions for black people.

## 2 • Life and survival in sensitive territories

The figure of “barons”, “colonels”, “bosses” or “masters” in the Baixada Fluminense<sup>23</sup> is not a thing of the past. Instead, they are still a fundamental feature in the social relations developed between residents of the Baixada. The region has a long history in which politics and deadly violence are used in the pursuit of territorial dominance and economic control. The region’s “bosses” or “masters” are individuals that have a monopoly over services that are officially considered public (water, healthcare, transport, public security) and that exercise exclusive control over the access to these services.

It is business as usual in the Baixada to *do politics* with the use of intimidation by those with armed control who can offer their electoral stronghold quicker access to public services. Locals report that scheduling appointments in public hospitals or guaranteeing places in public schools can only be done with the authorisation of local politicians: “If you want an appointment at the eye hospital,<sup>24</sup> only next year, but if you go to him [local politician], he’ll schedule it for tomorrow,” said one resident.<sup>25</sup>

The Baixada is often likened to the American Wild West, an inhospitable environment full of “vigilantes” who enforce the law of the jungle. Some people compare the Baixada to the inland region of the Brazilian northeast, where “gunmen”, “colonels” and “bosses” fight between themselves for local power, land and politics. Others associate the Baixada with the imagery of “favelas”, with a semi-urban structure marked by simple unfinished houses and by a population that commutes to work and uses the territory as a “dormitory suburb”. These comparisons are useful to illustrate some of the dynamics present in the territory, but they are insufficient to capture the specifics of the region’s social relations. This is exactly what one resident suggested to me, by saying: “the Baixada can only be explained by the Baixada”.

In the 1950s and 1960s, an Alagoas-born strongman dominated the territory and became a symbol of local terror. Tenório Cavalcanti, the “King of the Baixada” or the “Man in the Black Cape”, as some called him, terrorised his opponents with a German submachine gun (that he called Lurdinha). He was a Rio de Janeiro state representative and federal congressman and several violent crimes have been attributed to him. However, thanks to his alliances with politicians and business leaders, his participation in these killings, although proven, never resulted in any legal punishment.

Stories such as the ones involving Tenório Cavalcanti and other figures linked to political positions and death squads can be found in the work of Alves<sup>26</sup> who sought to understand how iconic killers were mystically transformed into “heroes” of the Baixada,

and also the relationship between voters, murders and power. One interviewee recalls the figures described in Alves' book:

*I've known about the murders in the Baixada for 50 years. It's part of the context of the neighborhood where I live and has always been **naturalised**. The book "Barons of Death [A History of Violence in the Baixada Fluminense]", I know some of those characters. They're not just people we've heard about, they're people we knew personally. We knew Tenório Cavalcanti. In the final days of his life, he lived in his country house with a group of his men who were in charge of the favela and they decided who could stay and who would leave. A family fight was enough of a reason.*

In this territory, the relations between residents and political leaders belonging to death squads cannot be reduced to the concept of "coronelism" addressed by Vitor Nunes Leal<sup>27</sup> and José Murilo de Carvalho.<sup>28</sup> Although there are strong traces of "coronelism", "bossism" and "clientelism" in the local relations, it should be noted that in the Baixada the act of killing is a first step in the consolidation of local power. In the Baixada Fluminense, the right to "make some live" and "make others die" can be seen in the region's high murder rates.<sup>29</sup> In most cases, murders resulting from the direct actions of criminal groups linked to municipal politics, such as militias and death squads that transform murder into an excuse for combating crime, guarantee the moral order and the maintenance of good behaviour. According to this logic, as locals have reported, a fight between couples, assuming a stand on gender or sexuality, listening to forbidden funk music,<sup>30</sup> the use of illegal drugs, property crime (especially robberies) or any behaviour considered morally "rogue" or "errant" could be a justification for murder. In this regard, there is a "routine and often impersonal character – merely quantitative – of the murders",<sup>31</sup> which confirms what one resident earlier in this article called the "naturalisation" of death.

Murder followed by hiding the body is a very common practice in the Baixada Fluminense. This is what a resident once told me when explaining the existence of secret cemeteries<sup>32</sup> in his neighborhood: "the death squads do it a lot, they kill someone and throw the body in the nearby river and say it's food for the alligators".

### 3 • The Baixada Fluminense Court

The People's Court of the Baixada was staged in September 2018 and its central topic was "Genocide of Black Youth". The event was organised by the *Fórum Grita Baixada* (Shout Baixada Forum) in partnership with 26<sup>33</sup> organisations focused on the defence of human rights. The initiative was intended to make the Brazilian state the defendant and convict it for the high number of murders committed in the region of the Baixada.

The act of assigning the recurring murders committed against the black population to the concept of “genocide” has been a recurring practice by social activists, the relatives of the murder victims and black intellectuals, notably in the works developed by Nascimento (1978);<sup>34</sup> Vargas (2010a) (2010b)<sup>35</sup> and Flausina (2014).<sup>36</sup> According to these authors, the concept of genocide is not exclusively restricted to law – although it is based on and established by the Convention of 1948;<sup>37</sup> it is a category that is the subject of internal political disputes between actors interested in shedding light on the phenomenon and defining its specific characteristics in each territory.

In this respect, the People’s Court of the Baixada served as an agent in this dispute and opted to classify the experience of black people who are systematically killed as genocide. Its decision was based on the harsh reality identified by research<sup>38</sup> revealing that black people are over-represented in so-called “deaths resulting from police intervention” – those recorded as being caused by on-duty police officers and justified on grounds of legitimate self-defence. However, black people are also more likely than others to be part of the statistics of high rates of violent death, preventable death by disease, refusal of access to medical assistance and other indicators that illustrate the symptoms of anti-blackness processes.

The Court of the Baixada was strategically conceived by its organisers to be staged in a public place. The idea was to count on the mass participation of residents from the Baixada. As such, the trial occurred in the public square, Praça do Pacificador, located in the heart of the city of Duque de Caxias with unrestricted access by the local population. For this reason, in addition to the social activists who attended the trial, also present were curious passersby who decided to watch the event. In the words of one of the organisers of the court and an activist with *Rede de Mães e Familiares Vítimas da Violência do Estado na Baixada Fluminense* (Network of Mothers and Relatives of the Victims of State Violence in the Baixada Fluminense), this occurred due to the essentially educational nature of the court – which raised the concept of black genocide to be presented and debated in a public square:

*The people’s court was an instrument of denouncement, to help draw attention to the genocide of young people in the Baixada, because in the Baixada people don’t even know what genocide is. Nobody knows what genocide is. They don’t consider the deaths in the Baixada as genocide, as part of a process of rights violations by the state, and neither do they know what types of rights violations the state commits.*

The jury session that occurred in the Praça do Pacificador rallied relatives of victims, grassroots movements, social movements, human rights organisations and local residents and workers around the trial on the “genocide of black youth”. The debate between the lawyer for the prosecution and the lawyer for the defence was heated. The former drew on stories of violence and dehumanisation suffered by the black population from times of slavery until the present day – marked by a renewal of the ways of “making die” for the black population (mass incarceration, systematic summary executions and rights violations

targeted at residents of the favelas and poor urban outskirts) – and blamed the state and the police authorities for neglect in the investigation of deaths reported by police officers as being due to “resistance”. The latter denied that the state has any responsibility for the violent death of black people. It pointed out that the main problem lies with the Judiciary, since the Executive and Legislative branches in Brazil promote racial equality by offering the marginalised population reparation policies, such as affirmative action.

Observing the arguments raised by the lawyer for the defence, we can see similarities between the claims made in the Winnie Mandela court and the Baixada Fluminense court. After exactly 30 years, race and racism remain at the centre of the debate. This time, the defence appeared to acknowledge the existence of racism and stressed the efforts made in the area of education to mitigate the inequalities it has caused. However, it disclaims responsibility for the genocide against black youth. This reasoning corroborates what Vargas called the recycling of the ideology of racial democracy: it marginalises and kills black people while the state poses as democratic and inclusive.<sup>39</sup>

The sense of impunity surrounding the high murder rates in the Baixada is present in the testimonies of residents who often call the Baixada “lawless land”, a description that reinforces the idea that in this territory murder goes uninvestigated and unpunished. As such, the silence in response to death is not only practised by the state, but also by many residents who fear putting their own lives and the lives of their family members at risk.

*Whenever a death occurs, there is always silence because of the fear that the person who committed the crime is among us, or otherwise there is silence because everyone knows who did it. And it's never reported to the police. The residents are very supportive at times of death, they stand in solidarity with the family, but always silently, without making any comments. The motto here is: I didn't see anything, I don't know anything, wherever you are.*

For the mothers and activists “silence” and “denouncing” are not conflicting practices – in the sense that one cancels out the effects of the other. As one mother puts it: “when we put up a banner or print a photo [of the loved one] on a t-shirt, it's a way for us to speak, for us to pay our respects. It's in silence, but it's a denouncement.” As such, the act of denouncing with objects has become just as important as denouncing orally. The objects (t-shirts, banners, documents, photos, items used by the deceased) are assigned the functions of *speaking*, attesting to the *mourning and the struggle* of the families, contesting the judicial system and *struggling* to preserve the memory of the deceased. These objects are necessary in the strategy of “silence” and “denounce”, because they are viewed as authentic witnesses of what occurred. There are times when silence does not mean keeping quiet, but instead letting the objects “come to life” and speak for themselves.

In the court, the mothers and relatives of the victims of violence were witnesses called by the lawyer for the prosecution to expose the seriousness of the genocide committed against

black youth. The mothers who testified before the court wore t-shirts made especially for the event with a picture of a black woman with a black power haircut carrying a sword in one hand and a white handkerchief in the other. In the background is a map of the Baixada Fluminense, painted red. Some of the mothers also carried banners with photos of their sons. As witnesses, they related the events that characterized *the big event* – the violent and premature death of their sons.

The mothers whose sons died while serving time at DEGASE<sup>40</sup> – in addition to relating the events of their deaths, also explained the *small points* – “minor” obstacles experienced in the detention system that were transformed into major daily barriers for them and their sons – such as the struggle for their sons to have access to the medicine necessary for their medical treatment, the poor quality of the food at DEGASE, the lack of basic items for survival (blanket, mattress, oral and body hygiene materials).

#### 4 • “I want Justice!”: temporality and the struggle

Family and friends of murder victims struggle tirelessly to obtain reparations for the brutal loss of their loved ones. According to accounts by relatives, the judicial process is – above all – arduous, given that in Brazil it takes an average of eight years and six months to complete a murder trial.<sup>41</sup> And it should be noted that the conclusion of a trial does not always provide the relatives of the victim with the long-awaited “sense of justice”. This leads us to believe that the struggle against genocide involves an assessment of the different notions of “justice” and “temporality” for each actor/actress involved in the dynamics of the judicial system.

Débora da Silva, founder and member of the Mothers of May movement,<sup>42</sup> says that her *fight for justice* began after the loss of her son Rógerio – one of the more than 500 people who were killed by the police in 2006, in the Baixada Santista region in São Paulo. These murders became known as the Crimes of May, since the majority presented signs of execution: bodies with bullet holes in the chest and the head.

*To this day, they cover up the investigations. My issue today has completely changed: we've moved on from the stage of “my son is dead” to “who is responsible”. We can't identify who it was because we don't know. It's the state that should be giving me the answer, but they don't want to resolve this crime. The impunity can break you down. I still cry a lot. But the pain **drives me to pursue justice** and keep on going. (Debora da Silva).<sup>43</sup>*

The tensions between the different temporalities produces distinct notions about what justice is and how justice should be done. The legal proceedings, the administrative cases, the preparation of autopsy reports and forensic exams that establish the cause of deaths and the narratives surrounding the death can be slow and bureaucratic if considered

only in terms of chronological time. However, from the viewpoint of “fighting for justice”, the perception of time is not always so drawn out. Often, it is viewed by the families as an intense experience that places the “fight for justice” in the dimension of the routine, the daily *small points* characterised by “pilgrimages to government agencies with various different documents and the preparation of expectations and ways of requesting legal recognition or sanctioning of the ‘event’”.<sup>44</sup>

In this struggle against the sense of impunity, relatives are challenged to respond actively to the narratives built by the state or by the media when they make claims that contradict their understanding of the circumstances surrounding the crime (the perpetrator of the crime, the background of the victim and other elements involved). One time, a mother whose son was killed by the police tried to explain how, after his death, her routine was converted into a “fight for justice”. “I was everything! I was a forensic agent, I was a lawyer and a prosecutor”, she said, in reference to everything she had to do herself on account of the absence of the state – the ineffectiveness of mechanisms for resolving the cases and the illegal way bodies are handled in the territory.

Therefore, if making the world habitable after the death of a loved one requires assuming functions that should be the role of the state, to what extent is establishing a people’s court, overseen by relatives, a theatricality? It seems to me that making habitable worlds (including setting up people’s courts) lies in the exercise of invention<sup>45</sup> and in this case, invention as the ability to create and produce are acts that are unrelated to the construction of something “false”, but that reflect the idea of an ongoing metamorphosis “in which the forces, the world and the beings are always created and recreated from something pre-existing.”<sup>46</sup>

In the construction of narratives about the *big event*, mothers place time at a crossroads, since organising the past implies keeping the memory of the deceased alive in the present and guaranteeing *justice* for the future. As such, in the narrative of the mothers, “the time that precedes the death” is counted by a moral construction of the life lived by the victim. They collect evidence (photos, witnesses, documents) to demonstrate that the deceased was “hard-working”, “studious”, a “good son” or an “upstanding citizen”. In other words, the struggle of the families consists of restoring the humanity of the victims who, on account of the manner in which they died, are viewed by many in society as expendable. The *fight for justice*, then, includes the re-inclusion of these deceased people, since if we take the maxim seriously “you die in the way that you live”,<sup>47</sup> then being killed in a trivial and negligible way is to have lived a sorry life. It is therefore necessary to change the manner of the death with an account that “denounces and challenges the way the person was killed and as such turn the corpse into a person”.<sup>48</sup>

In this rewriting of the narratives, the “time of death” – which can be characterised as the day of the murder – is usually described by the family members in minute detail. As I noticed during the field work, the mothers meticulously described the time in which each detail of the event occurred. To do this, they draw on the statements of eye witnesses, objects that the

victim was holding at the time of death, the details of the scene where the murder took place and the “forebodings/intuitions of the mother” *at* the moment her son was killed.

For the mothers who “fight for justice”, the time after the death of their sons is characterised by mourning, but also by a capacity to get through it and to transform it into their “struggle”. As such, death does not represent an omission or a distant past, but is instead re-updated in the “present time” – that which encompasses past-present-future, since the experience of mourning and of struggle resides in “lending my life so my son can live for me”, as one mother of a victim told me.

Justice does not always mean the same thing for the families of the victims and the judicial system, which is why these families understand that they need to be directly involved in the task of “dispensing justice” / “pursuing justice” so the application of the law can be as close as possible to what they understand it to be. In the case of one mother whose son was killed by a death squad from the Baixada, besides the news of his death, she had to deal with the practice of hiding the corpse, as she did not know the whereabouts of her son’s body. For this mother, fighting for justice began with the search for her son in the neighborhood’s secret cemeteries. After finding the body, her struggle materialised in an arduous battle to get her son’s name on the death certificate. According to the mother: “I’m in the courts because I just want this, I just want his name on the death certificate. I don’t want anything else. This is my only wish.”

Although the mothers are aware that nothing the judicial system does will bring their sons back, this does not mean they are willing to forego justice. Instead, it implies that the justice they want is not necessarily financial, such as compensation, although this is extremely important in many cases.

Despite the specific circumstances of each case, it is possible to identify some elements of the idea of “justice” that are shared by the families. It is notable the frequency with which the mothers request: the resolution of the cases; recognition by the state that it is a violator of rights and, in many cases, the executor of the deaths; medical and psychosocial support for the relatives of the victims; and the creation of public policies aimed at preventing the repetition of deadly violence. In this regard, the people’s court is nothing more than the materialisation of a daily practice developed largely by black women (mothers) who want to build possible worlds, even when the brutal annihilation and the adversities of everyday life contribute systematically to the physical and symbolic obliteration of black people.

In short, the people’s courts are the materialisation of a common construction of disparate notions of “dispensing justice”. In this task, people’s courts serve as platforms where a patchwork between the big events and the everyday small points – which mainly impact black women – is woven. In this patchwork resides the mundane and often unheroic exercise of claiming rights and promoting resilience through gestures developed both in and outside domestic life.

## NOTES

1 • I would like to thank the Sur International Journal on Human Rights, published by Conectas, for the grant I was awarded as an incentive and support for the development of this article. I am particularly grateful to: Sueli Carneiro, Thiago Amparo and Maryuri Grisales for carefully reading the article and for making suggestions for its improvement in every sense. The Observatório de Favelas (Favela Observatory), in particular Raquel Willadino and João Felipe Brito, who encouraged me to learn about the methodology of the people's courts in more depth.

2 • According to Vargas (2010), anti-blackness is a founding element of all modern states. Which is to say that the creation of these states occurred based on the "non-being" and "non-existence" of blacks as citizens with full rights. This system has been (re)arranged and (re)configured over the course of the years through a multifaceted perspective: racism, institutional racism, racial slander, etc., all of which are techniques used by an anti-black structure. João H. Vargas, *Never Meant to Survive: Genocide and Utopias in Black Diaspora Communities* (Maryland: The Rowman & Littlefield Publishing Group, 2010).

3 • In the words of Vianna, negrogovernance is a set of death management practices "woven into police, judicial, hospital and school routines that are capable of morbidly rearranging the well-known Foucauldian maxim of 'make live and let die' into 'make some die' and 'let a good many others die'" Adriana Vianna, "As Mães, Seus Mortos e Nossas Vidas," *Revista Cult*, no. 232 (Mar. 2018): 37.

4 • Authors such as Beatriz Nascimento, Lélia Gonzalez, Franz Fanon and others have drawn on the potential of using their own personal experiences as the basis for formulating valuable theoretical and conceptual analyses. This is what Strathern (2014) would later refer to as "the reflexivity necessary for the exercise of an auto-anthropology: that which can make us more aware, both of ourselves converted into an object of study,

as we learn about our own society, and of ourselves conducting the study, as we become sensitive to the methods and tools of analysis." Ann Marlyn Strathern, *O Efeito Etnográfico e Outros Ensaios* (São Paulo: Cosac Naify, 2014): 135.

5 • According to the Association of Judges for Democracy (AJD), the people's court is a methodology "that brings together people and organisations concerned with the effectiveness of the fundamental rights of the human person and that judge the acts and omissions of the Brazilian state from the perspective of civil society". See: "Tribunal Popular Fiscaliza o Poder Público," *AJD*, July 26, 2018, accessed November 19, 2018, <http://ajd.org.br/tribunal-popular-fiscaliza-o-poder-publico/>.

6 • The term necropolitics was coined by Mbembe as a way of filling the gaps left by the concept of Foucauldian biopolitics. According to Mbembe (2016), necropolitics is characterised by intelligent and advanced techniques to expose people to death. They are "the various ways in which, in our contemporary world, weapons are deployed in the interest of maximum destruction of persons and the creation of 'death-worlds', new and unique forms of social existence in which vast populations are subjected to conditions of life conferring upon them the status of living dead." Achille Mbembe, "Necropolítica," *Arte & Ensaios: Revista do PPGAV/ EBA/UFRJ*, no. 32 (dec. 2016):149.

7 • It should be noted that even before I had the idea of writing this article, I already participated as an activist in the meetings on the organisation of the People's Court of the Baixada Fluminense. Therefore, this text reflects my dual role: as an activist and partner of the "Fórum Grita Baixada" (Shout Baixada Forum) and the "Rede de Mães e Familiares Vítimas da Violência de Estado na Baixada Fluminense" (Network of Mothers and Relatives of the Victims of State Violence in the Baixada Fluminense), but also as an anthropologist

who is intellectually drawn to issues of race and deadly violence in the context of Rio de Janeiro.

8 • Eduardo Viveiros de Castros, "O Nativo Relativo," *Mana* 8, no. 1 (Apr. 2002).

9 • About Tiradentes Courts see: Homero de Oliveira Costa, "O Tribunal Tiradentes e o Julgamento do Congresso Nacional." *Nossa Ciência*, October 10, 2017, accessed October 12, 2018, <https://nossaciencia.com.br/artigos/o-tribunal-tiradentes-e-o-julgamento-do-congresso-nacional/>.

10 • For more information, see: "Veredito do I Tribunal Popular "Hidrelétricas do Madeira no Banco dos Réus," *Energia para Vida*, November 20, 2017, accessed October 12, 2018, <http://energiaparavida.org/veredito-do-i-tribunal-popular-hidreletricas-do-madeira-no-banco-dos-reus/>.

11 • For more information, see: "Tribunal Popular das Mulheres – Marielle Franco – Fama 2018," *Articulação de Mulheres*, March 22, 2018, accessed October 12, 2018, <http://www.articulacaodemulheres.org.br/2018/03/22/tribunal-popular-das-mulheres-marielle-franco-fama-2018/>.

12 • Welligton Pantaleao da Silva, "Dualidade no Poder: o Tribunal Popular e a Luta por Direitos Humanos no Jardim Ângela," master thesis (Programa de Pós-Graduação em Direitos Humanos e Cidadania da Universidade de Brasília, 2017): 83.

13 • Interview for this article with Schuma Schumacher, during the meeting of the Human Development Network (Rede de Desenvolvimento Humano - REDEH) on October 26, 2018.

14 • The National Council on Women's Rights (CNDM) was created in 1985 to promote public policies with the goal of eliminating discrimination against women and ensuring their participation in political, economic and cultural activities in the country. From 1985 to 2010, the functions and duties of the CNDM were changed significantly. In 2003, it became a part of the structure of the Office of Policies for Women (SPM).

15 • Matilde Ribeiro, *Políticas de Promoção da Igualdade Racial no Brasil (1986-2010)*, 1<sup>a</sup>. ed. (Rio de Janeiro: Garamond, 2014): 141.

16 • The myth of democracy was the ideological framework formulated by several Brazilian works. Among them, "Casa Grande e Senzala" de Gilberto Freyre; "O Povo Brasileiro" e "Mestiço é que é bom" de Darcy Ribeiro.

17 • Kabenguele Munanga, "O Anti-racismo no Brasil," in *Estratégias e Políticas de Combate à Discriminação Racial*, org. Kabenguele Munanga (São Paulo: Edusp, 1996): 215.

18 • My emphasis. "Brossard Complica o Tribunal Mandela," *Revista Veja*, August 24, 1988.

19 • Matilde Ribeiro, *Políticas de Promoção da Igualdade Racial no Brasil (1986-2010)*, 1<sup>a</sup>. ed. (Rio de Janeiro: Garamond, 2014): 141.

20 • Maria Cristina Olímpio (judge of the Court of Justice of Bahia); Dr. Antônio Cláudio Mariz de Oliveira (President of the Bar Association in SP); Benedita da Silva (Congresswoman); Lélia Gonzalez (anthropologist and Professor at PUC/RJ); Benedito de Jesus Batista Laurindo (parish vicar of the Metropolitan Cathedral); Zuleika Alambert (writer and consultant of the Council on Women Condition); Alda Marco Antônio (State Secretary for Minors in São Paulo); Alzira Rufino dos Santos (poet and coordinator of the Black Women Collective of Baixada Santista / SP); Antônio Carlos dos Santos (president of the Bloco Afro Ilê Ayê/BA); Carlos Moura (coordinator of cultural policy of the Ministry of Culture); Carmem Barroso (president of the Reproductive Rights Commission of the Ministry of Health); Clóvis Moura (sociologist, University of São Paulo); Eliane Potiguara (from the Potiguara nation, teacher, coordinator of the Union of Indigenous Nations); João Luiz Duboc Pinaud (member of the Federal Council of Bar Association); José Ferreira Militão (Secretary General of the Council for Development and Participation of the Black Community of SP); Jacqueline Pitanguy (sociologist and president of the National Council of Women's Rights); Kátia de Melo e Silva (director of the Union of Women of the Northeast); Katsunori Warisaka (director of the Center for Japanese-Brazilian Studies); Luci Montoro (president of the

Institute of Studies and Community Support / IBEAC); Maria Angela Berlofa (President of the Bar Association Women Advocate Committee); Maria da Penha Guimarães (lawyer); Margarida Genevois (sociologist); Rodolfo Konder (journalist and vice-president of the Brazilian section of Amnesty International); Sílvia de Oxalá (Yalorixá from Axé Ilê Obá); Thereza dos Santos (actress, advisor to the State Secretariat of Culture of São Paulo); Valdir Troncoso Perez (criminal lawyer); Vera Lúcia Lacerda da Silva (Bloco Ara Ketu/BA).

21 • “Informe Mulher,” Informativo do Conselho Nacional dos Direitos da Mulher - CNDM - Tribunal Winnie Mandela, 1988, REDEH file.

22 • Indictment of charges. Tribunal Winnie Mandela, 1988, REDEH file.

23 • The Baixada Fluminense is a region of the state of Rio de Janeiro located between the Serra do Mar mountain range and the Atlantic coast, from Itaguaí to Campos do Goytacazes. More specifically, it contains the municipalities to the north of the city of Rio de Janeiro, in the region that used to be known as Baixada da Guanabara. It should be noted that local residents usually abbreviate the name of the region, calling it just “Baixada”.

24 • Public hospital specialising in the treatment of eye-related diseases.

25 • I decided to preserve the identity of the people I interviewed when conducting the field work for my doctoral thesis. These testimonies appear in the article without the identification of the interviewees.

26 • José Claudio Souza Alves, *Dos Barões ao Extermínio: Uma História da Violência na Baixada Fluminense* (Duque de Caxias: APPH; CLIO, 2003).

27 • Victor Nunes Leal, *Coronelismo, Enxada e Voto* (São Paulo: Alfa-Omega, 1976).

28 • José Murilo de Carvalho, “Mandonismo, Coronelismo, Clientelismo: Uma Discussão Conceitual,” *Dados* 40, no. 2 (1997).

29 • According to Rio de Janeiro’s Public Security Institute (ISP), the data on violent deaths in the Baixada Fluminense between 2010 and 2015 is as follows: 9,626 murders, 683 dead bodies found

and 920 deaths caused by police interventions. For more information, see: <<<[<<<http://www.ispvisualizacao.rj.gov.br/](http://www.ispvisualizacao.rj.gov.br/)>>> accessed November 06, 2018.

30 • A style of Rio de Janeiro funk music sold illegally. These funk songs usually glorify drugs and drug trafficking.

31 • “Homicídios na Baixada Fluminense: Estado, Mercado, Criminalidade e Poder,” *ISER, Comunicações do ISER* no. 71, year 37 (2018), p. 14, accessed December 16, 2018, <http://www.iser.org.br/site/wp-content/uploads/2013/12/2018-08-06-publicacao71-iser-WEB.pdf>.

32 • “There have long been secret cemeteries in the Baixada. The rivers are also used, in particular the Sarapuí and Guandu rivers, to hide bodies. Construction work on the Rio de Janeiro “Metropolitan Arch” highway unearthed bones that were analysed in the hopes that archeological remains had been found of the primitive people who used to live there. Some of them, however, turned out to be recent bones.” José Claudio Souza Alves, “Casos da Região,” in *Um Brasil Dentro do Brasil Pedre Socorro: Relatório-Denúncia Sobre o Descaso Estatal com a Vida Humana na Baixada Fluminense e Possíveis Soluções Urgentes*, Fórum Grita Baixada, 2016, accessed December 16, 2018, p. 51, <http://www.cddh.org.br/assets/docs/Um%20Brasil%20dentro%20do%20Brasil%20pedre%20socorro.pdf>.

33 • Movimento Negro Unificado – MNU, Rede de Mães e Familiares Vítimas da Violência de Estado na Baixada Fluminense, Centro de Direitos Humanos da Diocese de Nova Iguaçu, Rede de Comunidades e Movimento contra à Violência, Campanha Caveirão Não! Não à Intervenção!, Iser, Casa Fluminense, Unegro, OngCriola, Movimento Moleque, Visão Mundial, Comissão dos Direitos Humanos da Alerj, Defensoria Pública de Duque de Caxias, Ouvidoria Externa da Defensoria Pública do Estado do RJ, Voz da Baixada, Observatório de Favelas, Fórum Comunitário de Jardim Gramacho, Frente Estadual pelo Desencarceramento, Frente Estadual de Juristas Negros e Negras, Associação

Apadrinhe um Sorriso, Comissão de Equidade Racial, Intolerância religiosa e Formas Correlatas da 24ª Subseção da OAB, Comissão de Segurança Pública e Drogas da 24ª Subseção da OAB e AMARJ.

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**ALINE MAIA NASCIMENTO** – *Brazil*

Aline Maia Nascimento is a sociologist from the University of Brasília (UnB), a doctoral candidate in Social Anthropology at the National Museum of the Federal University of Rio de Janeiro (UFRJ) and is a research associate at the Anthropology and History Laboratory of UFRJ.

email: [maia.aline.maia@gmail.com](mailto:maia.aline.maia@gmail.com)

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# THE MASSACRE OF BLACK BRAZILIAN IN THE WAR ON DRUGS

**Nathália Oliveira & Eduardo Ribeiro**

- *Reflections on race, necropolitics and the control of psychoactive drugs based on the construction of a black experience* •

## ABSTRACT

*The distribution of death as an organised exercise of state power, militarised topographies where experiencing the early burial of peers is part of the socialisation of generations of people, the vocabulary of homicide and slaughter integrated into the formation of black people's experience from the time of their childhood in war-torn territories and necropolitics, which promotes a set of racialised and racialising categories and undertakings, define the political agenda, permeate televised narratives and distribute fear to market the idea of social peace. These are all part of a broad range of actions legitimised by the idea of war, including against other peoples, under another spectre of war – the so-called side effects. The selectiveness of prohibitionist drug policies is one of the tools used to perpetuate a series of injustices that are the result of a perverse regime that operates today via an economy marked by violence, which continues to have effects even today.*

## KEYWORDS

Drug policy | Racism | Youth

Brazil has never dealt well with its past marked by slavery. While “abolition freed the white people from the burden of slavery”,<sup>1</sup> as historian Emília Viotti da Costa states, the regime of exploration was allowed to change without curing any of the fractures exposed by the new regime that was under construction. It was in the context of the struggles undertaken in the early 20<sup>th</sup> century by the poorest sectors of the population and the dynamics promoted by the new landscapes of the cities, marked by a huge mass of former slaves, that the types of crime began to draw more attention from the debates at the time and became the object of interest of those who intended to influence the course of the nation. The survival of slavery through mechanisms that originated in that model but that have been constantly updated since the time of abolition produce a black positionality that is unique and incommunicable within contemporary society: a positionality whose main characteristic is gratuitous and structural violence.

This anti-black violence, as researcher João H. Vargas noted, is gratuitous because contrary to what non-blacks experience, “it is not contingent upon an infringement of hegemony by civil society” – in other words, it is not the result of the state’s response to a violation of an established norm. This author goes on to explain that when non-blacks protest, for example, “the violence that they may suffer is a consequence of the protest and therefore, contingent; for black people, on the other hand, experiencing violence does not depend on a protest or some explicitly antagonistic attitude: for them, violence is normalised, predictable in its unpredictability”.<sup>2</sup>

The distribution of death as an organised exercise of state power, militarised topographies where experiencing the early burial of peers is part of the socialisation of generations of people, the vocabulary of homicide and massacre integrated into the formation of black people’s experience from the moment of their childhood in war-torn territories and necropolitics, which promotes a set of racialised and racialising categories and undertakings, define the political agenda, permeate televised narratives and distribute fear to market the idea of social peace. These are all part of a broad range of actions legitimised by the idea of war, including against other peoples, under another spectre of war – the so-called *side effects*. The selectiveness of prohibitionist drug policies is one of the instruments used to perpetuate a series of injustices that are the result of a perverse regime that functions based on an economy marked by violence, which still has effects today.

Since mid-2012, the authors of this article have been working in the anti-prohibitionist movement and conducting professional and activist research. Through our work, we have observed an increase in the number of deaths of youth and black people, which is justified by the fight against organised crime in poor communities in Brazil, and in arrests for drug-related offences. These observations indicate that it is fundamental to link the policies and laws in this field with the data on violence against poor and black youths that we found.

There is a very common, profoundly racialised discourse that must be challenged: one that intentionally associates youth to drugs and violence. We cannot help, however, but to point out that the Brazilian state’s actions, justified by the war paradigm, corroborate

and accentuate pre-existing vulnerabilities and violations linked to race, gender, generation and class in Brazil. There is a punitive architecture based on a set of practices of control that interact with the construction of the prohibitionist paradigm. This architecture raises important elements for observing its implications for the reproduction of the conditions of life or death, which are informed by one's racial identity in the world today.

Changes to the paradigm for the development of public policies for youth between 2003 and 2016, thanks to the creation of the Secretaria Nacional de Juventude (National Youth Secretariat) and the adoption of the Youth Statute and other social policies during this period, had direct impacts on the lives of thousands of young people. Even so, they were unable to reverse the dramatic situation where rates of fatality, incarceration and other related forms of violence were extremely high, disproportionately so when compared to other segments of Brazilian society.

In our efforts to make the connections between drug policies and youth, we contributed in 2015 to the elaboration of the working group on drug policies established by the Conselho Nacional de Juventude (CONJUVE, or the National Youth Council, a space for social participation linked to the National Youth Secretariat). CONJUVE was responsible for the organisation of the seminar entitled “Autonomy, Citizenship and Human Rights for Youth: The necessary reinvention of drug policies”.<sup>3</sup> On the occasion, anthropologist Luana Malheiro, one of the organisers of the event and a member of the Rede Latino-Americana e do Caribe de Pessoas que Usam Drogas (LANPUD, or the Latin American and Caribbean Network of People who Use Drugs), declared that the goal of the event was to make “an effort to build possibilities for debate with various youth actors on the struggle against the war on drugs”.

## 1 • But why talk about drugs and racism?

The series of elements gathered at the CONJUVE seminar confirmed the need to create an organisation that would mobilise around a black agenda on the issue of drug policies and develop actions capable of influencing the disputes and debates underway in Brazil. The data that emerged on drug policies, the justice system, public security and undignified care for drug users led us to realise that this policy brings together, in an orderly manner, the repetition of state mechanisms that result in the shortening of the lives of black people, which has been going on for centuries in the country. This process led us to begin building the Iniciativa Negra Por Uma Nova Política sobre Drogas (INNPD, or the Black initiative for a new drug policy) as a space for taking action to confront the challenges that we had identified.

Since Law no. 11.343/2006 (known as the Law on Drugs)<sup>4</sup> was approved, the number of arrests has continued to grow. According to data from Infopen, in 2016, Brazil had the third largest prison population in the world: it surpassed the 700,000 mark, of which 64% identify themselves as black. Of the total prisoners, 40% have not been tried – that is, nearly half of them might not be deprived of their freedom today had their case been brought to

trial.<sup>5</sup> Furthermore, the increase in sentencing for drug-related offences was justified by the attempt to decrease the power of criminal organisations, which also exist inside the prisons. In this sense, the law has also not achieved its objective, as not only has it increased the burden on the justice system and government spending on prisons, it contributes indirectly to the strengthening of these organisations by putting more people in prison. What is more, every year, the emotional ties of thousands of people are abruptly severed, especially women who in the large majority of cases assume sole responsibility for their children.

Furthermore, how can one possibly measure the social cost of the loss of the lives of the more than 60,000 Brazilians who die every year? The disastrous impacts on the lives of their families and of other affected persons are very difficult to calculate. The economic costs of this war can also be observed. According to data published by the Secretariat of Strategic Affairs of the President's Office, between 1996 and 2015, the economic costs of "criminality" jumped from close to R\$113 billion to R\$285 billion, an average increase of close to 4.5% each year. According to an analysis carried out in collaboration with the Igarapé Institute on this data, the components of this amount are as follows (listed in order of importance): public security (1.35% of GDP); private security (0.94% of GDP); insurance and material losses (0.8% of GDP); legal costs (0.58% of GDP); loss of productive capacity (0.40% of GDP); incarceration (0.26% of GDP); and medical costs and therapy (0.05% of GDP). Together, they reach a total of 4.38% of national income.<sup>6</sup>

In addition to the high level of public expenditure, this policy also negatively affects the health of public servants. The suicide rate among police officers is higher than the average rate for other professions; this does not include death, severe injury or sick leave. According to research conducted by the Grupo de Estudo e Pesquisa em Suicídio e Prevenção (GEPeSP, or the Group of Study and Research in Suicide and Prevention) at the Universidade Estadual do Rio de Janeiro (UERJ, or the Rio de Janeiro State University), which was coordinated by political scientist Dayse Miranda in partnership with the Rio de Janeiro military police, of the 224 military police officers interviewed, 10% said that they had attempted suicide and 22% affirmed that they had thought of committing suicide at one point in time.<sup>7</sup>

In the past fifteen years, the number of homicides reported in Brazil alone was higher than in another eight South American countries all together or than all the murders registered during the same period in the 28 countries of the European Union. Close to 56% of all these murders involved youth of up to 29 years of age; of them, 71% were black. To this, one must add the inexistence of a system to produce reliable data on the circumstances of these deaths and the conditions needed to assess cases where death by homicides have been concealed and how many are caused directly or indirectly by police action.

The disastrous results of the fight against organised crime and drug trafficking criminalise social relations in entire "peripheral" territories, where security forces act more conspicuously employing mainly violence, and there is rampant corruption of their agents. This model of combat completely ignores the existence, in equal frequency or proportions, of the use

and constitution of other forms of organisation of drug trafficking in other social classes, which offer white and high-class people the privilege of a secure market. Moreover, it does not take into account the fact that there are no plots of land available in favelas to grow marijuana or coca plants, nor are there any arms factories. In other words, if the goal was truly to dismantle the illegal trade of certain substances, there is no rational justification for the concentration of resources and overt interventions in these places.

Finally, it is fundamental to note that many programmes and policies use part of the public budget to pursue the objective of “recovering” people from drug addiction so that they permanently abstain from use. Public resources are spent on stays in hospitals or therapeutic communities linked to private interests, which are incapable of achieving the desired goal of caring for the suffering of individuals who abuse certain illegal substances, such as crack. Research shows that for drug users in situations of extreme vulnerability, it is not substance abuse that is the source of disruption in their lives, but rather exposure to violence or the absence of basic rights, such as income, food and housing. Places offering treatment in confinement are proposed as a solution for emergencies, but have become permanent, and several municipalities and states allocate a large portion of their resources to these facilities. Many of them have been denounced by human rights and anti-asylum organisations for serious physical and psychological abuse against the individuals in confinement and their family members.

The war on drugs did not invent racism in Brazil. However, its ideology is behind the organisation of state actions with major impacts and broad social consent, which allows the lives of black people to continue to be worth so little. The violent action of security forces in areas of the periphery and favelas, the absurd levels of arrests, the number of deaths in the war on drugs and the other criminal actions of the state provide a set of motives that are reason enough for our country to take urgent action to find solutions to this complex problem. However, the lethargy to stop this war costs us millions of lives every year, without mobilising research and studies or producing efficient public policies. It is the result of centuries of racism that naturalises the various forms of violence that affect black people the most.

## 2 • The construction of a new organisation

INNPDP was born in 2015 with the goal of comprehending and proposing changes that have an impact on the nature of discriminatory practices in Brazil – which, through the war on drugs, develop devices of racial control – and the way they are connected, feed on one another or are realigned in order to achieve a given strategic objective. These practices serve as the operational arm of the current Brazilian state’s project of genocide.

It is our understanding that the debate on the changes for a new law on drugs involve profound issues that are dear to Brazilian people. This discussion could be a historic opportunity to review and recognise the historical gaps caused by racism and painfully reproduced among our people.

Over the past three years, INNPD has been consolidated as an important experience in black advocacy on drug policies. It has organised studies, data, seminars and forums and produced communication materials that make the connection between the policy known as the “war on drugs” and racial relations in Brazil. It has done so with the goal of producing training technologies and political actions to intervene on the subject of drug policies, while paying special attention to the issues of incarceration, the justice system and public security.

One of INNPD’s main areas of action is the elaboration of a strategy to coordinate the efforts of black actors (individuals, movements and organisations) from different fields to alter the current drug policies. This involves organising networks, promoting synergies between black and non-black organisations and supporting the expansion of organised civil society’s participation in the main national and international agendas, all with the goal of influencing the direction that the reform of the drug policy will take.

In 2016, INNPD received its first donation from the Open Society Foundations for the strengthening of its actions and the organisation experienced a period of expansion in its advocacy work between 2016 and 2018. From April 19 to 21, 2016, we participated in the UN General Assembly in New York where we presented the Letter of Brazilian Black Organisations to the Special Session of the United Nations General Assembly on the World Drug Problem. The letter was signed by 46 organisations from the black movement from all over the country. In it, INNPD presented an in-depth diagnosis of the consequences of the current anti-drug policy and affirms that “this model increases the vulnerability of our country, especially the black population, which is directly or indirectly related to the illegal drug market, whether in relation to people who use drugs; those who work in this informal market; state men and women employees, especially those working for security forces; and entire communities through the militarisation of territories, which is justified by the fight against drug trafficking”.<sup>8</sup>

INNPD’s actions have been developed organically by a group organised as a network, through a coalition promoted by its coordinating teams in Salvador and São Paulo, which connected us to different agendas in several regions of the country. This network enabled us to promote and connect with the debate on the drug policy in relation to various issues: public security; racial redress; policy for black women; sexual and gender diversity; de-incarceration and the fight against genocide; and care and harm reduction policies.

After an intense period of mobilisation to denounce the links between drug policies and racism, the fundamental challenge for INNPD in its third year of operation is now to develop actions to guarantee its sustainability and autonomy. This includes: formally registering the organisation, institutionalising its governance, optimising its resource management to ensure sustainable development and consolidating a network of agendas and agencies that support it.

From this new phase on, we will seek to clear the way so that, as a network, we can build a common agenda of proposals for drug policy reform in Brazil. The consolidation of the

first black advocacy organisation working on this issue – one that is capable of providing answers and promoting studies to identify solutions for new policies – serves as the basis for this. In our view, discussing drug policies is merely a starting point for rethinking other state structures that culminate in our deaths.

### 3 • The urgent future that we need to build

There are enormous challenges for building a national agenda on drug policies that guarantee rights in Brazil, as changing the paradigm requires a political alternative that does not give continuity to the warmongering model currently in place in the country. This change will only be possible if a broad political alliance between the three state branches and civil society actors who share this political line of action is in place. However, the results of the 2018 general elections indicate that the scenario will be entirely different. The extremely violent and belligerent discourse of elected president Jair Bolsonaro, together with his approximation to the new governors of Rio de Janeiro and São Paulo, favour a scenario in which the war apparatus will be increased.

In addition to their belligerent discourse, these newly elected leaders already have support in the legislature for changes they wish to make in order to stiffen the penalties under criminal law and make regulation on police action even less rigorous. This is the case of Bolsonaro's campaign promise to approve measures that will exempt homicides caused by police action from being judged as legal or illegal acts. What is under threat are the agendas related not only to drug policies, but also to guaranteeing rights and reducing inequalities in general. There is even a real threat of restrictions being imposed on political liberties and the activities of social movements through changes to the Law on Terrorism<sup>9</sup> that are currently being examined by the Brazilian Intelligence Agency of the Institutional Security Cabinet.

In light of this new political scenario, INNPd has added to its list of institutional challenges that of participating in a broad coalition with other sectors that defend human rights and that are seeking to build an agenda to guarantee their legal security so they may continue to engage in their actions. It will also continue to work to strengthen its core message, which affirms that social peace can only be built in the absence of violence.

It is increasingly urgent to recognise that we are living in the midst of a highly lethal conflict that criminalises people, behaviour and territories, corrupts state authorities and private entities and causes a real massacre of Brazilian people every day.

Recognising this and understanding the urgency of ending this conflict will enable us to build common commitments and agendas that can and must be assumed by different actors and that will lead us to implement, for example, mechanisms of action under the aegis of post-conflict justice. This would be guided by a set of measures that promote reconstruction and overcoming the different forms of violence perpetuated during the war on drugs.

We need to focus on aspects that range from ensuring accountability for acts committed during the implementation of the drug law and recognition of the atrocities suffered by their claimants to the reconstruction of collective and shared memories and truth, especially the ones based on the experience of the affected communities so as to create the necessary conditions for their reconstitution. Without this, it will not be possible to build peace processes. This process is clearly a path that must be taken to truly establish the rule of law. From the drug policy, we can begin to construct the elements of this transition that will serve as a tool for not only bringing the country's past to justice, but also for moving towards a future in which the right to life and to living well are, as a matter of principle, effectively guaranteed to all.

## NOTES

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**NATHÁLIA OLIVEIRA** – *Brazil*

Nathália Oliveira has a Bachelor of Social Sciences degree from the Fundação Escola de Sociologia e Política de São Paulo (Sao Paulo Foundation School of Sociology and Politics). She is the coordinator of the Iniciativa Negra Por Uma Nova Política sobre Drogas (INNPD, or the Black Initiative for a New Drug Policy). She also chairs the São Paulo Municipal Council on Alcohol and Drugs Policy and is a member of the Executive Secretariat of the Plataforma Brasileira de Política de Drogas (the Brazilian Drug Policy Platform).

email: [nathalia.c.sociais@gmail.com](mailto:nathalia.c.sociais@gmail.com)

**EDUARDO RIBEIRO** – *Brazil*

Eduardo Ribeiro (Dudu Ribeiro) is pursuing a master's degree through the Graduate Programme in History at the Universidade Federal da Bahia (UFBA, or the Federal University of Bahia). He is the coordinator of INNPD and a member of the Rede Latino-Americana e do Caribe de Pessoas que Usam Drogas (LANPUD, or Latin American and Caribbean Network of People who Use Drugs).

email: [eduardo.innpgd@gmail.com](mailto:eduardo.innpgd@gmail.com)

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# BLACK WOMEN UNDER FIRE

**Juliana Borges**

- *The war on drugs and incarceration as a policy of extermination* •

## ABSTRACT

*This article presents the way in which black women have been criminally punished in Brazil. It recalls how black women were punished with systematic rape during the slavery period. In contemporary times, when women are criminally punished they are considered abnormal, emotionally unbalanced and morally unstable, which leads to diagnoses of “incurable” ills such as madness and hysteria, which serve to corroborate a private sphere of punishment by religious networks and psychiatric establishments. 62% of women are confined due to guilt by association or drug trafficking. This piece of information leads the article to question the precarious nature of the war on drugs and to raise the need to strengthen the voices of women in prison – an emerging item on the human rights agenda.*

## KEYWORDS

Black women | Female incarceration | War on drugs | Black feminism

Ever since Brazil's first criminal law in 1830, a different penalisation regime exists for its black and white populations. Several historical documents point to greater penalties for black people, whether enslaved or free, as well as to a number of codes and laws that heightened this selectiveness.<sup>1</sup> In contemporary societies, bodies of colour are considered killable and disposable, bodies to be controlled. The Lombrosian<sup>2</sup> discourse of how poor and black populations have delinquent tendencies remains present in the manner in which the figure of the criminal is constructed in society. All that remains for these criminalised, dehumanised, soulless beings is punishment and penitence. Penitentiary institutions – “purification purgatories” – carry violent and racist ideologies in their machinery: whereas previously fire, ordeals and dungeons were used, today they make use of physical and psychological torture, to the point where the verses by the author of “Sobrevivendo no Inferno” (“Surviving in Hell”)<sup>3</sup> serve as a metaphor.

The criminal justice system is a striking example of the close link between precariousness and necropolitics. The concept of necropolitics, formulated by Cameroonian sociologist Achille Mbembe in dialogue with Michel Foucault's work and the concept of “biopolitics”,<sup>4</sup> deals with the power to decide who must live and who must die in a rationalised administration of death. It is a power of determination about life or death that removes the subject's political status. In this regard, the precariousness to which black lives are subjected is intimately linked to a project of extermination and control. More than reducing them to the idea of the object-body, to make black lives precarious is to execute a demotivating, demobilising political project of constant insecurity and vulnerability.

With Brazil's First Republic and criminal law reforms, the criminalisation of the black population reached new levels; for example, through Decree-law No. 3,688/41, which in article 59 contains the crime of “idleness”, which continued to be applied basically to black and poor people until not so long ago.

Although Prohibition is an American invention, it found its forefront and most fertile ground in Brazil. In 1830, the Code of Conduct of the City of Rio de Janeiro contained a municipal law forbidding the sale and use of “*pito do pango*”<sup>5</sup> and punished dealers with a fine, but arrested its users, who were mostly slaves.

*A História da Maconha no Brasil (A History of Marijuana in Brazil)*<sup>6</sup> says that cannabis was brought to the country by African slaves. The use of “*pito do pango*” was a custom that did not warrant the attention of the public authorities, only the slave owners', who considered its use by slaves the reason for their refusal to work and rebellion, associating it with “idleness”. Brazil's participation in the 1925 League of Nations, together with Egypt, was ahead of its time in that the country understood that the use of cannabis was a matter of prohibition and policy. Doctor Pernambucano Filho claimed that “*pito do pango*” was more dangerous than other substances widely used at that time, and considered that it would be a setback for the country and the eugenicist construction of the figure of the black person as a being of a “criminal nature”. In the same period, psychiatrist, Rodrigues Dória even stated

that marijuana was a revenge by black people against whites for having been enslaved.<sup>7</sup> It is therefore unsurprising that in this context, the war on drugs became the narrative that accelerated and heightened hyperincarceration in Brazil.

## 1 • Slavery and prison in Brazil

Angela Davis – a black woman, intellectual and radical activist, as she defines herself – states that when black women move, the entire structure of society moves with them.<sup>8</sup> This statement is not based on something abstract. Black women make up the basis of the socio-racial pyramid and women of colour are the world's most numerous vulnerable and precarious segment. This is not a random piece of information. In *O Que é Racism Structural? (What Is Structural Racism?)*,<sup>9</sup> Silvio Almeida states it is impossible to deal with capitalism if we do not analyse the phenomenon of colonialism and therefore of racism. This means that racism is a structuring element of all social relations and institutions, composing a pyramid of inequalities established by racial hierarchies. Thus, black women are at the base of the pyramid of inequality described by Almeida. Those committed to society's transformation must urgently fight by these women's side, ensuring that their voices and thought have a central role, and echo in the political struggle.

Brazil's formation was sustained by the enslavement of populations kidnapped from the African continent. The process of Brazilian colonisation, as those of other countries of the Americas, used slave labour for extracting and exporting natural resources. It was therefore a process based on violence. And if we think of violence, it is important not to remain tied to the idea of only physical violence, but to think of a process that structures the socio-political order and progress of a country. Contradictorily, our country lives with the myth of racial democracy and of a peaceful nation, which places it in a ranking of countries least aware of their own reality.<sup>10</sup> At the same time as Brazilians say that they are a joyful, receptive and friendly people, statistics show that every year over 30,000 young people are murdered in the country as a result of urban and daily violence – and generally speaking over 60,000 deaths are registered a year.

The ideology that predominated in the colonial period stated that African peoples had to be enslaved as a way for the “soulless” to suffer divine punishment. Labour was a civilising activity for teaching the “savages” discipline. Chastisement and punishment were encouraged in order to avoid disobedience. Public punishments were used to make examples out of injured bodies, that is, to guarantee authority through fear. This hierarchisation according to colour, culture and territory persists to this day. However, it has undergone several transformations and in the 19th century was dressed as science by eugenics.

Eugenicist theories gained strength in Brazil among doctors, engineers, psychiatrists and writers at a time when an attempt was being made to modernise the country. The eugenicist idea that capacities – or incapacities – were hereditary and natural

was incorporated into formulations about the nation's development. With this, black, disabled, Asian and indigenous peoples were classified as inferior, resulting in policies of "whitening" and white racial dominance. Criminalisation therefore had to be dealt with as part of a policy that included whitening, encouraging immigration, and "cleansing" the population, as well as intensifying repression and control of the black population. Thus, the discourse of the black person as an enemy and a "naturally" criminal figure, who the prison apparatus would control, was constructed.

## 2 • Policies of incarceration of black women in Brazil

Although there is a much smaller number of women in prison in comparison to men, from 2006-2014, the female prison population rose by 567.4%, whereas the average growth of the male prison population was 220% in the same period.<sup>11</sup> Women in prison suffer a double invisibility – for being women and for being in prison, which exacerbates the precariousness of their lives.

In many debates and articles about the theme of prison, the use of data often causes discomfort, as there is a need to humanise prisoners – something hard to do when we keep to figures. However, the importance of a survey of the facts in order to be able to visualise the terrifying panorama of Brazilian prisons and the workings of the criminal justice system in this country is undeniable. Here, I use the data not to reproduce this dehumanisation, but in order to make use of a helpful resource to give an idea of the dimension of the diagnostic, and also to seek alternatives to a punitive solution that has shown few positive results in society.

Brazil has the world's fourth largest female prison population. Around 50% of incarcerated women are aged 18-29 and 67% are black,<sup>12</sup> showing that the focus of punishment is on young black people. According to Angela Davis, punitive systems have been marked by masculinity because they reflect the legal, political and economic structures denied to women. This means that if women's lives are determined by the domestic and private space, then that is the realm their punishment took place in. Rape was exponentially used as a punitive measure against enslaved black women. Still today, we hear reports of "corrective rape", which is the idea that through punishment and suffering they may achieve some sort of "salvation".

These punishments with a focus on female sexuality provide a framework for the hypersexualised view and discourse on black women, especially in the establishment of unequal power relations. These are perverse relations established by creating a connection between criminality and sexuality, heightening vulnerability. As Davis points out, a relationship between the domestic dimension of punishment and domestic violence in current times can be established through the idea of property and "non-citizenship" assigned to women.

Because men are considered citizens, their criminality and punishment were provided by the public sphere, as if by establishing a penalty, these men could be reintegrated into society. That is, the fact that men were considered citizens positioned them as subjects in the social contract and made them publicly respond to any breach of these social agreements. On the other hand, because women are not considered subjects with rights, the realm of morality is strengthened in the relationship between crime and punishment. For them, a discourse of abnormality, emotional imbalance and moral instability is therefore constructed, leading to diagnoses of “incurable” ills such as madness and hysteria. Thus, for a long time, it was religious networks and psychiatric establishments that controlled the sphere of women’s punishment.

What I mean to say is that the idea of a crime is a social construct and that the sanctions for a crime are established by the social contract that mediates life in society.<sup>13</sup> Through the moral sphere, punitive systems reproduced the logic that women, because they were irredeemable, had to pass through spaces of domestication. The idea of a “cure” and correction entered the field of criminology dressed as science.

Based on demands from feminist sectors, a discourse of “separation with equality” gained strength in punitive systems. Thus, women’s prisons started to be implemented as a way in which to meet this demand. However, this guaranteed equality did not bring about improvements, but an inequality of repression and a worsening of the punishment of women because of the moral judgement to which they are subjected.

Women’s needs are not the same as those of men in prison and as a result of the discourse of supposed equality, the violence that these women suffer and the continuous disrespect of their human rights in prisons intensified. A desperate example is the lack of sanitary towels in prisons, which leads many women to resort to unhealthy practices, such as using bread as makeshift towels during their menstrual cycles. Another example is insufficient toilet paper, when it is a well-known fact that women use toilets for urinating more than men do, as well as using toilet paper more often, which means that they are subjected to degrading conditions.

That is why gender is so important when thinking about punishment. There are many forms of violence that are heightened in confinement: medical negligence and no access to contraception or medication are some of the examples of the disrespect and violence to which incarcerated women are subjected. In terms of health, there is a greater likelihood of contracting HIV/AIDS in the prison system, for example.

### 3 • The war on drugs as a war on women

The majority of incarcerated women (62%) is confined due to guilt by association or drug trafficking.<sup>14</sup> If the drug trade is an industry, its structure reflects that of the formal job market. That is, it is women who hold the more vulnerable and precarious positions,

including in terms of wage differences and leadership. If we think about patriarchy and add the colour aspect – recalling the intersectionality previously mentioned –, black women are doubly penalised: there is often a moral component to judges' decisions, both because of the custodial sentence and the separation from their families. It is a well-known fact that women suffer abandonment after being imprisoned more than men, whether by their partners or their relatives. Additionally, when these bonds are maintained, it is also by other women (mothers, sisters, daughters, partners etc.).<sup>15</sup> However, when we analyse the figures, we see powerful social consequences once again: more than 40% of women are unemployed when they are arrested and most of them are the family breadwinner. The vast majority of them (72%) have not finished secondary school and, although the Sentence Execution Act determines that it is the State's duty to offer educational assistance – both school education and professional training –, only 25.3% of women in prison are actually involved in formal educational activities.

The narrative of the “war on drugs” is a pretext for a coordinated ideological action aimed at militarisation, serving the real estate speculation of territories and exterminating subjectivities and lives, as nobody fights against actual substances. This is a war that takes place daily in many black and peripheral territories and happens only at the tail end of the drugs economy. As it is illegal, all the drugs market's ramifications and extensions cannot be known. This also places institutions at risk, as the drugs trade operates and maintains itself by corrupting structures.

Although it is not politically correct to say that one is racist – not least because racism is a crime –, prejudice against criminals does not have to be hidden. The figure of the criminal opens the door to all sorts of discrimination and disapproval, with complete social backing. In the case of women, reports of search and seizure operations, invasion of their homes with no search warrant, torture and humiliation to obtain information that they do not even have, reports of arrest for being related to a family member involved with drug trafficking, and arrest while transporting small quantities of drugs – when many of them are forced into it – are all common. The vast majority of these women are first time defendants, that is, they do not have a criminal record. Even when some sort of relationship is established with the drug trade, they are usually at the bottom of the chain, as lawyer and researcher Luciana Boiteux concluded, and their custody has no impact on the dynamics and functioning of the drug economy.

Pre-trial detention is part of the criminal justice system and of 55.6% of cases. A concerning piece of information that demonstrates the failures in the system is that in 46% of cases the defence is replaced, in 75.4% the prosecution is replaced and in 73.5% the judges are replaced. This means greater difficulties for the accused and distortions in the penalties, as the defence does not have time to study the case with the required depth, and neither do the prosecution and judges – decisive for defining the penalties – have adequate conditions to understand the case and therefore make an informed decision.

## 4 • Conclusion: for an end to prisons as we know them

Angela Davis says in a striking sentence that “the prison has become a black hole into which the detritus of contemporary capitalism is deposited”.<sup>16</sup> That is, prisons are constitutive of this process of making black lives precarious, of the symbolic deaths of these precarious lives and serve capitalism’s genocidal project.

To the extent that the data demonstrates the social vulnerabilities of incarcerated people, it is evident that it was these exposures and deficiencies that led them to crime and punishment and not the contrary. Therefore, it is our responsibility to think about alternatives and envisage a harmonious future of radical equality. Thus, when we see information pointing to the fact that 50% of people in prison have not finished primary school,<sup>17</sup> we can understand that the precariousness of these people’s lives and the conditions of vulnerability to which they were exposed led them to this situation. This indicator should help to formulate truly efficient and inclusive educational policies. However, what we see is the opposite of this.

Prisons remain the only solution for resolving conflict and the criminalisation of social issues. They are products of negligence and of policies to treat difference as inequality. Prisons are also an apparatus that reiterates the precariousness of black lives and are contained in a racist ideology that seeks to control, punish and exterminate black bodies in all of our society’s spheres of organisation and relations.

These themes directly involve the question of liberties and, for this reason, are just as important to black women as basic agendas. Given that women make up the base of the pyramid, changing black women’s lives will bring about radical positive changes for all society. Black feminist thought is interesting and, in my view, a central starting point for us to imagine a future with diversity. In this regard, it is important not to view it as a current or added extra of a supposed “universal” feminism. The defence of black individuals’ humanity – of the fact that we are diverse and have a right to life, to freedom and to an opinion – is a premise of black feminism, given all the processes of dehumanisation we have undergone. Furthermore, the fight against capitalism is vital and more intensely expressed by intersectionality, which shows how systemic and structural forms of oppression are connected and how diversities must be understood, as opposed to a universalising aspiration, which actually precludes the complexity of phenomena of oppression. Society is changed by challenging power and destroying privilege. Therefore, black women wish to undertake not only a struggle for identities, but also for a radical transformation of society, and this fundamentally includes a *de-whitening* of the political way of thinking, acting, and executing. Freedom will only be attained when all bonds, whether physical or symbolic, are undone.

Thus, to discuss the vulnerability and living conditions of our communities, to question precariousness and to give voice to women in prison is an emerging agenda. The “Cartas do Cárcere” (“Letters from Prison”) report, a systematisation of letters sent by people deprived of freedom to the National Prison System Ombudsman mapped demands and narratives

from prison. The project was a partnership between the United Nations Development Program (UNDP) and Pontifical Catholic University of Rio de Janeiro (PUC-RJ) and was coordinated by Professor Thula Pires (PUC-RJ). In the project, the depth of the violations in the prison system can be seen, as they invade the symbolic sphere with a violent obstruction, making reflection and expression difficult and barring their possibility. The capacity for reflection, thought and production, disseminated through speech or writing, is an innate human capacity. Therefore, the expression of these capacities is a human right. The project points to obstructions and censorship in the letters written by prisoners, which impacts on the low number of complaints of violence and abuse. Through patterns in the writing, the prison institution can be seen to attempt to shape discourse and therefore to invade the sphere of thought by trying to imprison it.

These practices can doubtlessly be interpreted as violations of the most basic of human rights. It is as if the criminal justice system sought not only to deprive people of their freedom but also to do away with their bodies, their minds and thoughts to make them forget themselves.

It is therefore up to researchers, especially black female researchers, to also make their research and writings spaces of greater activism and struggle that increase through freedom and through the voices of people in prison. To fight for freedom necessarily includes fighting for the freedom of black women, and especially for the end of the control and extermination of black populations. As Angela Davis points out, there will never be freedom as long as socio-racial hierarchies persist.

## NOTES

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#### JULIANA BORGES – Brazil

Juliana Borges is an Anthropology researcher and writer. She studies Sociology and Politics at the Foundation School of Sociology and Political Science of São Paulo. She coordinated the Black Initiative for a New Drugs Policy (2017), was Deputy Secretary of the Municipal Secretariat of Women's Policy and Special Advisor to the Office of the Municipal Government of the City of São Paulo (2013-2016). She studied Modern Languages at the University of São Paulo and is the author of *O que é encarceramento em massa? (What Is Mass Incarceration?)*, a book of the "Feminismos Plurais" collection coordinated by Djamila Ribeiro.

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## JUDICIALISING RACE



- case study -

**THE CHALLENGE OF OVERCOMING  
INSTITUTIONAL BARRIERS TO END RACIAL  
DISCRIMINATION IN THE WORKPLACE**

Maryluz Barragán González

- essay -

**RACIALISING THE DEBATE ON HUMAN RIGHTS**

Thula Pires

- essay -

**STRUCTURAL RACISM AND THE CRIMINALISATION  
OF ABORTION IN BRAZIL**

Lívia Miranda Müller Drumond Casseres



# THE CHALLENGE OF OVERCOMING INSTITUTIONAL BARRIERS TO END RACIAL DISCRIMINATION IN THE WORKPLACE

**Maryluz Barragán González**

- *The case of John Jak Becerra in Colombia* •

## ABSTRACT

*Colombia is one of the countries with the most anti-discrimination laws in Latin America. In this rare legislative cocktail, there are very specific laws, such as the anti-discrimination law that criminalises discrimination, as well as more general laws, such as the law on harassment at work, which includes a clause prohibiting harassment based on race. Despite these various regulatory tools, the justice system has not succeeded in altering the situation of victims of racial discrimination. This is due to institutional barriers that make the anti-discrimination tools ineffective. These obstacles range from companies and public officials' lack of capacity to process the complaints, to deficiencies in the design of legal mechanisms to address discrimination. This situation is clearly illustrated by the case of John Jak Becerra, who was a victim of racial discrimination in the workplace and who, despite his attempts to use all the mechanisms available to him, was forced to bear the impacts of racial discrimination at work. This led the Colombian Constitutional Court to hand down a ruling ordering the companies and the Ministry of Labour to adopt corrective measures on racial harassment in the workplace.*

## KEYWORDS

Harassment | Work | Employment | Race | Labour discrimination

## 1 • The case

John Jak Becerra Palacios was born in the Department of Chocó in Colombia, a region where the majority of the population is Afro-Colombian, but his working life began in Bogotá where he has lived most of his life. He is the father of two children and the head of the household. John fought seven years to get the justice system to recognise that he had suffered from discrimination for being of African descent in a Colombian company where he worked as a warehouse assistant.

In October 2011, he denounced the abuse from his colleagues for the first time. The company not only ignored his appeal to end the situation, but also told him on several occasions that it was all in his imagination and decided to fire him without just cause.

This was when he began his crusade to bring his case before public administrative bodies, namely the Ministry of Labour. However, no institution helped him resolve his case and guarantee his right to freedom from discrimination. In 2016, John Becerra presented a new constitutional appeal with the goal of obtaining protection for several of his fundamental rights violated by his employer, the Ministry of Labour and the public prosecutor's office. The ministry took more than three years to respond negatively to his complaint for labour harassment, whereas the public prosecutors never answered his report denouncing the crime of racial discrimination.

For his constitutional appeal, John had the support of Dejusticia,<sup>1</sup> which argued before the Colombian Constitutional Court that the administrative and legal proceedings for addressing cases of racial discrimination in the workplace were ineffective. Even though Dejusticia does not usually defend individual lawsuits, John's case represented an opportunity to move forward on the protection of the labour rights of the Afro-Colombian population. In early 2016, the organisation decided to offer legal support for the case, as it contained empirical elements that the organisation had found in several studies that it carried out on labour discrimination on racial grounds.

Finally, it was only in July 2018 that the Court gave notice of its decision,<sup>2</sup> which recognised that John Becerra was the victim of racial discrimination and ordered structural measures to be adopted to make existing legislation prohibiting harassment based on race in the workplace more effective. With this ruling, the Colombian Constitutional Court established parameters for effectively punishing racist practices in working environments. This ruling set an important precedent that can serve as a basis for advancing further on the protection of the labour rights of Afro-descendants in the region.

In the described case, in which I had the opportunity to participate in the preparation of the defence together with other Afro-descendant lawyers, there were several challenges to filing it, especially convincing the constitutional judge that this discrimination was a systematic phenomenon that merited the adoption of structural measures. For this, it was necessary to

put the problem of discrimination against Afro-Colombians in the workplace into figures and demonstrate the shortcomings of the legislation and the existing mechanisms for addressing the impacts of harassment at work based on race.

## 2 • The employment situation of Afro-Colombians: barriers to access to employment, unskilled jobs and difficulties in keeping their jobs

The story of John Jak Becerra is but one of many cases of its kind in Colombia and the region. Even so, there are many difficulties in defending the victims of racial discrimination in the workplace. One of the obstacles is the lack of numbers and studies to describe discrimination against Afro-Colombians<sup>3</sup> in the working environment as a systematic and structural phenomenon. This is one of the points on which Dejusticia centred its support for the lawsuit; for the case, it conducted an investigation in which it gathered several relevant findings on the labour conditions of Afro-Colombian workers in Colombia.

First of all, it is worth clarifying that when we talk about discrimination in the workplace, we are referring to systematic practices that put certain populational groups at a disadvantage in the labour market in terms of access, types of occupation, advancement opportunities and job retention. This practice involves differential treatment based on race, colour, sex, sexual orientation and motives other than one's qualifications and skills. It is a problem that has its origins in historical, social and economic factors with no objective basis for justification, but that have concrete impacts on people's lives.<sup>4</sup>

In cases of discrimination at work, prejudices usually play a fundamental role, as differential treatment is based on social imaginaries with negative biases towards minority groups. One of the common problems that employees belonging to these groups face are the stereotypes against them. Their negative impacts go beyond mere tension in the workplace, as they affect the opportunities for personal, economic and professional development and the social integration of the people suffering from discrimination.

In Colombia, African descendants live in social and economic conditions that are more precarious than those of the rest of the population.<sup>5</sup> This is evident when we study the Afro-Colombian population's participation in the labour market, where we find troubling disparities in terms of barriers to access, the types of occupation held and difficulties in staying employed. In John Becerra's case, providing concrete numbers to qualify and quantify these three aspects of the phenomenon was key. In the case, they were described as follows.

In relation to **barriers to access**, according to the study *La discriminación racial en el Trabajo* (Racial discrimination in the labour market) carried out by Dejusticia and Racial

Discrimination Watch Racial,<sup>6</sup> race is a determining factor in one's chances of finding a job in the city of Bogotá. Based on the results of an exercise conducted for this study, it was found that the probability of being called for an interview decreases by 7.79% if the applicant is Afro-descendant, whereas for white people, it increases 3%.

As for the **type of occupation held**, in *Informe Raza y Derechos Humanos* (the Race and Human Rights Report) by Racial Discrimination Watch,<sup>7</sup> it was reported that Afro-Colombians are overrepresented in low-level manual jobs,<sup>8</sup> which correspond to unskilled workers in the service sector. It was found that over half of Afro-descendant workers are situated at this level (53.5%) in comparison to around 40% of mixed-raced workers. In contrast, as the skill level increases, the presence of Afro-Colombian people decreases and the gap between the latter and mestizo workers grows wider. In high-level manual positions, 23% of workers are Afro-descendants and 31% are mixed-race. In principle, this allows us to confirm the existence of a phenomenon of racial segregation in the labour market in which an individual's phenotype is a factor that determines his or her opportunities to hold a particular trade or position.

Similarly, Afro-Colombian workers tend to be victims of discrimination at work, which is directly related to their **difficulties in keeping their jobs**. This is what the study *Precario pero con trabajo: ¿otros están peor!* (Precarious, but employed: others are worse off!) revealed, which was conducted in 2012 by researchers from several Colombian universities.<sup>9</sup> The study documented the lack of decent working conditions of the jobs held by Afro-Colombians. It also highlighted a general perception among workers that discrimination exists in their working environment, mainly against Afro-descendants (36.6%), followed by people from other ethnic groups and older adults (17%).

The figures above were key for making the case to prove and for convincing the judge that race is a dominant factor in discrimination in the working environment of private companies. It also showed that this problem manifests itself in three ways: first, as obstacles to accessing employment due to the institutionalisation of discriminatory practices in the recruitment process; second, in the predominant role played by stereotypes which lead more technical and specialised positions to be reserved for workers who are not of African descent; and third, as harassment from other employees in the same or higher-ranking positions, which generates hostile working environments that make it difficult for Afro-descendant employees to keep their jobs.

This was enough to demonstrate the need to issue structural orders geared towards increasing the effectiveness of existing legal mechanisms to address racial discrimination at work in private companies.<sup>10</sup> While it would have been desirable to request measures to counteract the barriers to access to employment and to advancement opportunities at work, due to technical legal issues, this case only allowed us to concentrate on demanding measures to discourage tolerance of acts of discrimination within companies, which is the reason why Afro-descendant employees lose their jobs.

### 3 • An important precedent in the struggle against race-based harassment in the workplace

This lawsuit is important because it succeeded in demonstrating to the Colombian Constitutional Court the challenges that Afro-descendant workers face once they overcome the obstacles to obtaining a job in the formal labour market. For Afro-descendants, getting hired is only the first step; what is difficult for them is to keep their job despite having to work in hostile work environments due to companies' tolerance of acts of racial discrimination. John's case clearly reveals the obstacles imposed by not only the company, but also the state bodies that have the obligation to prevent and address harassment based on race in the workplace.

In its ruling on the case, the Court analysed harassment at work at three levels. First, it affirmed that the offensive expressions used by work colleagues constituted harassment in the workplace. This sets an important precedent, as it recognises that language does matter and therefore, it is inadmissible to use expressions that refer to an employee's race and are used to offend them. As a result, it was established that verbal abuse from work colleagues constitutes harassment at work and that the company cannot allow this kind of behaviour to continue.

Secondly, the ruling established that private companies have the duty to prevent and condemn this type of situation in the workplace. It makes it clear that the company must not only guarantee compliance by adopting mechanisms to stop race-based harassment at work; it must also ensure that these mechanisms are effective and efficient. In other words, it is not enough to organise moments of interaction or fraternisation; the procedures for processing complaints of discrimination must serve the purpose of resolving racial conflicts.

And thirdly, it ordered the Ministry of Labour to train its employees to receive and duly process complaints for harassment at work on the basis of race. It also forced the ministry to develop a methodology for treating victims of racial discrimination at work and gave it a 6-month deadline to do so. This is crucial for guaranteeing victims of racial discrimination access to justice, as they often get caught up in red tape, without fully resolving their problems.

Even though the ruling represents an important step forward in the struggle for racial justice in employment, there is another step that remains to be taken. One of the main outcomes expected from this case was the adoption of regulations on companies' civil liability for tolerating acts of racism in the workplace. This is important because it would open up the possibility of obtaining monetary compensation based on the logic of compensation for moral and material damage caused by the companies' irresponsible actions or omission that bring harm to victims of racial discrimination.

There is no doubt that the Court's sentence represents progress in the area of legislation needed to combat racial discrimination at work in Colombia. However, as the case of John

Becerra clearly shows, regulations are insufficient if they are not enforced and for this to happen, changes in the organisational culture of companies and public authorities that are responsible for preventing and halting harassment based on race in the workplace are needed. On one hand, by making such a change in companies, one ensures that there will be awareness of the fact that acts of discrimination will not be tolerated and that efficient conflict-resolution mechanisms will be developed. Changes to the culture of state institutions, on the other hand, will mean more efficient, effective and timely processing of complaints of racial harassment at work and consequently, more adequate protection of the right of victims of racial discrimination at work. Therefore, the orders issued by the Constitutional Court represent a major step in ensuring more effective protection for the labour rights of Afro-descendant workers employed by the private sector in Colombia.

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**Addendum:** As an Afro-Colombian lawyer dedicated to litigation on racial justice, I would like to express my sincere gratitude to John Jak Becerra Palacios for his courage and bravery. He sets a good example for our generation.

## NOTES

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1 • Dejusticia. Centro de Derecho, Justicia y Sociedad is a non-governmental organisation (NGO) based in Colombia that is dedicated to socio-legal research and public interest litigation.

2 • "Sentencia T-572/17," Corte Constitucional de Colombia, 2017, accessed November 15, <http://www.corteconstitucional.gov.co/relatoria/2017/t-572-17.htm>.

3 • In the official figures from the last census conducted in 2005, it was reported that Afro-Colombians are 10% of the country's entire population. However, several social organisations affirm that this number is low, which is due to individuals' lack of self-recognition in racial terms. They estimate that African descendants make up between 19% and 30% of the population.

4 • See: "Q&As on business, discrimination and equality," International Labour Organisation (ILO),

2011, accessed November 15, 2018, [http://www.ilo.org/empent/areas/business-helpdesk/WCMS\\_159778/lang-es/index.htm](http://www.ilo.org/empent/areas/business-helpdesk/WCMS_159778/lang-es/index.htm)

5 • César Rodríguez Garavito, Tatiana Alfonso Sierra and Isabel Cavelier Adarve, *Raza y Derechos Humanos en Colombia: Informe Sobre Discriminación Racial y Derechos de la Población Afrocolombiana* (Bogotá: Ediciones Uniandes, 2009).

6 • César Rodríguez Garavito, Juan Camilo Cárdenas C., Juan David Oviedo M. and Sebastián Villamizar S., *La Discriminación Racial en el Trabajo - Un Estudio Experimental en Bogotá* (Bogotá: Ediciones Antropos, 2013).

7 • César Rodríguez Garavito *et al.*, *Raza y Derechos Humanos en Colombia*, 2009.

8 • Occupation is defined as "a set of jobs whose main tasks and duties are characterised by a high degree of similarity". Based on this concept,

the ILO established the International Standard Classification of Occupations (ISCO), which are divided up according to the skills needed to perform them. In this system, the first level groups together simple and routine physical or manual tasks. Within the skill levels, there are also sub-divisions in which jobs are classified according to the level of skill or experience required for the job. Not all the positions regrouped in the same level are equal, as even though a factory assistant and a machine operator both belong to level 1, their occupations have been classified in different subgroups; a machine operator is considered a higher-level position. See: “Clasificación Internacional Uniforme de Ocupaciones CIUO -08 A.C. Adaptada para Colombia,” Departamento Nacional de Planeación de Colombia, 2015, accessed November 15, 2018,

[https://www.dane.gov.co/files/sen/nomenclatura/ciuo/CIUO\\_08\\_AC\\_2015\\_07\\_21.pdf](https://www.dane.gov.co/files/sen/nomenclatura/ciuo/CIUO_08_AC_2015_07_21.pdf).

9 • Guillermo Correa Montoya, Alexander Pérez Álvarez, Víctor Hugo Viveros Bermúdez and María Edith Morales, *Precario Pero con Trabajo: ¿Otros Están Peor! Déficit de Trabajo Decente en la Población Afrocolombiana Cartagena, Buenaventura, Cali y Medellín 2009-2010* (Medellín: Escuela Nacional Sindical, 2012).

10 • While previous cases of racial discrimination at work did exist, in these cases, the state was the employer. This is not a minor issue, as constitutionally, one can demand that the state adopt higher standards of protection for the right to equality and to freedom from discrimination. Conversely, there is the idea that private companies are exempt from these constitutional obligations.



**MARYLUZ BARRAGÁN GONZÁLEZ** – Colombia

Maryluz is a lawyer from the University of Cartagena, and has a master's degree in Critical Race Studies from the University of California, Los Angeles (UCLA). She has worked as a consultant for the Colombian government on issues of non-contractual liability of the state and diversity in public employment. She is currently a researcher at Dejusticia in the area of strategic litigation. She is also a member of Racial Discrimination Watch at the University of Los Andes.

email: [mbarragan@dejusticia.org](mailto:mbarragan@dejusticia.org)

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# RACIALISING THE DEBATE ON HUMAN RIGHTS

**Thula Pires**

- *Limits and possibilities for criminalisation of racism in Brazil* •

## ABSTRACT

*The work develops the category of amefricanity developed by Lélia Gonzalez as the base of a human rights analysis that is both afrodiasporic and anchored in the processes of resistance to coloniality in Abya Yala. In order to develop possible implications of the functioning of the law in the terms described above, we will analyse the political construction of the criminalisation of racism and the challenges arising from its mobilisation in jurisprudence. Embodying the subjects who are socially positioned as representatives of the zone of non-being, we seek to explore the limits and possibilities of human rights discourse to account for the genocidal reality to which we have traditionally been submitted.*

## KEYWORDS

Amefricanity | Human Rights | Racism | Decolonialism

## 1 • Introduction

We begin by centralising the category of race through an analytical, political, and normative lens when considering human rights. We attempt to racialise the discussion on human rights in order to politicise it, offering an *Amefrican* proposal that allows for redirection of the discussion in an Afro-centric way rooted in the Brazilian experience and engaged with the intersections of race, class, gender, sexuality, and capacity as structural and structuring intersubjective and institutional relations (and not as attributes of identity).

Based on the category of *amefricanity*,<sup>1</sup> a human rights analysis, one that is both Afro-Diasporic and anchored in the processes of resistance to coloniality in Abya Yala, can be developed.<sup>2</sup> Embodying individuals that are socially positioned as representations of the *zone of non-being*, we seek to explore the limits and possibilities of human rights discourse to account for the genocidal reality that we have historically been subjected to.

Influenced by Frantz Fanon,<sup>3</sup> we advance the concepts of the *zone of being* and the *zone of non-being* to make the explicit premises that are the foundations of this paper. The modern/colonial project mobilised the category of race to draw a line that unequivocally separates two zones: that of the human (*zone of being*) and that of the nonhuman (*zone of non-being*). As the standard of humanity is determined by the sovereign subject (man, white, cis/hetero, Christian, and in the economic sphere, a property-owner and without debts), this will also define the subject of law from which all juridical narrative will be constructed.

Based on the premise that normative construction (both theoretical and jurisprudential) is produced from the experience of the *zone of being*, we seek a narrative that repositions the role of human rights regarding the processes of violence over the *zone of non-being*. The protection and promotion of human rights is based on the reality of the *zone of being*. This has produced a society incapable of understanding and responding to the violence that manifests in the *zone of non-being*. This makes this not being a possible condition that sustains that humanity is an exclusive attribute of the *zone of being*.

The normalisation of the *zone of being* as representative of the complete, autonomous, and centred processes of violence that structure and condition the very perception of what can be understood as violence. Violence, as a standard model of conflict resolution in the *zone of non-being*, is underscored in aspects such as ineffectiveness or violation of law, which replicate the illusory protection that legal colonialism offers to non-white bodies and experiences. In order to discover some of the possible implications of the functioning of the law in the terms described above, we will analyse the political construction of the criminalisation of racism and the challenges arising from its mobilisation in jurisprudence in the Court of the state of Rio de Janeiro.

## 2 • The complicities of human rights discourse in the (re) production of violence

A belief in the ideas of universality and neutrality of human rights have resulted in appropriation of this agenda in a hierarchical and violent form for social groups that are marginalised and deprived of material and symbolic goods for well-being.

These aspects are not exclusive to human rights, they are present in the broader dynamics of the law. Therefore, it is necessary to highlight these limitations so that initiatives seeking to produce full living conditions and curb dehumanisation processes are given significance not just through their potential but also from what they are complicit in.

Confidence in the universality and neutrality of human rights is accompanied by the development of economic-political models based on inequality and removal of conditions for living well in the *zone of non-being*. The shared belief that a “neutral” legislative activity will pave the way for the promotion of an equal, just, and democratic society has become a very efficient “truth” to legitimise an unequal and racially selective reality.

The construction of nation states was based upon determination of a colonial model that hierarchised, in ethnic-racial terms, the civilised and rational (European) compared to the barbarian and savage (indigenous and black), as well as by a form of appropriation of nature that puts it at the service of capitalist accumulation. This perverse hierarchy was justified by theoretical currents such as scientific (biological and culturalist) racism, social Darwinism, and positivism, which reinforced the humanity of some at the expense of many others.

Objectified, dehumanised, infantilised, subdued; there are many expressions that denounce the treatment of those who are in the *zone of non-being* due to the modern colonial slave project and by updated forms of disrespect and extermination.

Given the effects of legal colonialism, it only makes sense to consider strategic actions utilising law (using the law against itself) if we agree that there are limitations of that field. The potential of human rights only makes sense if understood based on representations about the human that define the very contours of legal protection itself. The cruel reality of those living in the *zone of non-being* does not reveal a violation of law, but the most well-enforced application of law (and human rights), under the terms for which it was conceived to act and for the subjects for which it was considered to function.

Legal categories were created by and for the *zone of being*. From the point of view of development of the law and its application process, the experiences of violence that occur episodically in the *zone of being* determine the contours of protection and the vocabulary from which the violations will be made intelligible and accessed. Beyond this spectrum violence is naturalised, institutionalised, and often legitimised as a policy of public (un)

safety. The composition of conflicts in the *zone of non-being* is based on violence as a norm, especially when it is afflicted by the state.

We need courage to face an illusory model of human rights protection, which considers violence in an abstract and occasional way, so that we may construct legal categories that can respond to concrete and permanent structural violence that presents (im)possibilities for recognition and exercise of our full humanity.

### 3 • Criminalisation of racism

Legal norms reflect moral hierarchies and power strategies, revealing sociability and mechanisms of production of and of coping with inequalities. Contrary to the common narrative that legal segregation does not exist in Brazil, an analysis of the criminal justice system does not exhaust this hypothesis, but allows us to access the clearest examples of public initiatives of apartheid. This apartheid has been shown as successful by, among other aspects, the statistics that show the skin color of the world's third-largest prison population.

Officially exercising the right to segregate goes beyond developing legal statements with an affirmatively discriminatory character. The following can also be considered examples of institutional racism: failure of anti-racist norms and measures to promote racial equality and strengthening the image of the black man as nonhuman, inferior, delinquent, primitive, lascivious, and servile.

The primary function of the penal system is to determine deviant conduct based on specific social conflicts. The racially selective Legislature, Judiciary, Public Prosecutor, Police, and Prison Departments choose social groups (and ways of life) that are worthy of protection while their enemies' lives are treated as disposable.

The system of values represented in criminal law expresses the moral universe of a bourgeois-individualist culture, which places the greatest emphasis on the protection of private property and is predominantly oriented towards diverting socially marginalised groups.<sup>4</sup> The processes of law-making questioned through the lens of class must reach other standards of oppression within it, under penalty of not portraying all the dimensions that comprise the processes of dehumanisation over the *zone of non-being*.

Racism and, consequently the racial selectivity of the penal system, is not a black problem; it is a problem of the racist, sexist, classist, Christian, and cis/heteronormative hierarchy that has been structured herein, and it is necessary to declare it in such terms.

In this paper, we do not aim to analyse the factors for denouncing racism of the primary, secondary, and tertiary criminalisation bodies when they apply criminal rules for "protection" of the object of the law and disproportionately punish those who inhabit the *zone of non-being*. We are interested in unveiling what the criminal justice system understands as racism.

When tasked with deciding if a particular conduct constitutes the crime of racism, the Judicial Power must state the terms in which the conduct is perceived. In addition, such actions have the potential to inform us about the contours that define the application of anti-discrimination legislation. That is, in these cases, we can observe how the criminal justice system behaves when the normalised subject of law is subverted: moving from the *zone of non-being* to the “model” on which legal protection needs to be informed and the figure of the delinquent linked to bodies that inhabit the *zone of being*.

In the constitutional context of 1945/46 and its resumption in 1987/88, the proposal for criminalisation of racism, disputed by the Brazilian Black Movements, intended to detach racism as a “problem” of the private order. The constitutionalising of their demand aimed to make racism a problem of public order, whose combat would pass to the responsibility of political institutions.

The measure repositioned in public discussion the cruelty of Brazil’s social stratification, demanded respect of bodies traditionally violated and showed that invisibility, exclusion, and discriminatory acts of speech represent serious violence which is not only reflected in direct victims (disproportionately and violently), but also in their aggressors (as demonstrated by Guerreiro Ramos in *A patologia social do branco brasileiro*).<sup>5</sup> As much more than “simple offenses” or “misunderstandings”, the behaviours were classified as representations of the crime of racism that, if not curbed, offer the conditions for the maintaining of hierarchies of humanity among us, and public justifications for our extermination.

The criminalising of manifestations of disrespect appears as a political hallmark of minority social groups, as a way of making visible the violence perpetrated against them and by making the Public Power assume its responsibility in confronting material and symbolic conditions that support its vulnerabilities. The text of the constitution, for the first time, was positioned to seriously curtail discriminatory treatment of blacks, turning the practice of racism into an imprescriptible and felony crime.

Based on Article 5, XLII of the Federal Constitution, Law 7.716/89 classifies some of the behaviours recognised as resulting from discrimination or prejudice of race, colour, ethnicity, religion, or national origin.

Law 7.716/89 establishes two ways of dealing with the crime of racism: on a case-by-case basis (Articles 3 to 14 and 20, Paragraph 1) or under general conduct “Practicing, inducing or inciting discrimination or prejudice of race, colour, ethnicity, religion or national origin” (article 20, caput). If the conduct fits into the types defined in detail (in articles 3 to 14 and 20, Paragraph 1), the application of the general rule transcribed does not apply.

The specific conduct basically refers to acts related to preventing, denying, or refusing anyone access to the following: employment, commercial establishments, schools, hotels, restaurants, bars, sports facilities, hairdressers, the social entrance of buildings

and elevators, public transportation, serving in any branch of the Armed Forces, or preventing/denying marriage or familial/social co-existence.

When discrimination takes on the form of insults or exchanges of offences with racial motivation, the action is known in Brazilian law as *injúria qualificada* (aggravated disparagement), provided for in Article 140, Paragraph 3 of the Penal Code, introduced by Law No. 9.459, of May 13, 1997. The racial offence is therefore found when the offender refers to race, colour, ethnicity, religion, origin, or even the status of an elderly or disabled person. But if the offences precede the behaviors typified in the Caó Law, the special type and the consequences must be applied (felony crime, imprescriptible and with the corresponding penalty).

The crimes provided for in Law 7.716/89 are subject to unconditioned public prosecution, meaning that they do not depend on a complaint from the offended person, and the Public Prosecutor is responsible for filing charges and demonstrating the accused's accountability. Prior to establishment of Law 12.033/09, aggravated disparagement was punishable through private criminal cases. That is, the injured party had to file a criminal complaint, with a six-month deadline to bring the matter to the attention of the courts.

A change occurred in the text of article 145, single paragraph of the Penal Code in 2009, through Law 12.033, which made these crimes liable for public prosecution, as representative of the injured party. For this reason, in earlier proceedings, for many of the cases analysed, the lawsuit was filed as a complaint by an injured party and not a criminal complaint.

From the analysis of its mechanisms, it can be noted that most of the normative statements refer to practices of open racism. In Brazil, a country where the dynamics of racism present themselves through denial<sup>6</sup> rather than open practice, article 20 of the Caó Law (mentioned above) remained to restrain such manifestations.

Understanding the dynamics upon which racism operates in each context is fundamental to creating political-institutional responses that confront its functioning in a concrete way. Racism manifests itself through individual conduct that promotes racial discrimination in its most varied forms of violence or through the full performance of public and private bodies in the expropriation of humanity, the disposal of lives, and the disproportionate mobilisation of violence against racially sub-alternated social groups. In relation to the analysis of the aforementioned legislative texts, we aim to emphasize two aspects: the way in which it treats the intersubjective dynamics of racism and its institutional dimension.

The first of these refers to the great investment of Law 7.716/89 in punishing racist acts that manifest themselves individually and in requiring that the intent (offence) of offending/removing/excluding can be proven. The dynamics by which racism operates in intersubjective relations must be understood so that the norm can be fully applied. In this sense, it must be emphasised that the myth of racial democracy masks the interpretations

about the behaviours that constitute practice of racism in Brazil, in addition to the fact that, according to Lélia Gonzalez, a great part of racist manifestations is more often expressed through denial than through open racism.

Secondly, from the perspective of legislative categorisation, measures to promote accountability against institutional racism are precarious. In the text of the Caó Law there is no legislative protection based on dynamics in which institutional racism is manifested, even if it is possible to mobilise Article 20 of the Caó Law, especially if applied in accordance with the Statute of Racial Equality (Law No. 12.288/2010), international human rights treaties effected in Brazil, and in accordance with the guidelines for national human rights plans.

In the jurisprudential context, with the Court of Justice of the state of Rio de Janeiro as an empirical reference, court cases are negligible compared with real frequency of racism and present an argumentative repertoire capable of showing the residual character of the cases.

Criminal cases in appeal from 1989 (the year Law 7.716 was issued) were analysed up until July 2018, with a 150 cases involving racism (in any of its forms) against black people. In 57.33% of the cases, there was a conviction and the classification of aggravated defamation (article 140, paragraph 3, of the Penal Code) was applied in 83.33% of the cases.

The choice of aggravated defamation as the main classification was mobilised for some time to prevent applying the felony and imprescriptible nature of the Caó Law. In August 2015, the Superior Court (STJ) stated in RE686.965-DF the recognition of racial insults as a crime of racism, applying all the consequences related to it, an understanding followed by the Federal Supreme Court (STF, ARE 983.531-DF) in August 2017. Due to the proximity of these Supreme and Superior court decisions and the fact that only appeals cases were analysed, it was not possible to measure their impact on judgments on racism cases by the Court of the state of Rio de Janeiro.

As previously explained, with the enactment of Law 12.033 in 2009, the hypotheses of aggravated defamation began to be the object of public criminal action. If by 2009 the Public Ministry had acted only in 36.95% of cases of racism, in the period between 2012 and July 2018 the index reached 87.8%. Despite the low number of cases (150) found during the period 1989-2018, there were 51 cases by 2011 and 99 cases under appeal from 2012 to July 2018.

In the reading of the judgments, one notes that the perception of racism is reduced to an intersubjective, willful, and open dimension, and that the courts have opened the doors to a narrative historical processes of dehumanisation, according to the following examples.

In case 0016651-42.1999.8.19.0001 (2000.050.04827), the defendant was convicted of *injuria simples*, or a simple insult (as opposed to aggravated defamation) on the grounds that “not every expression of ‘black shit’ ... will be informed by prejudice. [...] The first element is only designative, indicator of the recipient of the offense”.

In the judgment of case no. 0132379-29.2002.8.10.0001 (2003.050.04038), the defendant, assuming that the victim attacked her pet animals, uttered the following words: “repellant black, disgusting, black pestilence...the place of the blacks is in slave quarters”. The defendant was acquitted on the grounds that “when she saw her pets being mistreated by the respondent, a cholera took over the appellant, who, taken by strong emotion, ended up venting her anger.”

In Criminal Appeal 0027910-32.2013.8.19.0037, the allegation is what the defendant said:

*This bastard monkey breed is good for nothing. I do not know why they put these people here. Blacks are not people. Go back and live on a hillside, you monkeys. Go back to the bush, go back there, you bunch of monkeys, and take this blond, white monkey with you.*

The issue was treated as “a disagreement” between neighbors, resulting from the irregular construction of windows next to the defendant’s house.

The criminal legislation, which used to publicly exhibit conduct considered harmful and unacceptable, has always been very effective in affirming to black men and women the behaviors they should avoid and showing them their place in society, but is less effective in protecting us against racism. Institutional racism, mass incarceration, and the historical ineffectiveness of anti-racist criminal standards create a scenario in which the criminal justice system is a cruel cog for the grinding of black bodies.

The historical political agenda of the black movements is traditionally against the standard processes of incarceration, torture, and servitude. From the promulgation of the Constitution of 1988 until the first half of 2016 there has been progress in affirmative action in the field of education and in the labour market, in access to land, and through other recovery and valorisation measures of our culture and memory in the process of formation of Brazilian society.

The message that says that insults should not be naturalised, exclusions should not be adopted with resignation, and that determined social places are related to a system of privileges that intended to be broken causes blacks to confront the privileges of whiteness in all forms (judicial or extrajudicial) that are democratically admitted, in which the criminalisation of racism does not cease to be a part.

## 4 • Amefricanising human rights

Given the way that the justice system mobilises anti-discrimination legislation, a commitment to access other references for the construction of the law is needed, so that it may respond to the demands of the *zone of non-being*. The political-cultural category of amefricanity seeks the experiences of re-existence that the black praxis constituted in Abya Yala and whose historical importance was denied to us. The intention is to bring these

experiences to the heart of the analysis so that they become sources of new practices, new institutions, and new responses.

This *amefricanity* is produced, according to Lélia Gonzalez,<sup>7</sup> based on re-existence and creativity that sustained the black diaspora struggle, carried out by women from a colonial legacy that was forged here, in the direct, concrete, and permanent confrontation with genocide, in all its dimensions. The category makes it possible to rewrite the historically (in)tense cultural dynamics between Afro-diasporic, Amerindian, and European heritages, which constituted us from processes of resistance, acculturation, assimilation, and creation of new ways of being in the world of daily and institutional violence.

This is an epistemic-methodological proposal that takes seriously the challenges of self-inscription due to a warning by Achille Mbembe<sup>8</sup> about the need to radically break with the hierarchical descriptions that coloniality has made of us. We do not dispute the possibility of being included (always in a controlled way) in the notion of subjects of the law; we dispute the possibility of producing the law, the State and the politics from our place and in our terms.

The *amefrican* experience has much to contribute to the redefinition of human rights, with the determination and creativity that allowed the Black Diaspora to survive centuries of oppression. These re-orientations aim to respond to the world it has in fact inherited, not to the world idealised by human rights declarations. The category of *amefricanity*, informed by denouncing the myth of racial democracy and public policies for whitening, hosts a sophisticated racial literacy to think about the context of the political dispute that we are experiencing.

In the creation of politically complex societies such as *quilombos* and in the many experiences of *quilombo* residents,<sup>9</sup> we develop the concepts of resistance and liberty imbued with its own contours that can inform alternative mechanisms for co-existence, (im)material production, relationships with nature, and political organisation.

A longing and respect for Mother Africa, boycotts, hunger strikes, teachings from black culture, the Black Experimental Theater, Black Press, Brotherhoods, research centres that were created in the 1970s and 80s, the soul dances, and samba schools, among many other initiatives, indicate that the concepts of resistance and freedom that are mobilised to apply the law cannot fully account for the reality experienced in the *zone of non-being*.

The *amefrican* experience makes it possible, for example, for violence to be thought about based on the disproportionate impacts of the processes of dehumanisation in the *zone of non-being* and not from the processes of destabilisation of hegemonically stated normality and that maintain freedom as an exclusive attribute of the *zone of being*.

The battle against racism is based on a fight against the structures that support the colonial-slave legacy embedded in a model of modernity that is racist, sexist, cis/heteronormative, and capitalist. As long as the model of production and appropriation of bodies built under

the logic of dehumanisation and discarding of human beings remains, forms of hierarchy of persons will continue to be (re)produced and naturalised. Against all this, there is renewed efforts in the political sphere, in law created from the *zone of non-being*, and in intercultural co-existence for construction of a free and concretely democratic reality.

## NOTES

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1 • Lélia Gonzalez, "A Categoria Político-cultural de Amefricanidade," *Tempo Brasileiro*, nº 92/93 (jan./jun. de 1988): 69-82.

2 • According to Yuderkys Espinosa-Miñoso, *Abya Yala* is the name in the Kuna language to designate "Land in full maturity" or "land of vital blood", ie. the territory that represents the continent that the Spanish colonizers came to call America. For more information, see: *Tejiendo de Otro Modo: Feminismo, Epistemología y Apuestas Descoloniales en Abya Yala*, eds. Yuderkys Espinosa Miñoso, Diana Gómez Correal e Karina Ochoa Muñoz (Popayán: Editorial Universidad del Cauca, 2014): 15.

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5 • Alberto Guerreiro Ramos, *Introdução Crítica à Sociologia Brasileira* (Rio de Janeiro: Editora UFRJ, 1995): 215-240.

6 • Lélia Gonzalez, "Nanny," *Humanidades* 17, ano IV (1988): 23-25.

7 • *Ibid.*

8 • Achille Mbembe, "As Formas Africanas de Auto-inscrição," *Estudos Afro-asiáticos* 23, no. 1 (2001): 171-209.

9 • Abdias Nascimento, "Quilombismo: Um Conceito Emergente do Processo Histórico-cultural da População Afro-brasileira," in *Afrocentricidade: Uma Abordagem Epistemológica Inovadora*, org. Elisa Larkin Nascimento (São Paulo: Selo Negro, 2009): 197-281.

**THULA PIRES** – *Brazil*

Thula Pires is a black Axé woman, mother of Dandara and a ballerina. She holds a PhD in Law from the Pontifical Catholic University of Rio de Janeiro (PUC-Rio). She is professor of undergraduate and postgraduate studies at the Law Department of PUC-Rio and is the Coordinator of the Centre for Reflection and Afrodescendant Memory (NIREMA) at the same institution

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# STRUCTURAL RACISM AND THE CRIMINALISATION OF ABORTION IN BRAZIL<sup>1</sup>

**Lívia Miranda Müller Drumond Casseres**

## ABSTRACT

*The reflections here expressed aim at further investigating the arguments presented by the Rio de Janeiro State Public Defender's Office to the Federal Supreme Court, in the Claim of Breach of Fundamental Precept, number 442, in which the constitutionality of two types of crime are discussed: induced or consented abortion practiced by the pregnant woman and the consented abortion practiced by third parties, with the consent of the pregnant woman (articles 124 and 126 of the Brazilian Penal Code). This paper sustains that the criminalisation of abortion represents a death policy for black women. On this basis, the research defends that racism and the anti-racist dimension of the principle of equality are regarded as the central analytical keys to solving the constitutional controversy.*

## KEYWORDS

Abortion | Racism | Indirect discrimination | Unconstitutionality

*In memory of Alyne da Silva Pimentel,  
Maria Eduarda Alves Ferreira, Ingriane Barbosa Carvalho,  
Claudia Silva Ferreira and Marielle Franco..*

The aim of this research is to launch an anti-racist perspective on the constitutional discussion surrounding the abortion, sparked by the filing of Claim of Breach of Fundamental Precept (ADPF) number 442, a lawsuit brought before the Brazilian Supreme Federal Court questioning the constitutionality of the crime of abortion.<sup>2</sup> Based on data collected by the Rio de Janeiro State Defender's office, along with indicators from the health field, we seek to demonstrate that the two types of crime in articles 124 and 126 of the Penal code not only fail to offer protection to the legal interest it claims to protect, but also reproduce inequalities that are prohibited by the Constitution.

The argument is developed around three topics that seek to debunk the 'neutrality' of the norms that incriminate abortion, based on the corporeal subordination of black women who are exposed to a policy of death as a result of its prohibition.

## 1 • Profile of the women criminalised by the practice of abortion in the State of Rio de Janeiro

In a report produced by its Board of Study and Research on Access to Justice, the Rio de Janeiro State Public Defender's Office, analysed criminal lawsuits brought against women, under article 124 of the Penal Code.<sup>3</sup>

Based on a filter by subject matter, the archive presented by the Rio de Janeiro State Court of Justice indicated 136 lawsuits in progress throughout the state, between 2015 and 2017, disregarding those files that have already been closed.

Among the presented lawsuits, there were *habeas corpus*, judicial orders, letters rogatory and others, and others were unavailable for consultation which meant the final sample involved 55 lawsuits, 42 of which represented criminal lawsuits in which sentencing under article 124 of the Brazilian Penal Code was ascribed to women ("inducing an abortion on herself or consenting someone else to induce an abortion on her").

In the first place, the small sample reveals an inconsistency with regards to the high frequency of abortions among Brazilian women. The National Abortion Research, for example, indicates that in 2015 alone, around half a million abortions were carried out in Brazil.<sup>4</sup>

It is necessary, therefore, to emphasise at the outset that this small group of people who were brought before the Rio de Janeiro Court of Justice in criminal lawsuits, cannot be considered representative of the totality of women who carried out abortions in the region in the same period.

The discrepancy can be explained by the phenomenon of secondary criminalisation, whereby there is a decision to select, from all the women who practice the crime of aborting, those who will actually be directed to the criminal justice system.<sup>5</sup>

In this sense, although the research is absolutely unreliable in scientific terms, given the total number of women prosecuted by the state as equivalent to the population of women who actually carried out abortions, it can be used as a reference to understand some of the trends of the process of criminalisation.

The analysis of the 42 criminal lawsuits, brought under article 124 of the Penal Code, led to the identification of two distinct groups of people condemned by Public Prosecution, according to four fundamental factors: i) the method used for pregnancy termination; ii) how penal action was triggered (criminal notification presented by the professionals involved in medical assistance at the health centre/family/third party/the victim herself or as a result of police investigations already in progress); iii) social indicators (race-colour, level of education, private or public legal assistance); iv) stage of pregnancy at the time of termination.

The first group is formed by 20 women who carried out abortions with no assistance, either by themselves or with the help of a third party such as their mother, a friend or their partner/companion/husband (**Group 1**).

These cases are characterised by the use of rudimentary methods of pregnancy termination, with a high risk of death, varying from taking medication illegally sold and abortive teas all the way to the insertion of objects or chemical substances in the vagina.

In over half the cases, criminal notification was carried out by health centre workers, when women sought medical attention following predictable complications (in the vast majority within the public health service. In one case, the pregnant woman was seen in a private clinic).

The racial profile of these 20 young women who were criminalised for self-induced abortion with no assistance was 60% black, ranging from 18 to 36 years old at the time of the event. Only 22% of them had completed secondary education – in cases where information on education was available. The vast majority, 75%, required the legal assistance of a public defender in order to exercise their right to defense.

In over 80% of the cases where information on stage of pregnancy was available, the women were more than 12 weeks pregnant at the time of termination. The delay in carrying out the procedure may be related to fear of being spotted, lack of information about the methods available or difficulty in organising resources or means for the abortion.

Compared with the second set of cases is made up of 22 women prosecuted as a result of an already existing police investigation of illegal clinics where they were seen (**Group 2**).

They were all caught by police officers when they were in the clinic to carry out the procedure. This means that, although the termination of pregnancy took place in an illegal setting, a medical professional was present to carry out the termination (in just one of the illegal clinics there was no professional with medical training). The risks of complication and death, therefore, were minimised by the methods used.

We see here a different profile. Ages were more wide-ranging with women from 19 to 40 years old. 53% of the accused were white, 75% had completed 2<sup>nd</sup> grade and the proportion of those receiving assistance from the Public Defender's Office was far lower in comparison with the first group (only 40% received state legal aid).

Another pattern observed in the second group revealed that women who had access to illegal clinics carried out an abortion at an earlier stage of pregnancy. In 100% of the cases with information about the gestation period, the abortion was carried out before the 12<sup>th</sup> week, a scenario that presents a lower risk of side effects and mortality. The price paid varied between R\$600.00 and R\$4,500.00 (Brazilian Reais).

In all these scenarios, both in unassisted abortion and in those carried out in illegal clinics, there is one common factor. None of the women was kept in custody during the court case, none of the women was given sentences of deprivation of freedom and over half the cases were suspended without the need to send the accused to trial.

While showing the similarity in judicial consequences for both the examined groups – which would lead to abandoning the possibility of showing a racial hierarchy in the application of penal norms – the identified patterns should be seen in terms that go beyond the strict limits of the criminal or judicial process.

## 2 • The central position of racism in the discussion on the constitutionality of the types of abortion crimes

As seen, the inconsistency between the number of abortions in Brazil and the actual application of penal norms is already enough to question whether there is any preventative function in the types of law analysed. Instead of discouraging the practice of abortion, it is clear that criminal prohibition encourages risky practices.<sup>6</sup>

The pattern observed in comparison with the groups of women formally denounced for practicing abortion is illustrative of the unequal distribution of risk that this legal categorisation produces.

The methods and care available to each of the groups discussed above, the differing average gestational period at the time of taking the decision and the social indications of the women who are prosecuted unveil a cruel inequality that the environment of illegality imposes.

Factors like income and race are decisive in facing the stigma imposed by the criminalisation of abortion and in the management of the resources available to the two groups submitted to illegality, in order for the women to protect their lives.

The majority of the women in Group 2 – white women with higher levels of education and in a higher income bracket – were able to make quick decisions and were able to access means to pay for medical assistance. On the other hand, Group 2 – mostly black women with lower levels of education, not having information and materials, used more basic methods of termination, with a greater risk of complications. Moreover, in some cases, fear of an inhuman and stigmatising approach within the public health services led them to wait a long time before seeking help, which exposed them to an even greater risk of death.

Cross-referencing of the research carried out by the Public Prosecutor's Office with data produced by health specialists, confirms the hypothesis of the production and reproduction of inequalities through criminalisation. The risk of death as a result of terminated pregnancies is 2.5 times higher for black women than for white women.<sup>7</sup>

While social inequality impacts on access to health, institutional racism determines the conditions of assistance to black women, which is the group with the highest exposure to an unfit access to SUS services, even in cases of women who are employed and earning money and who have a higher level of education.<sup>8</sup>

In the research “The colour of pain”,<sup>9</sup> published in 2017 by the National School of Public Health Sérgio Arouca, at the Oswaldo Cruz Foundation – the first analysis covering the whole country on the influence of race/colour in the experience of pregnancy and birth, it is clear that the daily functioning of health services carries different benefits and opportunities depending on race/colour, even when socioeconomic characteristics are similar and demographic variables are controlled.

Here, we find the reason for the insufficient racialization as a subsidiary concept to ideas of selectivity and vulnerability<sup>10</sup> in the scope of the discussion on constitutionality and the types of abortion crimes. The incrimination of abortion for Brazilian women is far more than racial selectivity. It means the exercise of a power of death, discussed by Foucault.<sup>11</sup> This means that, through the technology of race, a “biopower” is exercised that takes control of life in order to manage it and subject it to a complete instrumentalisation.

This sophistication of the exercise of power demands that any discussion on the subject of abortion must be centred on the true racialised subjects who experience not only a higher selective incidence of secondary criminalisation, but a real process of material domination.

A scenario such as this, presents the challenge for an epistemic and methodological turnaround in the application of constitutional norms by the Federal Supreme Court, so that the issue of race can be transformed into an indispensable analytical

category for the application of Brazilian law and not just an aspect of socioeconomic conditions or a factor of vulnerability.

In this second stage of the discussion, the proposal of this research is to provide evidence of structural racism as an organic component of Brazilian social order, reproduced on a daily basis by the normal functioning of institutions of the punitive system, as well as of the health, education, economic and political systems.<sup>12</sup>

The mechanisms that criminalise abortion do not merely target race as something external to them, instead, they integrate a set of phenomena, linked to the structure of Brazilian society, in which race and the penal system are created in tandem and determine which lives are worthy of protection and who can be left to die.<sup>13</sup>

Whilst worldwide feminist movements discuss the issue of abortion in terms of exercising sexual and reproductive rights, the result of private autonomy or the right over one's own body, for black Brazilian women exposed to death during the unsafe practice of abortion, not even the idea of 'compulsory motherhood' would be sufficient to portray their situation.

The black body, the preferred target for forced sterilisation and abusive depositions of power within the family, is often not even worthy of the recognition of the subordinate, decisive social role of motherhood.

In creating the conditions for systemic discrimination, the legislative option for a criminal policy for abortion reinforces the mechanisms that subject black women to a political regime of sub-citizenship and feeds the continuity of racism, understood as a historical and political process.<sup>14</sup>

For these reasons, protection of the constitutional principle of equality in its anti-racist dimension (article 3, line IV, of the 1988 Constitution) constitutes the epicentre of the Claim of Breach of Fundamental Precept number 442. In other words, the Supreme Court is called on to affirm the humanity of Brazilian women at its most radical conception – the point of view of the black women.

### 3 • Who can make decisions about black women's bodies?

The methodological turnaround proposed here challenges the paradigm of positivist normativism that, by reducing Law to a set of legal norms, hides other aspects of the complex judicial phenomenon that includes ethics, politics and, economics.

We present as the final problem then, the legitimacy of the majority decision to incriminate the practice of abortion by women, a recurring argument in debates on the subject.

The lens of legal formalism strategically silences the conditions of power that are behind the production of the law itself. Moreover, with this, the law gains legitimacy as the expression of the general will of the political body resulting from an assembly constituted in equal conditions.<sup>15</sup>

However, if the legal norm is produced by institutions that reflect structures of unequal distribution of power – like racism and patriarchy – laws are often an extension of the political power of the group that holds institutional power.

An emblematic example from history is the Constituent of 1987-1988, a sexual and racial pact signed by 594 members of parliament, predominantly white men, with only 26 women representatives and only one of them black, Benedita da Silva.<sup>16</sup>

In this scenario, black women did not have, and still do not have in the current configuration of the political system, a space to participate in deliberation on legislation which reinforces the democratic reasons why constitutional jurisdiction assumes its point of view, in order to recalibrate this reciprocity of forces.

When the Law is supportive of projects of systemic discrimination, as we have seen to be the case in the criminalisation of abortion, it is necessary to look beneath the surface, in order to identify the implications of rules that are seemingly neutral and democratically discussed, that actually represent the perpetuation of a situation of subordination of groups that have been historically discriminated against.

And this is the case of the ADPF number 442, that hopes to make way for taking a stand regarding the interpretation of constitutional norms in Brazil, in order to provide ample protection of the human dignity of black corporeality.

## NOTES

1 • The article explores the pleas presented in oral arguments in public hearings before the Brazilian Federal Supreme Court on 7 August 2018, available in full on: “Audiência Pública - Descriminalização do aborto (4/4),” YouTube video, 4:45:50, posted by the Federal Supreme Court on 7 August 2018, accessed November 15, 2018, <https://www.youtube.com/watch?v=La8DG6eLyyY&t=10866s>.

2 • “Arguição de Descumprimento de Preceito Fundamental n.º. 442,” Federal Supreme Court, Rapporteur Minister Rosa Weber, 2018, accessed November 15, 2018, <http://portal.stf.jus.br/processos/detalhe.asp?incidente=5144865>.

3 • “Perfil de Mulheres Criminalizadas pela Prática de Aborto,” Defensoria Pública do Estado do Rio de Janeiro, 2017, accessed September 27, 2018, <http://www.defensoria.rj.def.br/uploads/arquivos/a144fd918d944afebc6fd61401e2e0e9.pdf>.

4 • Débora Diniz, Marcelo Medeiros e Alberto Madeiro, “Pesquisa Nacional de Aborto 2016” *Revista Ciência e Saúde Coletiva* 22, no. 2 (2017): 653-660.

5 • In contrast to the primary criminalization - the act of adopting a criminal law that criminalizes a certain conduct at the abstract level -, secondary criminalization is a punitive action upon concrete people, imposed selectively, given the limited operational capacity of police agencies and the judiciary. (E. Raúl Zaffaroni, Nilo Batista, Alejandro Alagia e Alejandro Slokar, *Direito Penal Brasileiro: Primeiro Volume – Teoria Geral do Direito Penal* (Rio de Janeiro: Ed. Revan, 2a edição, 2003): 43-44).

6 • Mario Francisco Giani Monteiro, Leila Adesse e Jacques Levin, “As Mulheres Pretas, as Analfabetas e as Residentes na Região Norte Têm Risco Maior de Morrer por Complicações da Gravidez que Termina em Aborto.” Research presented at the XVI Encontro de Estudos Populacionais, Caxambu/

MG, 29 September to 3 October 2008, accessed November 15, 2018, [http://www.nepp-dh.ufrj.br/ole/textos/monteiro\\_as\\_mulheres.pdf](http://www.nepp-dh.ufrj.br/ole/textos/monteiro_as_mulheres.pdf), p. 2.

7 • *Ibid.*, p. 6.

8 • Emanuelle Freitas Goes e Enilda Rosendo do Nascimento, “Mulheres Negras e Brancas e os Níveis de Acesso aos Serviços Preventivos de Saúde: Uma Análise sobre as Desigualdades,” *Revista Saúde em Debate* 37, no. 99 (Oct/Dec 2013): 571-579.

9 • Maria do Carmo Leal et. al., “A Cor da Dor: Iniquidades Raciais na Atenção Pré-natal e ao Parto,” *Cadernos de Saúde Pública* 33, supl. 1 (2017).

10 • Zaffaroni et al., *Direito Penal Brasileiro*, 2003.

11 • Michel Foucault, *Em defesa da Sociedade*. Translation by Maria Ermantina Galvão (São Paulo: Martins Fontes, 1999): 40.

12 • Jurema Werneck, “Racismo Institucional e Saúde da População Negra,” *Revista Saúde e Sociedade* 25, no.3 (2016): 535-549.

13 • Evandro Piza Duarte e Salo de Carvalho, *Criminologia do Preconceito: Racismo e Homofobia nas Ciências Criminais* (São Paulo: Saraiva, 2017).

14 • Silvio Luiz de Almeida, *O Que É Racismo Estrutural?* (Belo Horizonte: Letramento, 2018).

15 • Feminist criticism of Rousseau’s concept of social contract was formulated by Carole Pateman. By means of the notion of “sexual contract”, the author characterises sexual difference as political difference and interprets legislation and the civil state as dimensions of the complex and multi-faceted structure of domination of modern day patriarchy. See: Carole Pateman, *O Contrato Sexual* (São Paulo: Paz e Terra, 1993).

16 • Database of the Constituint National Assembly of 1988, Brasil, Senado Federal, 2018, accessed November 15, 2018, <http://www.senado.leg.br/atividade/baseshist/bh.asp>.

**LÍVIA CASSERES** – *Brazil*

Lívia Miranda Müller Drumond Casseres has a Master's degree in Law from PUC-Rio. She did her undergraduate degree in Law at UERJ (2008). She has been a Public Defender in the State of Rio de Janeiro since 2012 and currently coordinates the Specialist Centre against Racial Inequality.

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# RETHINKING NARRATIVES AND FUNDING



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**THE ONLY BLACK WOMAN AT THE SOCIAL JUSTICE  
PHILANTHROPY DINNER PARTY**

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# THE ONLY BLACK WOMAN AT THE SOCIAL JUSTICE PHILANTHROPY DINNER PARTY

**Nicolette Naylor**

- *Navigating patriarchy, power and racism* •  
*within social justice spaces*

## ABSTRACT

*How do race and gender play out in relation to the work of social justice actors around the world? How does the race, class and intersectional feminism that I practise on a personal level manifest in my work within social justice philanthropy? This article explores how some social justice organisations and leaders are beginning to navigate inequality within their own corridors of philanthropic power as well as in their interactions with civil society. Expressed in simple terms one may ask: are social justice foundations practising what they preach? As I explore these themes I interrogate practices within social justice organisations at the level of both philanthropy and non-governmental organizations supported by philanthropy. I do so by drawing on recent sexual harassment, bullying and racial discrimination allegations that have been exposed in some of the top human rights organisations within South African civil society. This has led me to question whether the broader social justice sector has done enough to interrogate what our collective values are at the personal and institutional levels within the donor and non-governmental organizational space.*

*As I explore these themes I hope to draw on the personal and the political based on my career experiences working in corporate legal spaces, in partnership with philanthropy as a grantee and working inside philanthropy as a Program Officer and Director leading a regional office in South Africa. In these roles I have interacted with a range of social justice activists and people working within philanthropy and I am not sure that we have thought deliberately about our social justice values at the personal and institutional level. I do not have all the answers but I am attempting to start an uncomfortable conversation where I hope to disrupt and interrogate our collective assumptions around the core values of social justice work.*

## KEYWORDS

Social justice philanthropy | Racism | Sexism | Sexual harassment | Social justice values and ethics | Patriarchy | Power

## 1 • Scene 1: The outsider experience

### - dinner party in Manhattan New York

Have you ever been the only black woman from South Africa at a dinner party or social gathering in New York where everyone is from the United States at that dinner party? Now imagine that not only are they all American but they are also all white, heterosexual men and women married with children. It can be an alienating outsider experience where people like me struggle to understand the context or the specific jokes; where the tone and accent of the guests keeps tripping me up, making me lean forward uncomfortably as I try to really listen; where I just don't get the innuendo or sarcasm by some of the dinner guests; where I have no idea who the artist is that everyone is talking about; neither have I seen the show on Broadway that everyone has seen. The general ebb and flow of the conversation with its insider New York jokes and commentary leave me confused in terms of when to squirm or applaud as the conversation veers from senators and governors in the State of New York to the upcoming elections. I wait patiently as the only non-American, black woman in the room to have someone ask me something where I can show off my brilliance. After all, I do know about what is happening in South Africa and the current China/Africa talks could get me going, I have views on the Brexit debate and the Brazil election, but alas, the conversation is very focused on America and I am bored of President Trump. So, I remain quiet and nod when I think it is appropriate to nod. I smile politely when someone catches my eye. I swallow water anxiously waiting for dessert to arrive and for the evening to end. I feel inadequate and invisible notwithstanding my life experience. I long to smash something...but I don't.

## 2 • Scene 2: The insider experience

### - dinner party in Brooklyn, New York

Now let's imagine a different dinner table where all the participants are from the global South and only a minority are white and male. Everyone is employed within the social justice philanthropy space spread around the world with a mix of different languages, accents, races, religions, sexual orientation and genders. The dinner becomes a warm, insider experience. I feel like an insider. Why? Well, by virtue of my professional status as a Director employed by a global social justice philanthropy with offices around the world and a headquarters in New York. I am a qualified lawyer with a Masters' degree from a top university in London. I have many years' experience working within the legal profession, the human rights space and the philanthropy space. I have travelled the world and lived in different parts of the world besides South Africa. I have spoken at international conferences and gatherings in many of the countries where the dinner party guests reside. English is my first language. I am well-read and versed in global news and politics. We all have a set of assumed core values and principles that inform our interaction with the world and

that makes me feel like an insider at this table. I love the loud laughter and jokes, I laugh out loud and could stay here all-night trading stories, politics and jokes on the frontlines of social justice. I respect and admire every leader around this table.

I am still the same me but how I show up and interact at these respective dinner parties is very different in terms of my own personal and political baggage. This informs whether I bring out my creative self or my angry silent self. Now let's imagine a hypothetical case where a man in both scenarios is accused of attempting to rape one of the women guests after the dinner party. In both cases, I would respond with rage, believe the woman and support her to demand accountability in terms of the perpetrator, if that was what she wanted – we all would, or would we? Yet, this is not always the case: it is easier to picture the rapist as someone whom we despise – the awful, creepy, racist man lurking in dark alleys and not the dynamic, charismatic social justice leader that everyone loves. This is what rape crisis counsellors have been saying for decades.

Now replace me with my grandmother who is a domestic worker from South Africa - wise beyond her years, an activist and unionist by heart with her booming voice and her thoughts on privilege and power. She has not studied, has no degree or high school certificate. She cleans houses like this fancy one where we are having dinner where she earns a minimum wage. Where do we place her? At neither table. Because power and privilege and an undercurrent of violence pervades the air of the insider table where I feel warm and fuzzy. Exclusionary race and gender politics and a sense of 'othering' pervades both tables; the only difference is that in scenario 1 (the outsider table) it is explicit and in scenario 2 (insider table) it is implicit and the undertone of exclusion and violence is cloaked in progressive politics and discourse. Yet it is still there. Both tables are inherently problematic in terms of their elitist nature and probably displays the extent to which I have been assimilated into a role and comfort zone that is perhaps a classic insider /outsider story of the middle class black woman who is on an upwardly mobile global career trajectory.

### 3 • The foundational values of social justice philanthropy

South African society has been ravaged by racism and apartheid. Today we are all compelled by our Constitutional mandate to respect the inherent dignity and equality of all human beings and that discrimination is not to be tolerated. I have always worked on a premise that social justice actors within civil society and philanthropy have an even higher duty of care to ensure that we are not only diverse in terms of race and gender but are also practising principles of substantive equality and not tolerating any forms of discrimination or violence within our own institutions. I have always based this higher duty of care on a definition of social justice as a measure for assessing how power, wealth and resources in a society are distributed and used. Thus, social justice is a value which stands in opposition to inequality and unjust discriminatory social structures. In this context social justice philanthropy can be said to incorporate six core themes:<sup>1</sup>

- (a) Social justice philanthropy focuses on the root causes of social, economic and political inequality instead of only addressing the symptoms and manifestations of these inequalities.
- (b) Social justice philanthropy strives to include the people who are impacted by injustices and inequality as leaders and decision-makers. This means that the process of giving is as important as where the money goes. Asking those who are directly affected by and working on an issue to meaningfully partner and lead is a key part of the process.
- (c) Social justice philanthropy aims to make the field of philanthropy accessible and diverse.
- (d) Social justice philanthropy is accountable, transparent and responsive in grant-making.
- (e) Donors and foundations act as allies to social movements by contributing not only monetary resources but also time, knowledge, skills and access.
- (f) Foundations use their assets and investments alongside their grant making money to support their social justice missions.

Those of us who engage in the social justice space, whether we are in philanthropy, non-governmental organisations or social movements, all have an interest in focusing on systemic change in relation to the complex problems of injustice and inequality. This requires creative, innovative solutions that are driven by a clear commitment to advancing and building power within the most marginalised communities. To do so effectively we need to make sure that values of justice and equality are embedded in our internal cultures, hiring practices and leadership structures. These values also need to be embedded in how we do our social justice work with humility and respect for the dignity of our staff, our partners and the communities we serve. For us to truly have an impact on the social justice issues we care so deeply about, our leadership, our workforce and our practice must reflect the diverse demographics of the environments in which we work and the communities which serve. This responsibility is both a *moral obligation* and a *strategic imperative*. It requires us to move from implicit assumptions around the value that diversity, equity and inclusion brings to an explicit strategic focus that requires us to locate diversity, equity and inclusion within a power and privilege paradigm that informs all our work.

But what do we mean when we speak of diversity, equity and inclusion?<sup>2</sup> Many definitions of diversity recognise the intersectional nature of identity and the complex and cumulative ways in which different forms of discrimination combine, overlap, and intersect. The most common definition of **diversity** used in philanthropy refers to the demographic mix of a specific collection of people, considering elements of human difference, including but not limited to race, culture, ethnicity, gender, gender identity, sexual orientation, age and disability status. **Equity** involves the promotion of justice, impartiality and fairness within the procedures, processes and distribution of resources by institutions or systems. Tackling equity requires an understanding of the underlying or root causes of disparities within our society. Within the South African context it requires positive redistributive measures in the form of affirmative action. The third concept, **inclusion**, refers to the degree to which

diverse individuals can participate fully in the decision-making processes, while a truly “inclusive” group is necessarily diverse, a “diverse” group may not be “inclusive”. A succinct way of describing these different concepts is that diversity is a number, equity is an outcome linked to justice and inclusion is a behavior often evidenced through institutional culture.

All three elements are critical if an organisation is to truly embrace a socially just framework. Diversity, inclusion and equity cannot be treated as a numbers game when we complete our diversity data – it must be something deeply rooted in everything we do – it goes to the core of our values base and to the heart of our effectiveness as a sector working for social justice. It also requires us to be clear that we cannot tolerate misogyny, violence, racism, hate speech, xenophobia or homophobia within the corridors of social justice. We need the highest standard as we engage in the battle for social justice where we strive towards a **transformative agenda** linked to change in policies, practices, cultures and strategic choice-making.

## 4 • Principles and rhetoric colliding with practice

Over the last eight months some of the largest social justice organisations working at the forefront of human rights and dignity in South Africa, funded by social justice foundations like the Ford Foundation, have had to face a series of very public cases of sexual harassment, workplace bullying, unequal pay discrimination based on race and gender and victimisation based on sexual orientation.<sup>3</sup> The first few instances of sexual harassment had a ripple effect and led to numerous other cases coming to the fore. This also happened at global institutions, such as UNAIDS,<sup>4</sup> UN Women and Oxfam where senior staff or consultants have faced allegations of sexual harassment and management has been accused of failing to take appropriate action.

In South Africa what has been stark has been the number of black women speaking out. They have described an environment of sexism and racism that pervades certain sectors within the social justice space, particularly the public interest human rights law sector, publically denouncing, for example, the

*insidious forms of sexual harassment in our sector and the impossible position that women, particularly black women, find themselves in as a result. We call on our sector to interrogate the “beyond reproach” disposition and to disabuse themselves of the notion that our sector is somehow immune to sexual harassment, racism and other abuses of power. It is these unchecked exercises of power, in the form of white privilege and patriarchy, that result in toxic environment(s)...<sup>5</sup>*

Koketso Moeti, whose words are cited above, has also written a powerful critique of donors<sup>6</sup> that fund large public interest law centres and which refuse to see the power dynamics, racism and sexism within these organisations and only celebrate and collude with leaders in terms of court victories on behalf of marginalised communities.<sup>7</sup> Social justice philanthropy has (correctly in

my view) been interrogated about whether its internal practices and decision making serves to fuel racism and sexism in the sector OR whether we only regard success in terms of court victories irrespective of the toxic patriarchal and racist cultures within organisations.

These debates have led me to consider<sup>8</sup> what this all means on an *institutional* and on a *personal* level as a black woman director of a social justice philanthropic organisation and a trained feminist human rights lawyer that has spent many years in the trenches working within the public interest law space. The Ford Foundation Office for Southern Africa has, as a result of the critique levelled against donors in the region and due to my own personal convictions as a feminist, had to reflect on whether we have been asking the right questions as we monitor grants and do our due diligence, whether we have been too trusting, and whether our “hands-off” trusting approach has caught up with us. Have we simply allowed ourselves to be charmed by leaders of organisations doing excellent work and been so caught up in the project reports that we have missed some critical organisational culture issues that also go to the heart of social justice? Were we sufficiently interested in learning more about the values and ethics inside the organisations we funded or were we making assumptions about those values and focusing on the external change that we wanted to see within marginalised communities?

Today I am more interested in the way my colleagues and our grantee partners articulate their values, specifically in terms of racial justice and gender justice. Women are still not believed and are often victimised *within* our social justice organisations when we had always assumed secondary victimisation happened “out there” in the criminal justice system with police, magistrates and judges. No, it is happening in social justice organisations where an entire sector can vilify a woman who has spoken out against a powerful leader.

As I started to speak to other women leaders in social justice philanthropy it soon became clear that none of us want to be accused of being complicit in cases of racial discrimination, bullying or sexual harassment within the organisations we fund. Yet we are also very aware that in our own roles we are also navigating issues of power, sexism and racism that often leave us feeling conflicted and asking ourselves whether we have any legitimacy to instruct civil society groups how they should behave or deal with sexual harassment or racism if our own institutions have no clear internal policies and practices. Ultimately, the way donor institutions deal with allegations of sexual harassment or racial discrimination speaks to how we navigate our own power – do we end relationships with grantee organizations, terminate our grant agreements, disassociate ourselves from the grantee institution or help the institution navigate the stormy waters? Where do we draw the line? Is there a line and how do we justify our decisions and the way we respond to allegations within partners organisations? Are we equally as willing to challenge racist or sexist norms and cultures in our own philanthropic institutions which may be reinforcing a white, middle-class, ivy-league, progressive, American view of the world as we are in terms of challenging the racist and sexist norms and cultures that we observe within civil society partner organisations within South Africa?

## 5 • Prioritising a transformative agenda

How do we decide on the strategies and internal policies of our organisations? Who decides what we will focus our attention on is one form of power. How is power distributed within the organisation when important strategic shifts or priorities are decided upon? And to whom are we accountable in relation to these decisions? We know that wielding power can sometimes be conflated with being partisan or with being top-down and dictatorial, but neither is a given. Power can and should be wielded for good, if done in thoughtful ways that acknowledge our institutional and personal privilege and align with the mission and values of social justice. We can design a menu where dignity, equality and justice is at the core of everything that we serve for our guests – where we prioritise and speak out against racist patriarchal practices in all its manifestations.

For example, a year ago the President of Ford Foundation, Darren Walker, an African-American gay man decided that the foundation needed to really interrogate our own practices around diversity, inclusion and equity around the world, including how we handled issues of discrimination and sexual harassment internally and in our grant relationships. Having a leader at the highest level make this a priority was important at an institutional level and allowed us to delve deeper into what our own practices were and what we needed to amend.

In order to live our social justice values, we started a process of introspection and we asked ourselves:

- Does our board, leadership and staff around the world reflect the communities we serve, not only in terms of their race, ethnicity and gender but also in terms of their experiences of marginalization? Do they all reflect middle-class privilege and power or not?
- How diverse are our staff in terms of income level, wealth and power including at board level? We also looked at how diverse staff are in terms of race, ethnicity, gender, LGBTQ, disability status and age.
- Are the foundation staff *culturally competent* and able to exercise *cultural humility*? Here cultural humility encourages us to identify our own biases and to acknowledge that those biases must be recognised, understood and addressed particularly in terms of implicit bias.
- Do we solicit confidential or anonymous feedback from grantees and how do we correlate this with the experiences of staff inside the Foundation in terms of race and gender transformation goals? Are we soliciting the same information and feedback internally as well as externally to check for consistency in our approaches?
- How have we handled sexual harassment or discrimination cases in the past – does a culture of silencing survivors permeate our institution? Do we need to amend our internal policies on non-disclosure agreements? Are we taking a survivor-centered approach in cases of sexual harassment?
- How do we think about personal consensual relationships within the institution?
- How committed are we as an institution to create a safe working environment free

of discrimination – do we investigate past behaviour when recruiting? To what extent do we need to start caring about personal and private conduct (domestic violence, sexual harassment or racist slurs outside of work hours and in the privacy of their homes/social media accounts)?

These hard questions led to revisions of many of our policies related to discrimination and sexual harassment and opened a debate about the standard we expect of our employees, vendors, contractors and consultants. The changes that were made to our policies reflected that we had listened to what feminist movements around the world were saying about things like a survivor-centered approach, why women are afraid to speak out and the silencing effect of non-disclosure agreements. We also did an extensive survey internally amongst staff to assess how staff felt we were doing in relation to diversity, equity and inclusion. The transparency with which we have shared the results of this large scale survey<sup>9</sup> has been refreshing, because it opened a conversation about the question of belonging – we realised that revised policies and principled leadership, whilst critically important, are not enough to actually shift a culture that creates “insiders” and “outsiders” within a large global institution. Leaders can prioritize or dismiss the importance of these issues and thereby signal the type of culture that is acceptable but this ‘messaging’ by leadership will not be sufficient – it still needs to be monitored and implemented in a way that holds individuals and institutions accountable. This is something that I have taken on as a black feminist leader when it comes to the office I oversee. My personal perspective drives my institutional agenda. Some civil society organisations however do not prioritise race and gender in their internal policies or discussions because they claim to be too busy fighting the good fight. But there can never be a good fight if toxicity and prejudice pervades the internal corridors where social justice work is done.

Research has shown that organisations, which are diverse at the management level, have employees that act with less prejudice and are more likely to call out bias and discrimination in their workplace interactions.<sup>10</sup> Furthermore, the proportion of people of colour in top management has also been shown to have a positive effect on subsequent hires of women and black people into lower level management positions.<sup>11</sup> Therefore, leadership commitment to diversity and inclusion remains a critical piece of the puzzle and can have a ripple effect.

However, this is not something that happens automatically or immediately. Changes to policies, increased diversity and setting the tone around sexual harassment and any form of discrimination is indeed critical in terms of setting a values statement by the leadership. Yet a simple policy shift and a few black leaders within a large organisation does not shift deeply embedded racist or patriarchal attitudes overnight and we, at Ford Foundation, have also experienced this. We know that the work we need to do internally within our organization and externally with grantee partners transcends the policy shifts and leaders that we have. The next frontier requires us to move from progressive policies (on paper) to a practice that does not deny that discrimination

and prejudice can and does exist within social justice organisations. I have argued elsewhere<sup>12</sup> that many of us who join the social sector hold it in high regard, even above reproach. So, when our heroes disappoint and end up exploiting and harming us, we quietly pretend it never happened, we go into denial mode and we keep silent. This is like keeping quiet about abuse within the family for fear of bringing shame. Or perhaps, more perilously, we are in denial about the existence of violence and abuse within our “sacred” social justice spaces. For now, the costs of speaking out are just too high when women risk being disbelieved and vilified by society. In this regard, we need to applaud the brave women that do speak out and challenge patriarchy and racism internally and externally within social justice spaces because a culture of silence encourages a culture of impunity. Women can only start to harness collective power when they have voice and are safe to speak out.

## 6 • Power & voice

We have all been at a dinner party where one person dominates the conversation, interrupting, mansplaining, being abrasive, racist, sexist and arrogant. He may try to grope or hug the women at the dinner party a bit longer than is strictly necessary and he assumes control of the conversation and attempts to steer it in the direction he prefers while shouting down other views. He is a poor listener and eventually people shift away from him, in body language and in conversation. Most of the guests at the dinner table can eventually succeed in silencing him by simply ignoring him and taking charge of the table as the majority. Such a *coup* is facilitated by an alignment of values and a general contempt for the one person at the table. This has the potential to catalyse everyone into an organising moment where they collectively take power back and the evening is saved.

But this is rendered much harder when this man is the host and the owner of the house: the person with all the resources and the power to hire or fire you or give you that million-dollar grant. Individuals are then less willing to attempt to take back power and may simply elect to endure the evening and the abusive conduct because they need the job and/or the grant.

Indeed, this dynamic plays out within social justice organisations and in philanthropy where a leader either silences and alienates black women or patronises them leading to their resignation or sudden departure where they are made to feel as if they were just unable to cope, were incompetent or not a ‘cultural fit’ for the institution of philanthropy or social justice. Therefore, we must be clear that the fact that a foundation has a board and staff who are black or indigenous, women, LGBTQ and/or have a disability is not enough because it may not shift values and culture in terms of an established long-standing organisational culture shaped by white, male, heteronormative values. This embedded, seemingly invisible culture and privilege may continue to inform how an organisation decides what is “normal,” “good,” “effective” or “risky”<sup>13</sup> and set up who gets rewarded as being worthy employees and who gets ignored or rendered invisible.

## 7 • Culture matters: who pours the tea and who is rendered invisible?

As a young lawyer newly qualified and entering a large corporate legal environment where I was one of a handful of black lawyers I was struck by how white clients in South Africa automatically assumed I was there to take notes and always assumed that the white males in the room were the real lawyers. This was in 1999 in South Africa and in those early days as a candidate attorney I grappled with the notion of invisibility, rage and vulnerability every day. I recall one encounter vividly: A senior white advocate during a pre-trial consultation ordered tea and coffee from his receptionist. A black woman dressed in uniform entered the room with a tray and left it on the table for the six white, male guests. She exited the room and the advocate turned to me as I tried to keep up with my note-taking. Then this advocate did the unthinkable; he nodded his head at the tea making an upward eye gesture at me as if to say: “get to it, pour us the tea.” I was mortified, he didn’t say a word, just jerked his head in the direction of tea tray. I had a dilemma: if I stopped taking notes I would incur the wrath of my boss after the meeting and if I did not get up to pour the tea I would incur the wrath of the senior advocate. So, what did I do? As a straight-out-of-university, in my first job in a very white law firm and as the only black person in the room I said nothing, avoided eye contact with the senior advocate and kept taking minutes – seething inside. Eventually the senior advocate boomed at me “*Nikki could you pour the tea its getting cold.*” I started to perform the task of manually pouring tea for each male, my hands shaking and inner rage tormenting me. No matter my law degree and my status as a lawyer in the room, I was the most junior black woman in the room and centuries of serving white men by my ancestors still permeated the room demanding that I pour the tea, remain silent, take notes and be seen and not be heard. No one asked for my opinion, my thoughts, my perspective. I had a seat at the table working on a very important case before the Supreme Court but I was also very invisible and no-one who worked on that case would remember my name or my views because I was the silent woman pouring tea and taking pages and pages of notes. For months afterward, I replayed the incident in my head and imagined how I could have responded differently in terms of eloquent rage where I would call out his racism and sexism. But on that day, many lifetimes ago, I had absolutely no confidence to voice them in this strange room with people who did not look like me, sound like me or have any of my life experience. I did not have the tools to navigate white spaces and white privilege and I really wanted to be “good” and not be labelled as a “trouble-maker”, so I did not speak up.

Today I bring the above history and context into meetings and will judge people harshly if I notice the white male dominating a conversation, alongside the silent black staff member – I do call this out and probably display all my implicit bias in my decision making at the end of the day. I also tend to fall in love with strong black women who

articulate their needs and argue about systemic change and then I try to find ways to support and fund their work. I am not neutral – I have an intersectional<sup>14</sup> feminist lens and I bring it with me to work every day alongside my historical baggage which informs my very path and commitment to social justice. I also call out white privilege within my institution and in spaces where I see it because I can and because I know I will be heard due to my relative power in the organisation, so I am much more willing to “make trouble” and be the unpopular woman with *that chip on her shoulder*.

I am therefore a lot more curious about the culture within the Ford Foundation and the ones that we have funding relationships with – do they have cultures of silence and fear or is it an environment where debate, disagreement and safe spaces are nurtured and encouraged by the leadership? Who is included in strategic and operational management discussions? What is the make-up of the management team leading the organisation?

Over the last few months many sexually harassed black women activists in South Africa have spoken about the ways in which institutional and structural racism and sexism in South Africa continues to victimise women within organisations fighting for social justice. They spoke with equal amounts of rage, despair and vulnerability about how everyone, both within the organisation and the wider sector knowing about the sexual harassment taking place by the senior staff but that no-one was doing anything about it beyond a network of women who took it upon themselves to warn new recruits and younger women to stay away from the perpetrator.<sup>15</sup> They also reference cultures within prominent movements where sexualised consensual relationships as well as *quid pro quo* sexual harassment occurs at the very highest levels. However, when women complain they are labelled problematic; not dedicated to the cause and out to destroy the movement and its male leaders.

The unspoken rule that black women should not speak about abuse or violence by their colleagues fighting the same battle alongside them remains real in the social justice space. Although they are beginning to speak out consistently and bravely they are not heard or believed which tells me that we have a very long way to go. Notions that we should be protecting our male brothers from the racist criminal justice system whilst they harass or violate us need to be interrogated. It does not mean that we condone a racist criminal justice system that profiles, targets and criminalises black men and women for being black; we can and must address the racist criminal justice system and abuse of power as it plays out in the context of black men AND we can also hold our black men and comrades accountable for their actions of violence against women. We live in a punitive culture in which black male misconduct is dramatised and sexualised by the very institutions that are responsible for justice, just as black female victimhood is exaggerated and instrumentalised over black women's power and agency. Our analysis of racist sexism and sexist racism must be therefore be nuanced enough to understand that it has disadvantaged black women as well as black men and that these disadvantages have different contours and different material implications.

## 8 • Should we be helping rich organizations become more brown...or brown organizations become richer?

A recent Grantcraft Guide on Diversity, Equity and Inclusion<sup>16</sup> points out that during one interview a nonprofit leader noted dryly that he had observed increased interest in “*helping rich organizations become more brown*,” but posed the provocative question about why foundations were not also helping “*brown organizations become more rich*.” Historical inequality favours certain kinds of organisations, helping them become stronger and more effective. In turn, foundation strategies become linked to a set of high-performing organisations that may not be particularly diverse. Put differently, the known universe is what informs grantmaking strategies. Therefore, we must ask: are our institutional approaches grounded in making rich well established blue-chip organisations (otherwise known as the usual suspects) more brown and black or are we finding and strengthening black and brown-led organisations? This is a critical question in terms of two very different approaches to funding race and gender transformation in terms of not only replacing a white leader with a black leader but also transforming culture and interrogating institutional history, privilege and power alongside mission and values.

Ultimately, it is important that we embed a race, gender and class analysis within the grantmaking practice of staff at all levels of an organisation as an essential precursor to meaningful change both internally and externally. To overcome implicit bias teams should be encouraged to think deliberately about individual personal bias and set in place appropriate ‘checks and balances’ on the power of the programme officer or director to allow space for collective decision-making and a system of accountability and transparency to the civil society sector. However, this can only work in spaces of diverse ideas and opinions and where people feel safe to disagree with those in power without facing consequences in terms of job security or grant security.

To what extent are we comfortable to have the hard conversation in terms of naming aspects of white privilege and power that are present in our own institutional culture or within the culture of the grantee partners we support? It is critical to create safe spaces that allow us to interrogate whether our organisations unconsciously use characteristics of white privilege/supremacy as norms and standards that in turn make it difficult, if not impossible, to open the door to other cultural norms and standards in the workplace or in the groups that we choose to fund.

For example, many of philanthropic organisations say they want to be multicultural and embrace diversity but then only allow diverse people and cultures to come in **if** they adapt or conform to already existing institutional cultural norms to become insiders. This is often apparent by the phrases you will hear such as: “will she be a fit for us?” or the following phrases will be heard in the context of the successful black African woman: “she is very eloquent” and “not a troublemaker getting on well with everyone and making lots of friends – integrating into the culture.” For those black African women who enter the social justice

workplace and leave shortly thereafter one often hears phrases such as: “she was out of her depth”, “did not know her own limitations”, “she had a chip on her shoulder about race and was too angry/too assertive/too bossy” or “she was just so quiet never contributing and saying anything in meetings” or “she could not take initiative, needed too much hand-holding and couldn’t integrate into the team.” When speaking to black women who leave we will almost always tell you, if you really listen, that we felt like an outsider in a room where no-one had a race or gender analysis but everyone accused us of making everything about race and gender. We will tell you that we were expected to assimilate and not critique and were never made to feel welcome on our own cultural terms or asked our opinion. The most common thing we will tell you, if you will hear us, is that we were left alone, ignored, rendered invisible and not mentored or guided by anyone. Being able to interrogate what success looks like and what standard we set for people is important particularly when we use ‘coded’ and vague language to define success often shrouded in our own implicit bias or institutional racism around the ability of black women to perform. We must identify, debate and name these cultural norms and performance standards within our organisations as a first step to making room for developing a truly diverse, multi-cultural organization where dignity and respect permeates everything we do.

## 9 • Conclusion: Recalibrating

In a world where the politics of division, polarization, right-wing populism, sexism and racism are the order of the day it is easy for a workplace (yes, even a social justice workplace) to start to resemble the exclusionary practices within broader society. This can only be countered if there is an explicit commitment to interrogating the politics of who we are and what we do. We need to explicitly address and interrogate values, ethics and cultures within our institutions.

Foundations that are serious about addressing issues of discrimination and diversity, equity and inclusion need to start from a place of self-reflection and deep introspection about its own practice and bias. We need to examine how we work, who we work with, what we work on in terms of the issues we prioritise and we will need to interrogate the organisational profile and culture beyond the numerical data around diversity. We require a much deeper analysis of socio-political and cultural histories of structural racism and sexism and a contextual understanding of the levels of complicity by our own social justice institutions. The journey toward a greater transformed social justice sector is not linear, it is messy and deviating course many times over. There is no established timeline but we do know that it does not happen overnight or even over a few years by adopting quick-fix solutions, such as, sexual harassment policies or a few diversity-related grants. It requires deep learning and introspection at all levels of institutions and between philanthropy and civil society actors.

We all need to admit that we do not have all the answers and are in fact implicated in the slow progress we are seeing in relation to the fight for racial and gender justice. We can start by making a commitment to: getting comfortable with being very uncomfortable;

having hard, honest conversations about the implicit and explicit cultural values and bias we bring into social justice philanthropy and civil society. We can keep checking ourselves in terms of whom we are rendering invisible or an outsider within our own safe spaces and most importantly, we can interrogate what “safe” looks and feels like using an intersectional race, class and gender feminist lens.

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**NICOLETTE NAYLOR** – *South Africa*

Nicolette Naylor has an B.Proc. LLB LLM (International Human Rights). She is currently employed as Regional Director of the Ford Foundation Office for Southern Africa and previously worked as its Program Officer for Human Rights and Governance. Nicolette also spent the early part of her career in corporate law and the public interest law sector working for a feminist organisation the Women's Legal Centre in South Africa and a global human rights organisation, INTERIGHTS in London.

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# RACE MATTERS<sup>1</sup>

**Mariana Berbec-Rostas • Soheila Comninos  
Mary Miller Flowers • Sue Gunawardena-Vaughn  
Michael Heflin • Nina Madsen**

- *Reflections on Employing a Racial Equity Lens* •  
*to Funding Human Rights Struggles*

## ABSTRACT

*There have been numerous debates about rising authoritarianism and its impact on democracy and human rights. As a human rights funder whose central goal is to strengthen the resilience of the human rights movement, employing a racial justice lens to all our work is critical, now more than ever. Some have argued that highlighting structural racism and discrimination has shifted the focus away from economic inequality and undermined some of the relevance of the contemporary human rights movement. We contend, however, that deep economic inequality is frequently a reflection of deep inequality in the underlying power structures that govern societies. Employing a racial justice lens offers us the opportunity to deconstruct structures that contribute to a host of rights violations and allows us to gain a deeper understanding of how oppressive structures intersect. This essay is a reflection on some of our learning to date.*

## KEYWORDS

Human rights | Human Rights Movement | Implicit bias | Intersectionality | Power | Racial equity | Racial justice | Social privilege | Structural racism

*"The better we understand how identities and power work together from one context to another, the less likely our movements for change are to fracture."*

Kimberle Williams Crenshaw

## 1 • Racial Equity and Power

The Human Rights Initiative (HRI), a global human rights grant making programme within the Open Society Foundations (OSF), is committed to dismantling racism and fighting discrimination across rights issues and countries. We have supported civil society and social movements across the globe to promote rights and hold abusers to account whenever possible. It was only in the past few years, however, that we became explicit about challenging institutional racism and racial bias.

The impetus to view our work – and explicitly make grant making decisions – using a racial equity lens came in large part from our partners on the ground. Whether it is Roma-led groups in Europe, Dalit-led organisations in India or Black-led movements in Brazil and Colombia, many organisations recognise first-hand that challenging racism is key to changing systems. As Alison Hannah, advocate working on penal reform argued, "At heart, criminal justice reform is about power and politics; who the state chooses to lock up often has little to do with the law."

This sentiment rings true beyond the justice system. Oftentimes, those most vulnerable to rights violations are racial, ethnic and religious minorities, which is a reflection of the systems that privilege certain dominant groups over others. While we seek to take an intersectional approach to our work, an explicit racial equity lens has helped us uncover patterns of inequality and power imbalances that result from structural racism. It has challenged us to look at the root causes of disparities and to name race explicitly when discussing solutions to human rights violations. This essay seeks to share reflections and bring practical suggestions to grant makers and others seeking to apply a racial equity lens to human rights work.

## 2 • Social Privilege and the Anti-Racist Struggle

As grant makers, we have learned that often, the people who need our support the most do not have access to us or even know of our existence. An important part of social privilege is having access to contacts and networks and the knowledge to craft proposals in language that is familiar to funders. In our efforts to employ a racial equity lens, we have learned that as donors, we need to move beyond our regular circles if we are to build partnerships with impacted communities fighting for racial justice on the frontlines. Illustrative of this is a notable experience that a group of us had when we visited a community organisation situated in a favela in Salvador, Brazil. As we took our seats in a makeshift circle, we learned about the mission of the organisation, which was struggling for the rights of Black and

Brown people to gain access to housing, education and health services and to push back on rampant police violence in their city. We were in an environment that was largely alien to us, where the poverty, heat and security threats were palpable.

After the introductions, one of the group's leaders steered our attention to a group of young boys occupying a corner of the packed room. She asked each of them to share their name, age and motivation for being a part of the organisation. One boy, about 15 years old, introduced himself as Eduardo. He then stood up and pointed to his hair. He told us that before he joined the group, he had kept his hair short and tried to fit in with his non-Black peers. After learning more about his heritage as a Black person growing up in Salvador and the racism that kept his family and so many of his neighbours in entrenched poverty, he decided to grow an afro. For him, sporting an afro was a sign that he had profoundly changed the lens through which he understood his own lived experience. With this newfound pride in his identity and culture, he began think and act differently, which led him to his eventual activism in the Black movement.

In many ways, it is individuals like Eduardo in Brazil and others that we have met, such as Ashok in India, Luisa in Colombia and Ahmale in South Africa, who have pushed us to change our lens as grant makers. By thinking about race more intentionally, as Eduardo does, we have found ourselves thinking differently about the strategies we pursue, the practices we adopt and the partners we fund. We have shifted our budgets to support impacted communities directly and changed the way in which we assess our impact. We have also learned the importance of building multi-generational movements from the bottom up and cultivating and supporting youth activism and leadership. A racial equity lens has helped us understand the underlying power dynamics that perpetuate structural racism and allowed us to develop strategies that address some of the root causes of human rights abuse.

Racial and ethnic discrimination manifest themselves differently in different geographies. South Africa's history of apartheid created a brutal, codified system of discrimination that was difficult for outsiders to comprehend. Brazil's experiment with "whitening" (or *branqueamento* in Portuguese), wherein immigration from Europe was encouraged to dilute or even destroy the country's Black population, is substantively different from the legalised segregation that took place in the United States. While the caste system in India is often described in socioeconomic terms, Dalit movements often compare this system of oppression to structural racism. The Roma movement views the pervasive discrimination against Romani people through a similar frame. While othering, discrimination and marginalisation are found in every society, the specific ways in which people are oppressed are rooted in a country's specific history. The ways in which these phenomena manifest themselves are highly contextual and culture-bound. As such, there is no overarching blueprint for fighting racial and ethnic discrimination across geographies. However, as a global human rights funder, we have gleaned some learning from supporting racial justice struggles in various places and these are some of our reflections.

### 3 • Lessons from a Grant Maker in Advancing Racial Justice

- If our goal is to end racism, we must name race explicitly.

Many grant makers and human rights organisations embrace a commitment to equality. Fundamental to this vision is the creation of societies where race does not determine status and where resources and opportunities are distributed equitably across social groups. It can be difficult, however, for organisations to name race explicitly. In some places, discussions of race or ethnicity are controversial and thus, discouraged. Racial bias is often implicit, on one hand, or perceived to be overly complex, on the other, providing few clear paths for action. Many assume that programming and grant making, which seek to advance human rights protection for all, will improve opportunities across society, thus failing to acknowledge the deeply-rooted power dynamics at play for racial, ethnic and other marginalised communities.

By naming racism explicitly, grant makers improve their ability to help support efforts to dismantle it. In doing this, we must acknowledge that racism is multi-dimensional and manifests itself at the individual, structural, institutional and historical level. Countering structural racism requires a diverse set of tools that can address the power structures that allow discriminatory practices to persist, the institutions that serve as vehicles for perpetuating the status quo and the historical factors that “normalize” these practices. We must also challenge racist norms and beliefs, educate ourselves and support organisations that are unafraid to call out racism in coded language and practice.

- We must redistribute resources to organisations and movements directly impacted by racism.

To be effective, grant makers must support organisations led by people from impacted communities who have the lived experience and knowledge to develop solutions for systemic rights abuse. This does not preclude supporting allies for this work, but the leadership and the direction must come from the communities themselves. At the same time, the struggle for racial equity should not be the burden of people of colour alone. Our work must include engaging allies in the fight for racial justice and being honest about the ways in which bias plays out in the distribution of resources. Grant makers should adopt a posture of continuous learning, adaptability and humility in supporting these efforts.

- Intersectionality is imperative to targeting the dynamics at play.

Even as we apply a racial equity lens, grant makers must also adopt an intersectional approach to funding. Other lenses, such as gender, sexual orientation, class or disability often converge in situations of endemic discrimination and marginalisation. Intersectionality helps grant makers to understand the nature of power and the dynamics that play out in specific identity-based movements. There is a need for greater awareness that some people belong to

multiple marginalised communities and, therefore, that their discrimination is amplified on numerous levels. People with intersectional identities are generally marginalised the most even within identity-based movements and their specific experiences of multiple forms of discrimination are often overlooked and ignored.

As grant makers, we must recognize the multiple drivers of discrimination and develop strategies to support intersectional work. For instance, we could fund the development of women's or LGBTI leadership among communities of colour or ensure that racial or ethnic minorities play leadership roles in the women's or LGBTI movements. In our experience, leaders that represent these intersections play a critical role in bridging constituencies by challenging, for example, white privilege in the women's or LGBTI movement as well as patriarchy, homophobia and transphobia among racial and ethnic minority communities.

- We need to be frank, transparent and respectful in our engagement with our partners on questions of diversity and inclusion.

When supporting human rights groups that are not led by impacted communities, grant makers need to be prepared to engage them on questions related to diversity and inclusion. This includes not just the diversity among their staff and board, but also how they include an analysis on race and ethnicity in their work. We must do this in a way that is respectful and open, while recognising our own power as a donor and how that shapes the dynamics of our interactions with our partners. We also need to be mindful that we do not impose on others our own preconceived notions of what diversity and inclusion should look like.

- We need to be comfortable with risk and rethink the types of groups we fund.

In many places, loose coalitions, fluid social movements and nascent grassroots groups are spearheading the most innovative anti-racism efforts. These actors may need different kinds of support than formally structured organisations. As grant makers, we must work with them to determine how best to support them and also recognise when funding may not be what is most needed. We need to take our cue from frontline activists doing the work and support initiatives that build alliances and forge strong solidarity networks with other social movements.

- Supporting racial justice work takes time and patience.

Changing social structures requires considerable time and patience. The trajectory is not linear and for every advance that is made, a corresponding backlash can be expected. As donors, we need to shift our expectations and timelines and embrace these issues in all their complexities and contradictions. We need to be willing to take the long view of history and consider our investments as a long-term commitment to building strong, sustainable and resilient racial justice movements.

## 4 • Race Matters

There have been numerous debates about rising authoritarianism and othering and its impact on democracy and human rights. Nationalist rhetoric has often bordered on hate speech and scapegoated racial, ethnic and religious minorities. Some have argued that highlighting structural racism and discrimination has shifted the focus away from economic inequality and undermined some of the relevance of the contemporary human rights movement. We contend, however, that economic inequality is frequently a reflection of deep inequality in the underlying power structures that govern societies. These, in turn, are inextricably tied to the power dynamics between dominant groups that enjoy social privilege and those that are marginalised based on their identity. As a human rights funder, whose central goal is to strengthen the resilience of the human rights movement, we believe that employing a racial justice lens to our work is critical, now more than ever. It offers us the opportunity to deconstruct structures that contribute to a host of rights violations and go beyond treating the visible symptoms. It also provides us with a deeper understanding of how oppressive structures intersect. Such an understanding will enable us to make more thoughtful and impactful interventions that can address both the political and economic dimensions of human rights abuse.

### NOTES

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1 • This essay was co-authored by a team of Open Society Foundations Human Rights Initiative staff who work on portfolios with a major racial justice focus. The Human Rights Initiative supports advocates to promote justice, equality, and

participation of all. We support some of the largest international human rights organizations, national advocacy organizations, and small and emerging groups working directly with those whose rights have been violated.

**MARIANA BERBEC-ROSTAS** – *Romania*

Mariana Berbec-Rostas is a Vienna-based program officer who works on equality, advancing the rights of ethnic and religious minorities, and supporting equality movements in Europe and globally.

**SOHEILA COMNINOS** – *France*

Soheila Comninos is a Washington DC-based program officer whose work focuses on criminal justice issues and the right to liberty.

**MARY MILLER FLOWERS** – *U.S.*

Mary Miller Flowers is a Washington DC-based associate director for justice and manages a global grant-making portfolio focused on supporting civil society to combat the overuse of pretrial detention and increase access to legal aid for indigent criminal defendants.

**SUE GUNAWARDENA-VAUGHN** – *Sri Lanka*

Sue Gunawardena-Vaughn is a Washington DC-based associate director for campaigns. Her work centers around equality and non discrimination issues with a specific focus on advancing racial and ethnic justice.

**MICHAEL HEFLIN** – *U.S.*

Michael Heflin is a Washington DC-based director of equality who oversees portfolios on LGBTIQ, disability rights, intersectional women's rights, and racial and ethnic justice.

**NINA MADSEN** – *Brazil.*

Nina Madsen is a Washington DC-based program officer who manages a portfolio that centers on intersectionality and women's rights. She is a feminist and human rights activist from Brazil.

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# DIVERSIFYING KNOWLEDGE

**Thiago Amparo**

- *The experience of Sur's Writing Fellowships* •  
*for Black Authors*

Unlike previous editions, this 28th edition of Sur International Journal on Human Rights granted three writing fellowships to black authors. From September until December 2018, each writing fellowship provided financial support in the amount of R\$ 4.100,00 (Brazilian Reais), as well as mentorship in the process of writing for this publication. The fellowships' objective was to encourage and support black activists and/or researchers to write about their experiences and/or research on racism and human rights, in the Brazilian context.

The fellowship was conceived from a **hypothesis** on the state of the art of the funding of research on racism and human rights in Brazil. Even though the number of black students at universities in the country has doubled in the last decade - a concrete result of affirmative racial policies implemented in the period - financial support aimed at specifically black researchers in Brazil is still sparse, to not say it is almost non-existent. The proposition of a fellowship evidenced a demand not answered by existing opportunities of financial support - necessary for any creative and productive process - as well as of mentoring in the form of guidance for the writing process.

In this brief report, I seek to detail how the mentoring process of the three selected fellows for the 28th edition of Sur Journal developed, as well as present an overview of the received applications. I hope that, by detailing this process, Sur Journal will help public funding agencies, universities and private donors notice the urgent need to support black authors - not only in themes related to racism but also in other areas of research on human rights.

Pioneering initiatives in Brazil like those developed by the Ford Foundation and the Carlos Chagas Foundation in the last decade were vital to form an entire generation of black activists and academics, which this author is a member of. The present report concluded that it is fundamental to develop more initiatives of the kind.

## 1 • How the writing fellowship came to be

During nine days, between 27th of August and 4th of September 2018, Sur Journal received **803 applications** from black authors from across Brazil for the writing fellowship for its 28th edition. The number of 803 applications is considerable on its own. In addition to self-declaring as black when applying, the candidates also had to have a research and/or activism background in combating racism and promoting racial inequality, provide a statement of purpose explaining how the fellowship would assist in writing the article and show availability to contact the mentors during the writing process.

Three authors were selected by a committee composed by members of Sur Journal's editorial team, namely: the author himself and Maryuri Mora Grisales, the Conectas' coordinator of the programme for the strengthening of civic space, Camila Asano, as well as the guest editor Sueli Carneiro, founder of Geledés – Black Woman Institute and historical antiracism activist.

The authors selected for the writing fellowship whose articles are now published in Sur Journal's 28th edition were Megg Rayara Gomes de Oliveira, Aline Maia Nascimento and Rosane Viana Jovelino. The three selected candidates combine personal standpoints generally neglected by the literature about racism, empiric research experience in the topics addressed, as well as an original perspective on race and human rights. The topics chosen by them, namely: invisibility of black travestis and trans women in the black movement; the experience of establishing people's courts to look into the homicide of black youths; as well as the practices of political and economic development of quilombola communities, significantly advance the debate on race and human rights proposed by this edition.

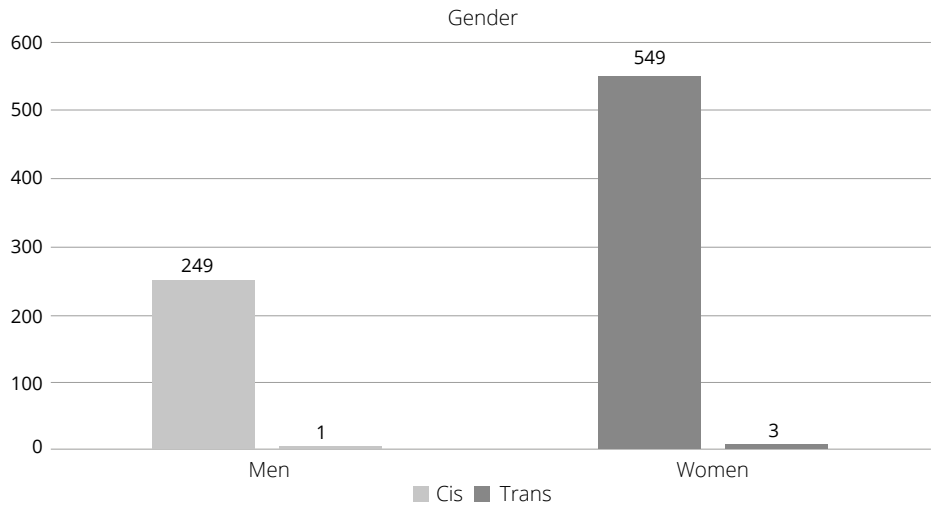
The mentoring occurred by means of constant communication between the team and the authors, regular textual reviews – both in relation to form and content – from the moment of conception of each of the selected articles, through their various versions up to the final edition.

## 2 • Overview of the candidates for the writing fellowships

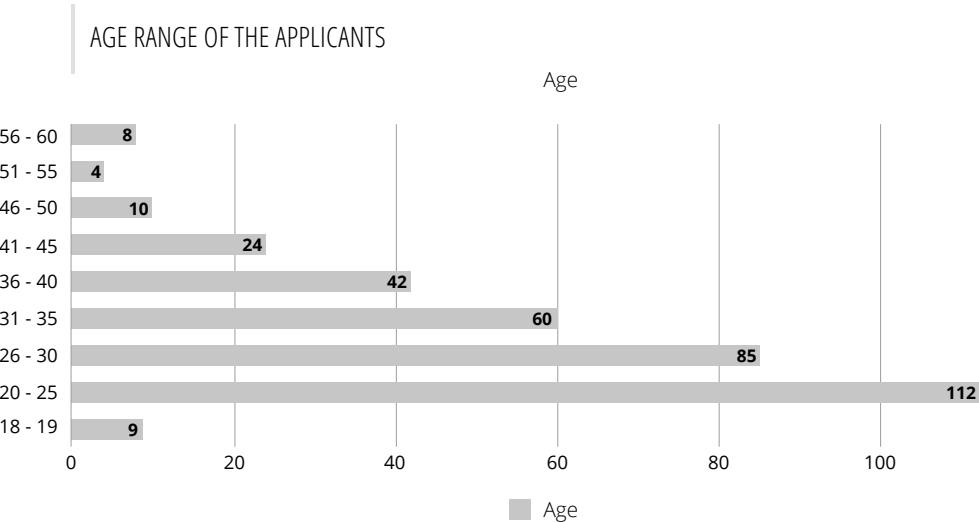
Who applied for the Sur Journal's writing fellowship? On average the selection process attracted young, black women, with master doctorate degrees, residing mainly in the Southeast region of Brazil, whose research is about racism in general or specifically about black identity and the rights of black women.

It is important to mention that, thanks to the careful voluntary work by Laura Eskudlark, a law student from FGV Law School in São Paulo, it was possible to outline the profile of the candidates for Sur Journal’s writing fellowship as follows:

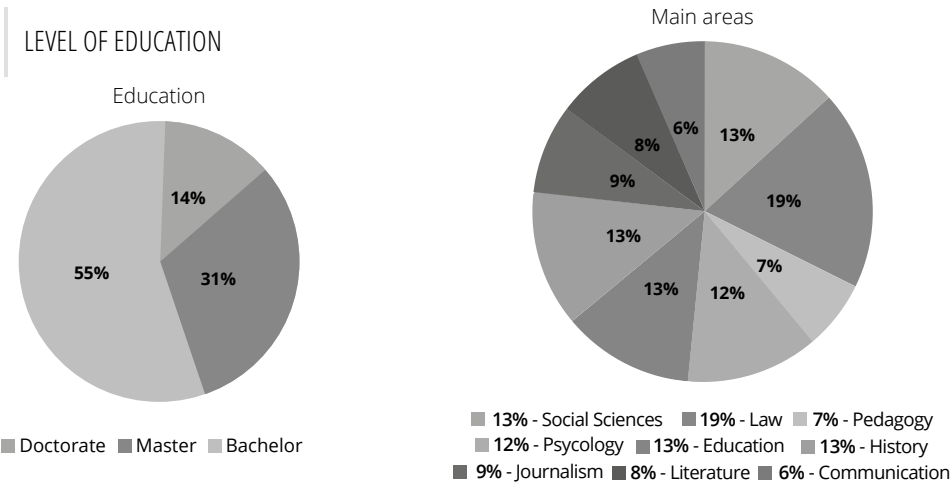
- The majority of the candidates are female (69%). Four applications were submitted by trans individuals (1 trans man and three trans women). Future support to the research developed by black authors should, therefore, take into consideration the intersectionality between gender and race, thus ensuring that support initiatives benefit in fact black women.



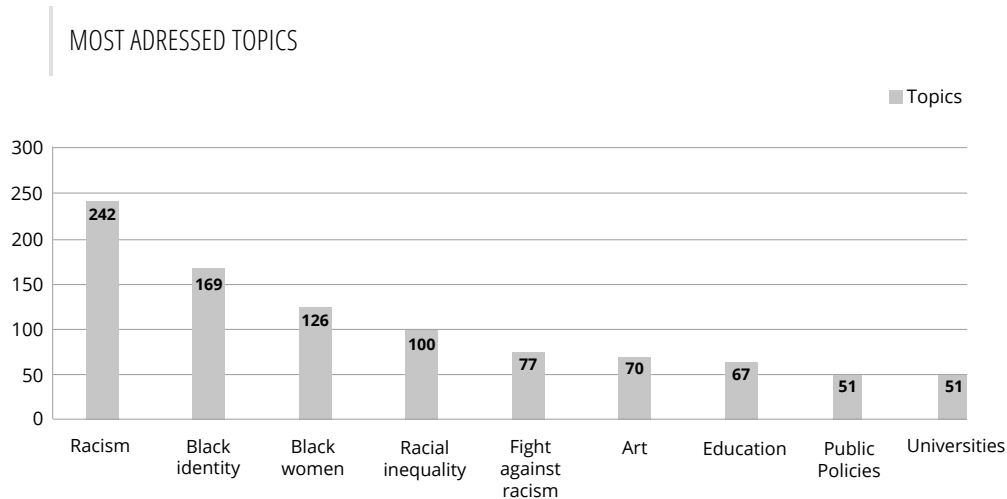
- The majority of the candidates who informed age (45% of the total). Out of them, the vast majority is comprised of young people aged between 20 and 35 years old, demonstrating a demand for research support for young black individuals.



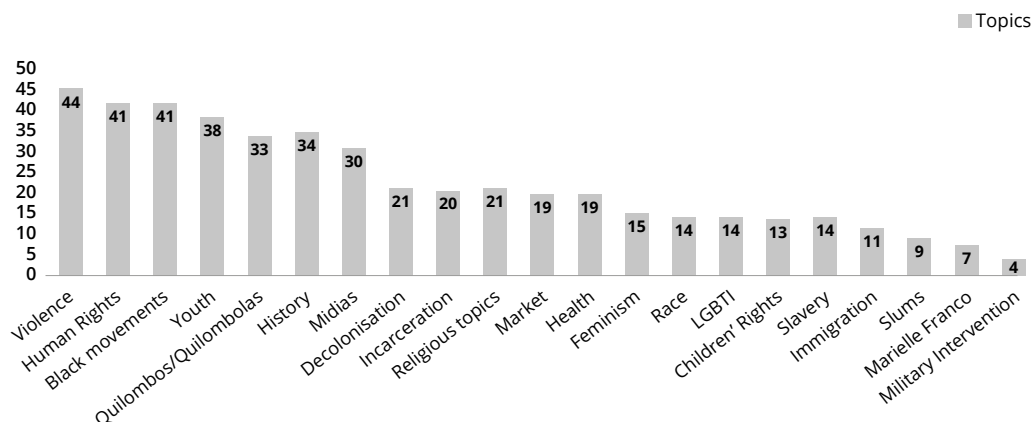
- Almost half of the candidates have a graduate degree (masters or doctorates) or are currently pursuing one (46%). This data serves to demystify the false idea that the reason for black people having less access to academic opportunities would be due to a supposed lack of formal instruction. Furthermore, Law is featured as the main academic area (19%), followed by Education, History and Social Sciences (13% each):



- The majority of the articles explicitly addressed the topics of racism and human rights. Other topics greatly addressed include black identity and black women. A considerable portion of the proposals focused on art and human rights, revealing that the legal language is not enough to fully encompass the complexity of race and human rights, which required other languages and other forms of expression. It is surprising to see that recurring topics in the debate on race and human rights, such as state violence, were the subject of few proposals. Such finding seems to indicate that recurring topics such as this might have been researched by black authors under other frames such as black identity, and fight against racism.



## OTHER TOPICS



### 3 • Conclusions and Proposals for a Future Agenda

The experience of this edition's writing fellowships taught valuable lessons to the Journal's editorial team. Firstly, it was clear that even simple technologies such as WhatsApp and videoconference enable prosperous exchanges during the writing process, considering that all three fellows reside outside the city of São Paulo, where Conectas Human Rights is headquartered. Secondly, the writing fellowships reinforced the importance of one of Sur Journal's mission since its inception: to strengthen the dialogue between activists and academics.

Thirdly, the profile of the three fellows confirms Sur Journal's most recent editorial path, that its audience is hybrid: Megg, Aline and Rosane are examples of academic activists (or activists with academic interests and background). People like Megg, Aline and Rosane are exactly the audience the Journal is made for.

Finally, a more attentive look into the 803 applications for Sur Journal's writing fellowship uncovers important information to diversify knowledge on human rights. The mainstream debate on human rights – whether in university academic circles in the Global North and South, or in the corridors of human rights organisations – is essentially cisgender, masculine and white. The overview presented herein, by means of the 803 applications, reveals an audience that is radically diverse. It is comprised of a group of researchers in which highly qualified black women feature predominantly, and whose debate proposals transcend Law, being presented in an interdisciplinary manner.

There is power in naming one's own oppression. There is also immense power in narrating resistance strategies and multiple forms of black existence, which go beyond the oppression. The experience of Sur Journal's writing fellowship reveal the need for

this generation of black researchers to find and open spaces in academic, civil society and in hybrid places — such as Sur Journal — so that the meaning of race and human rights in today's world is debated *in their own terms*.

## NOTAS

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1• Isabela Vieira, "Percentual de Negros em Universidades Dobra, Mas é Inferior ao de Brancos." Agência Brasil, December 2, 2016, accessed December 20, 2018, <http://agenciabrasil.ebc.com.br/educacao/noticia/2016-12/percentual-de-negros-em-universidades-dobra-mas-e-inferior-ao-de-brancos>.



### **THIAGO AMPARO** – Brazil

Thiago Amparo is a lawyer, black and LGBT activist, professor at FGV Law SP, and Executive Editor of Sur International Journal on Human Rights. He has a bachelor of laws from PUC-SP, as well as a master and a PhD in Law from the Central European University (Budapest). He was also a visiting fellow at Columbia University (New York).

email: [thiago.amparo@fgv.br](mailto:thiago.amparo@fgv.br)

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# HUMAN RIGHTS AND THE NON-HUMAN BLACK BODY<sup>1</sup>

**A. Kayum Ahmed**

## ABSTRACT

*When a black student threw faeces at a statue of British imperialist Cecil John Rhodes at the University of Cape Town in South Africa, it sparked the formation of #RhodesMustFall, a black radical student movement that sought to address systemic racism at the white liberal university through its demand to decolonize the institution. #RhodesMustFall adopted a decolonial framework centred on Black Consciousness, Pan-Africanism and Black radical feminism, but simultaneously rejected human rights discourses embedded in South Africa's progressive constitution. This paper examines the arguments developed by #RhodesMustFall in its rejection of human rights, including the idea that human rights is incapable of contemplating the non-human: an entity, often a black body, that takes on human characteristics but is not recognized as human. Drawing on empirical data, including 46 interviews with #RhodesMustFall student activists, this article considers how social movements shape conceptualisations of race in post-apartheid South Africa.*

## KEYWORDS

Human rights | Non-human | Black body | RhodesMustFall | Social movements

## 1 • Introduction

When Chumani Maxwele, a black student at the University of Cape Town (UCT) in South Africa, took containers of human faeces and threw it at a bronze statue of Cecil John Rhodes located on the university's campus on March 9, 2015, it sparked the formation of #RhodesMustFall (#RMF)<sup>2</sup> – a radical student movement centred on decolonising UCT by confronting questions of institutional racism, access to education and reforming the Eurocentric university curriculum.<sup>3</sup> In order to make sense of their experiences in a predominantly white liberal university, black students began de-linking from the dominant model of Euro-American knowledge at UCT, weaving together Pan-Africanism, Black consciousness and Black radical feminism to create a decolonial framework that shaped their activism and disruptive tactics.

As part of their de-linking from Eurocentric knowledge, #RMF activists explicitly rejected South Africa's constitutional framework centred on reconciliation, human rights and transformation, and instead, adopted Steve Biko's<sup>4</sup> philosophy of Black Consciousness, Frantz Fanon's<sup>5</sup> decolonisation thesis and Kimberle Crenshaw's<sup>6</sup> intersectionality framework, among others. This research analyses the results of 46 interviews conducted with #RMF activists to consider why a black radical student movement focused on tackling institutional racism in South Africa chose to adopt a decolonial framework to inform its activism, instead of a human rights-based approach that remains deeply entrenched in South Africa's constitution.

## 2 • On Human Rights and the Question of Humanness

During my initial interview with prominent #RMF student activist Brian Kamanzi,<sup>7</sup> he indicated that when the question of human rights was first raised at an open dialogue hosted by the #RMF movement at UCT, one of the participants suggested that because black people were not seen as human beings, human rights could not possibly apply to black people. This argument is based on the belief that human rights discourses are inherently anthropocentric and that because black bodies are often seen as non-human, human rights frameworks are unable to conceive of the non-human black body. Kamanzi suggested that the idea of the non-human emanated from "black existentialists" as well as from "Afro-pessimists" who were involved in the #RMF movement. "Afro-pessimists", according to Frank B. Wilderson III, "are theorists of Black positionality who share Fanon's insistence that, though Blacks are indeed sentient beings, the structure of the entire world's semantic field... is sutured by anti-Black solidarity".<sup>8</sup> Wilderson's argument appears to draw on Fanon's assertion in *Black Skin, White Masks*: "...a Black is not a man".<sup>9</sup> Consequently, Wilderson distinguishes between the human life and the black non-human indicating that the divide between the two is an "unbridgeable gap".<sup>10</sup> For Afro-pessimists such as Sexton, "black life is lived as social death".<sup>11</sup> Afro-pessimism then becomes a way of providing a language for such suffering "to establish the rules of its grammar".<sup>12</sup>

The human/non-human binary developed by Wilderson is however dismissed by Gordon who asserts that while racism requires the construction of the non-human, “[t]he performative contradiction is that they would first have to be identified as human beings in order to deny their being such. It is thus a form of *mauvaise foi*”<sup>13</sup> (bad faith). Gordon is therefore opposed to the idea of Afro-pessimism and offers a critique of Wilderson and Sexton’s argument that being black is equated with “social death.” Drawing on Fanon’s notion of “the zone of nonbeing,”<sup>14</sup> Gordon poses the following critical questions for Afro-pessimists: “Why must the social world be premised on the attitudes and perspectives of antiblack racists? Why don’t blacks among each other and other communities of color count as a social perspective? And if the question of racism is a function of power, why not offer a study of power, how it is gained and lost, instead of an assertion of its manifestations as ontological?”<sup>15</sup> Furthermore, Gordon suggests that an additional problem with Afro-pessimism “is that its proponents treat ‘blackness’ as though it could exist independent of other categories”.<sup>16</sup>

Gordon’s critique suggests that #RMF activists who invoke the idea of the non-human appear to misread Fanon’s assertion in *Black Skin White Masks* that “a black is not a man”. #RMF activist, Ru Slayen,<sup>17</sup> suggested that the idea of the non-human was primarily employed by student activists “at the rhetorical level”, although it “resonated with people even though few people had like actually engaged with the philosophical, like what is this thing actually saying...”. For Slayen, “I think it was pretty clear to people just through their own lived experiences and from looking around, that this thing of human rights, it’s like this abstract notion that we supposedly have, that’s like completely inaccessible to most people. And when you look around it’s clear like who are the humans who have these rights, you know... and it’s not black people”.<sup>18</sup>

While most of the 46 students I spoke to were sceptical of Afro-pessimism, including Slayen and Kamanzi, there was general agreement with the idea that human rights principles embedded in South Africa’s constitution were an inadequate framework to make sense of the questions of institutional racism they were dealing with. This critique of South Africa’s progressive human rights-based constitution seems counter-intuitive given the link between social movements and human rights more generally. Employing human rights language could strengthen claims for access to education, a right that is explicitly contained in South Africa’s constitution. In most case studies on human rights, it is usually civil society and social movements that employ rights discourses to make claims against the state. The state is often seen as reluctant or unwilling to implement human rights laws and practices. In South Africa, it appears as if there has been a reversal of these roles in that the #RMF movement has rejected human rights discourses, while the state has taken significant measures to include human rights language in its laws and policies.

### 3 • #RhodesMustFall and the Human Rights State

The #RMF movement’s mission statement makes one reference to human rights in its critique of the South African constitution’s approach to racism. Under the subheading “on reverse

racism”, the movement argues that “the Constitution’s conception of racism is fundamentally racist because it presupposes that racism is a universal experience, thus normalising the suffering of those who actually experience racism”.<sup>19</sup> The statement goes on to indicate that “The Constitution’s conception of racism has systematically been used to deter irrepressible urges by black South Africans to challenge racism and violence” (JWTC 2015, p. 7).

As part of its critique of South Africa’s human rights-based constitution, which has been described as the “most admirable and progressive constitution in the history of the world”,<sup>20</sup> the #RMF mission statement offers an example of how the South African Human Rights Commission (SAHRC) interprets the equality provisions in the constitution by referring to its finding against the Forum for Black Journalists (FBJ). The SAHRC is an independent constitutional body established to monitor, protect and promote human rights<sup>21</sup> and in 2008, it received complaints when the FBJ excluded white journalists from a meeting addressed by the African National Congress President, Jacob Zuma. After holding a public forum on these complaints, the SAHRC deemed the racially exclusive membership policy of the FBJ unconstitutional. Reflecting on this decision, the #RMF mission statement argued that “white journalists were banned from the [FBJ] in February 2008 and this was declared unconstitutional and racist.” This led the #RMF to conclude that South Africa’s history compels black people to organise themselves “to the exclusion of white people in the fight against racism”.<sup>22</sup>

The critique of the constitution and its interpretation by the SAHRC was led primarily by law students involved in the movement, according to Ru Slayen and Leila Khan, both of whom were intimately involved in drafting the #RMF’s mission statement. According to Khan, “there were a lot of law students involved in #RMF, which I think is also telling about the law faculty and how messed up it is”.<sup>23</sup> For Khan, the criticism of human rights discourse is linked to a critique of the constitution. The constitution, according to Khan, “allows for non-structural interpretations of power... it allows land to be kept in the possession of white people”.<sup>24</sup> Brian Kamanzi similarly tied the idea of the non-human back to the constitution and the land question raised by Khan, arguing that “many of those categories [of human] have no meaning outside of the return of the land, which is also the return of independence and the ability to self-determine”.<sup>25</sup>

These arguments reflect the critiques of legal scholars such as Mutua who suggest that in the “Age of Rights” following the Second World War, South Africa “represents the first deliberate and calculated effort in history to craft a human rights state”.<sup>26</sup> Mutua, however, finds that South Africa’s incorporation of human rights discourses into its constitution was a “mistake”.<sup>27</sup> Drawing on the work of Gassama, Mutua believes that South Africa’s mistake was failing to recognise that human rights can be used by the privileged white minority to protect their economic status as the holder of significant private property rights.

Khan also recalled how a discussion on race organised at the law school was disrupted by #RMF activists in which someone shouted, “the constitution is anti-black (laughs).

And I was like, ah that's exactly what it is (laughs). Well, I remember for me, I was like, yes".<sup>28</sup> At the same time, Slayen recalled how UCT's management "ridiculed"<sup>29</sup> the #RMF's evaluation of the constitution as anti-black. He suggested that the constitution's roots could be traced back to the Freedom Charter which was developed by the African National Congress (ANC) and that consequently, the #RMF's critique of human rights reflects a critique of both the Charter and the ANC.

The rejection of human rights discourses, then, becomes a proxy for the rejection of the ANC and its human rights-based constitution. In addition, various students I interviewed linked human rights to individualism, liberalism and whiteness, suggesting that decolonisation as a framework offered an approach to black struggles that were more relatable to their current condition as black students in a historically white Eurocentric university. For Chumani Maxwele, the student who threw faeces at the Rhodes statue, "there is no doubt that the language of the constitution is the language of white people".<sup>30</sup> Similarly, Mbali Matandela, a black radical feminist and leading voice in the #RMF movement, indicated that human rights was intrinsically connected to South Africa's 1994 transition to democracy: "human rights discourse, what it's done, it's a watered down discourse about blackness and critical race theory and instead, it has replaced it with liberal approaches on what is needed to be done with the black struggle..."<sup>31</sup>

Critical human rights scholarship contends that human rights discourses, though well meaning, are predominantly based on Euro-American values and have been deliberately designed as a mechanism to civilise the Global South. Human rights discourses, therefore, cannot be separated from their historical formation in the Global North and their affiliation to capitalist globalization. Furthermore, critical scholars argue that human rights have been appropriated by conservative governments, civil society organisations and international financial institutions. The #RMF's negation of human rights in a country described as "a human rights state" seems to symbolise a denunciation of South Africa's post-apartheid transition to democracy and the politically negotiated, human rights-based constitution.

However, the #RMF activists' understanding of human rights and its connections to South Africa's constitutional dispensation is not shared by human rights lawyer, Tembeka Ngcukaitobi. According to Ngcukaitobi, a black advocate who practices human rights law in South Africa, the ANC first developed an "African Bill of Rights for South Africa"<sup>32</sup> as early as 1923. While Ngcukaitobi acknowledges that "it is not possible to draw a straight line between the writings of early African intellectuals and the present Constitution", he argues that "the idea of a Bill of Rights had its origins in South Africa... [and] was a negation of colonial violence".<sup>33</sup> Ngcukaitobi's comprehensive historical analysis of the development of human rights within the ANC among black intellectuals leads him to dispute the "'Eurocentric origins' of the country's constitutional order".<sup>34</sup>

Consequently, Ngcukaitobi's book challenges two arguments offered by #RMF activists: first, that human rights is a Eurocentric idea imposed on Africans, and second, that human

rights is an inadequate framework to challenge colonialism. If these arguments fall away, then the #RMF's rejection of human rights can largely be considered as a rejection of the ANC and its failure to ensure the restoration of the dignity of black South Africans. The critique of human rights by #RMF activists seems to be largely centred on what it represents in South Africa's negotiated democratic process and how its entrenchment in the constitution has "watered down"<sup>35</sup> the struggles faced by black people. The rejection of human rights then appears to be a proxy for the rejection of the ANC's negotiated settlement, which student activists believe results in the continued dehumanisation of black people and a failure to adequately address the dispossession of land. As a result, decolonisation, instead of human rights, becomes the primary theoretical framework employed by students to address the challenges they face.

## 4 • Conclusion

This analysis of the #RMF movement reveals the complexity of how black-led social movements engage with race and human rights. It suggests that while human rights is often employed as a framework for combating racism, student activists involved with #RMF viewed human rights as an extension of Eurocentric thinking and instead, employed decoloniality as a framework to formulate strategies to challenge institutional racism at the University of Cape Town. Recognising that South Africa is considered a "human rights state" and its constitution is regarded as one of the most progressive human rights-based constitutions globally, the rejection of human rights by #RMF activists raises fundamental questions about the limitations of employing a human rights framework to engage with questions of blackness and, in particular, the notion of the non-human black body. It appears that black students are deeply disillusioned by the failure of South Africa's human rights constitutional framework to address systemic racism and are increasingly turning away from rights discourses to opt for more radical decolonial frameworks as a strategy in their fight against racism.

## NOTES

- 1 • "This article was first published at Columbia Human Rights Law Review 2018, accessed December 12, 2018, 2018, <http://hrlr.law.columbia.edu/hrlronline/>."
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- 4 • Steve Biko, *I Write What I Like* (Chicago: University of Chicago Press, 1978).
- 5 • Frantz Fanon, *The Wretched of the Earth*, trans. Richard Philcox (New York: Grove, 2004).
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- 7 • Brian Kamanzi, personal communication, August 12, 2016.
- 8 • Frank B. Wilderson III, *Red, White & Black: Cinema and the Structure of U.S. Antagonisms* (North Carolina: Duke University Press, 2010): 58.
- 9 • Frantz Fanon, *Black Skin, White Masks*, trans. Charles Lam Markmann (New York: Grove, 1967): xii.
- 10 • Wilderson III (2010): 57.
- 11 • Jared Sexton, "Afro-Pessimism: The Unclear Word," *Rhizomes* 29 (2016), accessed November 29, 2018, <http://www.rhizomes.net/issue29/sexton.html>.
- 12 • *Ibid.*
- 13 • Lewis R. Gordon, "Phenomenology and Race," in *The Oxford Handbook of Philosophy and Race*, ed. Naomi Zack (Oxford: Oxford University Press 2017): 295.
- 14 • Fanon (1967): 2.
- 15 • Gordon (2017): 297.
- 16 • *Ibid.*
- 17 • Ru Slayen, personal communication, July 26, 2017.
- 18 • *Ibid.*
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- 21 • Constitution of the Republic of South Africa, Act 108 (1996).
- 22 • RhodesMustFall (2015): 7.
- 23 • Leila Khan, personal communication, July 19, 2017.
- 24 • *Ibid.*
- 25 • Kamanzi (2017).
- 26 • Makau Mutua, *Human Rights: A Political and Cultural Critique* (Philadelphia: University of Philadelphia Press, 2002): 126.
- 27 • *Ibid.*, 128.
- 28 • Khan (2017).
- 29 • Slayen (2017).
- 30 • Chumani Maxwele, personal communication, June 26, 2017.
- 31 • Mbali Matandela, personal communication, July 31, 2017.
- 32 • Tembeka Ngcukaitobi, *The Land Is Ours: Black Lawyers and the Birth of Constitutionalism in South Africa* (Cape Town: Penguin, 2018).
- 33 • *Ibid.*, 2.
- 34 • *Ibid.*, 196.
- 35 • Matandela (2017).



**A. KAYUM AHMED** – *South Africa*

A. Kayum Ahmed is an Adjunct Faculty member at Columbia University Law School where he teaches classes in socioeconomic rights and African law, literature and politics. Following his participation in anti-white supremacist protests at Columbia University, he was placed on the right-wing Professor Watchlist for advancing “leftist propaganda in the classroom.” Before joining Columbia, Kayum served as CEO of the South African Human Rights Commission from 2010 to 2015. He holds degrees from the universities of Oxford (MS.t), Leiden (LL.M.), Western Cape (M.A.) and Cape Town (B.A. Hons and LL.B.).

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# THE ROLE OF WHITE PEOPLE IN THE FIGHT AGAINST RACISM

**Denise Carreira**

- *Provocations and topics for conversation* •

## ABSTRACT

*This article proposes the need for better engagement of white people and institutions committed to the promotion, advocacy, and guarantee of human rights in the battle against racism. It addresses some of the obstacles, challenges, and possibilities involved in this conflictive construction, especially regarding critical thought and in the process of deconstruction of whiteness as a place where subjective and symbolic material privileges in society are maintained and based on racism.*

## KEYWORDS

Human rights | Feminism | Public policies | Education | Racism | Whiteness | Institutional racism | Affirmative action

This article proposes the need for better engagement of white people and institutions committed to the promotion, advocacy, and guarantee of human rights in the battle against racism. It addresses some of the obstacles, challenges, and possibilities involved in this conflictive construction, especially regarding critical thought and in the process of deconstruction of whiteness as a place where subjective and symbolic material privileges in society are maintained and based on racism.

Racism is understood herein as a dehumanising phenomenon that denies dignity to people and social groups based on their skin colour, hair, and other physical traits or their regional or cultural origin. This is a phenomenon based on beliefs, values, and attitudes that systematise, perpetuate, and are continuously renewed. It is the structural base of unequal distribution of access to opportunities, to resources, to information, to attention, and to power in daily life, society, institutions, and state policies.

Within national and international contexts, there has been an increase in the political strength of ultraconservative groups that attack human rights, largely based on a notion of uncritical whiteness – a justification for racial hierarchies, defense of white supremacy,<sup>1</sup> spreading of hate for those who are poorest and those considered different. Given this situation, there is an urgent need to invest more intensely in developing processes that make the following possible: having and maintaining uncomfortable conversations; disrupting and reinventing perspectives; promoting learning processes; and reeducating on racial relationships, redetermining a new base for trust and for political alliances that result into more integrated and effective transformational actions.

These are processes that, while affirming the place of black and indigenous movements as the traditional protagonists in the fight against racism and broadening the conflicting notion of human rights,<sup>2</sup> places in check the view that racism is a problem of black, indigenous, and others from discriminated social groups, and actually encourage white people and institutions to push for and transform racial relationships, going beyond simply support, solidarity and the political fight of “others”.

I speak as a white, feminist woman who is an educator, researcher, and activist and has been seeking for many years to create an identity of a non-racist. This article is fed by the pains, doubts, contradictions, discoveries, analyses, and potentials, and by the political experience in this locus of tension, as well as by conversations with black and white authors who analyse the phenomenon of racism and especially the place of whiteness – of the white racial identity – in the maintenance of a racist order.

## 1 • The White Fragility

I have always been struck and challenged by observing the destabilising power that simple questions have on white people, even on many of those who are part of a reality-transforming

perspective. As a trainer of professionals in the field of education and as an activist and as a mother, I have witnessed recurrent situations resulting from a question I pose during my visits to public and private educational institutions.

The question is the following: how has the school been implementing the Law of National Guidelines and Bases (LDB), altered by Law no. 10.639/2003, and what has it been doing to fight racism? A product of the historical Brazilian black movement, Law no. 10.639 in 2003 changed the highest law on Brazilian education, establishing the obligation to teach African and African-Brazilian history and culture and ethnic-racial relationships in schools, following laws established in other countries with an African diaspora as a result of the slave trades during Colonial times.

Often, this question became a trigger for defensive answers, uncomfortable situations, aggressiveness, hurried justifications stating that such a problem does not exist because the school values diversity, and attempts to minimise or even disqualify the meaning posed in the question, as well as of those who were posing it. In many private schools, for example, these reactions were complemented by deconstruction of the importance of approaching the topic of racism based on the fact that most students are white or by politically erasing the racial issue based on the idea that the matter is simply a “topic” just like any other. In this and many other ways, such actions maintain the symbolic privileges that the white population has gained in the Brazilian education system.<sup>3</sup>

But why does talking about race make people so uncomfortable? In her book *White Fragility: Why It's So Hard for White People to Talk about Racism*,<sup>4</sup> the American anti-racism educator Robin DiAngelo approaches the reactions and difficulties that many white people have when confronted by the debate on racism and when provoked to consider how it manifests itself in their daily relationships.

For DiAngelo, this emotional fragility in addressing racism comes from the fact that most white people have grown up segregated from other racial groups and are particularly protected from the stress generated by racism, which is perversely present in the lives of black, indigenous, and other racially discriminated peoples.

This white isolation leads to a racially-comfortable environment with “protective cushions”, without any development of the emotional and cognitive skills to face racial stress, to talk about racism, and face questions about white privileges. White people are rarely without these “protective cushions” and when it does it occur, it is usually a temporary situation and by choice.

White Fragility is therefore characterised as a state in which even a minimum level of racial stress becomes unbearable, unleashing a series of defensive actions. These actions include the externalisation of emotions such as anger, fear, and guilt and behaviours such as: arguments to deconstruct the importance of the topic and of those who bring it up, the inability to

have conversations, or simply fleeing from the stress-inducing situation. According to the author, the actions would effectively reestablish white racial balance and comfort.

For DiAngelo, White Fragility represents an aspect of whiteness which goes far beyond skin, defined as a constellation of dynamic, relational, and operational processes and practices at every moment and every stage of life in society. These processes and practices include basic rights, values, beliefs, perspectives, and experiences that are supposedly shared by everyone but are actually mostly found only among white people.

Ruth Frankenberg, another academic in this field, defines whiteness as a structural place from which a white person sees others and themselves, as a position of power, and a comfortable place from where it is possible to attribute to others something that one does not attribute to oneself.<sup>5</sup>

Given the diversity and heterogeneity present in any social group, in this case, the access to white privilege among white people must also be considered as something characterised by inequality (social class, phenotype, sex, gender identity, sexual orientation, place of residence, region, presence of a disability). As in other social identities and experiences of power, whiteness is diverse, contextual, and characterised by countless conflicts, but not subject to stereotyping. However, one of its main characteristics is seeking to be invisible through identification as a dominant normative standard representing the universal human being. This is especially conferred upon white, heterosexual, middle-class and upper-class males.

## 2 • Whiteness and Privilege

The 1990s witnessed the emergence of studies on whiteness in the United States, forming a field known as “whiteness critical studies”, making the U.S. the world’s main research centre on the topic. Starting from the 2000s, many countries such as England, South Africa, Australia, and Brazil increased their academic production on the subject.

Among the pioneers in whiteness studies, Lourenço Cardoso (2010) invokes black American sociologist W.E.B. Dubois (1868-1963), who discusses the white racial identity in his work *Black Reconstruction in the United States* in 1935. The black philosopher Franz Fanon (1925-1961), born in French Martinique, was one of the pioneers in the issue of white racial identity, advocating the need to free white people from their whiteness and black people from their blackness so that every person may fully enjoy their human condition.<sup>6</sup> The black South African activist, Stephen Bantu Biko (1946-1977) is also considered one of the pioneers in the analysis of whiteness, addressing the place of white people in South Africa during apartheid (1948-1994).<sup>7</sup>

The work *The Colonizer and the Colonized* (1957) by Albert Memmi, a French thinker born in Tunisia, addresses the importance of addressing the place of the oppressor in

colonial relationships and is considered a benchmark in the emergence of whiteness studies.<sup>8</sup> By migrating the issue from the oppressed to the oppressor, a movement that represents a real epistemological turning point, studies on masculinities within the field of gender studies gain space in the 1990s, led by feminist and LGBT researchers. The work of Raewyn Connell, the Australian transgender researcher who proposed the concept of hegemonic and counter-hegemonic masculinities, is considered innovative.

In Brazil, black sociologist Guerreiro Ramos is considered a pioneer in whiteness studies in the 1950s, questioning the fact that studies on racial relationships in the country were still limited to study of the black population. Cardoso sees the term “whiteness” used by Guerreiro Ramos in his experiment *Social Pathology of the White Brazilian* (1957) a contemporary meaning given to the concept of whiteness as something that surpasses physical traits.<sup>9</sup> For Ramos, the social pathology of white Brazilians would consist of denial: the denial of people with any black biological or cultural ancestry; of black ancestry itself; and of the influence of black people on the construction of the country.

In 1962, Gilberto Freyre used the term whiteness for the first time in the sense of “white racial identity” but questioned the terms “blackness” and “whiteness”, given their association with a logic of duality not applicable to Brazil, which is seen by the author as a racial democracy due to the mixture of races.

Florestan Fernandes, Otávio Ianni and other intellectuals from the Paulista School of Sociology questioned the myth of racial democracy held by Freyre, expressing the violence, inequalities and countless conflicts that characterise the unharmonious racial relationships in the country and demonstrating how little black people are integrated into classes in society. However, these intellectuals are criticised for not addressing the place of white people in the construction and maintenance of racism in Brazil.

According to a survey by researcher Lourenço Cardoso,<sup>10</sup> who analysed Brazilian academic production on racial relationships from 1957 to 2007, whiteness studies emerge in the 2000s as a field of study in Brazil, and the works emphasise racial invisibility and historical silencing of the place of white people in research on racism in Brazil.

*In my work over the last fourteen years, the first and most important aspect that draws attention in research debates, in the implementation of institutional programmes to fight inequalities, is the silence, the omission or the distortion that exists about the place that white people have occupied and still do, in fact, in Brazilian racial relationships. The lack of analysis of the role of white people in racial inequalities is a way of persistently reinforcing that racial inequality in Brazil is exclusively a black problem, since only these people are studied, dissected, problematised.<sup>11</sup>*

Among the authors on whiteness in Brazil, Edith Piza, César Rossato and Verônica Gesser, Maria Aparecida da Silva Bento, Liv Sovik, Lúcio Otávio Alves Oliveira, Lourenço Cardoso, Lia Vainer Schucman, Ana Helena Passos, among others, stand out. The research by these black and white authors address issues ranging from constitution and maintenance of white privilege in Brazilian society, to how white people socially construct themselves as white while not recognising themselves as a racial group in Brazil; to white power over other racial groups, its effects and materialisms on the interlacing of subjective dimensions with structures of social power; of how racial hierarchies are perceived and experienced by white people as to diversity, inequalities, pacts, alliances and internal conflicts of the white group, among other aspects and dimensions of whiteness. During the past few years, the approaches to whiteness are becoming more complex, diverse and contextual.

### 3 • White People in Fight against Racism

Cardoso<sup>12</sup> identifies two types of whiteness: acritical whiteness, which defends white supremacy and natures racial inequalities, and forms a base for neo-Nazi movements, and the Ku Klux Klan, among others; and critical whiteness, which publicly disapproves of racism. He believes that in Brazil a large part of research has focused on approaching critical whiteness, presenting the contradictions between the public discourse against racism and the daily racist practices present in personal relationships and institutions, aligned with the myth of a racial democracy. A survey conducted by the Perseu Abramo Foundation in 2003 demonstrated contradiction, showing that 87% of Brazilians believed that there is racism in Brazil, but only 4% recognised themselves as being racist.<sup>13</sup>

Through her research on whiteness among white people from the city of São Paulo, Lia Schucman suggests the hypothesis that programmes and campaigns such as *Onde você guarda o seu racismo?* (Where do you keep your racism?) and the debates on sharing of racial quotas at universities during the 2000s may have contributed to changes in the behaviour of Brazilians, in the sense of a greater recognition of their own place as people who practise racism.

In my PhD thesis, later turned into a book,<sup>14</sup> I also defend this hypothesis, given that in the 2000s (with the Durban World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance [2001] and election of progressive governments) there was strong politicisation of the debate on racial relationships in Brazil.

The debates on affirmative action in college education, in the job market and in media and communication; the obligation to teach African and African-Brazilian history and culture and ethnic-racial relationships in Brazilian basic education; presence of racism in the works of author Monteiro Lobato, an icon of Brazilian juvenile literature; the improvement in the production of information and the expansion of research on racial inequalities; the debate on the rights of *quilombola* communities and the strong action from youth and black women's movements played an important role in greater

politicisation among the left, which tends to be greatly resistant to exploring the racial issue as something that goes beyond inequalities of social class.

Based on this activity, generated by the political battle and considering the current context – with increased political strength of ultraconservative and ultraliberal groups referenced within acritical whiteness; misogynist masculinity that attacks the rights of women and of the LGBT population; naturalisation of economical inequalities through economic austerity measures; religious fundamentalism and reaffirmation of a hierarchical order – the following questions are posed: what is the place of white activists in a fight against racism? How to advance from critical whiteness to an anti-racist whiteness?

## 4 • Anti-racist Whiteness

I understand that a fundamental challenge is to determine the place of white people in the anti-racist fight, in the sense of going beyond a call for support to fight for black, indigenous and other racially discriminated groups, fighting for others. The overcoming of racism requires much more than that. It requires a different level of implication, especially from those who consider themselves as human rights activists. But what does it mean to be a white person in an anti-racist fight that is based on questioning white privilege?

The notion that I consider fundamental to the construction of an effectively democratic society is reciprocal recognition,<sup>15</sup> that is, someone who recognises themselves and others as deserving of dignity, rights, knowledge, social projects and life. Someone who evolves based on the understanding of their incompleteness and of alterity, in the sense of the capacity to recognise themselves in interdependent relationships with others and with the environment.

In this perspective, to be a white anti-racist person includes making oneself available to recognise and evolve within this interdependence; facing the discomfort of conversations about racism and to critically consider how whiteness is woven into the story of our lives, our relationships, our social practices and our institutions. To recognise that we have been educated to not recognise ourselves as white people, but as human beings who represent a disembodied universal humanity, the standard, the norm in a place of power.

This results in a type of “social blindness”, a masking of our place as white people in social relationships and of the difficulty to perceive, read and understand racial inequalities, the development and maintenance of white privilege and the magnitude and complexity of suffering generated to the black and indigenous populations of our country: not only explicit violence, but subtle violence, silence, looks, omissions and the denial of human condition. In a way, this is also valid to understand other differences experienced as social inequalities, especially in matters of gender, gender identity, sexual orientation, regional origin, among others, in their intersectional interlacing in the lives of people and of the discriminated groups.

How is this done? How is a racial literacy developed<sup>16</sup> in a transforming perspective? How does one reeducate vision, hearing, senses? The contact with literature, movies, music, cultural production, with the life experiences of black people is just as important as the access to research and studies, to newspaper articles and to statistics that explicitly show racial inequalities as a social phenomenon by the numbers.

And furthermore: it is necessary to be exposed to meeting these other people, testing the boundaries imposed by racial and social segregation that exist in Brazilian society and recognising that our point of view is always partial and localised. Segregated environments create acritical, distorted, comfortable whiteness. Therefore I believe that we must urgently see as inadmissible a democratic society of elites, who raise their children in exclusively white environments or, at most, restricted to the presence of black men or women occupying subordinate positions.

We must advance to normative frameworks and policies that deconstruct racial, social and territorial segregation, that strengthen the public dimension as a space for everyone and that require, for example, affirmative action within the entire educational system – in public and private education – not only as a measure to redress the black population, but for development of a democratic culture and of a critical and anti-racist whiteness in which whites understand their place in the maintenance of privileges and in the transformation of this reality.

The key to this process is not to cause white people guilt, but to stimulate their responsibility in the development of self-criticism, collective analysis and actions that enable effective transformations in the fight against racism as a system, ranging from daily relationships to institutions and public policies. This must be built “with” black people, with black social movements, indigenous social movements and other discriminated groups, recognising their political place as the historical protagonists of this battle.

The participation of whites in the anti-racist fight is important – as people and as political partners in this construction historically led by those who suffer the consequences of racism – but they should not be expropriators of this fight, nor disqualify, annul or deny the protagonism of these people, reaffirming the pitfalls and places of power of acritical whiteness. On the other hand, there is another pitfall of whiteness – falling into a comfortable, passive and accommodated place, protected from conflict, believing that only black and indigenous people can talk about how to face racism. It is fundamental to build spaces of negotiation and political trust, based on principles jointly agreed upon, so that we may learn to build political strategies *along with* black and indigenous people.

Regarding institutions, developing processes for educating on institutional racism is urgently needed,<sup>17</sup> ones that are not limited to theoretical explanation and disclosure of information, but which can enable experiences, self-analysis and group analysis among black and white people on the institutional places of power, processes and cultures that explicitly or silently sustain racism.

Regarding public policies, the challenge of this agenda includes defending and promoting policies for historically discriminated and violated populations as outlined in the Durban Conference – now strongly threatened by ultraconservative groups – and of testing whiteness and references to universalities of policies for all, showing their role in perpetuating racial, social and gender inequalities in the country.

For example, regarding the requirement of teaching African and African-Brazilian history and culture and ethnic-racial relationships throughout basic education in Brazil: nearly all educational leaders see this as a specific policy for black people, and not as a law that puts into perspective and instigates a meaningful review of the paradigm of what is considered as quality of education in Brazil.

Finally, it is worth mentioning that this desired transformation requires a willingness among white individuals to actively educate themselves in rebuilding of racial relationships, facing discomfort, the fear, the unknown, reeducating of perspective and listening, analysing and evaluating actions through conversations with black and indigenous people; deconstructing the development of privileges, of discrimination and of violence in daily life and in institutions, being open to discover all that we failed to see throughout the centuries and today – as human beings – by denying the recognition of dignity, knowledge, history, culture and civil values of African, African-Brazilian and indigenous people.

## NOTES

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- 16 • Schucman, *Entre o Encardido, o Branco e o Branquíssimo*.
- 17 • I note here the generation of many provocations and learnings in institutional racism developed from 2016-2018 by Ação Educativa. Ação Educativa is a human rights organization that I am part of, with assistance from the Amma Pique e Negritude Institute and the support of the Ford Foundation. On institutional racism see: Geledés – Instituto da Mulher Negra, *Guia Para o Enfrentamento do Racismo Institucional* (São Paulo: Geledés, 2013); Instituto AMMA Pique & Negritude, *Os Efeitos Psicossociais do Racismo* (São Paulo: Imprensa Oficial, 2008). Denise Carreira e Ana Lúcia Silva Souza, *Indicadores da Qualidade da Educação: Relações Raciais na Escola* (São Paulo: Ação Educativa, Unicef, Seppir, MEC, 2013).

**DENISE CARREIRA** – *Brazil*

Denise Carreira holds a master's and a PhD in education from the University of São Paulo. She is on the boards of Ação Educativa and the DHESCA Platform. A feminist, she coordinated the National Campaign for the Right to Education and was the National Rapporteur of the Human Right to Education. At the invitation of the Malala Fund, she participates in the Gulmakai International Network of advocates working for the right to education for girls and women. In terms of the racial agenda, she was part of the Inter-ministerial Group that developed the preliminary document for the National Plan for Implementation of National Curricular Guidelines for Education on Ethnic-Racial Relationships and is a co-author of the publications *Indicadores da Qualidade na Educação: Relações Raciais na Escola* (Quality Indicators in Education: Race Relations in Schools) and *O Ministério Público e a Igualdade Étnico-Racial na Educação* (The Public Ministry and Ethnic-Racial Equality in Education), among others.

email: [denisecarreira2@gmail.com](mailto:denisecarreira2@gmail.com)

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Race and Human Rights: Moving Structures

# REPOSITIONING RACE IN THE INTERNATIONAL AGENDA INTERNACIONAL



- essays -

## **PUTTING RACIAL EQUALITY ONTO THE GLOBAL HUMAN RIGHTS AGENDA**

E. Tendayi Achiume

- essays -

## **AFRO-DESCENDANTS AS SUBJECTS OF RIGHTS IN INTERNATIONAL HUMAN RIGHTS LAW**

Roberto Rojas Dávila



# PUTTING RACIAL EQUALITY ONTO THE GLOBAL HUMAN RIGHTS AGENDA

**E. Tendayi Achiume**

## ABSTRACT

*Equality is generally marginalized within the global human rights agenda, and among those who wield power in the formation and execution of this agenda. Furthermore, people of color on the front lines of racial oppression remain excluded from human rights decision-making and knowledge production. This essay seeks to put racial equality onto the center of human rights agenda. In order to so, remedying this state of affairs requires infusing the global human rights agenda with a commit to substantive racial equality. It requires both prioritizing a structural and intersectional approach to racial discrimination, and taking seriously the role of communities of color and their advocates not only in fighting racial inequality, but also in defining the very nature of human rights.*

## KEYWORDS

Human rights agenda | Racial equality | Activism | Structural racism | United Nations

## 1 • Introduction

How can it be that in its fourteen years of existence, Sur has published only two articles on racial equality? In this Essay, I propose that Sur's neglect of racial equality is neither exceptional nor an anomaly within the broader international human rights universe. Rather this neglect is characteristic of the more general marginality of racial equality within the global human rights agenda, and among those who wield power in the formation and execution of this agenda. Formal approaches to racial equality, even within the human rights system, fail to leverage the promise of the International Convention for the Elimination of Racial Discrimination ("ICERD"), notwithstanding enduring legacies of colonial-era racial subordination. And people of color on the front lines of racial oppression remain excluded from human rights decision-making and knowledge production. I argue that remedying this state of affairs requires infusing the global human rights agenda with a commit to substantive racial equality, which: (1) prioritizes a structural and intersectional approach to racial discrimination, and (2) takes seriously the role of communities of color and their advocates not only in fighting racial inequality, but also in defining the very nature of human rights.

## 2 • Confronting Neglect and Marginality

The rise and spread of right-wing nationalist populism around the world has unleashed unashamed public discourses and practices of racism, xenophobia, misogyny and other forms of intolerance.<sup>1</sup> Today, leaders even in the highest level of political office in countries that have long viewed themselves as the vanguard of liberal constitutional democracy openly profess racist and xenophobic views as they adopt policies that entrench them. Human rights and other organizations continue to document increases in crimes and other incidents motivated by racial, ethnic, religious and related intolerance, and have done important work to expose human rights violations of this kind. United Nations ("UN") human rights mechanisms and actors have also publicly taken a stand to re-affirm principles of equality and dignity in the wake of egregious incidents of racist and xenophobic expression. In light of this seemingly renewed attention to explicit racism and xenophobia, what does it mean to say that racial equality is marginal to the global human rights agenda or within the global human rights system? And what does it even mean to speak of a global human rights agenda or system?

I want to clarify at the outset that my critique is levelled at the cast of non-governmental and multilateral actors who through different global platforms (especially the United Nations) produce global knowledge and influence norms and policy regarding what human rights are, and when and how they are achieved. These actors include, among others, human rights organizations with international and global influence; the donor and philanthropic organizations that in many cases enable and in some respects, determine this influence through their funding decisions; UN bodies and agencies, including such

as the Office of the High Commissioner for Human Rights (“OHCHR”) or the various UN Human Rights Council-appointed Special Rapporteurs and Independent Experts central to human rights knowledge production and agenda-setting; and UN Member State representatives who in different capacities push human rights norm-development and policy in different UN fora. This list is illustrative and not exhaustive, and of course, the concerns I express here will not apply to every single person or institution that participates in the universe I describe. There are important exceptions but these exceptions do not negate the more general trend of neglect with which I am concerned. Equally important to note is that the list above aims to capture the actors who *wield power in global human rights knowledge production and agenda-setting*. Such a list is not the same as the list of actors who are doing the most to fight human rights violations on the ground, including as they relate to racial equality. Many grassroots organizations and movements such as the Black Feminist Movement in Brazil are engaged in daily struggles to push racial equality from a position of neglect to one of priority on the human rights agenda. However, my experience in different global human rights fora (and their halls of power) is that these grassroots organizations are typically excluded, especially when it comes time to make decisions.<sup>2</sup>

Although influential actors within the global human rights system have raised the alarm against visceral expressions or acts of racism and xenophobia, these actors fail seriously to engage with the historically entrenched structures of racial oppression, exploitation and exclusion that violate the human rights of many but are largely invisible even in the global human rights discourse. Consider the UN Millennium Declaration<sup>3</sup> adopted in 2000 as the global policy framework for development, which only mentioned discrimination twice. These references concerned violence against women and the implementation of the Convention on the Elimination of All Forms of Discrimination against Women. More recently, the General Assembly commendably adopted by consensus a full program of action for the International Decade for People of African Descent (2015-2024), which aims to strengthen the promotion, protection and fulfilment of the rights of people of African Descent. Yet implementation of the Decade remains slow, as the number of countries that have formally adopted a related program of action remains limited.<sup>4</sup> No forum has as yet been established for consultations with people of African descent as required by the General Assembly resolution that initiated the Decade.<sup>5</sup> Even within the UN system only the United Nations Educational, Scientific and Cultural Organization (“UNESCO”), UN Women, OHCHR and the UN Department of Public Information have reported concrete actions related to the implementation of the Decade.<sup>6</sup>

Where racial discrimination and intolerance feature, the emphasis of actors within global human rights system is largely on explicit racial prejudice as the problem, condemning racist acts and speeches, but paying little attention to the structural and institutional ways that racial discrimination and inequality operate. This “prejudice” approach is evident in the global human rights discourse on migration, in which leading global NGOs, UN actors and member states will speak out against extreme cases of racist and xenophobic speech,<sup>7</sup> but do not similarly

confront or condemn the racism of law and policy that makes no mention of race but de facto systematically discriminates against migrants of color in different parts of the world.<sup>8</sup>

### 3 • Recalling the History of Racial Subordination as Global Project

A brief reflection on the history of global projects of racial subordination, and the legal and political institutions erected to advance these projects makes clear why the prejudice approach I mention above amounts to marginalizing racial equality as a human rights end. Until the formal decolonization of much of the world beginning the mid-20<sup>th</sup> century, international and domestic law across the world allocated what we now call human rights on a racial basis. For over three hundred centuries, European colonialism structured the globe according to implicit and explicit logics that traded on the claimed moral, cultural and intellectual inferiority of non-Europeans. The 19th Century consolidation of scientific racism supplied a technical script according to which European scientists divided human beings into different biological races, with whiteness conferring natural supremacy, and non-whiteness instead conferring inferiority. Racial discrimination and racial subordination were institutionalized even within the global order as represented by the United Nations.<sup>9</sup>

It was not until 1965 that UN Member States could agree on an international treaty through which they resolved:

*to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination[.]*<sup>10</sup>

The International Convention on the Elimination of Racial Discrimination, which is among the most widely ratified international human rights treaties, articulates the normative and legal framework for the ambitious goal of eliminating all forms of racial discrimination. But during ICERD's brief life time, racial equality has seemingly drifted to the margins of the global human rights agenda despite efforts, including by anti-racism civil society coalitions at the 2001 World Conference Against Racism in Durban, to highlight the historical context and structural dynamics of persisting racial inequality. If we consider ICERD as initiating UN member states' programmatic commitment to eliminating racial discrimination, this commitment is only *fifty-three* years old. This commitment, as a matter of duration, is firmly eclipsed by the over three hundred years that came before it, during which, as I have mentioned, colonialism institutionalized, sanctioned and even celebrated the racial exclusion and subordination of non-Europeans. Recalling this history makes clear that neglecting the fight for racial equality, amounts to abandoning the urgent project of dismantling the systems of subordination and exploitation that were carefully erected in prior eras and that continue to have effect today.

## 4 • Conceptualizing Race, Racial Discrimination and Racial Equality in Human Rights: An Antisubordination Approach

I use the term race to refer to “the historically contingent social systems of meaning that attach to elements of morphology and ancestry.”<sup>11</sup> Such an understanding of race unequivocally rejects the notion of biological races, but recognizes that the construction of race is informed by physical features and lineage, not because features and lineage are a function of racial variation but because societies invest them with social meaning.<sup>12</sup> At the same time, race is by no means merely about physical attributes such as color, nor is it merely about lineage. It is centrally about the social, political and economic meaning of being categorized as black, white, brown or any other racial designation. Perhaps as a further example of how the global human rights system has failed to raise consciousness around and commitment to racial equality, at least two European countries have taken the alarming step of removing the term “race” from their antidiscrimination legislation.<sup>13</sup> Deleting the word “race” from antidiscrimination legislation does little to erase the social meaning invested in this concept over centuries. Instead, it diverts attention from the urgent legal and other interventions necessary to remedy persisting racial inequality and discrimination, and keeps discriminatory structures and institutions alive and well.

What is required instead is a substantive, structural approach to racial discrimination, which aims at dismantling racial subordination and achieving equality. As I have highlighted elsewhere, the prohibition on racial discrimination in international human rights law aims at much more than a formal vision of equality.<sup>14</sup> Equality in the international human rights framework is substantive, and requires States to take action to combat intentional or purposeful racial discrimination, as well as to combat structural and institutional racial discrimination. It also requires states to take affirmative action to remedy historically-rooted racial inequality. The Committee on the Elimination of Racial Discrimination has made clear that the prohibition of racial discrimination under ICERD cannot be interpreted restrictively.<sup>15</sup> An important aspect of achieving substantive equality under ICERD is ensuring that social groups do not become or remain oppressed underclasses on account of their race. In light of these existing human rights principles, global human rights actors must move beyond “prejudice” or “colorblind” approaches and push for true equality.

## 5 • Intersectionality

Substantive racial equality is not possible without an intersectional analysis of the problem of racial discrimination and intolerance. The following definition of intersectionality from within the UN system captures well its meaning well:

*The idea of “intersectionality” seeks to capture both the structural and dynamic consequences of the interaction between two or more*

*forms of discrimination or systems of subordination. It specifically addresses the manner in which racism, patriarchy, economic disadvantages and other discriminatory systems contribute to create layers of inequality that structures the relative positions of women and men, races and other groups. Moreover, it addresses the way that specific acts and policies create burdens that flow along these intersecting axes contributing actively to create a dynamic of disempowerment.*<sup>16</sup>

Too often, however, the power of this framing is lost when intersectionality is reduced merely to inclusion of references to gender in policy discussions or documents. Intersectionality is vital to achieving substantive equality but it requires attention to all the operational social categories that shape the experience of discrimination and intolerance: race, gender, ethnicity, national origin, class, religion, disability status, sex, sexual orientation and others. True racial equality requires taking seriously the experiences and expertise of cis and transwomen, LGBTQ persons, persons with disabilities, the poor, the undocumented and other marginalized groups. Similarly, real equality for women, for the LGBTQ persons, persons with disabilities and others can never be a reality without attention to how race structures the subordination of these groups.

## 6 • “Looking to the Bottom”

Important reflection is necessary within the global human rights movement and system to understand the causes of what in other contexts has been called “racial aphasia”—a collective inability to speak about race, a calculated forgetting or neglect of the histories and structures of racism.<sup>17</sup> Whatever these causes might be, among them must surely be the racial demographics that characterize global human rights NGOs, and the lack of representation of people of color, especially in decision-making roles. The work of achieving racial equality is work that must be done by all, but must be led and guided in close participation with representatives of communities who suffer on the frontlines of racial discrimination, subordination and exclusion. Consider how it is that this special volume of *Sur* came to be: the Brazilian Black Feminist movement. For this movement, I would venture to say a human rights regime that does not appreciate the pervasiveness of systems of racial inequality and subordination is not only useless but dangerous. More generally, for the many people living and fighting racial injustice, racial aphasia is a deadly luxury they cannot afford. My sense is that one piece of the puzzle of the marginality of racial equality within human rights, is very much the marginality of people of color within the global organizations and institutions that wield the most power within the field of human rights.

Mari Matsuda has argued that those with direct experience with racial and other forms of oppression are essential to the production of knowledge intended to advance the emancipation of these groups. She calls this “looking to the bottom,” and explains

further that “Looking to the bottom – adopting the perspective of those who have seen and felt the falsity of the liberal promise” is vital to knowledge production seeking to define and achieve justice.<sup>18</sup> In the production of human rights knowledge, whether in the context of norm creation or norm implementation, it is vital to recognize those on the front lines of living and fighting racial oppression as superior “epistemic sources” on the nature of their oppression, and on what the priorities ought to be in the approach and execution of the strategies to fight this oppression. This can happen, for example, by ensuring that racially subordinated groups are meaningfully represented and included in global human rights organizations and institutions, including in positions of leadership. Concretely this might mean auditing the representativeness of the staff and leadership of these organizations, and taking measures (including through investment in training and capacity-building) to address marginalization or exclusion of racially subordinated groups. It also requires an acceptance by these organizations and institutions that the very nature of the work they do and the way they do this work, may need to change significantly once they begin to take seriously the experiences and perspectives of racially subordinated groups. Funding models and institutional organizational models and priorities may need to change, for example, to account for the how the strategies and priorities of social movements can differ from those of bureaucratized civil society. The point is not just diversity or inclusion for the sake of ticking boxes, but rather it is to accept that the very agendas of global human rights organizations may have to shift if these organizations are to take seriously the project of looking to the bottom.

## 7 • Conclusion

Although there is much human rights attention globally on explicit racism and xenophobia rooted in nationalist populist politics, racial equality remains marginal on the agendas of influential actors in the global human rights system. The long and persisting historical legacies of colonialism and contemporary global structures of racialized exclusion require a different, substantive approach to racial equality that addresses structural and institutionalized forms of racial discrimination. The global human rights system must reflect an intersectional approach to racial discrimination and take seriously the experiences and expertise of communities of color in the global north and south that live on the frontlines of racial subordination. What would it do to global human rights NGOs, agencies, and funding institutions if they took seriously the project of building the power of anti-racism social movements to produce human rights knowledge on racial oppression? I have found that unlike the dominant, usually legalistic formulations of discrimination and intolerance that can dominate the official human rights corpus, when movement actors and those intimate with racial oppression articulate their experiences of structural subordination as well as the interventions they believe are necessary to address them, they speak in terms of the need to change power relations, and to pay close attention to economic, political and financial structures with global dimensions. Their perspectives require stronger inclusion and representation within the global human rights system and agenda.

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**E. TENDAYI ACHIUME** – *Zambia*

United Nations Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance.

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# AFRO-DESCENDANTS AS SUBJECTS OF RIGHTS IN INTERNATIONAL HUMAN RIGHTS LAW

**Roberto Rojas Dávila**

- *The historical process of recognition and its challenges* •

## ABSTRACT

*The incorporation of the theme of Afro-descendants in international human rights law is relatively new. Only 18 years ago, the issue was raised at the Regional Conference of the Americas held in preparation for the Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in the city of Santiago, Chile in the year 2000.*

*This article aims to analyse the historical aspects of racism and racial discrimination against the Afro-descendant population, as well as the development of the theme of Afro-descendants in international human rights law in the Americas.*

## KEYWORDS

Afro-descendants | Racism | Racial discrimination | Human rights | UN | OAS

*"The discrimination faced by people of African descent is pernicious. Often, they are trapped in poverty in large part because of bigotry, only to see poverty used as a pretext for further exclusion."*<sup>1</sup>

## 1 • Introduction

The history of the Afro-descendant population in the Americas is undoubtedly one of survival from injustices and systematic violations of human rights. Racism and racial discrimination have been, and still are, part of the life of Afro-descendant women and men since the beginning of the transatlantic trade slave – that is, for over five centuries now.

In recent years, international organisations and the majority of states in the Americas have made efforts to combat racial discrimination and promote the inclusion of the Afro-descendant population. These efforts have been significant, but not enough to end more than five centuries of discrimination and exclusion.

The incorporation of the theme of Afro-descendants in international human rights law is relatively new. Only 18 years ago, the issue was raised at the Regional Conference of the Americas held in preparation for the Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in the city of Santiago, Chile in the year 2000.

For the first time, the declaration from the said conference, known as the Declaration of Santiago, "Recognise[d] that the racism and racial discrimination from which the population of African origin in the Americas has suffered is at the origin of the marginalisation, poverty and exclusion in which the majority of these individuals in many countries on the continent find themselves and that, despite the efforts made, this situation persists to different degrees". Furthermore, it "calls for measures to eliminate the inequalities that still persist due to the opprobrious legacy of slavery and to facilitate the participation of Afro-descendants in all aspects of political, economic, social and cultural life of society and in the progress and economic development of their countries; and to promote greater knowledge and respect for their heritage and culture".

Within this context, this article aims to analyse the historical aspects of racism and racial discrimination against the Afro-descendant population, as well as the development of the theme of Afro-descendants in international human rights law in the Americas.

## 1 • Afro-descendants in International Human Rights Law in the Americas

*We recognize that in many parts of the world, Africans and people of African descent face barriers as a result of social biases and discrimination prevailing in public and private institutions and*

*express our commitment to work towards the eradication of all forms of racism, racial discrimination, xenophobia and related intolerance faced by Africans and people of African descent.<sup>2</sup>*

One could say that the historical evolution of the international protection of groups in situations of vulnerability can be divided into three periods: 1) the period of unsystematic protection; 2) the period of pre-systematic protection; and 3) the period of systematic protection.

In the unsystematic protection period, a series of bilateral treaties that protected religious minorities were adopted. The pre-systematic protection period developed under the aegis of the League of Nations between the two world wars and was characterised by the first efforts to protect minorities that were not necessarily religious. One example of these initial efforts was the Advisory Opinion of the Permanent Court of Justice in the case of the minority schools in Albania in 1935.<sup>3</sup> In the said opinion, the Court affirmed that:

*The underlying idea of the treaties for the protection of minorities is to guarantee certain groups incorporated into a state, from whom the population differs in race, language and religion, the possibility of peaceful coexistence and friendly cooperation with the population, while preserving, at the same time, the characteristics that distinguish these groups from the majority and satisfying the special needs that emerge.*

This advisory opinion is extremely important, as it was the first time that a concept of equality elaborated specifically for racial, religious or linguistic minorities appeared. It was precisely this vision on the equality – and not the assimilation – of racial, religious or linguistic minorities that generated, after World War II, the creation of international human rights law as we know it today.

It was in this context that, at the initiative of the United Nations at the international level and the Organisation of American States at the regional level, the period of systematic protection began.

## 2 • The United Nations and the Fight against Racial Discrimination

*Resolved to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination.<sup>4</sup>*

In 1945, by adopting the Charter of the United Nations, the international community accepted the challenge of promoting the implementation of human rights and fundamental freedoms, without distinction as to race, sex, language or religion. However, the paradox remained, as racism and racial discrimination continued to be part of reality in the majority of the 51 founding member states of the United Nations. The United States of America, for example, maintained racial segregation as a state policy under the slogan “separate but equal” – the result of the ruling in the *Plessy vs Ferguson* case in 1896. France and the United Kingdom still had colonies on five continents and Russia still used the Gulag system.

In 1948, the United Nations General Assembly approved the Universal Declaration of Human Rights, which established, in Art. 1, that “All human beings are born free and equal in dignity and rights”. The same year, the General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide.

Unfortunately, in 1948, apartheid was made official in the territory of the Republic of South Africa. This policy of racial segregation was introduced into the country by the National Party. The legislation on apartheid determined the places of residence for each “racial” group, the education they would receive and the kind of work they could do. It also prohibited non-whites from intervening in government, as well as any type of social contact between different “races”.

The 1970s was one of the most intense decades in relation to racial discrimination. Some reprehensible incidents, such as the assassination of Malcolm X and Martin Luther King Jr., Bloody Sunday in Selma and the Sharpeville massacre in South Africa, among others, made the news.

It is in this historical context that public international law is used to fight racism, racial discrimination, xenophobia and other related practices. In the mid-1960s, the United Nations General Assembly approved the International Convention on the Elimination of All Forms of Racial Discrimination, which was the first legally binding international instrument specifically on racial discrimination. The convention established that “States Parties condemn racial discrimination and undertake to pursue ... a policy of eliminating racial discrimination in all its forms”. It also ordered the creation of the Committee on the Elimination of Racial Discrimination (CERD). The committee was the first effective monitoring body for a human rights treaty and it was responsible for reviewing the implementation of the Convention.

In 1966, the United Nations General Assembly declared March 21 the International Day for the Elimination of Racial Discrimination in remembrance of the Sharpeville massacre in South Africa.

Despite the United Nations’ efforts to fight racism and racial discrimination, apartheid remained strong in South Africa. In 1973, the International Convention on the Suppression

and Punishment of the Crime of Apartheid was approved and, the same year, the United Nations General Assembly announced the First Decade for Action to Combat Racism and Racial Discrimination, which went from 1973 to 1983.

In 1978, the First World Conference to Combat Racism and Racial Discrimination took place. Its declaration and plan of action confirm the essential fallacy of racism and the serious threat that it poses to friendly relations between peoples and nations. It also asserted that:

*Any doctrine of racial superiority is scientifically false, morally condemnable, socially unjust and dangerous, and there is no justification for it.*

In the said conference, apartheid was specifically condemned as “*an extreme form of institutionalised racism*”, a crime against humanity, an affront to dignity and a threat to world peace. It also stated that deep economic inequalities are what provoke racial discrimination and it is necessary to make efforts to fight racism, including by adopting measures to improve the living conditions of men and women.

In 1983, the Second World Conference to Combat Racism and Racial Discrimination took place, where racism was condemned once again. Also that year, the United Nations General Assembly established the Second Decade to Combat Racism and Racial Discrimination, which lasted from 1983 to 1992. This was followed by the Third Decade to Combat Racism and Racial Discrimination, from 1993 to 2003. In its resolution on the Third Decade, the General Assembly urged all governments to fight against new forms of racism, such as xenophobia and related forms of intolerance; discrimination based on culture, nationality, religion or language; and racism resulting from official doctrines of racial superiority and/or exclusivity, such as ethnic cleansing. Also in 1993, the United Nations Commission on Human Rights named a Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

In the 20<sup>th</sup> century, the United Nations played a leading role in the fight against racism and racial discrimination.

#### 4 • Afro-descendants as Subjects of International Human Rights Law: “We went in as blacks and emerged as Afro-descendants”

For millions of Afro-descendants, the 21<sup>st</sup> century marked the beginning of a new legal status – one that raises the level of protection for their human and collective rights.

In 2000, in the city of Santiago, Chile, the Regional Conference of the Americas was held, which was a preparatory conference for the Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. During the conference in Santiago,

the states of the Americas defined Afro-descendant as *the person of African origin who lives in the Americas and in the region of the African Diaspora as a result of slavery, who have been denied the exercise of their fundamental rights*. In the Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance – known as the Durban Conference – the states ratified this definition, as well as most of the content of the Declaration of Santiago related to Afro-descendants.

From our point of view, the most important aspect of both declarations is that, in addition to defining the term Afro-descendant, they recognised people of African descent as subjects of international human rights law. This meant that they are able to acquire rights and obligations directly in the international arena, according to the provisions of these international instruments.

In the words of activists from the Afro-descendant movement in the Americas, at the Conference of Santiago, “We went in as blacks and emerged as Afro-descendants”. This meant that there was a before and an after the conference in relation to the promotion and respect of Afro-descendants’ rights. By adopting a legal definition and by recognising them as subjects of international human rights law, it was possible to raise the level of protection for this vulnerable group.

We should highlight that the advances achieved at the Conference of Santiago were possible thanks to the strong participation and intervention of Afro-descendant civil society, whose contributions were taken into consideration to enrich the content of the declaration, as well as the governments’ openness and the good will during the negotiations.

At the national level, we can mention the creation of several racial equality bodies, such as, for example, the Secretariat of Policies for the Promotion of Racial Equality in Brazil, the Racial Ethnic Unit of the Ministry of Foreign Affairs of Uruguay, the Presidential Commissioner in Costa Rica, the Presidential Programme in Colombia and the Executive Secretariat of the Black Ethnic Council in Panama, among others. In the Americas, there are approximately 18 government bodies on racial equality.

In 2002, pursuant to the Durban Declaration and Programme of Action, the United Nations created the Working Group of Experts on People of African Descent, with the following mandate:

- Study the problems of racial discrimination affecting people of African descent living in the diaspora;
- Propose measures to ensure people of African descent full and effective access to the justice system;
- Submit recommendations on the design, implementation and enforcement of effective measures to eliminate racial profiling of Afro-descendants;

- Elaborate short, medium and long-term proposals for the elimination of racial discrimination against Afro-descendants, bearing in mind the need for close collaboration with international and development institutions and the specialised agencies of the United Nations system to promote the human rights of people of African descent;
- Make proposals on the elimination of racial discrimination against Africans and people of African descent in all parts of the world;
- Address all the issues concerning the well-being of Africans and Afro-descendants included in the Durban Declaration and Programme of Action.

In 2011, in the framework of the International Year for People of African Descent, the Committee on the Elimination of Racial Discrimination (CERD) approved General Recommendation No. 34 entitled “Racial Discrimination against Afro-descendants”.

In 2013, the United Nations General Assembly passed Resolution A/RES/68/237 “Proclamation of the International Decade for People of African Descent”, which began on January 1, 2015 and is set to end on December 31, 2024. The theme of the decade is “People of African descent: recognition, justice and development”. Its specific objectives are:

- Promote respect, protection and fulfilment of all human rights and fundamental freedoms by people of African descent, as recognized in the Universal Declaration of Human Rights;
- Promote a greater knowledge of and respect for the diversity of the heritage and the culture of Afro-descendants and their contribution to the development of societies;
- Adopt and strengthen national, regional and international legal frameworks according to the Durban Declaration and Programme of Action and the International Convention on the Elimination of All Forms of Racial Discrimination and ensure their full and effective implementation.

In conclusion, in recent years, the United Nations has contributed to the recognition of Afro-descendant women and men as subjects of rights and specifically as subjects of international human rights law, and to pressuring states and international organisations to assume their commitments to this vulnerable group.

## 5 • The OAS and its Efforts to Fight Racism and Racial Discrimination

*Every human being has the right to the equal recognition, enjoyment, exercise, and protection, at both the individual and collective levels,*

*of all human rights and fundamental freedoms enshrined in their domestic law and in international law applicable to the States Parties.*<sup>5</sup>

The fight against racism and all forms of discrimination and intolerance is not new at the OAS. Article 3, paragraph 1 of the Charter of the Organisation of American States establishes that:

*The American States proclaim the fundamental rights of the individual without distinction as to race, nationality, creed, or sex.*

Article II of the American Declaration of the Rights and Duties of Man stipulates that:

*All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor.*

As for the American Convention on Human Rights, Article 1 established that:

*The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.*

The first time a reference to the issue of racism and discrimination can be found was in 1994 in resolution AG/RES.1271 (XXIV-O/94) entitled “Nondiscrimination and Tolerance”. In the said resolution, the General Assembly considered that “*racism and discrimination in their various forms undermine the principles and practices of democracy as a way of life and a form of government and unequivocally seek the destruction thereof*”. Furthermore, it strongly condemned all forms of racism, racial or religious discrimination, xenophobia and intolerance and declared that “such conduct constitutes a violation of human rights, particularly those pertaining to racial equality and religious freedom”.

In 1999, through resolution AG/RES. 1695 (XXIX-O/99) “World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance”, the General Assembly urged member states to support activities for the organisation of the said conference.

In 2001, in the Third Summit of the Americas held in Quebec, Canada, the heads of state and government committed to eradicating all forms of discrimination, including racism, racial discrimination, xenophobia and other related forms of intolerance in the societies of the hemisphere.

The same year, the OAS General Assembly adopted the Inter-American Democratic Charter. Article 9 of the charter states the following:

*The elimination of all forms of discrimination, especially gender, ethnic and race discrimination, as well as diverse forms of intolerance, the promotion and protection of human rights of indigenous peoples and migrants, and respect for ethnic, cultural and religious diversity in the Americas contribute to strengthening democracy and citizen participation.*

In 2005, through AG/RES.2126 (XXXV-O/05) “Prevention of Racism and All Forms of Discrimination and Intolerance and Consideration of the Preparation of a Draft Inter-American Convention,” the General Assembly mandated the Permanent Council to establish a working group that will receive inputs for the preparation of a draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance. In 2013, after several years of difficult negotiations, the OAS General Assembly adopted the Inter-American Convention against Racism, Racial Discrimination and Related Intolerance and the Inter-American Convention against All Forms of Discrimination and Intolerance.

Finally, we should mention that in the first two years following the adoption of the conventions, only 12 member states signed the Inter-American Convention against Racism, Racial Discrimination and Related Intolerance (Antigua and Barbuda, Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Haiti, Panama, Peru and Uruguay ), and 11, the Inter-American Convention against All Forms of Discrimination and Intolerance (Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Haiti, Mexico, Panama, Peru and Uruguay). Until now, the Inter-American Convention against Racism has been ratified and is in vigour in Antigua and Barbuda, Costa Rica and Uruguay.

## 6 • Afro-descendants on the OAS Agenda

According to some international organisations, there are approximately 200 million people of African descent living in the Americas. The majority of them live in situations of vulnerability as a consequence of poverty, underdevelopment, social exclusion and economic inequalities that are closely linked to racism, racial discrimination, xenophobia and related intolerance.

In this context, the Organisation of American States (OAS) – through its General Secretariat, the Inter-American Commission on Human Rights and the Summits of the Americas process – has repeatedly expressed its concern with the inclusion of Afro-descendant people, respect for their human rights and the attention to be paid to their needs.

In 2005, during the 122<sup>nd</sup> Period of Sessions of the Inter-American Commission on Human Rights (IACHR), the Rapporteurship on the Rights of Persons of African Descent and

against Racial Discrimination was created. The Rapporteurship was given the mandate to stimulate, systematise, strengthen and consolidate the IACHR's actions on the rights of Afro-descendants and against racial discrimination.

In 2008, the Department of International Law of the Secretariat for Legal Affairs of the OAS began to implement the "Project for the Incorporation of the Afro-descendent Theme in the Policies and Programmes of the OAS". During the four-year project, the Department of International Law elaborated several publications and other legal documents containing studies and recommendations on the problems that afflict Afro-descendants with greater intensity. It also organised and participated in several capacity-building and empowerment activities for Afro-descendant civil society. By doing so, it managed to reach over 2,000 leaders and representatives of Afro-descendants in the region with the goal of promoting and encouraging a more active participation on their part in OAS processes that could be of interest to them and in the Summits of the Americas process – a forum that has taken the issues of people of African descent in the region into consideration.<sup>6</sup>

In 2010, the Department of International Law provided legal advice to the Colombian Mission to the OAS on the elaboration of the first draft resolution of the OAS on Afro-descendants.

In 2012, the OAS General Assembly approved resolution AG/RES 2708 "Recognition and Promotion of the Rights of People of African Descent in the Americas". This resolution orders the Committee on Juridical and Political Affairs to include the theme of Afro-descendants in its agenda.

The same year, the OAS General Assembly adopted the Social Charter of the Americas. In the Charter, OAS Member States recognise the contributions of Afro-descendants to the historical process of the hemisphere and affirm that they will promote the recognition of their value. They also recognise the need to adopt policies to promote inclusion and to prevent, combat and eliminate all forms of intolerance and discrimination, particularly gender, ethnic and racial discrimination so as to ensure equal rights and opportunities and strengthen democratic values.

In 2013, the General Assembly adopted resolution AG/RES 2784 "Recognition and Promotion of the Rights of People of African Descent in the Americas". Its objective was to facilitate the participation of organisations that represent people of African descent and their communities as one of the social actors in the Summits of the Americas process. It also requested that the Committee on Juridical and Political Affairs include the theme of Afro-descendants in the Americas in its agenda and promote exchanges on successful experiences in the social inclusion of the Afro-descendant population.

In 2014, the General Assembly approved resolution AG/RES 2847 "Recognition and Promotion of the Rights of People of African Descent in the Americas". In this

resolution, it encourages member states to consider the application and implementation of the standards of protection for people of African descent in their laws and policies on the population of African descent.

The same year, the General Assembly passed resolution AG/RES 2824 entitled “Recognition of the International Decade for People of African Descent”. This resolution mandates the Permanent Council to hold a special session to celebrate the beginning of the International Decade for People of African Descent with the goal of exchanging ideas on the possible development of a plan of action for the OAS for the decade.

In 2015, the Committee on Juridical and Political Affairs of the OAS Permanent Council approved the creation of a Working Group to Prepare the Plan of Action for the Decade for People of African Descent of the Americas. In 2016, after months of negotiation, the General Assembly adopted resolution AG/RES. 2891 (XLVI-O/16), which contains the “Plan of Action for the Decade for People of African Descent in the Americas (2016-2025)”.

## 7 • Plan of Action for the Decade for People of African Descent in the Americas (2016-2025)

The mission of the Plan of Action for the Decade for People of African Descent in the Americas (2016-2025) is to get Member States to commit to taking the necessary measures to incorporate the theme of Afro-descendants in the policies, programmes and projects of the OAS and to gradually adopt public policies and administrative, legislative, judicial and budgetary measures to guarantee that persons of African descent in the Americas are able to enjoy their rights.

This Plan of Action is the most important and concrete measure adopted by the OAS with the goal of promoting the human rights and the inclusion of persons of African descent. It is based on the objectives of the United Nations Plan of Action and has been adapted to the context of the Americas.

The plan proposes that concrete activities be carried out at two levels:

### Goal 1: At the level of the OAS

Mainstream the issues affecting people of African descent into OAS policies and programmes to promote cooperation between countries on good practices at the national level, strengthen the OAS’s role in providing technical support for the effective inclusion of this population and design policies geared towards achieving this objective, among other purposes.

### Goal 2: At the level of the Member States

Promote and adopt public policies and legislative, administrative and judicial measures to

promote the full and free participation of Afro-descendants, on equal footing, in all aspects of the political, economic, social and cultural life in the countries of the Americas.

In 2018, pursuant to the Plan of Action for the Decade for People of African Descent (2016-2025), the OAS Department of Social Inclusion, the Afro-Latin American Research Institute of Harvard University and the Direction on Policies for the Afro-Peruvian Population of the Ministry of Culture of Peru organised the first Inter-American Meeting of High-level Authorities on Policy for Afro- Descendant Populations in Lima, Peru from June 11 to 13, 2018. The main objectives of the meeting were to generate a regional report on the actions implemented in the framework of the International Decade for People of African Descent and promote the creation of an Inter-American Network of High Authorities on Policies for Afro-descendant Populations for the purpose of establishing permanent collaboration among national authorities on policies for the Afro-descendant population in the Americas.

The 13 Member States who attended the meeting decided to create the Inter-American Network of High Authorities on Policies for Afro-descendant Populations (RIAFRO for its acronym in Spanish/OAS). This network is to serve as a specialised mechanism for permanent dialogue, coordination and collaboration among national authorities on the implementation of policies for the Afro-descendant population in accordance with international and regional obligations in the Americas.

RIAFRO/OAS uses a gender, intergenerational and intersectional approach in its work to incorporate traditional groups in situations of vulnerability within the Afro-descendant population due to the multiple, aggravated and concomitant forms of discrimination that they face. Currently, the RIAFRO/OAS's work is focused on the promotion of the signing and ratification of the Inter-American Convention against Racism, Racial Discrimination and Related Intolerance, as well as the development of Afro-Latin American research and technical cooperation.

## 8 • Sub-regional Bodies and Their Agenda on Afro-descendants Rights

The efforts to give visibility to the theme of people of African descent have been made not only at the international or regional level, but at the sub-regional level as well. In the region, there are numerous initiatives for the Afro-descendant population organised by sub-regional bodies such as: the Central American Integration System (SICA for its acronym in Spanish), the Andean Community (CAN), MERCOSUR, Ibero-American General Secretariat (SEGIB), the Community of Latin American and Caribbean States (CELAC), the Union of South American Nations (UNASUR) and the Caribbean Community (CARICOM). In recent years, these bodies have not only recognised a series of rights for the population of African descent, but also assumed political commitments to undertake joint actions to promote respect for and guarantee such rights.

## 9 • Conclusion

*"The struggle to eliminate the evil of racial injustice constitutes one of the major struggles of our time".*

Martin Luther King Jr

It is important to highlight that the Declaration of Santiago was the first instrument of international human rights law to define the concept of Afro-descendants and recognise the people of African descent as subjects of rights and especially subjects of international human rights law. The Declaration of Santiago drove some states in the region to approve laws in favour of the peoples, communities and populations of African descent and to create public bodies for the promotion of racial quality, as mentioned above.

However, we cannot ignore that the majority of states in the Americas and international organisations do not designate or do not have sufficient human and financial resources to work with the Afro-descendant population. Even so, we are convinced that it is necessary and possible to make more effort to truly include women and men of African descent in the Americas, who live in situations of vulnerability as a consequence of slavery, colonialism, racism and discrimination. The development of the theme of Afro-descendants in international human rights law will be of utmost importance for generating and consolidating standards of protection, public policies and social programmes for the Afro-descendant population.

Finally, we believe that the International Decade for People of African Descent is a perfect opportunity to engage in a serious debate on racism and racial discrimination in the Americas and give importance and priority to the fight against racism and racial discrimination in the region. Its goal is to promote the recognition and development of and justice for millions of people of African descent who have contributed and continue to contribute to building our America with their intellect, spirituality, blood, sweat and tears.

## NOTES

1 • Ban Ki-moon, former UN Secretary General.

2 • “Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance - Declaration and Plan of Action,” Nações Unidas, 2001, accessed December 10, 2018, [http://www.un.org/es/events/pastevents/cmcr/durban\\_sp.pdf](http://www.un.org/es/events/pastevents/cmcr/durban_sp.pdf).

3 • The opinion revolved around the Albanian government’s decision to close all private schools, which would affect the Greek minority living in the country.

4 • “International Convention on the Elimination of

All Forms of Racial Discrimination,” OHCHR, 2001, accessed December 10, 2018, <https://www.ohchr.org/sp/professionalinterest/pages/cerd.aspx>.

5 • “Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance,” 2013, accessed December 10, 2018, [http://www.oas.org/es/sla/ddi/docs/tratados\\_multilaterales\\_interamericanos\\_A-68\\_racismo.pdf](http://www.oas.org/es/sla/ddi/docs/tratados_multilaterales_interamericanos_A-68_racismo.pdf).

6 • “Afrodescendientes en las Américas,” OEA, 2010, accessed December 10, 2018, <http://www.oas.org/es/sla/ddi/afrodescendientes.asp>.



**ROBERTO ROJAS DÁVILA** – *Peru*

Roberto Rojas Dávila is Chief of the Vulnerable Groups Section of the Organisation of American States (OAS). Lawyer with a post-graduate degree in social management from the Pontifical Catholic University of Peru and a Master in International Human Rights Law and Humanitarian Law degree from the American University – Washington College of Law, he is currently pursuing a PhD in Citizenship and Human Rights at the University of Barcelona.

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## INTERSECTIONS



- voices -

### **WHY DON'T YOU EMBRACE ME?**

Megg Rayara Gomes De Oliveira

- voices -

### **DEVELOPMENT AS A DEMOCRATIC PRACTICE**

Rosane Viana Jovelino



# WHY DON'T YOU EMBRACE ME?

**Megg Rayara Gomes De Oliveira**

- *Reflections on the invisibilisation of travestis and trans women in black social movements* •

## ABSTRACT

*In this article, I problematise the process of invisibilisation of travestis and/or trans women in the black social movement in Brasil. Even though the concepts travesti and transexual are recent, the subjects to which they refer are not. I seek to identify them in texts that discuss diverse themes, adopting a genealogical posture as Ines Dussel and Marcelo Caruso (2003) propose, as well as making use of the partial perspective proposed by Donna Haraway (1995) in order to analyze the fragments of the traditional history of the black social movement in Brazil in a critical way. The concept of intersectionality developed by the US – based black jurist Kimberlé Crenshaw in 1989 plays an important role in this work, as it allows for the articulation of questions of gender, gender identity and race simultaneously. An intersectional debate allows us to see reflections that emerge from different sectors in society, such as the academy, the black social movement and the movement of travestis and trans women. My position as a researcher counters essentialist visions that generalize existences and ignore the multiple processes that they involve.*

## KEYWORDS

Travesti | Trans | Race | Black | Brazil | Social movement

## 1 • Introduction

Why doesn't the Black Social Movement embrace me? Why doesn't it hear me, even when I cry out? Why does the Black Social Movement continue to systematically ignore the exclusion and violence that characterizes the existences of black travestis and trans women? The answer is being announced, but it cannot be understood precisely.

The research conducted for this article shows that blackness in Brazil is being established out of cis heterosexuality<sup>1</sup> and ignores other possibilities for expressing blackness.

Sexualities considered deviant, such as homosexuality, travestis and trans, are seen as betraying the race.<sup>2</sup> By following this logic, the Black Social Movement is upholding the normatisation and normalisation of cis heterosexuality and in doing so justifying the invisibilisation of travestis and trans women within it.

This article seeks to bring to the forefront the central role that travestis and trans women play in the anti-racist struggle in Brazil and concludes with a set of practical proposals for the Black Social Movement.

## 2 • Lipstick, wigs and handcuffs: the position of travestis and black trans women

The life experiences of travestis and trans women<sup>3</sup> in Brazilian society became a common topic for academic research in the 1990s. From the 2000s on, these studies earned greater visibility and became a central theme of Brazilian research<sup>4</sup> thanks to the substantial increase in the number of studies on gender and sexuality.

This research, however, refers to more recent experiences and rarely includes information that historically locates people, more specifically black people, who express gender identities that escape cisgender norms.

This lack of historical context contributes to restricting the existence of travestis and trans women to contemporary western societies, as well as to certain spaces such as 'peripheral neighborhoods, nightclubs, plazas, boardinghouses and areas of concentrated prostitution in different capital cities.'<sup>5</sup>

Luiz Mott (2005) provides important evidence of the existence of travestis and/or black and indigenous trans women as early as the 16th century. The 1587 *Tratado Descritivo do Brasil* (Descriptive Treaty of Brazil) recorded the presence of Cudinas,<sup>6</sup> an equivalent to contemporary travestis or trans women.

Even though they were described in a deprecating way, using the masculine gender and being called 'Nefarious Demons' the treaty in question shows that the Cudinas received the

same treatment and carried out the same activities as cisgender women:

*they dress and adorn themselves like women, speak like women, do the same work as the women, they carry jalatas, crouch down to urinate, have husbands that they care for and always have on their arms, they appreciate it when men woo them and once a month they do the ridiculous performance of pretending they are menstruating (...)*<sup>7</sup>

After these indigenous records, the next historical evidence of the existence travestis in Brazil refers to black people.

The oldest report, dated 1591, tells the story of Xica Manicongo. A resident of Salvador, she challenged gender norms and blurred the boundaries of what was understood as feminine and masculine and went out in the streets with a cloth wrapped around her body to show that she could be a 'accommodating woman'.<sup>8</sup>

That affront resulted in a complaint to the Santo Ofício courts suggesting that she 'refused to use the man's clothes provided by the master, [conserving] the custom of the gentile negros from Angola and Congo, where the sodomite negros who commit the nefarious sin serve as women'.<sup>9</sup>

Scrutiny toward travestis and/or trans women grew at the same rate that they occupied public spaces.

The text of the First Constitutions of the Archdiocese of Bahia in 1711<sup>10</sup> stipulated a fine of 100 cruzados to any man that dressed in women's clothes, as well as the expulsion from the Bahia Archdiocese. Despite these punishments, travestis and/or black trans women occupied public spaces with greater frequency, chiefly in urbanised centres. 'The travestis went out every day of the week, usually at night'.<sup>11</sup>

This policing, nevertheless, was not restricted to the public sphere and 'also occurred in private spaces'.<sup>12</sup> This control also permitted violence. As a rule, aggressions became grotesque public spectacles that served to normalise and normalise bodies.

I identify, therefore, that the two distinct movements of racism and transfobia are operating on these people and are seeking to attribute to them a lower value than what is attributed to white, cisgendered heterosexuality.

Very little changed at the beginning of the 20<sup>th</sup> century and the space destined for travestis was divided between prostitution and vaudeville shows, which left them marginalised and restricted to the nightlife.

The existence of travestis and/or trans women started being announced in specific spaces of populous cities like São Paulo, Rio de Janeiro and Salvador in bars, ports, plazas and brothels.

The black man's supposed dangerous potential and propensity for crime, which were highlighted in the earliest decades of the 20th century, especially after 1930,<sup>13</sup> also reached the travestis.

That situation derived from the theories of scientific racism implanted in Brazil by Cesare Lombroso's (1835 - 1909) Criminal Anthropology, one of the lines of racial determinism that affirmed it was "possible to discover the criminal before he commits the crime"<sup>14</sup> based on the certainty that "the proportions of the body were a mirror of the soul."<sup>15</sup>

And so all that was left for black travesti was a place in the periphery, of poverty, of 'deprivation, of celebrating sin, of luxury, of physical and symbolic violence, of unhealthy conditions, of a life torn apart.'<sup>16</sup>

Scrutiny by the State apparatus and by normalizing society determined which spaces and social roles travesti and trans women could occupy. In the periods in which this scrutiny diminished, they were able to gain visibility and sought to amplify their areas of action.

In the 1950s, a time in which the white, middle class homosexual community<sup>17</sup> of Rio de Janeiro enjoyed some tranquility, the transit and professionalisation of travesti remained restricted to prostitution and to the theatre.

Some academics<sup>18</sup> articulate information that reinforces the idea that travesti feminine identities were only tolerated when they were in their workplaces. This meant that those who challenged society and expressed their feminities all the time were rare.

I call attention to the fact that these affirmations are based on the life experiences of white travestis, especially those hired as *transformistas* by theatre companies in São Paulo and Rio de Janeiro.

Denied access to this space, black travesti culture was constituted at the margins of the margin, within prostitution, *malandragem*, poverty, covered with physical and symbolic violence and under constant scrutiny by the police.

The press in the big cities contributed to this scrutiny and showed 'a marginal travesti subject that gains visibility through news related to the 'disorder' of the city: fights, assassinations, robberies, etc.'<sup>19</sup>

In these stories, the idea that travesti bodies are places where vices are concentrated can be seen, partly because they were considered a specific category of homosexuals. This meant that the press not only spoke in the masculine gender, but also included old associations such as that between homosexuality, pathology and criminality.<sup>20</sup>

This marginal subject, described in a generic way, in the masculine gender, without individuality or the right to an identity, polluted, dirtied and disordered the spaces. But

they also resisted and tried to secure the right to exist.

This alternative world, where diverse erotic subcultures cried out gained new contours and 'became cultures of resistance to violence, stigma and oppression.'<sup>21</sup>

This culture of resistance was built through social networks of friends who offered one another support and opportunities to socialise and timidly amplified their areas of action.

The travesti shows in the 1960s, 1970s and part of the 1980s became popular, moving beyond being mere parodies of the opposite sex and becoming a new style of performance and a type of speech.<sup>22</sup> Some earned significant visibility. Two of them, Claudia Celeste (1952 - 2018) and Weluma Brown (19? - 2013), both black, stand out because they were able to shift very static structures.

Claudia Celeste became nationally known after acting in the soap opera *Espelho Mágico* (Magic Mirror) in 1977 on the TV Globo television network. Weluma Brown worked for a short time as a *chacrete* dancer on the program *Chacrinha's Casino*, which aired on the now extinct TV Tupi.

The fact that they were able to construct feminised bodies with the use of feminine hormones and industrial silicone contributed to their ability to enter into previously prohibited spaces.

They encountered similar difficulty when trying to access social movements that were born or reorganised as the LGBT movement, which was called the homosexual movement at the time, and the black movement.

Fernanda Dantas Vieira (2015), when discussing the Military Dictatorship, informs that the Brazilian government had

*an ideal 'people' and an ideal of a sane body type. This led them to enact a process of sanitation, hunting homosexuals, travestis, transexuais and any other deviant sex or gender, as well as 'degenerates.' Backed by a Christian ideology of family and morals, the municipal and state governments waged a war on homosexuals and travestis in Brazil. (n.p.)*

Evidently, if we look only at race, the black population would also be the military's target. Because of this, it is possible to affirm that the 'deviant' black people suffer much greater persecution.

I ask then what is the relationship of these deviant black people to the Black Social Movement? I seek to understand to what extent the travesti or trans gender identity was a factor that led to inclusion or rejection in that space.

### 3 • Not here fag! The Black Movement is for real men!

The actions and articulations of the Black Social Movement have occurred, however not always under this name, since the regime of slavery.

Persecution from the Getulio Vargas government, beginning in the 1930s, and during the Military Dictatorship, which began in 1964, seriously compromised the anti-racist struggle. The Black Social Movement regained momentum in the 1980s, with the impulse of the centenary of the abolition of slavery.

Even though there is consensus that the Black Social Movement has advanced the fight for the rights of historically marginalised people, it is also visible that it reproduces oppressive behaviors by remaining silent on the demands considered less important, such as questions of gender, gender identity and sexuality.

Part of the problem is related to widespread presence of cis, heterosexual men as leaders of the main organisations that fight for the rights of the black population. Their demands are connected to their lives and realities, which reinforces some stereotypes. These include the naturalisation of the idea that 'blackness is constituted through the normalisation of the heterosexual black man, represented by the emblematic virility of his physical force, aggressive nature, violence, hearty appetite for sex and powerful penis.'<sup>23</sup> Within this logic, travesti or trans identity is something completely disconnected from blackness. Trans bodies, identities and subjectivities will not have a place within the Black Social Movement, as their 'lives are not considered lives and materiality is understood as not important.'<sup>24</sup>

One possibility for activist action for travestis and trans women began in 1969 in New York, in the Stonewall Revolt, the cradle of the LGBT movement.

The two people seen as responsible for sparking the protests and paving the way for the present LGBT movement are Marsha P. Johnson, a black travesti and Sylvia Rivera, a Puerto Rican travesti.

Despite the presence of travestis and/or trans women and lesbian women in the process of articulating and organizing this new movement, it was called the Gay Movement and prioritised the demands of masculine homosexuals.

This position contributed not only to the normalisation and normatisation of the cisgender identity, but also to maintaining travestis and trans women in positions of extreme vulnerability. Denied space within the movement itself, they got organised and founded a separate movement.

In Brazil, the Travesti and Trans Social Movement was officially inaugurated in 1992 with the founding of the Association of Travestis and Liberated People of Rio de Janeiro

– ASTRAL, which responded to the need to discuss the specific questions of the travesti universe such as gender identity, social name, de-pathologizing the trans identity, hormonal therapy, violence, education, the job market, human trafficking, industrial silicone, the prevention of sexually transmitted diseases and HIV/AIDS, among others.

Since the beginnings of the TT movement, black leaders such as Keila Simpson, who is now president of the National Association of Travestis and Transexuals (ANTRA, founded in 2007), Jovanna Baby, Cris de Madri, Cris Stefanny, Janaína Lima and Dediane Souza have occupied a special place. Even so, race has not becoming an important issue.

Making an analogy to the writing of Ari Lima (2006) who problematises black homosexuality, it is possible to affirm that travestis and black trans women are inhabitants of two worlds and, at the same time, they do not belong to either one of them.

In an attempt to reverse this situation and call attention to the importance of discussing racism and transfobia in an intersectional way, some activists have started to work both in the Travesti and Transexual (TT) Movement and in the Black Social Movement. Even though the racial question has not come up in the TT Movement in a deeper way, in general, in this space they feel more comfortable as gender identity often maps onto racial belonging.

Paullet Furacão, a black trans woman, social educador and resident of Salvador - BA, explained in an interview with Patrícia Gonçalves (2017) that

*Being trans means suffering all the possible stigmas in a country considered the country of diversity and acceptance and that has effective policies for its population. Imagine being a black woman and on top of everything else is trans? It means that I must fight twice as hard to guarantee effective policies.*

*Comparing a black and a white travesti means recognizing that policies for the black population are not being effectively implemented. Even for trans people in Brazil, it is much easier for public policies to reach the white travesti population, but the same policies will not reach black travestis and trans.*

Based on this account by Paulett Furacão, it is possible to affirm that racism serves as a further obstacle, magnifying the exclusion of travestis and trans women.

Socioeconomic and educational disadvantages are just two of the multiple disadvantages that affect black travestis and trans women. This reveals the lack of commitment of the TT (travesti and trans) movement to combatting racism, while also pointing to the maintenance of sexism and transfobia in the Black Social Movement. Paulett Furacão

is incisive on transfobia, communicating in a written interview with me: 'I believe it does [play a role] even if the movement itself doesn't recognise this type of violence being reproduced with our segment.'

Nicole Machado, a black trans woman, who is pursuing a Bachelor's in Cultural Mediation in the Literature course at the Federal University of Latino-American Integration - UNILA, in Iguazu Falls, explained to me in an interview through Facebook that trans women in the Black Social Movement are 'oftentimes the centre of the debate, but the reflections are shallow about our experiences and way of thinking.'<sup>25</sup> Despite the tranquility with which she moves through this space, she feels only partially represented by the issues of the movement. An explanation can be found in the intersectional vision that is starting to be adopted, where racism and transfobia are debated simultaneously while also opening up space for a better understanding of the specific demands of the travesti and trans population. This situation can be seen 'when we adhere to the LGBT community. In general, they treat us like it was all the same thing.'<sup>26</sup>

Opening spaces in a movement that reproduces patriarchal structures and hierarchies from the western model means living with the possibility of running into conflictual situations, including transfobia.

*I have undergone situations of conflict. The most recent one was at a party organised by a black collective that I am familiar with. When I went to the bar to buy a drink, I was completely disrespected. I have also been denied service, but they are unknown people. Sometimes I prefer to rely on a local person.'*<sup>27</sup>

Relying on a local person, or, in other words, turning to people I know personally guarantees that my rights will be respected in a space that proposes to fight against racism reveals the maintenance of positions that naturalise certain forms of discrimination.

When this movement denounces the genocide of black male youth, there is no interest in understanding the question of sexual orientation and/or gender identity. This confirms that the multiple levels of violence that affect the black population are motivated by racism.

The violence committed by the São Paulo police against the black travesti Verônica Bolina in 2015 reveals the absolute disinterest of the Black Social Movement in the lives of travestis and trans women.<sup>28</sup>

Accused of trying to kill a person living on the street and resisting arrest, Verônica was brutally beaten by a group of police officers. They disfigured her face, shaved her head and ripped her clothes. After all of the violence she suffered, she had her hands and feet cuffed and was made to lie down, half naked, on the internal patio of the delegacy.

The macabre violence ritual was filmed and photographed, and the images were shared on social media. Despite wide repercussion of the case, the Black Social Movement did not make a pronouncement. It stayed silent, as if Verônica's racial belonging covered over her gender identity.

The violence Verônica suffered is not an isolated case. Travestis and trans women are one of the most vulnerable groups in Brazilian society: "According to the National Association of Travestis and Transexuals (Antra), 179 assassinations of travestis or trans people were registered in 2017. This means that every 48 hours a trans person is assassinated in Brazil."<sup>29</sup>

The majority of the victims, nearly 70%, are aged between 16 and 29. This is a contributing factor to the low life expectancy of a trans person in Brazil, which is the lowest in the world at 35.<sup>30</sup> Concerning the relationship to racial belonging, 80% of the cases were identified as black and mixed race people, challenging the tragic data on the assassinations of black youth in Brazil.

Another significant aspect of these assassinations is that, in general, they are carried out as ritual acts: "in 85% of the cases the assassinations contained evidence of cruelty such as the excessive use of violence, dismemberment, drowning and other brutal forms of violence. This shows hatred in the cases"<sup>31</sup>

With regard to this violence, this genocide, Paulett Furacão agrees that

*there are no campaigns within the black movement focused on the trans population. We are practically invisible. There is no care or attention to debating the specificities within the black movement. The whole time we have to impose our presence in these debates. (Paulett Furacão).*

Regarding the assassinations, Paulett points out that the commotion is different when the person assassinated is white. The hierarchies of race and gender identity combine to silence, erase: "There is no positioning. Recently there was an assassination of a trans black girl in Rio Vermelho that was not seen in the black movement or in the movement of trans women." (Paulett Furacão).

So what can be done? How to propose an intersectional dialogue among the black movement and travestis and trans women, especially those who are black.

The response is shot out like a ray. With the velocity that only someone who was and continues to be silenced is able to speak.

*It is necessary to recover the meaning of the word activism and the importance of bodies and the visibilisation of these segments in this*

*exclusionary society. The cry "Stop killing us!" should refer to all black bodies. (Paulett Furacão).*

## 4 • Some proposals

Discussing racism means considering the fact that it operates in different ways because it involves questions of gender, gender identity and sexual orientation, among others. The naturalisation of rigid and crystallised binary identities arises as yet another obstacle on the path of black people who escape these normalisations and naturalisations.

Some actions can contribute to alter the situation of invisibilisation of the existence of black travestis and trans people:

1. Develop courses - online and/or live - that encourage leaders in the Black Social Movements to see the fact that the genocide of male youth is also motivated by homophobia and transphobia;
2. Analyze the data on anti-LGBT violence alongside data on violence motivated by racism and, in doing so, identify travestis and black trans women;
3. Organise debates (seminars, meetings, etc.) with the presence of black leaders from the Travesti and Transexual Movement that aim to call attention to the existence of other black identities, distinct from the normative cis heterosexuality;
4. Provide training courses - online and/or live - for leaders and activists from the Black Social Movement, discussing gender and sexual diversity, emphasizing the travesti and trans gender identities;
5. Produce support materials - flyers, magazines, videos, electronic media, etc. - discussing gender and sexual diversity, with an emphasis on travesti and trans gender identities;
6. Produce publicity campaigns that value and support black travestis and trans people;
7. Carry out campaigns stimulating the permanence and participation of black travestis and trans people in the Black Social Movement
8. Establish partnerships with research units at public universities that discuss gender, sexual diversity and ethno-racial relations and provide extension courses that problematise the invisibilisation of black travestis and trans people in the Black Social Movement;
9. On holidays, such as the National Day of Black Consciousness, highlight the participation of travestis and trans people in the fight against racism.

In all of these actions, it will be necessary to adopt an intersectional perspective not only in the theoretical field, but also in the field of militancy, promoting the joining together of issues currently considered distinct, but that impact a large portion of the black community.

In this way, it will be possible to establish dialogues about valorizing and protecting lives. Little by little, these black arms, crossed and inert in the face of the multiple situations of violence directed towards travestis and black trans women, will begin to move. They will start to take the shape of a comforting embrace where we can seek safe harbor and actually feel protected.

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- 3 • The terms travesti and trans came into greater use beginning in the second half of the 20<sup>th</sup> century. The people to which they refer, however, have always been a part of humanity in diverse cultures. For this reason and in order to facilitate the understanding of my reflections, I will use them throughout the text.
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**MEGG RAYARA GOMES DE OLIVEIRA** – *Brazil*

I am a black travesti originally from Cianorte in rural Paraná. I presently live and work in Curitiba. I have a design degree (1994) and a specialization in Art History (1998) from the Music and Fine Arts School of Paraná. I also have a certificate in African and Afro-Brazilian Culture and History and Culture, Education and Affirmative Action in Brazil from the Tuiuti University of Paraná (2008). I have a Master's and Doctorate in Education from the Federal University of Paraná (2017). I was the first trans person to earn a doctorate from the Federal University of Paraná, which was founded 105 years ago and is one of the oldest higher education institutions in the country. My master's thesis discussed the silence around the African and Afro-Brazilian aesthetic in art education and my doctoral dissertation sought to understand the resistance and existence strategies developed by black homosexual teachers during their work. Since the beginning of my work as a "researcher" I have discussed themes related to ethno-racial relations, African Art, Afro-Brazilian Art, gender and sexual diversity. Recently, I have been problematising the tensions between the travesti and black trans woman identities both in gender studies and in social movements, specifically in the black movement. In June of 2018, I was nominated to represent the Post-Graduate Program in Education at the Federal University of Paraná for the CAPES award for best thesis in 2017. I am an activist in the black social movement and the travesti and transexual movement in Paraná.

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# DEVELOPMENT AS A DEMOCRATIC PRACTICE

**Rosane Viana Jovelino**

- *The case of the Quilombola communities* •  
*in the Iguape Basin and Valley – Bahia*

## ABSTRACT

*The aim of the article is to describe the process of social and political organisation of the quilombola communities of the Iguape Basin and Valley in the municipality of Cachoeira, in Bahia, and to present its development dynamics. To this end, the article looks into the formation and implementation of production centres based on the experience of the Council in these communities. It examines the concept of quilombola communities, with emphasis on the territorial dimension as a place of belonging and for passing on knowledge and ancestral practices, which are important in maintaining the cultural identity of the quilombola in Bahia. The argument is that these communities are not properly acknowledged and this undermines their identity, territorial belonging and therefore their chance of having rights.*

## KEYWORDS

*Quilombola Community* | Organisation | Cultural Identity | Development

The cultural and socioeconomic formation of Brazil stems from diverse ethnic roots, the influence of which has been the determining factor in the process of land distribution in the country. However, the contributions that nowadays form a natural part of our daily lives and its uniqueness, above all the experiences of development founded on the workforce and knowledge of black and indigenous ethnicities in the formation of the national culture, are not recorded in scientific studies and research with the wealth of detail and protagonism they deserve.

There are many traditional communities within the Brazilian territory, of particular importance are those that stem from black legacies and are organisationally shaped by quilombolas. According to the Palmares Cultural Foundation (2018) – the Ministry of Culture organisation responsible for issuing the self-definition certification as requested by the communities – the “*quilombolas* are descendants of enslaved Africans who have kept their cultural traditions of subsistence and religion over the centuries.”<sup>1</sup> In Brazil there are 2,685 traditional communities registered as being acknowledged as descendants of the *quilombos*.<sup>2</sup> Of this total, Bahia is the state with the highest number of certificates from the Palmares Cultural Foundation. There are 658 in total, 35 of which are located in the Recôncavo Territory, in Bahia.

Given the importance of the state of Bahia in this context, in this article we focus on the case of the *quilombola* communities in the Iguape Basin and Valley, within the municipality of Cachoeira, located in the Bahian Recôncavo. These communities have sparked attention for their achievements via the *Quilombola* Council of the Iguape Basin and Valley, considered important by those who live there as they result from their struggle, protagonism, collective organisation and political representation. The process of social and political organisation in the *quilombola* communities is a tool for winning their social rights. Fundamental rights in exercising citizenship, such as education, health, housing, leisure, food (and other rights that have been historically denied, such as access to land), are fundamental in ensuring development and autonomy and promoting well-being, and must be secured for everybody, without prejudice of origin, race, sex, colour or any other form of discrimination.

The *quilombola* fight is focused on a vision of sustainable development and solidarity, guided by the construction of citizenship and social organisation, democratisation of local power and by the development of the potential and the capacity to retain and reinvest the wealth produced with local resources, in a way that respects human and environmental values. This fight defines a historical moment when the practices of the people who descended from the *quilombo* are changing and when they are being integrated socioeconomically and culturally into Brazilian society. This represents the search to affirm an identity of distinct elements, of an image made up of particular characteristics that establish their place within the context of the development model that has been adopted with a trend towards asserting local traditions, as a response to exclusion or as a move towards non-subordinate integration.

The basis for the construction of this article is recognition and respect for the centuries-old, traditional practices and knowledge of the *quilombola* communities of the Iguape Basin and Valley. In this sense, we understand the importance of fostering the communities' struggle to guarantee their rights, to preserve their identity, the cultural memory related to uses, customs and tradition of Brazilian cultural diversity and ancestral and cultural wisdom maintained and developed within the communities. In this way, we will take a step towards defending and strengthening the cultural identity, autonomy, social and political organisation and development of the communities.

## 1 • Fundamental issues surrounding recognition of *quilombos* in Brazil

Due to the political mobilisation of black movements, among them the *quilombolas*, the 1988 Federal Constitution represented an advance in the recognition of black populations in the country through the establishment of article 68, Transitional Constitutional Provisions, that “survivors of the *quilombo* communities who are occupying their land should have this land recognised as permanent property, and that the state must issue the documents to this effect.”

In addition, it is important to mention decree number 4.887/2003, which regulates the procedure for identification, recognition, delimitation and documentation of occupied land for the survivors of *quilombo* communities. According to article 2 of the decree, those who are “racial-ethnic groups according to self-attributed criteria, with their own historical background, with specific territorial relations, assumed to be of black ancestry related to resistance to historically suffered oppression” are to be considered survivors of *quilombola* communities.<sup>3</sup> In an analysis of the concept of *quilombo*, based on a broad vision of the origins and history of these groups,<sup>3</sup> it is ascertained that survivors of the *quilombo* are “associated with ‘black land’ or ‘black territory’, emphasising the condition of rural communities, defined by the fact that they share the same territory and identity.”<sup>4</sup>

In an analysis of the existence of the *quilombola* issue in the aforementioned Constitution, Almeida<sup>5</sup> shows that the *quilombolas* have a particular way of using natural resources, according to the idea of common use, combining aspects of private and collective use, the consequence of which has been a number of difficulties in interpretation for the purposes of classification within the Brazilian administrative apparatus.

In the same vein, Almeida also criticises the term ‘survivor [from a quilombo]’, which could carry the semantic weight of ‘leftover’.<sup>6</sup> In an anthropological sense ‘*quilombo* is not what was, it is autonomy constructed over time.’ In this sense, this denomination seeks to define these social groups by what they no longer are, maintaining only some memories and vestiges.

We must abandon stereotyped, preconceived and simplified conceptions about the *quilombos*, once seen as homogenous, immutable communities, unconnected with the

present and trapped in the past, associated with simplified ideas of territorial isolation and with the archaeological remains of an identity and culture that no longer exist. It should be understood then that the *quilombos* make up a social group that is ingrained in a territory, in its history and its descendants, which are the root of a feeling of belonging and interdependence.<sup>7</sup> Only from this viewpoint will it be possible to have a vision of their social reality, based on the understanding of the role of the law and a pluriethnic state.

With regards to remains and the leftovers from a past that is always resuscitated, this form of identification is used in the present day by the survivors with the intention of strengthening collective action in defence of the land they occupy and to guarantee continuity in their characteristic lifestyle.<sup>8</sup> The right of the *quilombola* survivors is linked to the idea of territory and is based on a relationship with the place of belonging, continuity, the practice of social and political organisation, within a dynamic of development. These experiences are related to cultural identity.

Consequently, recognition of the right of *quilombolas* to their land is directly linked to their very existence as social beings and right-holders. Therefore, specific cultural preservation and social organisation are necessary for their physical, social, economic and cultural continuity, not just in terms of land for housing, but also land for productive cultivation, agroforestry systems, and other traditional practices. So, the objective of documenting property is principally to implement human and fundamental rights and citizenship for these communities.

The *quilombolas*, or survivor communities of the quilombos, are brave social groups, who carry our cultural and historic heritage. It is worth highlighting that the etymological origin of the word '*quilombo*' is Banta (having been changed over time), this could be characterised as a warrior encampment in the forest.<sup>9</sup> It is noted that the *quilombolas* no longer fight against slavery. In recent years they have been strengthening ways of fighting for conquest of their territories and public policies that contribute to the transformation and improvement of their lives, as well as active participation in society.

The example given here with regards to the *quilombola* communities in the Iguape Basin and Valley shows how these groups have over time developed cultural practices and lifestyles that contribute to the consolidation of ties of belonging to their territories. It can be said then that the *quilombo* has taken on an emblematic role in the black struggle, namely in its claims to citizenship throughout history, and the current moment constitutes another of these periods of struggle for rights, based on the *quilombola* identity.

## 2 • The case of the *quilombola* communities in the Iguape Basin and Valley

The scenario of this research was the backdrop of the Iguape Basin and Valley in the Bahian Recôncavo, where there are 16 *quilombola* communities: Engenho da Praia, Engenho

da Ponte, Dendê, Kaonge, Calembá, Calolé, Imbiara, Engenho da Vitória, Tabuleiro da Vitória, São Tiago, Caibongo, Engenho Novo, Engenho da Cruz, Brejo, São Francisco do Paraguaçu and Santiago do Iguape in the Cachoeira municipality.

Between the XVI century and the XX century the region of the *Quilombola* Territory in the Iguape Basin and Valley, in the Bahian Recôncavo, stood out in the Brazilian colonisation process as a centre for formation and exportation of capital, based on the agroslave economy and regime. Activities included production and processing of sugar cane, tobacco exploration, trading of black slaves brought from Africa, as well as being a large agro-industrial complex equipped with mills.

The *quilombola* communities in the Iguape Basin and Valley are located in the region of the Baía Extractivist Reserve – Iguape Marine. These communities are organised in associations, recognised by the *Quilombola* Council of the Iguape Basin and Valley. Like most rural communities their main sources of income are fishing, gathering shellfish and agriculture.

However, although the land of half the *quilombola* communities in the region is delimited by the National Institute of Colonisation and Agrarian Reform (INCRA) and is recognised by the Palmares Cultural Foundation – both linked to federal government – the communities still require final documentation, which depends on negotiations between farmers, communities and INCRA. We note the urgent need to take action towards instituting this process.

It is noted that the collective organisation of the *quilombola* communities was a central issue for the constitutional guarantee of recognising their rights. However, the difficulties in fulfilling this are blatantly obvious. Sluggishness and bureaucracy in the state apparatus, along with the reaction of political and legal sectors and racial and social prejudice, are the main obstacles to achieving their fundamental rights. It should be stressed that although oppressed by landownership and economic issues, these communities are resistant to the various forms of domination and maintain a strong connection with their history and journey, having preserved the customs and culture of their ancestors for centuries.

## 2.1. Political organisation

The *Quilombola* Council, founded on 8 July 2005, is a civil society organisation. It is legally registered and is non-profit making. The organisation makes no distinction between colour, race, sex, ideology or political party. Its headquarters are located within the community. It is regulated by statute and by the pertinent legal norms.

Its structure is collegiate with the participation of 16 *quilombola* communities located in the Iguape Basin and Valley region in Recôncavo, Bahia, around the Marine Extractivist Reserve of the Baía do Iguape. It is represented by four people elected by the community, two title holders and two substitutes.

The choice of council members takes into account criteria of gender and generation and the group is, therefore, made up of young people, elderly people and men and women. There are 56 council members who directly and indirectly represent over 3,500 families. The meetings are rotational and are held on a monthly basis in different communities. There is a rotation system of male and female council members to coordinate general and extraordinary assemblies.

The *Quilombola* Council of the Iguape Basin and Valley aims to defend the rights of communities, to ensure the continuity and integrity of its territories and a dignified, healthy lifestyle in harmony with the environment. In carrying out its aims the *Quilombola* Council articulates, mobilises, organises, supports and executes actions and projects based on the principles of justice and ethno-racial equality, autonomy, collectivity, participation and respect for diversity.

Through the creation of the *Quilombola* Council of the Iguape Basin and Valley and community association, the communities have fulfilled important achievements, considered to be structural gains.

Initially the communities were not in agreement on the possibility of dialogue with public power. They were afraid of losing their way of life and feared prejudice concerning their relationship with the natural environment. However, the communities came to the conclusion that collective organisation broadened their capacity to bring about complex dialogue with public power, the primary reason for the constitution of the decision-making community council. In 2007, the Council approved the application of a Quick Participative Diagnosis (DRP), with a group of young people and *quilombola* leaders. There were visits to 350 homes, 16 community meetings, interviews with 498 people involved in *quilombola* family agriculture, extractivism and bee-keeping. From this group the first local and deep outline of the *quilombola* profile emerged, indicating the reality and the gaps faced by all the communities.

It was seen that most of the heads of *quilombola* households fell within a monthly income bracket of less than the minimum salary. The activities of gathering shellfish and the harvest from an abandoned dendê plantation, used for cooking oil, added some value to the low family incomes.

The estuary environment of the Iguape Basin has been compromised with the interference of the building of the Pedra do Cavalo dam, despite the extensive mangrove swamp and the irregular behaviour of the Pedra do Cavalo hydroelectric plant (administered by Votorantim Energia), significant amounts of freshwater were released which led to a reduction in the quantity of fish and shellfish. This situation became more serious with the construction of the Enseada do Paraguaçu shipyard, which affected fishing activity, lowering the potential of the catch, which negatively impacted on family incomes in the communities.

The Council has been dedicating itself to improving the debate around the distribution of products and honing viability studies into production potential and the implementation

of the distribution plan, integrated with trends and strategies designed within a solidarity economy, conquering local, national and international markets. It is worth mentioning that the women *quilombolas* have become empowered by taking on the role of negotiators and winning over new markets, a dynamic that has led to integration across the communities.

The *Quilombo* Charter,<sup>10</sup> arose from the community experiences. This document was put together following a community seminar at the *Quilombola* Meeting in 2015. The Charter currently represents a benchmark for sustainable development in the Iguape Basin, with the participation of all the communities. The Development Group of the *Quilombola* Communities of the Recôncavo Territory (NUD-QTR), stemmed from it. This goes beyond the reach of the *Quilombola* Council of the Iguape Basin and Valley (it integrates the *quilombola* communities of Cachoeira, São Félix, Santo Amaro Maragogipe, Muritiba and Cruz das Almas).

The *Quilombo* Charter is a collective expression of the *Quilombola* Council, paving the way to dialogue between all the members and the powers of the Brazilian state. It is not merely an exercise in staking claims, but rather a demonstration that the communities know their needs and what they require to face them and how public action can act. If were not for community action, ensured under the umbrella of the *Quilomba* Council of the Iguape Basin and Valley, facing serious issues for maintaining the way of life of the community could have petered out by now.

The *Quilombola* Charter, therefore, constitutes a fundamental and necessary tool to assist in the development of public policies and in fulfilling precepts, taking actions of reparation to these communities that reflect their reality, as well as actions that guarantee citizens' rights and property rights over the land that they have historically occupied.

It is imperative to stress that the *Quilombola* Council votes and develops an integrated plan of action, containing projects designed by their own efforts and it handles actions that depend on the support of public entities and private partners. One example is the *Quilombola* Citizen project, the profile of which emerged from needs identified by the community itself. This project is a reference for its participants and for the construction of new projects, precisely because it has preserved and continues to preserve a democratic, participative character at every stage, maintaining an efficient system of social control, to the point that, at new phases, there is a process of evaluation and reformulation to maintain alignment with the interests of the communities. This means that, with each new experience, the external social player may be different, public or private, but the accumulated experience will preserve the will of the community and its objectives for collective, sustainable development.

## 2.2. Socioeconomic organisation

Given the reduction in environmental conditions that favour the sustainability of the communities, the *Quilombola* Council considered recommendations for projects, actions and alternatives to minimize the impact of the presence of private and public

interests exploiting the wealth of natural resources. After some deliberation, the community itself carried out a number of actions to face the problems. Based on experience gained and given that private initiative and public power were present, they set out requests for support for their projects, under the understanding that the choices and experiences of the community were to be respected.

Projects supported by public resources emerged, arising from government programmes. One example was community-based ethnic tourism. An economic viability study was carried out beforehand, as well as a handicrafts project, and others. Research and classification of the potential of extractivism (oysters and sururu) and research into the commercialisation of fish and shellfish (oysters, sururu and fish), as well a project to implement oyster and dendê (for oil) farming, are all community initiatives that received the support of public funds and research.

### 3 • Production centres as a democratic practice

The *Quilombola* Council continues to be driven by the quality of its work, widening the debate on ways to qualify the participation of the whole community, whose leaders serve short, rotating mandates, as well as promoting training courses for new leaders, such as mobilisation actions to make research viable into local production potential for the development of the communities.

The *Quilombola* Council proposed the implementation of Production Centres, with a view to sustainable, mutually supportive development, as a way to strengthen the organisation of production in the *quilombola* communities of the Iguape Basin and Valley, in a way that makes use of its endogenous factors. It is understood that, in this way, development stems from the rational use of resources and the production factors that the *quilombolas* have at their disposal, providing them with understanding of new technology which is compatible with their reality. These practices boost production, productivity and autonomy, as well as increasing income due to the process of verticalisation of production and the collective trade of the communities' products, based on sustainable standards.

By collective decision, in a deliberative council, the communities spoke with public research institutes, which led to the implementation of production centres for Dendê, Oysters and Native Plants, Beekeeping, Fishing and Shellfish, Agriculture, Handicrafts and Ethnic Tourism, based in the communities, as well as the Iguape Quilombola Solidarity Bank (BSQI). The initiative was integrated into a project known by the communities as the Route of Freedom, which aims to expand the potential for generating work and income, within the sustainability of the *quilombola* communities.

These centres are autonomous and are run by members of the groups of producers that make up the centres and are governed by systems developed by the *quilombola*

producers themselves. They define organisational rules and norms and the development of their activities, with integrated action plans, put together by members with the support of the Iguape Valley Centre for Education and Culture (CECVI). Decisions concerning each centre are taken in monthly meetings by means of a commission made up of one representative from each group. The Council works as a phase for consultation and reflection when there are conflicts that are not resolved internally by a centre. The centres are organised around a solidarity economy and socioenvironmental sustainability. Results are distributed collectively, based on the principle of a solidarity economy. Nowadays, this contributes to maintaining the Quilombola Solidarity Bank, which uses the social currency of the “sururu”.

The methodology used in developing its work and activities is based on promoting self-regulation, following the principles of valuing and salvaging the experience of life and work, by means of respect and recognition of culture, knowledge and aspirations, in a continuous process of education and work focused on the preservation and conservation of the environment of the *quilombola* communities.

In an analysis of production processes, Capina<sup>11</sup> affirmed that they all imply the existence of certain technical relations, which are not neutral, in a way that mathematics, on the other hand, is. Nonetheless, the criteria for using mathematical concepts is different, because behind solidarity ventures are the people who operate them and at the forefront, the people who will benefit from the results.

This is because, unlike private business, that seeks to indiscriminately maximise profit for its owners and shareholders, solidarity ventures, as in the production centres described here, are based on a logic of mutual survival and seek all-encompassing human development for its workers. The economic viability of solidarity ventures interconnects technical conditions with the variety of social relations that are involved in the initiative.<sup>12</sup>

It is important to stress that in managing and consolidating the centres formed by the *quilombola* communities, the Council assumes the challenge of articulating the training and professional qualifications needed for the processes of the production centres. To this end an integrated project was implemented for training and qualification on the theme of solidarity economy. This training course is both a strategy and the basis for consolidating groups as a way of strengthening the organisational practices of traditional communities, that, in turn, have walked the path of struggling for resistance against the historical process of exclusion, and are based on solidarity and in social transformation.

The experiences of the training course are aimed at social transformation and demand the involvement of the *quilombola* communities, in an effort to overcome individualism, social inequality, unemployment and environmental exploitation and degradation. They seek to counteract the inequality and marginalisation produced by competition and by relations of subordination that are a characteristic of the current capitalist production method.

## 4 • Conclusion: development as a democratic practice

The process of training communities by means of a system based on participation and transparency in decisions stimulates cooperation and creates an institutional environment that is more favourable to improving the capacity for social innovation. This method, however, demands the production of new understanding, different from those of the capitalist economy, and the formulation of actions that are based on an exchange of knowledge, respect for diversity and the construction of tools that contribute to strengthening collective organisation of the *quilombolas*, their cultural identity and ancestry, knowledge being considered as one of the possibilities for the construction of new understanding and practices. This is what Bava defines as “transformative techniques and methodologies, developed in interaction with the population, that represent solutions for social inclusion”.<sup>13</sup> Cavalcanti states that development, unlike growth, is indeed concerned with the generation of wealth, but aims to distribute it, to improve the quality of life of the whole population, taking into consideration environmental protection.<sup>14</sup>

For this it is important to stress the role of training and of democratic practices such as the *Quilombola* council itself and the production centres, in the construction of emancipatory principles such as cooperation, solidarity, participative democracy, cultural creation, justice and peace. This entails a paradigm shift, principally in relation to the role of science that holds the stamp of truth and has historically hijacked knowledge produced by the *quilombolas*.

In a solidarity economy, decisions are collective and transparent so that the workers’ fragmented understanding can be integrated in order to take decisions, unlike the capitalist model in which administration is exercised by a leadership, based on the domination of capital over work. Therefore, knowledge is a constructive process, in which management and administration of ventures is different from in capitalist business. The decision-making process is restricted to one group in the capitalist model, while in a solidarity economy it is shared by all those involved through the construction of roles and functions.

These development alternatives ensure the maintenance of characteristics that are inherent to the communities, respecting their ancestors and the environment. The *quilombola* communities of the Iguape Basin and Valley are strengthening the ties of integration and participation by taking steps towards collective, mutually beneficial construction, by identifying local potential and valuing traditional cultural identity. In this way, communities evolve and understand their capacity to create development alternatives and are able to express the richness and the legacy of the traditional Afro-Brazilian people.

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**ROSANE VIANA JOVELIN** – *Brazil*

Bachelor in Financial Administration at Faculdades Integradas Olga Mettig (OLGA METTIG-BA), Specialist in Strategic Management for Governors at the State University of Campinas (UNICAMP/INGÁ/UNIHIIDRO-BA), Consultant on traditional communities, high level technician at the State of Bahia Secretariat for Administration (SAEB). *Quilombola* from the *Quilombo Kaonge*, *quilombola* activist – member of the Quilombola of the Iguape Basin and Valley Council, supporter of the Centre for the Development of the *Quilombolas* Communities from Recôncavo Territory and Production Centres.

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# Race and Human Rights: Moving Structures

## ART AS A FORM OF FIGHT



- art -

### **AFRO-ATLANTIC HISTORIES**

Hélio Menezes and Lilia Schwarcz

- video essay -

### ***LUTO PARA NÓS É VERBO***

Natasha Neri

Juliana Farias

Karla da Costa

Renato Martins

- art -

### **SEA OF VERSES**

Rhuann Fernandes

- art -

### **“NÃO ME AGUARDE NA RETINA”**

Diane Lima

## AFRO-ATLANTIC HISTORIES

For this edition of the Sur Journal, Lilia Schwarcz and Helio Menezes, two of the curators from the exhibition Afro-Atlantic Histories held jointly by the São Paulo Museum of Art (MASP) and the Tomie Ohtake Institute, selected 16 works from the exhibition. Afro-Atlantic Histories was open between June and October 2018 in São Paulo (Brazil), and brought together a selection of 450 works by 214 artists, from the 16th to the 21st century. It centered on the flows between different parts of the Black Atlantic, between Africa, the Americas, Caribbean, and also Europe. In December 2018, the New York Times selected Afro-Atlantic Histories as the best exhibition of 2018 worldwide. Besides Lilia Schwarcz and Helio Menezes, the exhibition Afro-Atlantic Histories was curated by Adriano Pedrosa, Ayrson Heráclito, and Tomás Toledo.

In partnership with:



- 1 • Maps and Margins: Manufatura dos Gobelins & Ibrahim Mahama
- 2 • Everyday Lives: Djanira da Motta e Silva & Castera Bazile
- 3 • Rites and Rhythms: Maria Auxiliadora & René Portocarrero
- 4 • Portraits: ambos do Dalton de Paula
- 5 • Routes and Trances: África, Jamaica e Bahia: Pascale Marthine Tayou & Marepe
- 6 • Afro-Atlantic Modernisms: Rubem Valentim & Howardena Pindell
- 7 • Emancipations: Jacques Arago/Rosana Paulino & François Auguste Biard/Theodor Kaufmann
- 8 • Resistances and Activisms: Sidney Amaral & Nina Chanel Abney



## MAPS AND MARGINS

The Atlantic, starting in the 16th century, became a preferential route for the circulation of people, philosophies, rites and images, always in tension. The tapestry *The Two Bulls* (1723-30), of the Gobelins Manufactory, in France, portrays Eurocentric representations of an exotic Brazil in its nature and its animals. In the center, the hierarchy is “naturalized” by showing black men carrying a white master, whose invisibility is synonymous with power. The work of the Ghanaian artist Ibrahim Mahama, *Hamida* (2017), made from pieces of jute sackcloth used to transport cacao, alludes to the harsh trade in products and humans, today accelerated due to intense global transactions.



# 1 • MANUFACTURA DE GOBELINS

Paris, França [France], Século 17 [17th Century]

Os dois touros, da série Pequenas Índias

[*The Two Bulls, from the series Small Indies*], 1723 – 1730



2 • IBRAHIM MAHAMA

Tamale, Gana [Ghana], 1987 – vivem em [lives in] Tamale

*Hamida*, 2017



## EVERYDAY LIVES

Market scenes were common in slave-based societies, as was the predominance of black men and women in these places. The visual convention shifted and eventually produced works that, despite describing specific realities, ended up losing their place of birth. This is the case with the paintings by Djanira da Motta e Silva (1914-1979) in Brazil and Castera Bazile (1923-1966) in Haiti. The colorful scenes, the prominence of women, the fabrics and baskets on their heads, the tropical products almost serve as a distraction, with the works losing their provenance and origin.



### 3 • DJANIRA DA MOTTA E SILVA

Avaré, São Paulo, Brasil [Brazil], 1914 – Rio de Janeiro, Brasil [Brazil], 1979

*Feira da Bahia [Bahia Market], 1956*



#### 4 • CASTERA BAZILE

Jacmel, Haiti, 1923 – Porto Príncipe [Port-au-Prince], Haiti, 1966

*Haitian Market by the Sea [Mercado Haitiano na Costa]*, 1963



## rites and rhythms

Since the 16th century, gods and goddesses have circulated throughout the Afro-Atlantic world. In the diaspora, Yemoja, the mother of fish and orisha of fertility, maternity and water, ended up becoming one with the Atlantic itself, which she made her home. Enthroned as a black queen, the Yemoja of Portocarrero (Cuba) appears composed of a range of blue and green shades that are evocative of the ocean itself. The prominent breasts reappear in the version of Maria Auxiliadora (Brazil), from the volumetric effects on the canvas that also highlight the lips and coarse hair of the deity, who is depicted dressed in rich and delicate ritual clothing of blue and white lace.



5 • MARIA AUXILIADORA

Campo Belo, Minas Gerais, Brasil [Brazil], 1935 – São Paulo, Brasil [Brazil], 1974

*Iemanjá segurando os seios* [*Iemanjá Holding her Breasts*], 1974



6 • RENÉ PORTOCARRERO

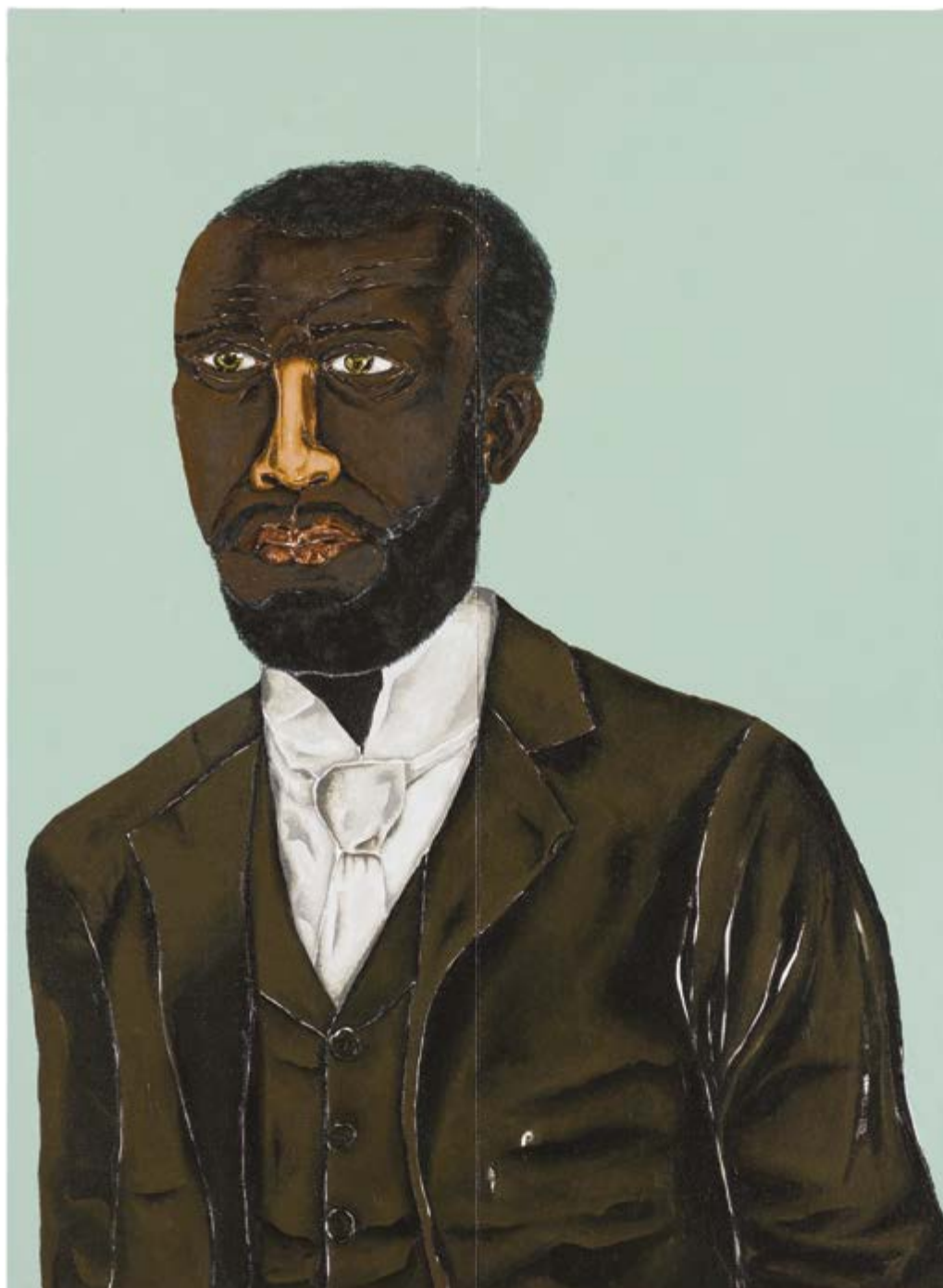
Havana, Cuba, 1912-1985

*Yemaya [Iemanjá]*, 1962



## PORTRAITS

Danton Paula was commissioned especially to paint two portraits of black characters who fought for rights. João de Deus Nascimento (1761-1799) was the leader and one of the martyrs of the Revolt of the Tailors, which took place in Bahia in 1798. Zeferina (19<sup>th</sup> century), a black woman of Angolan origin, was a warrior and leader at the Quilombo of Urubu, located near Salvador. Creating a gallery of black characters, compiling images of African heroes who have been forgotten by historiography, means betting on a new imagery that includes the participation of Afro-Brazilians.



7 • DALTON PAULA

Brasília, Brasil [Brazil], 1982 – vivem em [lives in] Goiânia, Brasil [Brazil]

*João de Deus Nascimento*, 2018



8 • DALTON PAULA

Brasília, Brasil [Brazil], 1982 – vivem em [lives in] Goiânia, Brasil [Brazil]

*Zeferina*, 2018



## ROUTES AND TRANCES

The circulation of people and things, the transit of symbols and migratory displacements appear in distinct but comparable ways in the works of the Brazilian artist Marepe and Cameroon's Pascale Marthine Tayou. Wood is the predominant material of *Moving*, giving shape to a transport vehicle that carries a bit of everything inside. *Bend Skin*, by Tayou, follows a similar procedure of accumulation. The unstable balance evoked by the pile of cardboard boxes on top of one another alludes to the popular use of this vehicle as a means of transport of people and things in his country – which is shown in a video installed on the side of one of the boxes.



9 • PASCALE MARTHINE TAYOU

laundé, Camarões [Cameroon], 1967 – vive em [lives in] Gant, Bélgica [Belgium]

*Bend Skin* [Dobra pele], 2017



## 10 • MAREPE

Santo Antônio de Jesus, Bahia, Brasil [Brazil], 1970 – vive em [lives in] Santo Antônio de Jesus

*A Mudança [Moving]*, 2005



## AFRO-ATLANTIC MODERNISMS

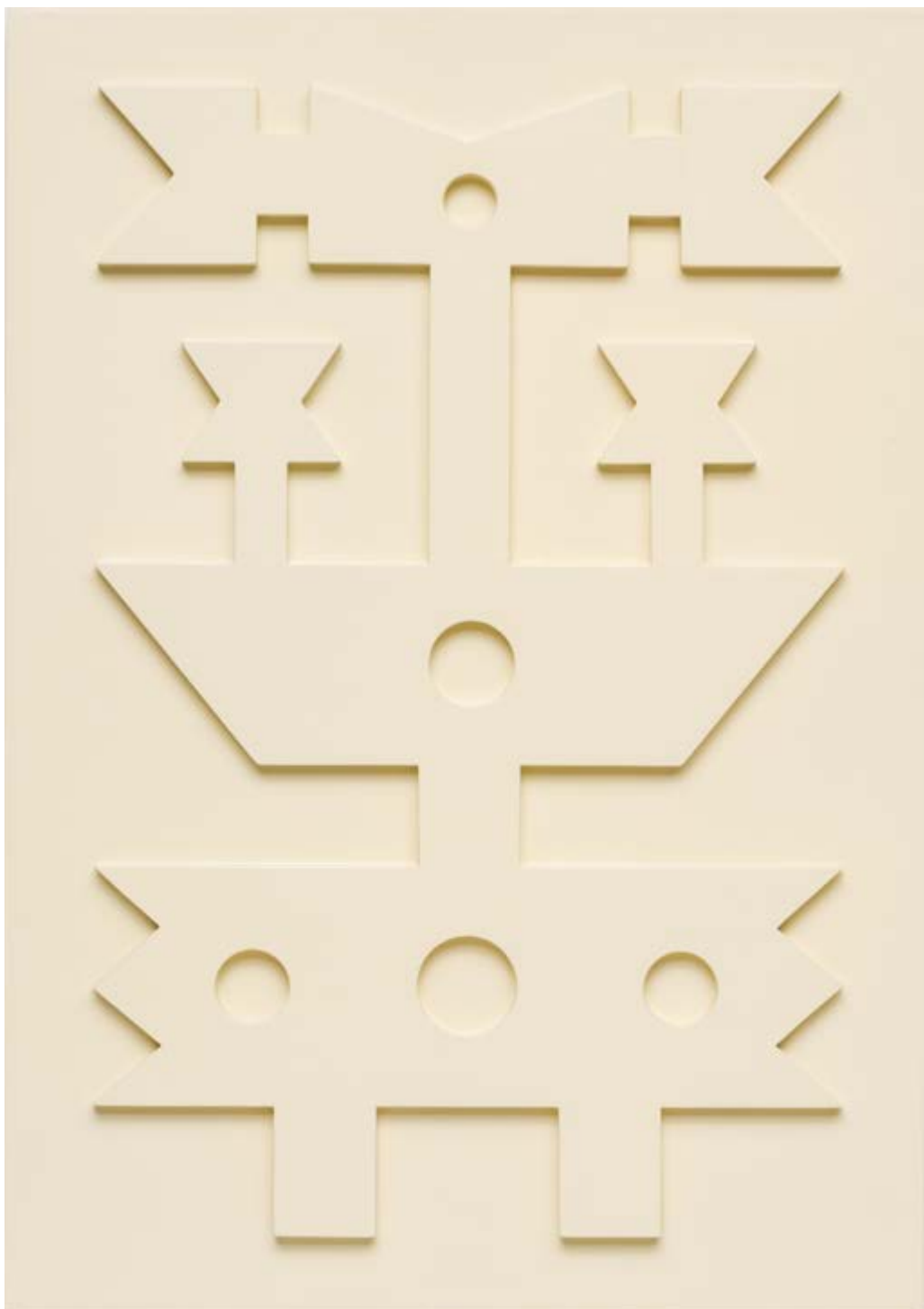
In modernist painting, white monochrome appears conventionally as a synthetic and free artistic expression, devoid of any figurative representations. *Emblem*, by the Brazilian artist Rubem Valentim, appears to subvert this model, instilling a dense Afro-Brazilian symbolism and causing to emerge, in a relief that projects from the canvass, the symbol of Oshe, the double-bladed axe of Shango, the orisha of justice, thunder and fire. The American Howardena Pindell, meanwhile, challenges the same convention on an asymmetrical canvas with a part intentionally cut off; although, from a distance, the white dominates the pictorial composition, up close, the profusion of colors and the relief of the paint gain prominence.



11 • RUBEM VALENTIM

Salvador, Brasil [Brazil], 1922 – São Paulo, Brasil [Brazil], 1991

*Emblema [Emblem]*, 1968



12 • HOWARDENA PINDELL

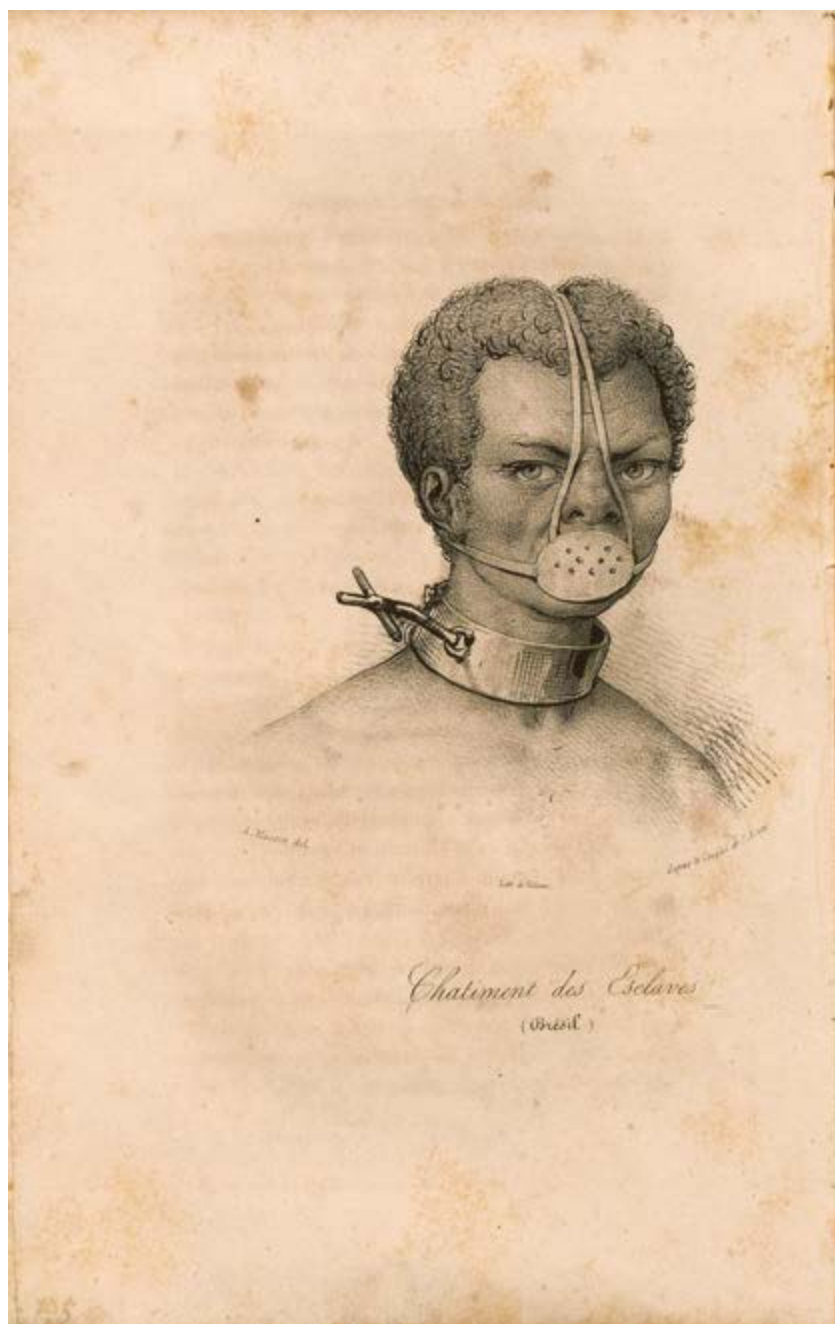
Filadélfia, Estados Unidos [Philadelphia, United States], 1943 – vive em [lives in] Nova York, Estados Unidos [New York, United States].

*Untitled* [Sem título], 1975



## EMANCIPATIONS

The daily life of slaves was also marked by all manner of resistance and by the constant desire to secure freedom. The French artist Arago (1790-1854) presents the “tin mask” that was designed to stop slaves from committing suicide by eating dirt. The Brazilian artist Paulino revisits the practice contemporarily with her work *Embroidery Hoops*. The artist stitches the mouth of the character, avoiding victimization and highlighting the agency. Escapes were quite frequent in times of slavery. The French artist Biard (1799-1882) and the German artist Kaufmann (1814-1896) painted the same scene some years apart. What changes is the meaning: Brazilian slaves seek refuge in the forests, while in the United States they head north.



13 • JACQUES ARAGO

Estagel, França [France], 1790 – Rio de Janeiro, Brasil [Brazil], 1854

Castigo de escravos [Slave Punishment], 1839



14 • ROSANA PAULINO

São Paulo, Brasil [Brazil], 1967 – vive em [lives in] São Paulo

*Sem título*, da série *Bastidores* [*Untitled*, from the series *Embroidery Hoop*], 1997.



15 • FRANÇOIS AUGUSTE BIARD

Lyon, França [France], 1799 – Fontainebleau, França [France], 1882.

*Fuga de Escravos* [*Slave Escape*], 1859.



16 • THEODOR KAUFMANN

Uelzen, Alemanha [Germany], 1814 – Nova York, Estados Unidos [New York, United States], 1896

*On to Liberty* [*Rumo à Liberdade*], 1867.



## ACTIVISM AND RESISTANCE

The topic of police violence and criminal selectivity against the young black population has appeared in the works of various black artists. In *Black Mother* and *The Fury of Yansã*, the Brazilian artist Sidney Amaral focuses on the topics of black maternity and institutional racism. Amaral portrays a black mother wearing a red skirt (the color of Yansã, the orisha of lightning and bravery) defending her son from a police officer. *Penny Dreadful*, by the American artist Nina Abney, addresses the topic in a U.S. context. The scene of the police stopping a black person, saturated with colors and references to the language of emojis and comic books, is observed by two other black youths with torches in their hands, while it also contains an explicit and direct criticism of the current U.S. president.



17 • SIDNEY AMARAL

São Paulo, Brasil [Brazil], 1973-2017

*Mãe Preta ou A Fúria de Iansã* [Black Mother or the Fury of Iansã], 2009-14.



18 • NINA CHANEL ABNEY

Chicago, Estados Unidos [United States], 1982 – vive em [lives in] Nova York, Estados Unidos [New York, United States]

*Penny Dreadful*, 2017.

### *LUTO PARA NÓS É VERBO*

Video essay by Natasha Neri, Juliana Farias, Karla da Costa and Renato Martins

The video is based on the recording of three meetings of mothers and relatives of victims of state violence; in São Paulo (2016), Rio de Janeiro (2017) and Salvador (2018). The script was developed having as reference the very protagonists of this struggle, who politically mobilize women in the different states of Brazil. The video reveals the demands of these movements of mothers of victims of State violence; the networks of solidarity and affection between the mothers as an inseparable part of the struggle; the different experiences of engagement with state racism; the relationship between the passage of time and the demands for justice as well as the challenges of consolidating a standpoint from the intersections of gender / race / class / place of residence.





**NATASHA NERI** – *Brazil*

Natasha Neri is a journalist, filmmaker, Master in Anthropology, researcher in the areas of Criminal Justice and Human Rights. She is director, along with Lula Carvalho, of the documentary “Auto de Resistência” (2018). She has studied police killings for the last 10 years, including co-authoring the book “When the Police Kills: Homicides by ‘Autos de Resistência’ in Rio de Janeiro (2001-2011)”, Booklink, Rio de Janeiro.



**JULIANA FARIAS** – *Brazil*

Juliana Farias, 36, is anthropologist. She worked as screenwriter along with Natasha Neri for the documentary Self-Resistance (2018), on police violence against black youth. She is currently a postdoctoral researcher at the Pagu / Unicamp Gender Studies Center.



**KARLA DA COSTA** – *Brazil*

Karla da Costa is graduated in Social Communication at the Superior School of Propaganda and Marketing (ESPM), since 2014 she has been working as a director of photography, one of the main projects was the documentary “Bixa travesty” (2017), awarded at some 2018 festivals as Teddy awards, Festival de Berlin, Shows La ploma Valencia /Spain, Festival de Brasília.



**RENATO MARTINS** – *Brazil*

Renato Martins is a director, editor and producer, graduated in media. Director of two award-winning feature films in Brazil and abroad: “Geraldinos” and “Carta para o Futuro”, and three short films, also awarded. Among his main works as an editor are the films: “Tropa de Elite”, “Até que a sorte nos separe 2 e 3”, “ Democracia em Preto e Branco”, among others. He is currently working on the release of his third feature documentary “Relatos do Front” and the development of his first feature film, “Caldo de Cana”.



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# SEA OF VERSES

**Rhuann Fernandes**

- *Black poetry as a revolutionary act* •

## ABSTRACT

*This essay discusses social relations between poetry slams and cultural rap circles in Rio de Janeiro and seeks both to understand their roots and also establish possible connections. In addition, it discusses the elements of negritude that permeate the discourse of poets and MCs (rappers) who participate in these activities. Through the heritage of hip-hop culture, participants seek to draw attention to alarming social inequalities in Brazil, in particular racial inequality. Poetic activism and political identity are strengthened through verse. The slams and the cultural rap circles are events that claim, above all, affirmation of black culture in the discursive universe of Brazilian society.*

## KEYWORDS

Slam | Hip-Hop | Rap | Negritude | Poetic Activism

*"The word is the ideological phenomenon par excellence"*  
(Bakhtin)

## 1 • Introduction

Protests within rhymes, poems and performances, express voices that will not be silenced. Over the past decade, many in Brazil have watched the rise of an event that takes young people to the streets to protest through poetry and to share experiences with diverse social effects. Resounding verses and strong metres lead us to rethink the conditions of our reality and to question our democratic value, or rather, that which we consider to be democracy. Proponents of this lyrical form of protest are the individuals who most suffer from social inequality in the country, i.e., black people. I have observed that the most commonly recurring themes in verses are violence, criticism of institutional policy and racism. These are dealt with by nearly all the poets.

I am referring to poetry slam, a poetry battle that involves performance art and an intellectual impetus. Slam often speaks directly with the constituting elements of black music, more specifically with rap, in that hip-hop culture is also strengthened by notable social, cultural, political and artistic aspects. Poetry slam, like other urban, peripheral interventions that explore poetry, forms a counter-narrative to the hegemonic, elitist and eurocentric model that has historically defined poetic and literary parameters in Brazil. Participants and organisers place the issue of race at the centre of their verses, encouraging discussion on black human rights and make the anti-racist struggle emblematic, favouring direct, continuous action with regards to social and political change.

Despite slam having been organised in the 1980s by the poet Marc Kelly Smith in a white, working class community in southeast Chicago,<sup>1</sup> decades later in Brazil it was heavily enriched with components of black origin. According to references, the slam emerged in parallel with the formation of the hip-hop culture in the United States. However, slam and hip-hop came to Brazil at different times, which is why I discuss the influence of hip-hop culture, specifically rap, on the social players who currently organise and participate in slams.

Slam became a legitimate space in which individuals seek to talk about, reflect on and listen to stories that transmit narratives and perspectives that drive a broad political struggle through affirmations of identity. Poets use verse as a resistance strategy, claiming and representing their world visions. They perceive themselves as subjects and act on their own images according to their interests, which they understand as agency. They retell stories and strip back stereotypes, so that African and Afro-Brazilian culture, once denied, becomes a highly relevant political act that challenges and transcends the objectification of racial existence. Many black poets, working along the lines of what was called Black Experimental Theatre of Abdias Nascimento<sup>2</sup> in the 1940s, discovered a vilified opposition through the essentialisation of their phenotype traces, which negated their humanity. Through this they found alternative means and consolidated strategic movements to confront this imposed damnation.

In the words of Fanon, “it is the white man who creates the Negro, but it is the negro who creates negritude”.<sup>3</sup> Consequently, slam became a space that claims and affirms black culture in the discursive universe of Brazilian society. It is where black poets expose their perceptions and notions of racial discrimination, through verse, telling their personal experiences in rhyme.

Between November 2016 and June 2018, I participated in four slams and five cultural rap circles, as part of my fieldwork. I decided to explore different areas of the city of Rio de Janeiro in its metropolitan region, investigating these two types of event with the aim of drawing parallels and similarities and confirming some presupposed theories. Among them, I sought to understand what the relationship was between cultural rap circles and slams, how they developed and what their significance is to the black people who participate in them. These are the points that I examine in this text. I carried out six open exploratory interviews and spoke with six different spokespersons – among them long-standing MCs and poets, who participate in and organise literary gatherings, slams and cultural circles in Rio.

I used elements that I wrote about based on my observer participation in the events.<sup>4</sup> It is crucial to highlight that all the data obtained are included in the partial results of the study “Literary Territories: new technology, reading practices and sharing in contemporary life,” carried out by the Centre for Applied Social Studies (CESAP),<sup>5</sup> coordinated by Doctoral Professor, Maria Isabel Mendes de Almeida.

## 2 • Ethnographic notes: the political dimensions of the poetry slam and some correlations

One factor that deserves attention is my political, emotional and historical (*habitus*) link with rap and consequently with poetry. As the author of this article, my life path has been deeply interconnected with hip-hop culture. In addition, I am responsible for the production and organisation of a number of cultural events that are connected with both slam and rhyme circles, charting strategies for fighting racism. I believe that “being silent gives the impression that one neither judges nor wants anything, in some cases not wanting anything is true.”<sup>6</sup> Classic anthropology failed in its narrative and political omission regarding its position on the political issues surrounding experience in the field. If anthropology is a discipline of dialogue, in which ethnography is the privileged moment of describing a conversation, I see it as crucial to expose my personal proximity to the theme in question in this article.<sup>7</sup>

Once I had been affected by the power of rap’s political and revolutionary verses, which express social reality and its consequences in the lives of black people, I committed myself to introducing new types of poetry events, the impact of which would be capable of modifying people’s personal stories.

Slam is like an MC battle, without music or a beat, which appeared in Brazil as a divergence from the rhyme circle. It has become a specific field of performance, which

is neither seen in terms of rap nor of rap battles, and therefore constitutes a different genre of speech. However, an element of confrontation is present in MC battles and in the slams. This principle finds its place in the antiphon, in competitive poems and in competitions of sung poetry, linked to the political game expressed by participants. The two kinds of events are run in different ways, but they both follow underlying premises and rules and are adapted to demands of the organisers.

Before the slam starts, there is usually a warm-up between the poets who will compete for the “prize”. Positioned in circles, they throw rhymes to each other. To some extent, this eases the anxiety caused by the competition. Next, a small team of judges is selected from the audience, and then the slammers sign up. The poem must be recited within three minutes – points are lost if the competitor goes over time – and it must always be the slammer’s own work. Verses can be read from a sheet of paper or from mobile phone screens. However, most of the poets prefer to memorise the verses, which appears to have more impact on the public. The use of scenery or sound accompaniment, such as requesting the audience to clap hands or use instruments, for example, is not allowed. As a rule, there are three phases: general selection, from which five poets go through to the semi-final; the semi-final, from which three poets classify for the final, in which the champion of the slam is revealed.<sup>8</sup>

The slam has a sense of playfulness within which political responsibility is established through words. The competition, I noticed, informs a range of performance acts. One of these perceived acts is the quality of play in the poetry. The apparent competitive nature points to a dispute, but also expresses that this is not the central reason for the poets who are there. There is also a kind of competition that is unconnected to the prize. I understood this to be poetic activism. Within this logic, the competition appears merely as a pretext to improve the quality of the writing and its wittiness.

There is also freedom in the slams to take into consideration local peculiarities and backgrounds, or rather, “social situations”.<sup>9</sup> Although there are general rules, the events function in their own way, meeting demands and specific themes so that “the slam practice becomes organic and not rigid and limiting.”<sup>10</sup> From this perspective, the slams I watched expressed constitutive elements of rap, with some interconnected components.

At one of the events, “High School Resists: Slam and Poetry Festival on Police Violence,” in March 2017, hosted by the Rio de Janeiro state Association of High School Students (AERJ), the slam had a theme. In the description of the event on social media, I noticed that the theme was thought of because of the constant police violence in the *favelas* of Rio de Janeiro state.<sup>11</sup> The organisers of the slam thought of an urgent demand that needed to be discussed or talked about in poems; it was a theme being debated in the media that was shaping public life and affecting these individuals. But the alternatives given by the state government for the issue, according to the organisers, were flawed and did not appeal to them. In response, the event would increase awareness on the theme, taking into account different points of view, above all those of black people, who suffer most oppression at the

hands of the Military Police. A strategy can be seen here, for fighting against necropolitics, which in short means the power to dictate who should live and who should die. It operates according to racial criteria to regulate and distribute death and makes the state's function as a murderer possible.<sup>12</sup>

In a different way, the cultural rap circles, which are an artistic production of the hip-hop culture, are movements of resistance that manage to unite different people through cultural representations. For example, the aesthetic of graffiti in the streets and squares, breaking with normal standards in cities; the MCs who through music shout about the need for the oppressed to have self-esteem; action and political protest in corporeal expression in breakdance; and DJs who put together artistic sets, mixing beats, rhythms and tunes. Through these and other influences, most of the people I interviewed stressed the importance of the traditional *batalhas de sangue* (blood battles) and *batalhas de conhecimento* (knowledge battles) – also known as *batalhas de freestyle* (freestyle battles) – which happen in the cultural circles. In the interviews, people also stressed how participation in *batalhas de conhecimento* allowed them to use a wide range of vocabulary and vocal techniques. This enhanced the “quality” of their poems in the slams, leading to a kind of lyrical cycle of feedback.<sup>13</sup>

The type of slam that happened at AERJ reminded me of the *batalha do conhecimento*, made popular by MC Marechal, an important name in hip-hop in Rio de Janeiro. The aim is to value the content of the rhymes in rap battles and tackle specific, controversial themes that cause an impact on society. MCs have to be up-to-date on a number of themes and to deepen their understanding of these themes, as well as being politically responsible in their rhymes. These are the keys to an MC's hegemony in the hip-hop world. Unlike the slam, however, the themes are randomly selected at the time of the battle, by the organisation or by the public who are there. The MCs are also selected randomly. Then, they start the dispute to see who performs best on the subject in question and who will go through to the next phases.

Consequently, this battle is different from the famous *batalha de sangue*, which is well-known and is more common in the daily life of MCs. This is a different kind of battle and has essentially different objectives, such as criticising the adversary through rhyme, with the aim of humiliating and, in this way, going through to the next phase. It was noted that in these battles an understanding of historical and social issues does not play an important role. In fact, the public's attention is drawn to creativity in name-calling or “dissing” the opponent, in response to a freestyle attack.<sup>14</sup> However, this does not mean that victory in these battles is unfair. Instead, “the criteria for classification are based more on emotional response than on technical evaluation. The flow, ‘rare rhym’ and metre are favoured as well as non-poetic criteria such as a pleasant personality, a sense of belonging, tone of voice, insults, among others.”<sup>15</sup>

From these examples, it is possible to discern some elements of rap that are present in slams and to draw some correlations, for example cultural and political resistance. This role, attributed to rap, is initially justified by the type of reflection it brought to the underprivileged areas of Sao Paulo in the 1990s. As well as through the relationship between hip-hop and

African ethnic awareness and the problems that arose in the *favelas* as a result of a process of self-knowledge and recovery of self-esteem. This process was driven by contact with the music and history of the black North American diaspora. In this sense, slam is a practice that can be understood as a continuum. As indicated above, when talking to people at the two events, I noticed that many of the people who go to slams were involved in hip-hop culture or had been “formed” by it in the cultural circles.

When we look at the poems that appear and are recorded at slams, we note crucial elements of rap: referential poetry; the use of metalanguage and metaphorical meaning in the writing. The poems are rich in figurative meaning. Metres are quite close, seeking to express feelings metaphorically through irony and satire. References are fundamental to gaining prestige. The poet is considered to have appropriated content when s/he cites historical, revolutionary events and films. In addition, this content further consolidates their role as an interpreter who is seeking to revive roots of identity and deconstruct expressions that lower the self-esteem of the group in question. These elements are evident in this sung poem by Andréa Bak, presented at “*Slam resistência + Slam Grito Filmes*”:

On a vast horizon, I see vestiges of a past that does not hide away  
 I look to the apartment blocks of Leblon and I see the heirs of the masters' households  
 I look to Vidigal I see the heirs of the slave quarters  
 they have always carried their swords with great resistance though  
 There were five million people, five million of us were brought by force  
 They denigrated our colour, threw our culture and our identity to the noose  
 “Hammer his teeth”, “throw boiling water in her ear”  
 With every act of torture she gained more strength  
 Now, go to Church, your *Orixá* doesn't exist  
 But with every sigh, she resists  
 “She tried to run away, tried to escape, didn't she? Six more whiplashes for her”  
 Quick, swallow your sobs, join the struggle Dandara!  
 We built *quilombos*, long live Zumbi!  
 Revolts and rebellions, they tried to oppress us  
 We were ninety percent of the population  
 Imagine how beautiful that was, all those smiles of black people?  
 Black, we slay even in our name  
 I don't know if you know, but resistance is our second name  
 My heroes weren't turned into statues  
 They died fighting against those who came  
 And with every rhyming verse, I hope the message gets across  
 Black people are getting it together  
 Black is in power, black is ascending  
 Did I say that we're slaying it? So proud of my brothers  
 Yes, there are going to be more black people in the universities  
 than at the police station

What are you waiting for little black girl? Grab your doctor's coat  
and leave the washing-up  
Do like that guy, André Rebouças  
That's right, he isn't just the name of a tunnel  
Black, abolitionist, engineer, astronomer  
They don't tell us that at school  
Because they don't want to accept that we're in charge.<sup>16</sup>

### 3 • The power of verse

Participants in this and in other poems represent the resistance through verses that symbolise the periphery and the positive role of black people in constructing Brazilian history. These are practices of discourse that demand a cultural, social and political space that strengthens the legitimacy of this discourse. As seen, in both Bak's verses and in the poems of other competitors, "the poet in possession of his/her own personal history uses it in as an exercise of socialisation of experience, transforming individual experience into collective experience, in a continuous play of interaction."<sup>17</sup>

According to Matheus de Araújo, a poet who was at most of the slams I went to and who recently published a book of poetry called "Maré Cheia" (2017),<sup>18</sup> slam has been revolutionary in the *favelas*, which he perceives as positive. The poet, body and voice produce what he calls "intimate revolutionary acts", because they break barriers indirectly. In the words of Matheus, slam educates people and makes them reflect, generating radical, long-term change.

This astute investment is a reinvention of urban space and is a break from the elitism of art, demystifying the issues surrounding artistic production, without any restriction on those participating and with responsibility in the transformation of territories. Slam is here to spread culture and to encourage the search for knowledge with the purpose of raising awareness. It presents issues that were previously only accessible in a more educational setting. Therefore, most of the poets insist on this space producing what they describe as marginal poetry or marginal literature, a form of expressing the day-to-day life of people living in underprivileged, marginalised areas of cities. This meaning "is linked to the intellectual project of the writer to re-interpret the conditions of oppressed groups of people, seeking to portray them and represent them in texts, which include their experiences."<sup>19</sup>

However, it is important to note that the concept of marginal poetry is controversial. The poet, Cizinho Afreka, member of the Negro Denegrir collective and organiser of the black poetry event called "Griotagem", who recently published the book "Desakato Lírico",<sup>20</sup> says that according to the perspective of the writer and black literature expert, Cut, the concept of marginal does not specifically refer to the black population, which is why it is important to question and re-evaluate it.

These concepts fall within the field of political debate, as “concept is a possibility for creation that intervenes in a way that can either change or stagnate the world.”<sup>21</sup> With this in mind, a number of black poets prefer to use the concept of Brazilian black literature or black poetry,<sup>22</sup> in an attempt to intervene in the world from a place of black agency.

It is important to stress that when we speak about black agency we are taking a perspective that perceives black people as subjects of a phenomena, acting on their own image and according to their own human interests, speaking about their own experiences. We can interpret agency as devices and resources that seek to recover the sanity of the black population, as an interpretative key to “reorientate and recentre, so that a person can act as an agent and not as a victim or a dependent.”<sup>23</sup>

## 4 • Final considerations

One of the principal characteristics illustrated in this study is the political responsibility that both slam and cultural rhyme circles have and the relationship between them. These two events express particular demands, the axis of which is collective production. They both present resistance through poetry. Each of them, in their own way, builds bridges and guidelines that defend and affirm social rights. Therefore, I defend the point of view that the majority of poets and organisers were initially greatly influenced by hip-hop culture. When slam emerged, they directed their demands to other channels, but remained alert to the principal factor: the consolidation of the rights of the black population and questioning the values of the colonial domination that still appears in contemporary life. The interviews and dialogues held with organisers and participants of both kinds of event showed that, particularly in Rio de Janeiro, there is a symbiosis between hip-hop culture and slam, in that it is impossible to disassociate certain elements and in that they adapt to each other.

These events have become collective productions that feed into an understanding produced by the people in this specific environment. It is not merely a question of a competition. The people who seek out these events think about how other people will act and the opinion they will have of the reading that is being shared and of their writing and their verses. The poets already present very specific performances and issue diacritic signs. This offers a sense of value and meaning and places the performance and how it is presented in context, thus establishing coded interplay between the artist and the audience.

The search for access to democracy that appears in words and lyrics has enriched the artistic scene in recent years. It has made the desecralisation of poetry possible and we can say it has strengthened other genres: black and marginal poetry. Nonetheless, participants move between the two types of event. They recognise the formation exercised through words in national rap, learning components and devices for poetic competitions and through their identification and through what they say, hear, feel and reflect upon. In this way, space for dialogue is created, in which the artist's performance is highly relevant.

Cultural rap circles are aimed at turning poetry into music that is born out of metre, reminding us of medieval troubadours (there is a reason why rap means “rhythm and poetry”) or of lending a musicality to poetry. Slam, meanwhile, stems from recital. In slam the word is the priority and intervention is centred around it through rhythm. In the MCs’ battles, the combination of the beat and the word is fundamental. In slam the word itself is central. The aim is to string words together in a continuous discourse of content, in which the different metres and rhythms form a place for a more profound poetic narrative. In other words, it seeks to give poetry to the narrative of their experiences. Participants and those who construct slam, appropriate poetry within the quality of act/genre of speech. Slang, accent and innate categories are the elements that transform common speech into the genre of speech/code of identity, in which the context at the time of the act of speaking is more significant than the words themselves.

It is a fact, particularly important today, that those who participate in slam aim to diminish the low self-esteem that is exacerbated by routine experiences of racism. Therefore, through the events, they reconstruct an urban space, re-writing understanding, recognising cultural identities and questioning representations imposed on “others”. They also make the streets into a space for cultural criticism and for the production of new understanding. This turns the events into a place of criticism of the social injustice that exists in racism, in inequality, in police violence and in the violation of human rights.

## NOTES

1 • Marc Kelly Smith, *Stage a Poetry Slam* (Napperville: Soucerbooks MediaFusion, 2009).

2 • See: “Teatro Experimental do Negro (TEN),” Enciclopédia Itaú Cultural, 16 August 2016, accessed November 30, 2018, <http://enciclopedia.itaucultural.org.br/grupo399330/teatro-experimental-do-negro>.

3 • Read: Deivison Mendes Faustino, *Frantz Fanon: Um Revolucionário, Particularmente Negro* (São Paulo: Ciclo Contínuo Editorial, 2018).

4 • The slams observed were: “Secunda Resiste: Slam e Festival de Poesia sobre Violência Policial”; “Slam Trindade - 2ª Edição”; “Slam Grito Filmes + Slam Resistência”; “Slam Vila Isabel - 4ª edição”. While the cultural circles were: “Roda Cultural do Jardim Catarina” (Batalha da Lona); “Roda Cultural do Alcântara” (Batalha RCA); “Festival de Rap São Gonçalo”; “Roda Cultural de Vila Isabel”; “Roda

Cultural de Campo Grande” (Batalha dos 50CENTS). In the case of the cultural circles, all the rhyme battles were carried out within the style known as “batalha de sangue”.

5 • The interviews are available on the CESAP database. In addition, the people interviewed and quoted provided authorisation for the use of their names and stage names. The interviewees were black, as I sought to give visibility to these poets. For further information access: “Pesquisas,” Centro de Estudos Sociais Aplicados, 2018, accessed December 7, 2018, <http://cesap-ucam.com.br/pesquisas>.

6 • Albert Camus, *O Homem Revoltado*, 9ª ed. (Rio de Janeiro: Record, 2011): 26.

7 • Based on a perspective developed by Teresa Pires do Rio Caldeira, “A Presença do Autor e a Pós-Modernidade em Antropologia,” *Novos Estudos*

CEBRAP 21 (1988), accessed December 7, 2018, <http://novosestudos.uol.com.br/produto/edicao-21/#58dad2c2d70ed>. Caldeira states that any field research is, above all else, an interaction between two or more particular people at a single moment in time, given the cultural condition. Therefore, we must consider that the data we are going to produce represents partial, fragmented and inter-subjective results between the researcher and the group analysed at a certain time.

8 • The jury is chosen at the time of the event, and is known as a popular jury. People who are competing cannot be on the jury. Points are given based on criteria such as: theme, words, rhythm, fluency in reciting and interpretation. A different poem must be recited in each phase. If there is a tie in a phase other than the final, in principle, all the slammers who got the most points, go through to the next phase. If there is a tie in the final, new poems are recited in a tie-breaker.

9 • See the concept and discussion on social situation in the work of Max Glukman, *Análise de Uma Situação Social na Zululândia Moderna* (São Paulo: Editora Global Universitária, 1987): 227-344.

10 • Roberta Estrela D'alva, "Um Microfone na Mão e Uma Ideia na Cabeça: O Poetry Slam Entra em Cena," *Revista Synergies Brésil* no. 9 (2011), accessed December 7, 2018, <http://gerflint.fr/Base/Bresil9/estrela.pdf>.

11 • Through the Amnesty International campaign "You killed my son", it was reported that 25% of murders in the municipality of Rio de Janeiro in 2017 were committed by the police. The majority of those executed were young, black and male ("25% of Murders in the Municipality of Rio de Janeiro in 2017 were Committed by the Police," Amnesty International, 18 January 2018, accessed December 7, 2018, <https://anistia.org.br/noticias/25-dos-assassinatos-rio-de-janeiro-em-2017-foram-cometidos-pela-policia/>).

12 • For a broader discussion, see: Achille Mbembe, "Necropolítica," *Arte & Ensaios, Revista do PPGAV/ EBA/UFRJ*, no. 32 (2016), accessed December 7,

2018, <https://revistas.ufrj.br/index.php/ae/article/view/8993/7169>.

13 • Although the two types of battle are different, in both of them the MCs develop their flows, fitting their verses into the beats generated by the DJs, to improvised rhythms, within a limited time. Each one, in their own way, explores the versatility of the flow. Someone who synchronises voice with beat, in a meter between the words and the diction in the tune, stands out. The beat or base, played seconds before the MC rhymes, is sometimes changed from one MC to another, and verses are adapted on the spot. These battles sometimes take place without a beat, which is known as a cappella. I was able to see this several times in the Jardim Catarina Cultural Circle (*Batalha da Lona*), on 20 August 2017.

14 • However, in recent years, I have noticed in my observations and participation in these events that the rhymes have evolved. As the struggle of the social movements becomes stronger and as valuing and mobilising political identities reaches the *favelas*, as well as increased self-affirmation of black identity, mostly through aesthetics, more is expected of the rhymes. So much so that DJs and organisers warn participants not to present racist, sexist or homophobic material, before the start of this type of battle. When they ignore these warnings, MCs are heckled and disqualified by the public. It is important to mention that there are two classic styles of battle in this category: the traditional style and back and forth (*bate-volta*). For further information: Christian, "Tudo Sobre Batalha de Mcs." *Be Rap*, 12 January 2018, accessed January 16, 2018, <https://berap.com.br/blog/tudo-sobre-batalha-de-mcs>.

15 • See Rôssi Alves, *Rio de Rimas* (Rio de Janeiro: Aeroplano, 2013): 25-34.

16 • Poetry recorded and made available at "Slam Grito Filmes + Slam Resistência 'Andréa Bak', YouTube video, 3:31, posted by Grito Filmes, 20 September 2017, <https://www.youtube.com/watch?v=ghJ1urfvFUM>. This slam was in Praça Mauá, in Rio de Janeiro, on 18 September 2017.

17 • D'alva, "Um Microfone na Mão e Uma Ideia na Cabeça," 124.

18 • Matheus de Araújo, *Maré Cheia* (Rio de Janeiro: Multifoco, 2017): 176.

19 • Érica Peçanha do Nascimento, "Literatura Marginal: Os Escritores da Periferia Entram em Cena," Master thesis (University of São Paulo, 2006): 11-12.

20 • Cizinho Afreeka, *Desakato Lírico* (São Paulo:

Ciclo Contínuo Editorial, 2017).

21 • Fernando Santos de Jesus, *O Negro no Livro Paradidático* (Rio de Janeiro: Gramma, 2017).

22 • For a broader discussion, see: Cuti, *Literatura Negro-brasileira* (São Paulo: Selo Negro Edições, 2010): 151.

23 • See: Molefi Kete Asante, *Afrocentricity: The Theory of Social Change* (Philadelphia: Afrocentricity International, 2014): 94.



#### **RHUANN FERNANDES** – Brazil

Rhuann Fernandes graduated in Social Sciences from the University of the State of Rio de Janeiro (UERJ) and is a Research Assistant at the Centre for Applied Social Studies (CESAP). He receives a grant from the Institutional Scholarship Programme for Scientific Research (PIBIC) at the National Council for Scientific and Technological Development (CNPq) for him scientific research at the Education Faculty of the Rio de Janeiro Federal University (FE-UFRJ) at the Research Laboratory on Education of the Body (LABEC). Rhuann is also a Research Assistant for the Bloco 4 Foundation (Mozambique). He is the founder and coordinator of the community organisation Nós por Nós and is a member of the UERJ Frente Negra (Black Front).

email: [rhuannfernandes.uerj@gmail.com](mailto:rhuannfernandes.uerj@gmail.com)

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# “NÃO ME AGUARDE NA RETINA”<sup>1</sup>

**Diane Lima**

- *The importance of curatorial practice* •  
*in a decolonial perspective of black women*

## ABSTRACT

*As scientific practices of knowledge in the field of the arts lend legitimacy to standards of beauty – deciding who deserves and who does not deserve to be seen – as well as notions of truth and falsehoods, it is important to understand and question which bodies and geographical regions western art history considers and what limits and categories it imposes. This text aims to spark reflection on the need to think about other aesthetic parameters and ethical codes for racially-determined, vulnerable and dissident bodies. So, based on our own experience, we propose what we are calling a curatorial practice from the perspective of black women. One that takes into account other perspectives of knowledge, developing discourse of these perspectives within the aesthetic field but also establishing an ethical code in institutional structures. Because curatorship holds a strategic position within the system of culture and art, the text calls for reflection on the experience of three curatorial projects: the exhibition *Diálogos Ausentes* (2016/2017), the *AfroTranscendence* programme (2015 -) and “*Não me aguarde na retina*” for the Valongo International Festival of Image (2018).*

## KEYWORDS

Art | Latin American Art | Afro-Brazilian Art | Decolonial studies | Curatorship | Black feminism

I see from this perspective,

The principal challenge in setting up a curatorial practice, *in perspective*, is the understanding that what we are doing is political.

I see from this perspective,

Curatorship, as an activity that mobilises a number of different narratives in setting up totality, is not only at the service of artistic design, but is first and foremost the chance to develop a discourse, particularly with the institutional structures that we believe to be our primary public and which take priority over external audiences.

Based on these observations, the objective of this text is to provoke a reflection on what has come to be called "a curatorial practice in a decolonial perspective". This takes into account other perspectives of knowledge, presents their discourse in the aesthetic field but also establishes an ethical viewpoint in institutional structures.

As scientific practices of knowledge in the field of the arts lend legitimacy to standards of beauty – deciding who deserves and who does not deserve to be seen – as well as notions of truth and falsehoods, it is important to understand and question which bodies and geographical regions western art history considers and what limits and categories it imposes. This text aims to spark reflection on the need to think about other aesthetic parameters and ethical codes for racially-determined, vulnerable and dissident bodies. So, based on our own experience, we propose what we are calling a curatorial practice from the perspective of black women.

Black feminism in Latin American and in the United States provides us with the foundations for discussing these other perspectives of knowledge. Djamila Ribeiro presents the thinking of feminist Lélia Gonzalez in her criticism of the ranking of knowledge, as a product of racial classification of the population in an equation that shows us who holds social privilege and epistemic privilege, the valued, universal model of science being white.<sup>2</sup>

In the field of the arts, to decolonise knowledge is to refute the very standards and values that, based on this hegemonic principle of a western universality, determine notions of beauty and therefore of that which deserves to be validated (systems of truth) and to be seen (systems of visibility).

The fields of aesthetics and of images have been fundamental and have provided the structure for us to understand how the modern western project of knowledge and governance has propagated the idea of race. Subordinating values, which are moulded as discourse in the institutions that create, organise and disseminate visual culture, are present in art objects and in the media. At the level of expression and of content, this confirms the superiority of whiteness and the status of the black person as a racially-determined body.

This crisis of alterity, established through stereotypical politics, is part of a colonising discourse within which, an entire system of representation is propagated through images, paintings, newspapers, advertising, maps and books. When this crystallizes, it forms a map of differences. These are the visual constructions and the studies of visibility – as communications processes – that build a game of truth-making discourses that create effects of truth concerning a set of beliefs about others.

Based on this knowledge, the production of culture and of art is founded on a collection of knowledge that is interwoven with power relations and rules of visibility and truth. So, practice *in perspective* presents as a challenge, the fight against the devaluation, denial and concealment of contributions from other sources of knowledge and epistemologies. Moreover, it fosters the production of artistic and cultural knowledge that are fundamental in ensuring human dignity. In this way, it tries to guarantee the visibility, the right to difference and the freedom of expression and experimentation of artists, thinkers, activists, educators and curators who also work *in perspective*, crisscrossing urgent contemporary political issues like gender, class, race and others. Finally, it proposes the fight against structural racism in the artistic and cultural institutions that are perceived to create systems of control and to restrict opportunities, making work relations insecure for racially-determined, and/or dissident bodies.

From the strategic position of curatorship within the system of culture and art, it is possible to see how power relations are organised in both the field of aesthetics and also at the institutional level. When we take into account that there are very few black women curators, we see that we are talking about a curatorial practice that, as well as providing a framework of the contemporary and ancestral knowledge of the cultures of the African diaspora, is created through lived experience. Knowledge is incorporated in experience itself, rooted in that which our presence provokes in places of power. This is what we call “performing discourse” and is similar to the Afro-American feminist bell hooks’ definition of what it is to be a female intellectual: a woman who unites thought and practice in order to understand actual reality.

We can, therefore, talk, from the feminist standpoint of Djamila Ribeiro and Patricia Hill Collins, about a concept of a place of discussion. They show us that the place in society that an individual occupies determines his/her access to particular spaces:

*Not being able to access certain spaces leads to not having production and epistemologies of these groups in these spaces. Not being placed fairly in universities, communications channels and institutional politics, for example, makes it impossible for the voices of individuals from these groups to be catalogued and heard, including in the case of people who have more access to internet. Speech is not restricted to the act of forming words, but is also about being able to exist. We think of a place of speech as refuting traditional historiography and the ranking of knowledge, which arise from social hierarchy.<sup>3</sup>*

This perspective takes into account the point of view and the place of speech of those who suffer from violence and invisibility, in life, in work relations and in the field of art; spaces where the visual narratives and constructions of images that define our world compete.

It is important to stress that curatorship from the decolonial perspective of black women does not rank oppression. Adopting a broader point of view, it positions itself intersectionally, considering other places of speech. Ousting, disorganising and transcending white, masculine, cisgender, heteronormative and phallogocentric authorisation and envisioning in the ruins the deconstructing of the system of oppression, subordination and power which has been reduced to the figure of the white male curator. In the words of Ribeiro:

*theory from the feminist standpoint and place of speech leads us to refute a universal vision of women and of blackness and other identities. It also means that white men, who consider themselves to be universal and racialise themselves, understand what it means to be white as a metaphor of power, as Kilomba teaches us. Thus, it also intends to refute the pretention of universality. By promoting a multitude of voices, the predominant wish is to break away from an authorised, single discourse that has the pretension of universality. Above all, it seeks to fight to break the regime of discursive authorisation.*<sup>4</sup>

As an example of the curatorial practice from this perspective, I would like to propose a reflection on the experience of three projects. The first of these happened in 2016 and 2017 and was called "*Diálogos Ausentes*" (Absent Dialogues). This programme took place over a period of one and a half years at Itaú Cultural. It followed the protests that occurred in May 2015, due to the use of blackface<sup>5</sup> in the theatre play *A Mulher do Trem*, also at Itaú Cultural. The event had intense repercussion on the internet and in the media and caused the institution to review the racial structure of its production methods, generating the first Afro-Brazilian action to be held in the 30 years of the institution and the first curatorship carried out by two black women.

The objective of *Diálogos Ausentes* was to discuss the presence of black men and women in the visual arts, cinema, theatre, dance, literature and music, by means of 18 encounters. These took place at the end of 2016, in Itaú Cultural, in São Paulo and in 2017, in a new montage in the Bela Maré area of Rio de Janeiro. I was the curator of this exhibition, together with the artist Rosana Paulino. I also developed a six-month programme at Itaú Cultural, focused on racial awareness that I called "*A.gentes – Um programa de não-ficção artístico-científico para conscientização racial e descolonização do pensamento*" (A.people – a programme of non-fiction artistic science for racial awareness and decolonisation of thought). It was held over six months in the Ibirapuera Auditorium and was made up of between approximately 20 and 25 collaborators from all sectors of the institution.

At the time, and as part of the actions of *Diálogos*, I wrote the text “*Diálogos Ausentes e a Curadoria como Ferramenta de Invisibilização das Práticas Artísticas Contemporâneas Afro-Brasileiras*”<sup>6</sup> (Absent Dialogues and Curatorship as a Tool for Rendering Invisible Contemporary Afro-Brazilian Artistic Practices). I discussed how curatorship was at the service of a colonising project, which has been defining the continuous quashing of the cultural production of Afro-descendants, through their marginalisation and by rendering them invisible, the parameter of which is values that are rooted at the heart of the production of the intellectual knowledge of institutions.

I believe that *Diálogos* was an important moment in understanding what we now call the curatorial practice in a decolonial perspective, as it presented the opportunity to try out solutions around aesthetics and ethics and broadened understanding about the figure of the curator.

The second project I would like to share is called “AfroTranscendence” or “AfroT”.<sup>7</sup> I created this project in 2015. It started out as an immersion project in creative processes for promoting contemporary Afro-Brazilian culture. It was pioneering because it led to law 10.639/2003, which made the teaching of Afro-Brazilian and African history and culture obligatory in the domain of the arts. During the first week of “AfroT” 20 artists from all over Brazil participated in a programme made up of talks, laboratories and workshops with a number of specialists from Brazil and from around the world. At the end of the research experiment, the result was presented to the public at an evening event to celebrate and nurture epistemologies and artistic practices of the African diaspora through activities, exhibitions, presentations, readings and performances.

Nowadays, “AfroTranscendence” appears as a concept and practice for creating space-time: time as a unit linked to a historical review, traumas of colony and epistemicide, joining knowledge and technology, ancestral legacy, vital energy, spirituality, critical thought and the production of knowledge; space as the processes of creation and collective learning, of methodological experimentation, rites and passages to connect memories, of exchanges, of emotions and crossroads, of expanded consciousness and of exercises of imagination, production of meaning, ruptures and future projection.

Thus, I see “AfroT” as an experience that has made it possible to exercise the decolonial perspective in the field of production of knowledge and education, not as a project that discusses these issues as themes, but primarily, performs them, allowing ancestral and contemporary knowledge about the cultures of the African diaspora to be brought together and to be available as a creative reference. Knowledge, then, is produced at the same time as it fights devaluation, denial and the concealment of our epistemological contributions (epistemicide) that find no place in history and in the system of art as we know it.

Finally, I would like to present my most recent curatorial project called *Não me aguarde na retina* (Don't Wait for Me in the Retina), the title at the Valongo International Festival of Image,<sup>8</sup> a contemporary art festival, the fourth edition of which will take place in 2019. It

was held in October 2018 in the port district of Santos, in São Paulo state. The reason why this project is presented in more detail is because it managed to cover some of the principal challenges that we raise when we consider curatorship in the decolonial perspective. For this reason we consider it to be a good case study and reference.

## 1 • O Valongo

In its landscapes, Santos, and especially the Valongo district, has distinct temporal layers (human and non-human), revealing a complex map of contexts, situations and narratives, which are currently of particular importance: historical amnesia, ports of passage, uprisings of the diaspora, crossings, migratory flow and different settlements. This territorial complexity defined the outline of the research. The first step was to develop a vocabulary that would capture our concerns. Instead of words, it focused on the act of occupying and revitalising. For example, we came to cohabit and dialogue with its ruins, monuments, historical buildings, churches, museums, squares and streets.

In an architectural setting composed of many layers of time, the Valongo exhibitions and the entire programme, dialogued with both the monumentality and the precarity that the spaces presented. It was put together by women. There were more than 50 artists and six exhibitions in the port district, with nine commissioned projects and 31 projects selected in three different public tenders, of different types. They presented, for example, solutions to important diagnoses at the research stage, like the need to think about specific calls for projects to foster artistic production in the Santos region, and from an aesthetic point of view, the need to think about the relationship between performance, fiction and photography. Important names from the international scene were involved, like the individual exhibitions of the Angolan artist Kiluanji Kia Henda and Emmanuelle Andrianjafy from Madagascar. The edition also had its first residential programme with five guest artists, as well as activities that preceded the event. Performances, film showings, parties with singers like Xênia França and Rico Dalasam, book launches and another 20 educational activities such as workshops, seminars and debates give an idea of the size of the festival.

Also worth mentioning was the exhibition ZUMVI – *A gente se ascende é nos outros* (ZUMVI we ascend through others). This was Zumvi's first exhibition outside Bahia and showed a collection of photographic images created in 1980 that narrates over 30 years of an important history of struggles of resistance of the black movements in Bahia and in Brazil.

So, as well as seeing through different eyes, from a different perspective and point of view *Não me aguarde na retina* also invited the public to see with all their senses, bringing an expanded concept to the understanding of visual culture, no longer limited to photography (a Valongo tradition), but opening up to other areas of expression and artistic languages – sound, cinema, audiovisuals, body, scenery and words.

## 2 • The very nature of exhibitions makes them a questionable terrain<sup>9</sup>

It is impossible to think about the politics of exhibiting another person's work without taking into consideration how the normalisation of the museological practice or of the ethics of exhibitions is directly conditioned to produce difference. This fact is related to overseas domination, the expansion of ethnography as a discipline, collectionism, and, consequently to an idea of universality developed as a colonial science at the heart of modern life.

If we consider that this a curatorial practice *in perspective*, we can challenge ourselves to understand that some of the studies in decolonialism are not centred around seeking the end of colonialism, but rather an end to the point of view from which colonialism makes sense. For this reason, we reserve the right to refuse that which is offered to us or that is expected of us and this provides us here with a potent life strategy.

When Valongo posed us the question “What can a festival do?”, we responded with a question about what it could be if relationships with the public, personal and private realm were conducted *in perspective*. By incorporating a large part of the negotiations and interactions throughout the process, our doubts and observations became the thing itself and the effect in the world, its diagnosis. As we will see, the empirical practice considered absences and effects of the presence itself as detonators of a knowledge that stemmed from a lived experience and these were the platforms that sustained most of the exhibition and educational guidelines and choices of the festival.

In this small corner of the world, once again, it was necessary to destroy in order to create. Being a representation of the difficulties found in our social fabric, the conditions of creation stem from the moment when a latent epistemological crisis meets with the traumas from which the power relations impregnated in the figure of curatorship emerge. When it is necessary to dismantle differences between hierarchy and the exercise of power, the *perspective* reveals the precariousness of the working system, destruction as a condition of structuring and corruption as a practice of domination in order to install a monoculture in the very system of the production of national culture.

It was fundamental then, to understand whether we would be able to produce internal tools of dialogue and listening and whether we would have the capacity to develop a sensitive layer of understanding, which would at least mean our collective bodies would be able to see how these invisible layers emerge in our daily choices.

In this sense, we believe that the success of *Não me aguarde na retina*, came about first and foremost in its ruins, even before the reviews and interaction with the public; in its ability to go all the way, with vitality and to be a means to discuss relations; in its capacity for resilience and the demolition, that the idea of the festival made possible, this being our principal route to bringing about its creation.

So, as open as we may be to infinite possibilities of approach, discourse and character development, the object does not shift from our own condition as subject. The question is how it affects you, how your position in the world creates another point of view about it and principally how it is able to change our field of desire.

### 3 • *Não me aguarde na retina* – the concept

Celebrating the meaning of a festival, another issue that guided us throughout the creative process of *Não me aguarde na retina* was the questioning about what images can achieve in the politics of encounter, between what we are and what we become when we allow ourselves to be affected by the intrinsic capacity of aesthetics in aesthetic experiences. These issues refer to the political function of images as well as, principally, to understanding of their sensitive presence as a condition that is able to affect us, move us and make us feel what someone else is feeling. In this sense *Não me aguarde na retina* discusses the strategies offered by images to widen our ability to see and, therefore, to feel.

Given the human faculty of making sense of the world, it is in the act of articulating that we are able to express ourselves in the midst of systems of representation that generate a sense of belonging, produce knowledge and establish relationships of autonomy and power. This is a force field where we fight for the chance to create discourses about me, us and the world. The importance that artistic practices offer to a festival of image appears to us to be the ability to introduce ruptures and fractures into our automated daily lives.

We live in an age where the process of fragmentation is happening on a planetary scale. We are witnessing political collapse, the apex of the unravelling of the social body, an expansion of totalitarian regimes in the Americas and an absence of common experience. The optic games of the world of images is the place where alternating between creation and destruction become potent strategies of resistance and also the scenario for contradictions.

### 4 • And the iconoclast starts to demolish the myths<sup>10</sup>

In the midst of the crisis of the logics of representation, we must see that, although political bodies have been historically subordinated along with their perspectives, place of speech and ways of being in the world, they are also broadening their presence. However, at the same time, they are also being imposed upon by transnationally updated versions of systems of control and domination.

Our responsibility as the curatorial team was to reveal obscenities, rigid shams and processes of extreme violence of stereotypes and to shed light on the somatic dimension that these acts of violence produce and that, as we see, are not exclusively limited to condemnation, but appear more broadly in the form of an enunciation.

## 5 • Creating a perspective is to speak about the world drawing from it and no longer talking about oneself based on the world

If the place of condemnation and the relationship of art versus politics has been fundamental for social movements, what are the effects that these procedures have had, bearing in mind the neoliberal systems of earning that exist around identity politics? In Brazil issues surrounding decolonialisation are still led by the logic of representation, whether in the visual arts, theatre, dance or in documentary photography, so how can the structures of racialisation that limit and objectify our practices and singularity as individuals, be broken? What are the effects of these processes and what can both help us to understand about the underlying proposal of *Não me aguarde na retina* and the curatorial practice in perspective?

If we make a brief diversion into the historiography, we see that over time artistic practices have been found at the crossroads of the resistance, by means of body memory and different uses of language. Although iconography and national history have been the advocates of a wide variety of mythologies and of black Brazilians' presence being quashed – like, for example, the myth of racial democracy and the theory of whitening – this was at the expense of many uprisings, *quilombagens* and rebellions that also mark history. Quoting Gates, Leda Maria Martins emphasises that the Africans who crossed the Atlantic Ocean did not travel or suffer alone. She says:

*[...] with our ancestors came their divinities, their particular ways and different views of the world, their linguistic, ethnic, technical, religious and cultural alterity, their different forms of social organisation and of symbolising reality.*<sup>11</sup>

They brought their own bodies as their central form of expression and it was through interaction and *making sense* that black people created possible strategies of ways of managing themselves, employing the precarious structures of the architecture that held them captive to affirm their identity and their condition as subjects. These files and repertoires of oral memory, that unfold over infinite generations,

*[...] are micro-systems that leak, crack and reorganise the cultural fabric and Brazilian symbolism in an African and 'agrafa'[language without script] way, keeping alive the possibility of other forms of verdict and perception of reality that dialogue, not always in a friendly way, with forms and models that are favoured by the West.*<sup>12</sup>

It was a relationship with time and ancestry that allowed not only the physical survival of black people during slavery, but also kept alive the apparatus of philosophy and identity that form African personality.

## 6 • Optical games in Exu<sup>13</sup>

Presenting Exu as a dynamic principle of individualisation and simultaneously of communication and interpretation in order to make a metaphor of the semiotic crossroads of black cultures in the Americas, Leda Maria Martins helps us understand the use of language and the effect it has on the contemporary world.

The author points out that the consequence of the notably dialogic function of black arts was "the elaboration of discursive formations and behaviour of double reference that establish an inter-textual and inter-cultural dialogue at different levels."<sup>14</sup> In this culture of appearances, that happens in two fundamental dimensions – secrecy and struggle – an African ethos was forged, that plays with the ambiguities of the system, acting in the gaps of ideological coherence.

In the face of a system of oppression and captivity, the life force found a way to act undercover and to organise forms of coded communication to resist the violence, to express feelings and to create tactics of uprising and rebellion. This is the root of samba, capoeira, *reinados*, drumming, mythical-religious systems, dance, *folgado*, the *brincadeiras* and a whole rich cultural system that is constantly and diversely being updated in contemporary life.

In the 19th and 20<sup>th</sup> centuries a number of phenomena were integrated in an important phase of construction and internationalisation of the black movements, as a new effect of meaning started to reverberate, by means of a conscious act of enunciation (articulation). This no longer took place in an inter-black communicational interaction, *mocambagem*, but was instead directly speaking about, condemning and exposing the socio-political conditions of the time, as can be seen in the statement of the black Sociologist W.E.B Du Bois, on the relationship between art and propaganda:

*Thus all art is propaganda and ever must be, despite the wailing of the purists. I stand in utter shamelessness and say that whatever art I have for writing has been used always for propaganda for gaining the right of black folk to love and enjoy. I do not care a damn for any art that is not used for propaganda.*<sup>15</sup>

In these maritime currents, movements like the Pan-Africanism of Du Bois and Garvey, "Harlem Renaissance" (1920) and "The New Negro Movement" (1933) in the United States and the surrealist negritude project of Césaire, Damas and Senghor (1930s) are pivotal to comprehension of what we understand about an instrumental perspective of art and about how this has changed, particularly among the new generations, in an important strategy of expression and communication. If today we start from a place of awareness of how important these tools of affirmation were and still are, we can also observe that many of these reiterations not only take away the freedom to create, but also limit us and trap us in the depths of raciality. In this way, they impede the broadening of our subjective

experiences and the strengthening of our specific, singular individuality. We are different although we all come under the aegis of collectivity and “us”.

Therefore, the criticism that curatorship *in perspective* reveals is not the denial of these procedures. In fact, what it brings is the possibility to think of new forms of self-definition that are able to express the complexity of our bodies, crisscrossing agendas and taking into consideration our own desires beyond the laws of raciality.

With these issues in mind, what made us so happy in *Não me aguarde na retina* was the exercise of language and the search to understand the density of relationships. Bodies in *perspective* at the height of the reinvention of certain practices of self-definition, announce a world in which they are no longer dependent on others, but instead make their own mark, exercising their unique, anti-themed expression, although never losing sight of the decades of condemnation that has been led by other bodies and social activism.

Movements that alternate between announcing and condemning, further singularise a desire to perform the perspective of those who articulated the festival. At Valongo 2018, there were no themes, categories or sub-divisions. Like a live organism, it pulsed like a great manifestation bringing together effects, diagnoses, observations, questions and references. Issues arose out of the broadening of perspectives and out of the effect of this being present and immersed in curatorial practices in cultural management and in the production of knowledge.

The retina is the screen that is responsible for forming images and for the sense of sight. We project what we see onto the retina and through visual perception and other senses, we are able to process, understand and interpret our surroundings by means of the cognitive stimuli that we receive.

Thus, *Não me aguarde na retina* is like an electrical current, a declaration and a positioning that invites us to broaden our field of vision, to appropriate pressure and vibrations, feel frequencies and essences and free ourselves of what we know to be good and bad taste.

*[here] the black man says of himself that he is not understood; he is not where he was said to be and certainly not where we looked for him, instead he is in a place nobody thought of.<sup>16</sup>*

## NOTES

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1 • The title of an exhibition, literally translated as Don't Wait for Me in the Retina.

2 • Djamila Ribeiro, *O Que É Lugar de Fala?* (Belo Horizonte: Letramento, 2017): 24.

3 • Ribeiro, *O Que É Lugar de Fala?*, 64.

4 • *Ibid.*, 70

5 • Make-up worn by non-black people. This has been a well-known and recurring resource in the history of drama to represent, characterise and reinforce the racial stereotypes attributed to black people.

6 • This text is available from: Diane Lima, "Diálogos Ausentes e a Curadoria como Ferramenta de Invisibilização das Práticas Artísticas Contemporâneas Afro-Brasileiras." Itaú Cultural, 2016, accessed May 2016, [http://d3nv1jy4u7zmsc.cloudfront.net/wp-content/uploads/2017/01/di%C3%A1logosausentes\\_dianelima-rev\\_02.pdf](http://d3nv1jy4u7zmsc.cloudfront.net/wp-content/uploads/2017/01/di%C3%A1logosausentes_dianelima-rev_02.pdf).

7 • For further information on the project see: "AfroTranscendence," NOBRASIL, 2017, accessed December 7, 2018, <http://nobrasil.co/afrotranscendence>.

8 • To find out more about the programme, photos, videos and curatorial texts, see Valongo, Homepage, 2018, accessed December 7, 2018, <https://valongo.com>; or VALONGO (@valongofestival), 2018, [instagram/valongofestival](https://www.instagram.com/valongofestival).

9 • Steven D. Lavine and Ivan Karp, *Exhibiting Cultures: The Poetics and Politics of Museum Display* (Washington, DC: Smithsonian Institution

Press, 1991).

10 • Neusa Santos Souza, *Tornar-se Negro: As Vicissitudes da Identidade do Negro Brasileiro em Ascensão Social* (Rio de Janeiro: Edições Graal, 1983).

11 • Leda Maria Martins, *Afrografias da Memória: O Reinado do Rosário do Jatobá* (São Paulo: Perspectiva, 1997): 26.

12 • *Ibid.*, 35.

13 • "Exú is a dynamic principle of individualisation and simultaneously of communication and interpretation. His character is one of ambivalence, multiplicity and his function, in the pantheon of the *orixas*, as an element of mediation between human and divine universes and as a driving, declaratory force of interpretation. He is a discursive, figurative character who intervenes in the formulation of meaning and black culture. He has the knowledge needed to decipher Ifa's divination boards. Exú is game, sign and structure. This *orixa* is a metaphor for the semiotic crossroads of black culture in the Americas. He is a principle of dialogue and a mediator between the mythemes of the West and Africa." in Leda Maria Martins, *A Cena em Sombras* (São Paulo: Perspectiva, 1995): 55.

14 • *Ibid.*

15 • William Edward Burghardt Du Bois, "Criteria of Negro Art," *The Crisis*, no. 32 (1926): 324

16 • Achille Mbembe, *Crítica da Razão Negra* (Lisboa: Antígona, 2014): 59.

**DIANE LIMA** – *Brazil*

Diane Lima is an independent curator and researcher. She holds a master's in Communications and Semiotics from the Pontifical Catholic University of São Paulo. Her work focuses on experimenting with multi-disciplinary curatorial practices within a decolonial perspective. She created a programme on AfroTranscendence (2015). She was the curator of Diálogos Ausentes (Absent Dialogues) in 2016/17 (Itaú Cultural) and in 2018 she curated the Valongo International Festival of Image. She has sat on a number of selection and awards committees, such as Cultura's Prêmio Bravo!, Prêmio EDP in Arts at the Tomie Othake Institute and Oi Futuro's Artsonic.

email: [dianelimabr@gmail.com](mailto:dianelimabr@gmail.com)

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