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RELIGIOUS INTOLERANCE IN BRAZIL: A JURISPRUDENTIAL ANALYSIS OF THE ROLE OF THE COURT OF JUSTICE IN PENALIZING

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ABSTRACT

Religious intolerance in Brazil is a persistent phenomenon that affects several religious communities, especially those of African origin and other minorities. Despite legislative advances, religious violence and discrimination continue to be a significant challenge, requiring a critical analysis of the role of the Judiciary in addressing the problem. This study analyzes religious intolerance in Brazil, focusing on the performance of the Judiciary and the effectiveness of penalties. The general objective is to provide a detailed understanding of the application of laws and jurisprudential decisions related to religious intolerance, evaluating how the courts have contributed to the protection of freedom of belief and the fight against discriminatory practices, followed by the specific objectives being: to verify how the application of penalties occurs, the impact of penalties and the penalty imposed for the reduction of cases of religious intolerance in Brazil. The methodology adopted consists of reviewing the existing literature, including scientific articles, pertinent legislation and jurisprudential decisions. The analysis of the sources reveals legislative advances, but also highlights significant challenges in the effective application of punishments and in social awareness of the seriousness of the problem. The final considerations suggest that, in addition to penalties, it is necessary to invest in public policies, social awareness and institutional support for victims to ensure a more effective fight against religious intolerance. The fight against religious intolerance in Brazil requires a continued commitment to inclusion and respect for religious diversity, through a more robust judicial approach and a strengthening of educational and legislative actions.

Keywords: Religious discrimination. Jurisprudence. Public policies.

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INTRODUCTION

Religious intolerance in Brazil is a phenomenon that, despite being historically rooted, has gained visibility in recent years due to the increase in violent and discriminatory incidents in different parts of the country (Marinho, 2022). Brazilian religious diversity, although it constitutes a cultural and social value, is still the target of intolerant discourses and practices, especially in contexts of disputes over religious beliefs, practices, and manifestations (Rodrigues; Ribeiro, 2021). The concept of religious intolerance refers to hostility, discrimination, or violence directed at individuals or groups based on their religious beliefs, which contradicts fundamental principles of the Federal Constitution, such as religious freedom and equality (Barbosa, 2022). Brazilian legislation, therefore, has the function of protecting freedom of belief, being a fundamental pillar to ensure peaceful coexistence between the different religious manifestations in the country.

Over the years, the Brazilian legal system has sought ways to combat religious intolerance, through various rules that aim to curb discriminatory or violent acts motivated by religious issues. The Brazilian legal system, especially the Federal Constitution of 1988, ensures the right to religious freedom, while infra-constitutional laws, such as Law No. 7,716/1989, typify crimes of discrimination and prejudice, including those of a religious nature. Nevertheless, the effective application of these norms and their interpretation by the courts have been central issues in the fight against religious intolerance (Brasil, 1989). The performance of the Judiciary, especially the Court of Justice, is crucial in defining parameters for the punishment of these crimes and in the construction of a jurisprudence capable of enforcing the norms of religious protection.

In this scenario, the performance of the courts has been varied, with decisions that oscillate between effective punishment and, sometimes, the absence of a robust response to the seriousness of acts of religious intolerance. Jurisprudential analysis, therefore, becomes an essential tool to understand the role of the Judiciary in combating religious intolerance and the effectiveness of punitive measures. In addition, it is necessary to assess whether the penalties imposed have been sufficiently effective in preventing new cases, in addition to impacting society in order to discourage discriminatory practices. Brazilian jurisprudence, in this sense, reflects the application of the rules, but it can also be seen as a thermometer of the failures and challenges in the effectiveness of penalties.

From this context, a central question arises for the development of this study: how do the decisions of the courts, especially within the scope of the Court of Justice, impact the fight against religious intolerance in Brazil? To what extent does the application of penalties provided for by law contribute to reducing the occurrence of crimes related to religious

intolerance? This study, of a revisional nature, has as its general objective to provide a detailed understanding of the performance of the Brazilian Judiciary, especially the courts, in the penalization of religious intolerance, evaluating the effectiveness of punishments and the jurisprudential evolution on the subject.

The methodology adopted in this work consists of reviewing the existing literature on religious intolerance in Brazil, based on scientific articles, pertinent legislation and jurisprudential decisions. The article will be structured in three main topics: (1) the legal basis of religious intolerance in Brazil, (2) the analysis of jurisprudence on religious intolerance, and (3) the effectiveness of penalties in combating religious intolerance. Finally, the final considerations will be presented, with suggestions on possible improvements in judicial and legislative practices to address religious intolerance in the country.

CONSTITUTIONAL PRINCIPLES THAT GUIDE RELIGIOUS FREEDOM IN BRAZIL

The Federal Constitution of 1988 enshrines a broad set of fundamental principles aimed at guaranteeing individual rights, among which religious freedom stands out. The purpose of this chapter is to examine the main constitutional foundations that ensure such freedom in the Brazilian legal system, with special attention to the way in which these principles are interpreted and applied by the Judiciary. Initially, the links between freedom of expression and the right to non-discrimination will be analyzed (2.1), followed by the principle of non-discrimination and its close relationship with religious freedom (2.2). Finally, the principle of the secularity of the State will be explored (2.3), highlighting its relevance in the decisions of the Federal Supreme Court, especially in the face of conflicts involving religious manifestations and the public space.

FREEDOM OF EXPRESSION AND NON-DISCRIMINATION

With the demographic growth and the consequent increase in religious diversity in Brazil, there are numerous cases of religious intolerance. In recognition of the seriousness of this problem, Law No. 11,635, of December 27, 2007, established the National Day to Combat Religious Intolerance, celebrated on January 21. The presidential sanction of the aforementioned legal diploma evidences the state's recognition of the existence and relevance of the theme (Brasil, 2007).

Despite this, the Brazilian reality is still marked by a veiled prejudice: people are aware of its existence, but often deny its practice. The Federal Constitution ensures freedom of belief as inviolable, providing for the free exercise of religious cults. In addition,

Law No. 9,459 of 1997 typifies as a crime the practice of discrimination or prejudice against religions, which is a non-bailable and imprescriptible offense (Brasil, 1997).

Regarding the principle of freedom of expression, the decision of the Federal Supreme Court (STF) not to recognize the Christmas special produced by the comedy group "Porta dos Fundos" as an act of religious intolerance stands out. This decision illustrates the need to understand the breadth of freedom of expression as a fundamental right. As Alexandre de Moraes ponders, this freedom protects not only pleasant or widely accepted manifestations, but also those that may cause discomfort, resistance or restlessness. Democracy is only effective through the pluralism of ideas, tolerance of divergence, and willingness to dialogue (Santos, 2021).

Thus, freedom of expression, as a fundamental principle enshrined in the Federal Constitution of 1988, guarantees the individual the right to freely express his opinions, thoughts and ideas, without fear of reprisals by the State or society.

However, even in the face of the legal provision of freedom of expression, the advancement of the means of communication in recent decades has also evidenced the growth of religious intolerance. According to data from the NGO Safernet, between 2016 and 2018, there was an increase of more than 300% in the number of complaints related to pages that disseminated content of religious intolerance, with an emphasis on discriminatory manifestations against religions of African and indigenous origin (Santos, 2021).

PRINCIPLE OF NON-DISCRIMINATION AND RELIGIOUS FREEDOM

The Federal Constitution of 1988 guarantees religious freedom in article 5, item VI, which establishes: "Freedom of conscience and belief is inviolable, and the free exercise of religious cults is ensured and the protection of places of worship and their liturgies is guaranteed, in accordance with the law" (Brasil, 1988).

In this context, the principle of non-discrimination is presented as an offshoot of the principle of equality, ensuring that all individuals are guaranteed the full exercise of fundamental rights and freedoms, regardless of race, nationality, ethnicity, religion, color, sex or social condition. Costa and Pinto (2021) highlight that equal treatment must be guaranteed to every human being, and the prohibition of discrimination is a legal asset protected by the Constitution. According to article 5, item XLI, the law will punish any form of discrimination that undermines fundamental rights and freedoms.

In the same sense, Law No. 7,716, of January 5, 1989, in its wording updated by Law No. 12,952/2014, reinforces the fight against discrimination, providing:

> Art. 1: Crimes resulting from discrimination or prejudice of race, color, ethnicity, religion or national origin shall be punished, in accordance with this Law.Art. 20: To practice, induce or incite discrimination or prejudice of race, color, ethnicity, religion or national origin. Penalty: imprisonment from one to three years and a fine" (Planalto, 2019).

In summary, the principle of non-discrimination is an essential pillar for the effectiveness of religious freedom in Brazil, ensuring that individuals can practice their faith without being the target of prejudice or discrimination. The Federal Constitution and infra-constitutional legislation, such as Law No. 7,716/1989, with its wording updated by Law No. 12,952/2014, reinforce this protection by establishing punishments for discriminatory acts. In line with article 1, which provides for punishment for crimes resulting from discrimination or prejudice based on race, color, ethnicity, religion or national origin, and article 20, which imposes strict penalties for the practice, inducement or incitement to discrimination, the commitment of the Brazilian legal system to the promotion of a plural society free of religious intolerance is clear (Planalto, 2019).

PRINCIPLE OF SECULARITY AND ITS RELEVANCE IN THE DECISIONS OF THE SUPREME COURT

State secularity is an essential juridical-political principle for the management of the freedoms and rights of all citizens. According to Blancarte (2008, p. 25), the secular State is an instrument to ensure plural coexistence, guaranteeing the separation between religious institutions and public power. The Federal Constitution contemplates this principle in Title III, Chapter I, when organizing the political-administrative structure of the Brazilian State, reflecting the commitment to religious neutrality in a diverse society, composed of both believers and non-believers (Kreus; Santana, 2022).

In this panorama, the interpretation of Celso de Mello stands out, who, in reference to UNESCO's Declaration of Principles on Tolerance, emphasizes tolerance as "harmony in difference", a pillar of human rights, pluralism, democracy and the rule of law. Secularism, in this context, requires the axiological neutrality of the State in relation to religions, preventing any confessional preference and guaranteeing the integrity of the right to religious freedom. The Minister also emphasizes the counter-majoritarian function of the STF, with the duty to protect minorities, including religious minorities (Kreus; Santana, 2022).

The Federal Supreme Court has faced several issues involving the principle of secularism, such as the presence of religious symbols in public buildings and the mandatory use of the Bible in educational institutions (STF, 2024). In November 2024, by unanimous decision, the STF understood that the presence of religious symbols in public

buildings does not violate the secularity of the State. The Court was based on the argument that such symbols represent the Brazilian cultural tradition. The case was taken to the STF through an appeal filed by the Federal Public Prosecutor's Office, seeking to reverse a previous decision of the Federal Regional Court of the 3rd Region (STF, 2025).

Therefore, the secularity of the State represents not only the separation between religion and politics, but also an element of neutrality that ensures the free expression of the most diverse worldviews — whether religious, agnostic, atheist or coming from other doctrines and ideologies (Senado, 2025).

With the analysis of the constitutional principles that guide religious freedom in Brazil, it was clear that protection against religious discrimination and the guarantee of a secular State are fundamental to ensure the full exercise of faith and peaceful coexistence between the various faiths. However, despite these assurances, religious intolerance persists as a significant challenge. In view of this, it is necessary to understand how constitutional guarantees are applied in practice to protect individuals against this form of violence. The next chapter, therefore, will address the relationship between religious intolerance and constitutional guarantees in Brazil, highlighting the legal and judicial measures aimed at protecting religious freedom in a context of increasing diversity and social challenges.

RELIGIOUS INTOLERANCE AND CONSTITUTIONAL GUARANTEES IN BRAZIL

The phenomenon of religious intolerance in Brazil, although long-standing, has intensified in recent decades, being evidenced by various forms of violence and discrimination against religions of African origin, in particular. The Federal Constitution of 1988, in its article 5, item VI, ensures the inviolability of freedom of conscience and belief, conferring on the State the responsibility to protect places of worship and their liturgies, in addition to guaranteeing the free exercise of religious cults (Brasil, 1988). However, despite this constitutional provision, the practice of religious intolerance persists recurrently, revealing gaps in the effective application of legislation and in the jurisdictional control of religious violence.

Law 9475/97, also known as the Law of Guidelines and Bases of National Education (LDB), deals with religious education as an optional subject in public elementary schools, being part of the regular curriculum (Brasil, 1997). However, even in the face of this standardization, there is considerable room for the practice of religious discrimination in educational institutions, evidencing the need for a more robust legal basis for confronting religious intolerance.

Religious intolerance in Brazil, in many cases, is associated with religious racism, a phenomenon that, as pointed out by several scholars, has deep roots in the structural racism of Brazilian society. Miranda (2021) discusses how religious racism is configured as a structuring aspect of social relations in the country, based on racial discrimination, with both conscious and unconscious manifestations. In her analysis, the author argues that religious racism often operates as a form of legalized or naturalized discrimination, making it difficult to penalize its practices. In this sense, the performance of the Court of Justice must be analyzed in the light of jurisprudence that, until recently, did not specifically address the religious dimension of the violence suffered by practitioners of Afro-Brazilian religions.

In addition, it is important to highlight the psychological and social impacts suffered by individuals and communities affected by religious intolerance. The experience of being the target of religious discrimination can cause significant damage to mental health, especially in contexts of marginalization and symbolic violence (Silva; Santos, 2021). This occurs, in part, due to the emotional impact of social exclusion and the daily violence that these individuals face (Moreira-Primo; France, 2020). Confronting religious intolerance, therefore, should not be seen only as a legal issue, but also as a public health issue, where the right to religious freedom is intertwined with the right to mental health and human dignity. This intersection of fundamental rights requires a comprehensive and integrated response, which not only combats religious discrimination, but also promotes the psychological well-being of victims.

The conceptual change from the term "religious intolerance" to that of religious racism, as argued by authors such as Sidnei Nogueira (2020) and Nathália Vince Fernandes and Clara Jane Adad (2017), reflects a fundamental theoretical transition to understand religious intolerance not only as a religious prejudice, but as a form of institutionalized racial discrimination, which permeates justice systems and public policies. The jurisprudential analysis reveals that, despite the fact that the 1988 Constitution has ensured religious freedom, religions of African origin continue to be marginalized, as can be observed in discriminatory practices and hate speech, which, in several cases, are not properly penalized by the courts.

In the context of African-based religions, religious discrimination and violence are often justified by a narrative of religious and racial superiority. This is exemplified by the historical repression of these religions, as in the case of the Quebra de Xangô, in Alagoas, and in other manifestations of religious intolerance, which last until the present day, as pointed out by Mota (2018). Epistemic racism, discussed by Schuller and Pereira (2024),

contributes to the invisibility of Afro-Brazilian religious cultures and practices, in addition to increasing the authorities' lack of interest in punishing offenders.

Religious intolerance in Brazil, especially in relation to African-based religions, has been shown to be a systematic violation of human rights, with repercussions on the psychological and social well-being of practitioners. As Schuller and Pereira (2024) point out,

> This religious racism manifests itself through epistemic racism, which involves the invisibilization and continuous concealment of the cultural and social contributions of these peoples. In the last 30 years, there has been a vertiginous growth in attacks against Afro-Brazilian religions, including vandalism to places and objects of worship, and episodes of moral and physical aggression (Schuller; Pereira, 2024, p. 5).

In this scenario, the justice system needs to act not only in the context of punishing offenders, but also in the creation of public policies that promote respect and religious inclusion, in order to guarantee religious freedom for all citizens, as recommended by the Constitution.

The Court's performance in this scenario reveals a systematic resistance to applying the norms that protect religious freedoms and to recognizing the structural dimension of religious intolerance.

The performance of the Federal Supreme Court (STF), in several decisions, has been relevant for the construction of a more robust jurisprudence in the field of protection of religious freedom. In a recent decision on the constitutionality of animal slaughter in religious rituals, jurists questioned the relationship between religious intolerance and structural racism, proposing a deeper reflection on the concept of religious racism. Hoshino and Bueno (2019) argue that, in recognizing the violation of Afro-Brazilian religious practices, the STF should go beyond the traditional conception of religious intolerance and adopt an approach that contemplates racism as its structuring foundation, in line with the constitutional principles that ensure equality and religious freedom.

The legal basis of religious intolerance must also consider the historical evolution of Afro-Brazilian religions and the need for specific legal protection for religious practices of African origin. As Rodney William (2019) observes, the cultural appropriation and demonization of these religions, as in the case of "capoeira gospel", are forms of religious racism that deserve a more detailed analysis from a legal point of view. Jurisprudence, in this regard, must be able to penalize these discriminatory practices, not only on the basis of the Constitution, but also on the basis of the protection of human rights, as established by international instruments.

In its jurisprudential analysis, the Court of Justice has the responsibility to interpret laws in order to combat religious intolerance effectively. However, as the ACN Brasil report (2020) points out, the lack of structure and the scarcity of public policies aimed at confronting religious racism are still obstacles to the realization of rights. The increase in complaints of religious intolerance, according to the Ministry of Human Rights and Citizenship (2025), highlights the urgency of the courts' action in order to ensure not only the punishment of offenders, but also the protection of victims.

The jurisprudential analysis of the Court's performance reveals that, although there are laws and norms that ensure religious freedom, the penalization of religious intolerance still comes up against structural challenges. The increase in complaints and cases of religious violence, such as the incident in Ilê Asè Airá Tolami (2023) and the attempt to interrupt religious services, demonstrate that there is a legal gap in the recognition of the seriousness of religious racism and in the effective application of legislation. The Court of Justice, therefore, plays a crucial role in the construction of a jurisprudence that protects religious minorities, ensuring the effectiveness of religious freedom in a context of growing religious intolerance in Brazil.

In summary, confronting religious intolerance in Brazil requires a robust legal foundation that understands the racial dimension of intolerance and allows for effective enforcement of laws that protect religious practices. The performance of the Court of Justice must be reviewed in the light of constitutional principles, international human rights conventions and the urgent need for effective public policies that promote religious equity in the country.

ANALYSIS OF JURISPRUDENCE ON RELIGIOUS INTOLERANCE

The Brazilian Federal Constitution of 1988, in its article 5, item VI, establishes the inviolability of religious freedom, ensuring the right to the free exercise of religious cults and the protection of places of worship and their liturgies (Brasil, 1988). This fundamental principle is expressed as follows:

> VI – freedom of conscience and belief is inviolable, and the free exercise of religious cults is ensured and the protection of places of worship and their liturgies is guaranteed, in accordance with the law;

This constitutional guarantee reflects the State's commitment to the protection of religious freedom, an essential right in the democratic context. However, the realization of this protection depends not only on the existence of legal norms, but also on their effective application, especially in situations involving religious intolerance.

In addition, article 19 of the same Constitution establishes the secularity of the Brazilian State, preventing the promotion or financing of religious cults and the creation of links between the State and any religious institutions. In items I and III, the Constitution provides:

> Article 19: It is forbidden for the Union, the States, the Federal District and the Municipalities: I - To promote or finance religious cults or churches, to hinder their operation or to establish ties of dependence or alliance with them or their representatives, except in the cases permitted by law, when there is public interest; [...] III - To create distinctions between Brazilian citizens or to favor some over others (Brasil, 1988).

In this context, the Brazilian justice system is called upon to guarantee equal rights to all citizens, without arbitrary distinctions, as highlighted by Justice Alexandre de Moraes:

> "This search for substantive equality, although sometimes idealistic, is reflected in the well-known 'Prayer to the Young Men' by Rui Barbosa, inspired by the old lesson of Aristotle, which advocates treating the equal equally and unequally the unequal to the extent of their inequalities."

The challenge for the judiciary, therefore, is to ensure that legislation not only promotes respect for religious diversity, but also protects those who face religious discrimination, especially communities of African-based religions.

The jurisprudential analysis reveals that religious intolerance in Brazil is an issue that transcends simple prejudice and discrimination. According to Miranda (2019), there is a growing association between religious intolerance and the "genocide of black people", especially in Rio de Janeiro, where violence against practitioners of Afro-Brazilian religions evolves from religious intolerance to racism, culminating in cases of genocide. The violation of these fundamental rights has generated institutional responses, such as the 2018 technical note from the Federal Public Prosecutor's Office (MPF), which classifies certain attacks as "hate crimes," "religious racism," and, in extreme cases, as "terrorist acts" or "genocide."

Religious racism in Brazil has been addressed in several municipal, state and federal legislations. Examples of this are state laws to combat religious intolerance, such as Law No. 9,259 of 2021 in Rio de Janeiro, Decree No. 9,926 of 2021 in Goiás, Decree No. 37,761 of 2022 in Maranhão, and other similar laws in the states of Bahia, Rio Grande do Norte, and the Federal District (NETO, 2023). These legislations seek to complement the federal legal framework, including the Statute of Racial Equality (Law No. 12,288/2010), which aims to guarantee equal opportunities for the black population and protection against discriminatory practices, including religious racism.

In addition, Law No. 7,716 of 1989, known as the "Racism Law" or "Caó Law", establishes that crimes resulting from prejudice for reasons of race, color, ethnicity, religion or national origin are non-bailable and imprescriptible. This law was expanded in 1997 by Law No. 9,459, including religious discrimination in its scope, becoming a crucial tool in the fight against religious intolerance in Brazil. Recently, the Federal Supreme Court (STF) has also discussed the possibility of equating other forms of discrimination, such as homophobia, with the crime of racism (Brasil, 1989).

The Federal Supreme Court (STF) plays a decisive role in the interpretation and application of constitutional norms related to religious intolerance. As guardian of the Constitution, the STF has judged cases involving freedom of belief and the right to protection against religious discrimination, establishing jurisprudential precedents that reinforce the need for more effective action by the State in protecting the rights of religious minorities. The jurisprudence of the Supreme Court has been fundamental for the construction of a progressive interpretation of the Constitution, which aims to eradicate discriminatory practices and guarantee full religious freedom.

Therefore, the action of the Judiciary, especially the STF, is essential to ensure the effectiveness of the fundamental rights provided for in the Constitution, especially in relation to the fight against religious intolerance. The jurisprudential analysis indicates that, although Brazil has a robust legal framework, the effectiveness of the protection of religious rights depends on the continuous vigilance and action of the Judiciary to ensure that legislation is not only normative, but becomes a real and efficient practice in the lives of citizens.

Religious intolerance in Brazil continues to be a relevant issue for society and the Judiciary, with several discriminatory manifestations that result in moral damage to the victims. In a recent judgment, Civil Appeal No. 1026144-65/2022, of the Court of Appeals of São Paulo (TJ-SP), it was clear that the conduct of a defendant who uttered curses with a connotation of religious intolerance, harming the dignity of the victim, gives rise to compensation for moral damages. In this case, the court upheld the decision that set the compensation at R$ 3,000.00, emphasizing the seriousness of the unlawful act, even though the amount was considered adequate to repair the damage suffered by the victim (TJ-SP, 2024).

In another judgment, Civil Appeal No. 00314410420218160014, of the Court of Justice of Paraná (TJ-PR), the case involved the early termination of a lease agreement for religious intolerance, specifically against the exercise of faith by a tenant of an Afro-Brazilian religion (Umbanda). The court ordered the offending party to pay compensation for moral damages, increasing the amount of compensation to R$ 25,000.00, considering the

discriminatory nature of the conduct and the need for punishment to discourage recidivism (TJ-PR, 2023).

In addition, in Civil Appeal No. 1003367-46/2019, also from the TJ-SP, the sentence was upheld with the conviction of the defendants who confessed to acts of religious intolerance, practiced in a private environment. The court determined compensation of R$ 3,000.00 for moral damages, highlighting the liability for the damages caused to the victim in his residence (TJ-SP, 2024).

These judgments exemplify how the Judiciary has faced cases of religious intolerance, with an emphasis on repairing damages and condemning discriminatory practices, always based on constitutional principles that guarantee religious freedom and the right to dignity of the human person.

Brazilian legislation, over the years, has been structured to provide an effective response to religious intolerance, providing punishments for discriminatory acts of a religious nature. However, it is essential that the competent authorities not only apply the penalties, but also develop preventive public policies, acting diligently in the identification and reprimand of these crimes. In addition, the collaboration of civil society, especially victims, is crucial for strengthening the protection network, and it is essential that cases of intolerance are formally reported so that those responsible can be properly identified and penalized according to current legislation (JusBrasil, 2023).

With regard to recent legislation, the enactment of Law No. 20,451, of April 22, 2019, stands out, which established penalties of 2 to 5 years of imprisonment for those who prevent or employ violence against religious manifestations or practices (Brasil, 2019). This normative advance aimed to reinforce the protection of the various forms of religious expression and ensure that religious violence was not treated lightly, providing a more robust legal support.

In addition, Law No. 9,459, of 1997, played an important role in combating religious intolerance, by defining as a crime the practice of discrimination or prejudice on the basis of religion. With prison sentences ranging from one to three years, and a fine, the legislation seeks to ensure that discriminatory attitudes are severely punished, in order to preserve peaceful coexistence and respect between different faiths in the country (JusBrasil, 2023).

The Federal Public Ministry (MPF) has recognized the seriousness of these actions, highlighting the classification of religious violence as "hate crimes", "religious racism" or even "terrorist acts". This perspective, as noted in its 2018 technical note, denotes the growing violence against adherents of African-based religions, reflecting a pattern of attack orchestrated by different segments, such as neo-Pentecostal churches, militias, or even

drug traffickers. Such actions are often seen as a strategy to control territories, many of which have been abandoned by the state, which further aggravates the nature of religious violence in Brazil.

At the jurisdictional level, the Supreme Court, in the judgment of the Extraordinary Appeal (RE) 494601, raised discussions about the recognition of religious racism as a central element of structural racism in the country. For scholars of the matter, such as Hoshino and Bueno (2019), the STF has a fundamental role in the construction of a jurisprudence that recognizes the specificities of religious intolerance and its connection with systematic racism, which goes beyond the simple discriminatory act, incorporating more complex elements of symbolic and material violence.

Still on the tools to combat religious intolerance, the recent creation of Specialized Police Stations stands out, such as the Specialized Police Station for the Investigation of Crimes of Racism, Xenophobia, LGBTphobia and Related Intolerances (Decrin), inaugurated in Minas Gerais in 2018. The creation of structures such as these, already existing in states such as São Paulo (Decradi), represents an important advance in the institutional response to the phenomenon of religious intolerance, offering a specific channel for victims to report crimes of religious discrimination more quickly and effectively.

However, despite the normative advance, the typification of the crime of religious intolerance still faces difficulties with regard to its practical application. Law No. 7,716/1989, which in its version modified by Law No. 9,459/1997 establishes religious discrimination as a non-bailable and imprescriptible crime, is often underused. This is largely due to the lack of mobilization of mechanisms for enforcing the legislation, either due to the lack of awareness on the part of the victims, or due to the lack of efforts to curb such practices in the judicial and police spheres.

In addition to national legislation, the UN Universal Declaration of Human Rights, of 1948, has been an important reference in the construction of public policies and judicial decisions, by guaranteeing in its Article 18 that "everyone has the right to freedom of thought, conscience and religion" (UN, 1948). However, although Brazil is a signatory to this convention, there is still a long way to go to ensure that the practice of religious intolerance is effectively combated in all spheres of society.

It is also important to observe the data related to complaints of religious intolerance in Brazil. The Dial 100 System, from 2017 to 2018, indicated a substantial increase in cases of religious intolerance from 2019 onwards, revealing a persistent and expanding phenomenon. The Ministry of Human Rights and Citizenship (MDHC) has made several channels available, including WhatsApp and Telegram, to facilitate complaints, but there

needs to be more awareness and accessibility so that cases of intolerance are effectively reported and, consequently, dealt with in accordance with the law.

In historical terms, religious intolerance in Brazil is not a recent phenomenon. The emblematic aggression against mother Gilda de Ogum, in 1999, highlights the level of violence to which African-based religions are subjected. Gildásia dos Santos, when portrayed in a pejorative way in a report by the Universal Church of the Kingdom of God, had her terreiro invaded, being physically and verbally assaulted, resulting in her death. This case culminated in the condemnation of the church to compensation for moral damages, but also exposed the fragility of institutional responses in the face of religious intolerance. In memory of mother Gilda, the National Day to Combat Religious Intolerance was established on January 21.

Finally, according to the renowned specialist Sidnei Nogueira, religious intolerance in Brazil has deep roots, linked to the process of demonization of African beliefs during the colonial period, which contributes to the perpetuation of discriminatory practices to the present day. Overcoming religious intolerance therefore requires a continuous effort from both society and the judiciary, which must seek the effective implementation of existing legislation and the creation of new strategies to guarantee full religious freedom to all citizens.

FINAL CONSIDERATIONS

This study provided a detailed analysis of the performance of the Brazilian Judiciary in the fight against religious intolerance, with a special focus on the courts and the jurisprudential evolution on the subject. By examining the current legislation, such as Laws No. 7,716/1989, No. 9,459/1997 and the recent Law No. 20,451/2019, and the interpretation of the Courts, it was possible to understand that, although there are important advances in the typification and penalization of religious intolerance, there are still significant challenges in its effective application and in social awareness of the seriousness of the problem. The research showed that the judicial system has played an important role in the application of penalties, but the mobilization of such legal provisions still comes up against cultural and institutional issues that hinder the effective fight against religious discrimination.

Regarding the effectiveness of penalties, the analysis showed that, although legal punishments are adequate and well structured, their practical application still faces obstacles. The lack of formal complaints, the underreporting of crimes, and the resistance of some authorities to treat religious intolerance as a serious and recurring issue are factors

that weaken the effectiveness of the punishments imposed. Statistics show a significant increase in records of religious intolerance after 2019, which indicates that, despite legislation and institutional actions, religious intolerance continues to be a growing problem in Brazil.

However, it was also possible to perceive an important jurisprudential evolution in Brazil. The Federal Supreme Court, when addressing the issue of religious intolerance in several judgments, has consolidated a firmer understanding of the need to guarantee religious freedom and punish discriminatory practices. In addition, the inclusion of religious racism as a component of structural racism, as discussed in the judgment of the Extraordinary Appeal (RE) 494601, reflects a significant evolution in the judicial perception of the magnitude of religious intolerance and its social and cultural implications. Jurisprudence has contributed to the construction of a more favorable scenario for the recognition of the specificities of religious racism, which is an important step towards the effective reparation of victims.

However, the analysis revealed that, for penalties to be truly effective, there needs to be a joint effort between the judicial system and public policies. The creation of specialized police stations, such as Decrin in Minas Gerais and Decradi in São Paulo, is a positive initiative, but Brazil lacks a more robust national structure to combat religious intolerance. The implementation of educational programs and awareness campaigns, as well as the strengthening of support networks for victims, are essential measures to ensure that penalties are accompanied by true social transformation.

In summary, this study achieved its objective by providing a comprehensive understanding of the role of the Brazilian Judiciary in penalizing religious intolerance. Although legislation and jurisprudence have advanced, the effectiveness of penalties depends on a continuous process of strengthening institutions, raising awareness in society, and implementing more effective public policies. The fight against religious intolerance in Brazil requires not only a punitive response, but also a commitment to building a more inclusive, respectful, and discrimination-free social environment

REFERENCES

1. AGÊNCIA BRASIL. Religious intolerance: Dial 100 registers 24 thousand cases in 2024. Agência Brasil, 2025. Available at: https://agenciabrasil.ebc.com.br/geral/noticia/2025-01/intolerancia-religiosa-disque-100-registra-24-mil-casos-em-2024#:~:text=O%20Minist%C3%A9rio%20dos%20Direitos%20Humanos,100)%2C%20coordinated%20pela%20folder. Accessed on: 6 Apr. 2025.

2. ALMEIDA, Silvio. Structural racism. (Plural Feminisms / coordinated by Djamila Ribeiro). São Paulo: Pólen, 2019.

3. BARBOSA, Paula Cristina Rigueiro. Freedom of expression, religious freedom and acts of discrimination. CEPINGE Bulletin, v. 46, n. 6, p. 151-164, 2022.

4. BBC BRASIL. Religious intolerance grows in Brazil, data show. BBC Brasil, 2025. Available at: https://www.bbc.com/portuguese/brasil-64393722. Accessed on: 6 Apr. 2025.

5. BRASIL DE FATO. Religious intolerance: Bahia has emblematic cases, absence of specific data and underreporting. Brasil de Fato, 2025. Available at: https://www.brasildefato.com.br/2024/01/21/intolerancia-religiosa-bahia-tem-casos-emblematicos-ausencia-de-dados-especificos-e-subnotificacao/#:~:text=Domingo%2C%2021%20de%20janeiro%2C%20%C3%A9,fundadora%20do%20Il%C3%AA%20As%C3%A8%20Abass%C3%A1. Accessed on: 6 Apr. 2025.

6. BRAZIL. Constitution of the Federative Republic of Brazil of 1988. Constitution of the Federative Republic of Brazil. Official Gazette of the Union, Brasília, 5 Oct. 1988.

7. BRAZIL. Statute of Racial Equality. Available at: https://www.planalto.gov.br/ccivil_03/_ato2007-2010/2010/lei/l12288.htm. Accessed on: 07 Apr. 2025.

8. BRAZIL. Law No. 7,716, of January 5, 1989. Available at: https://www.planalto.gov.br/ccivil_03/leis/l7716.htm. Accessed on: 07 Apr. 2025.

9. BRAZIL. Law No. 7,716, of January 5, 1989. *Provides for crimes resulting from discrimination or prejudice of race or color*. Official Gazette of the Union, Brasília, 5 jan. 1989.

10. BRAZIL. Law No. 9,459, of May 13, 1997. Amends arts. 1 and 20 of Law No. 7,716, of January 5, 1989, and adds a paragraph to article 140 of Decree-Law No. 2,848, of December 7, 1940. Available at: http://www.planalto.gov.br/ccivil_03/LEIS/L9459.htm. Accessed on: 14 Apr. 2025.

11. CN BRASIL ("Aid to the Church in Need in Brazil"). Religious Freedom in the World – 2021 Report – Executive Summary. 2021. Available at: https://www.acn.org.br/relatorio-liberdade-religiosa/#RLRM-Sumario-Executivo (To download, after registration). Accessed on 04 Apr. 2025.

12. COSTA, Fabrício Veiga; PINTO, Alisson Alves. Religious freedom and the fundamental right to non-discrimination on the grounds of sexual orientation. Revista Jurídica da FA7, v. 18, n. 1, p. 93-115, 2021.

13. FERNANDES, Nathália Vince E.; ADAD, Clara Jane C. Intolerance or religious racism: discrimination and violence against African-based religions. Religious Intolerance, v. 2, n. 1, p. 2-17, 2017.

14. GAZETA DO POVO. Dial 100 registers 24 cases of religious intolerance in 2024. Gazeta do Povo, 2025. Available at: https://www.gazetadopovo.com.br/vida-e-cidadania/disque-100-registra-24-mil-casos-de-intolerancia-religiosa-em-2024/. Accessed on: 6 Apr. 2025.

15. HOSHINO, Thiago de Azevedo Pinheiro; BUENO, Winnie. RE 494601: the recognition of religious racism?. Available at Available at http://www. jusdh. Org. br/2019/04/04/re-494601-o-recognition-of-religious-racism/. Accessed on, v. 10, n. 04, p. 2019, 2019.

16. HOSHINO, Thiago de Azevedo Pinheiro; CHUEIRI, Vera Karam de. The colors of the cuts: a reading of RE 494601 from religious racism. Law and Praxis Journal, v. 10, p. 2214-2238, 2019.

17. JUSBRASIL. Legal and social challenges in combating religious intolerance: an analysis of the Brazilian reality. JusBrasil, 2023. Available at: https://www.jusbrasil.com.br/artigos/desafios-legais-e-sociais-no-combate-a-intolerancia-religiosa-uma-analise-da-realidade-brasileira/1926218068. Accessed on: 6 Apr. 2025.

18. KREUZ, Letícia Regina Camargo; SANTANO, Ana Claudia. Laicidade à brasileira" and the decision of the Federal Supreme Court on Confessional Religious Education. Legal Space: Journal of Law, n. 2, p. 259-280, 2022.

19. LEGALE. Religious intolerance: legal aspects and legal protection. Legale, 2025. Available at: https://legale.com.br/blog/intolerancia-religiosa-aspectos-juridicos-e-protecao-legal/. Accessed on: 6 Apr. 2025.

20. MARINHO, Paula Márcia de Castro. Religious intolerance, epistemic racism and the marks of cultural, intellectual and social oppression. Society and State, v. 37, n. 2, p. 489-510, 2022.

21. MIRANDA, Ana Paula Mendes de. Religious intolerance or genocide of black people? O Globo, Rio de Janeiro, 2 set. 2019. Available at: https://glo.bo/2HHogXy. Accessed on: 07 Apr. 2025.

22. MIRANDA, Ana Paula Mendes. The "politics of the terreiros" against religious racism And the "Christofascist" policies. NER Debates, 2021.

23. MOREIRA-PRIMO, Ueliton Santos; FRANÇA, Dalila X. Experiences of racism in children: what happens in school daily life. Uniabeu Magazine, v. 13, n. 33, p. 24-44, 2020.

24. MOTA, Emília Guimarães. Dialogues on religions of African origins: religious racism and history. Rev Calundu, v. 2, n. 1, p. 23-48, 2018.

25. NETO, AG da C. Religious racism: dialogues of a concept. Contribuciones a las ciencias sociales,[S. l.], v. 16, n. 7, p. 5323-5342, 2023.

26. NICÁCIO, Camila Silva. Religious intolerance in the state of Minas Gerais: considerations from a research with police reports. Direito GV Magazine, v. 17, p. e2106, 2021.

27. NOGUEIRA, Sidnei. Religious intolerance. (Plural Feminisms / coordinated by Djamila Ribeiro). São Paulo: Pólen, 2020.

28. RODRIGUES, Maria Emília; RIBEIRO, Paulo Henrique Miranda. Origins and contemporary manifestations of religious intolerance in Brazil: considerations about the phenomenon and ways to combat it. Caderno Intersaberes, v. 10, n. 28, p. 4-15, 2021.

29. SANTOS, Alice Sousa; SANTOS, Wenas Silva. The limits between Freedom of Expression and Religious Intolerance. Humanidades & Inovação, v. 8, n. 57, p. 400-441, 2021.

30. SCHULLER, Ari; DA SILVA PEREIRA, Marina. Hidden intolerance: a legal and sociocultural analysis of religious racism in contemporary Brazil. ETS IUSTITIA-Journal of Society, Law and Justice, v. 2, n. 2, p. 1-13, 2024.

31. FEDERAL SENATE. Fundamental principles and rights: Secular state and fundamental rights. In: BRASIL. 1988 Constitution: volume I – 20 years later. Brasília: Senado Federal, 2025. Available at: https://www12.senado.leg.br/publicacoes/estudos-legislativos/tipos-de-estudos/outras-publicacoes/volume-i-constituicao-de-1988/principios-e-direitos-fundamentais-estado-laico-e-direitos-fundamentais. Accessed on: 13 Apr. 2025.

32. FEDERAL SUPREME COURT (STF). STF decisions reinforce the fight against religious intolerance. 2025. Available at: https://noticias.stf.jus.br/postsnoticias/decisoes-do-stf-reforcam-combate-a-intolerancia-religiosa/. Accessed on: 13 Apr. 2025.

33. FEDERAL SUPREME COURT (STF). STF reaffirms protection of religious freedom in judgment on prejudice. 2021. Available at: https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=475399&tip=UN. Accessed on: 13 Apr. 2025.

34. SILVA, Mateus Melo; SANTOS, Cláudio Rodrigues. IMPLICATIONS OF THE STATUTE OF RACIAL EQUALITY AND THE FIGHT AGAINST RELIGIOUS INTOLERANCE OF THE STATE OF BAHIA FOR THE EPT. Journal of the Brazilian Association of Black Researchers (ABPN), v. 13, n. 36, p. 706-728, 2021.

35. WILLIAM, Rodney. Cultural appropriation. (Plural Feminisms / coordinated by Djamila Ribeiro). São Paulo: Pólen, 2019.