

INSERTION OF BLACK WOMEN IN THE FORMAL LABOR MARKET AND THE IMPACT OF AFFIRMATIVE ACTION POLICIES ON THE REDUCTION OF INEQUALITIES: A COMPARATIVE ANALYSIS BETWEEN BRAZIL, ARGENTINA AND URUGUAY



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ABSTRACT

The insertion of black women in the formal labor market and the impact of affirmative action policies on the reduction of inequalities make up the core of the ongoing research project, which proposes to carry out a comparative analysis between Brazil, Argentina and Uruguay, using an exploratory, descriptive and qualitative approach by the comparative method. The central problem is to determine how mapping and evaluating the current situation of these women can reveal asymmetries and difficulties. To this end, it is important to understand how these findings can support the creation and implementation of inclusive labor public policies. An essential secondary question to be investigated is whether the gender-sensitive protocols in force in Brazil, Argentina, and Uruguay are being effectively applied by civil servants and magistrates to promote access to justice and the inclusion of black women in the formal labor market. The adoption of affirmative public policies, such as the Protocol for Judgment with a Gender Perspective in Brazil, has the potential to mitigate these inequalities. This protocol, specifically, can serve as a model for Argentina and Uruguay, promoting diversity, equal rights and opportunities, the realization of human rights, in addition to contributing to the dignity of the human person and the fulfillment of the SDGs of the 2030 Agenda.

Keywords: Black woman, World of Formal Work, Affirmative actions, Gender, Access to justice.

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INTRODUCTION

The insertion of black women in the formal labor market and the impact of affirmative action policies in reducing inequalities make up the core of the research project⁴, which proposes to carry out a comparative analysis between Brazil, Argentina and Uruguay. The research is part of the *Stricto Sensu* Graduate Program in Human Rights at Unijuí and seeks to understand the adversities faced by black women in the formal professional environment. The study also intends to map the historical path and advances of affirmative action policies aimed at this specific group in the countries mentioned, emphasizing the importance of strategies that promote equal opportunities and the realization of human rights. The justification lies in the need to face the asymmetries and barriers that limit the full and effective participation of black women in the formal labor market. Racial, gender, and socioeconomic inequalities are challenges that persist and demand special attention from public policy makers and academia. In this way, it is understood that the work is aligned with the Sustainable Development Goals (SDGs) of the UN 2030 Agenda, more specifically with regard to SDGs No. 5, 8, 10 and 16. The research is based on the hypothesis that, although they face discrimination marked by structural racism and sexism, the implementation of affirmative public policies can collaborate to mitigate these inequalities, promoting the dignity and visibility of black women in the workplace. Therefore, this project represents a contribution to academic advancement in the area of Human Rights and to the formulation and implementation of more effective public policies.

The focus on Latin America is justified by Brazil's integration into Mercosur and the need to look at neighboring countries, Argentina and Uruguay, which share cultural and historical similarities, including patterns of European colonization and similar demographics in relation to the black population. This study should use statistical surveys and censuses to assess the profile of the Afro-descendant population and socioeconomic conditions, especially focusing on the insertion of black women in the formal labor market. The analysis should be based on social or statistical indicators in Brazil, such as the Brazilian Institute of Geography and Statistics (IBGE), the Radar CEERT platform, the National Household Sample Survey (PNAD) and eSocial, among others, and seeks to identify equivalent social indicators in Argentina and Uruguay.

⁴ Research Project presented in compliance with FAPERGS Public Notice No. 09/2023 Gaucho Researcher Program (PqG) — Track B

In turn, the legislative focus intends to identify the evolution of the laws that regulate labor relations and the forms of conflict resolution. This points to possible anachronisms and gaps in current legislation, assessing its consonance with the international normative framework for the protection of the human rights of workers and, specifically, of black women. Such an analysis is important to understand the legal and regulatory barriers that prevent the full insertion and protection of these women in the labor market. Also, the analysis of affirmative action public policies in order to understand how such policies have been implemented to ensure gender, race and sexuality equality. A comparative perspective should be adopted, considering the protocols for gender-sensitive judgment in the countries studied, to identify effective strategies and areas that need further attention or reinforcement.

In turn, the jurisprudential research aims to explore the main demands and decision-making trends related to the theme of black women in the labor market both in the Brazilian system and in the Argentine and Uruguayan systems. Thus, it will be possible to verify discretionary or arbitrary practices and how such issues have been addressed by the Inter-American Court of Human Rights, offering a perspective on the effectiveness of the justice system in protecting the rights of these women.

In parallel, the project seeks to identify the legislative, political and jurisprudential impacts of the recognition of the human rights of workers, especially black women, in the countries in focus, with special attention to protocols with a gender perspective and recently Protocol for judgment with a racial perspective. This includes the identification of the international and national legal framework, analysis of legislation and public policies, performance of the Judiciary in the application of policies and/or affirmative actions.

The central problem of the research is to determine how the mapping and evaluation of the current situation of black women in the formal labor market in the three countries mentioned can reveal asymmetries and difficulties. To this end, it is important to understand how these findings can support the creation and implementation of public policies and affirmative actions aimed at the effective inclusion of these women. An essential secondary question to be investigated is whether the gender-sensitive protocols in force in Brazil, Argentina, and Uruguay are being effectively applied by civil servants and magistrates to promote access to justice and the inclusion of black women in the formal labor market. Based on the hypothesis that the situation of black women in the formal labor market is marked by racial discrimination, structural sexism and racism, the research may suggest

that these barriers keep women in a position of invisibility and limitation. However, the adoption of affirmative public policies, such as the Protocol for Judgment with a Gender Perspective in Brazil and the recent Protocol for Judgment with a Racial Perspective, has the potential to mitigate these inequalities. These protocols, specifically, can serve as a model for Argentina and Uruguay, promoting diversity, equal rights and opportunities, the realization of human rights, in addition to contributing to the dignity of the human person and the fulfillment of the SDGs of the 2030 Agenda.

The text of the article is structured as follows: firstly about the general panorama of the world of formal work of black women and secondly the challenges of black women in Brazil, Argentina and Uruguay.

OVERVIEW OF THE WORLD OF FORMAL WORK FOR BLACK WOMEN

Dealing with the world of formal work for black women is not an easy task, it involves sensitivity and gender perspective from an ethnic-racial perspective. To make such a confrontation and map public policies, as well as affirmative actions, it is necessary to look at the history of Afro-descendant women in Latin America and the Caribbean, as it carries the marks and consequences of European colonization, even today, after the end of colonial administrations and the establishment of national states in the region. In the sixteenth century, colonialism built and integrated into its ideological and functional structure a hierarchical system based on the idea of race, skin color, to subject and legitimize the domination of people, including women with these characteristics (Quijano, 2005).

The analysis of IBGE information for the second quarter of 2023, obtained by the Continuous PNAD, indicates that 56.1% of the Brazilian population is black. In this segment, both women and men stand out for their predominance in the informal work sector and in the condition of labor underutilization (DIEESE, 2023). The labor market reproduces racial discrimination, as the possibilities of ascension are unequal in Brazil for the black population. Racism and sexism structure inequalities in Brazilian and Latin American society. (OXFAM, 2024).

Thus, considering these particularities, the study addresses affirmative action public policies in terms of inclusion and employability in Brazil. The theoretical framework involves a biopolitical analysis and the examination of public policies (according to Howlett; Ramesh, 2015; Bucci, 2021). Public policies are understood as decisive actions undertaken or not by

governments, which play an essential role in their formulation and implementation, given the power of official imposition (HOWLETT; RAMESH, 2015). This complex and legally regulated process involves several phases, from the identification of the problem to the execution of the policy (BUCCI, 2021).

An example of an institution that is investing in public policies to reduce gender inequalities is the Judiciary (BARCELLOS and RECKZIEGEL, 2023). It acts on two fronts, investing both in affirmative action public policies to increase women in the leadership of the Judiciary, and in reducing inequalities in the context of the process, including the Protocol for Judgment with a Gender Perspective (CNJ, 2021). This approach reiterates the importance of preparing magistrates to deal with cases qualified, considering gender issues. Consequently, the National Council of Justice (CNJ) approved Resolution No. 492, on March 17, 2023, requiring compliance with these guidelines throughout the Judiciary.

In addition, it is interesting to note that the Judiciary carries out its actions in line with the UN 2030 Agenda. The protocol for judging gender bias, for example, seeks to achieve the following Sustainable Development Goals of the aforementioned Agenda: No. 5 (achieve gender equality and empower all women and girls), No. 8 (promote sustained, inclusive and sustainable economic growth, full and productive employment, and decent work for all) and No. 16 (promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels) (Ipea, 2024). With this, it intends to promote equality and avoid the perpetuation of stereotypes in judicial processes, recommending continuous training in human rights, gender, race and ethnicity for professionals in the area.

The dynamics of the Brazilian labor market serves as a starting point to examine social inequalities, in which educational, gender, and racial factors influence access to and permanence in employment. The situation of black women in the labor market emerges as an indicator of the intersection between gender and race in Brazil's social inequalities. Analyzing the evolution and challenges faced by these women, there is an increase in access to formal jobs and income, driven by education. However, marginalization persists in informal and precarious occupations, highlighting the continued need for policies that address these disparities.

Thus, it is possible to verify that the insertion of black women in the workplace is an indicator to evaluate the intersection between gender and race in the social disparities present in Brazil. This study contemplates the socioeconomic evolution of these women

through the analysis of transformations in female participation in the labor market in parallel with the persistence of racial inequalities within society.

Data provided by the Center for the Study of Labor Relations and Inequalities (Ceert) in 2023 illustrate the deep racial and gender disparities in the labor context. In 2022, it was observed that black women faced the highest unemployment rate, at 14%, and a considerable number of them had been looking for a job for two years or more, with a rate of 31.7%. The analysis also revealed that the underemployment of black women was 148.6% higher than that of white men, while the precariousness of labor contracts for them was 58.4% higher compared to white men. In addition, the representation of white men in management or management positions was 164.9% higher than that of black women. Domestic work was predominantly female, with a significant majority of black women, and the position of employer was mostly occupied by white men. Finally, the average usual income of black women was 53.2% lower than that of white men, highlighting the severe wage inequality based on gender and race.

These data point to persistent social inequality in Brazil, affecting black women above all. The analysis by Carlos Hasenbalg and Nelson do Valle Silva (2005) emphasizes that such inequalities emerge from a cumulative process of disadvantages and discriminatory practices, which must be understood in the light of productive factors, such as work experience and education, as well as non-productive factors, such as race, gender, and geographic region. According to the IBGE's Continuous PNAD, in 2023, 5.6% of the Brazilian population aged 15 and over was illiterate, with an unequal regional distribution: 55.3% in the Northeast and 22.1% in the Southeast. When considering race, 3.4% of white people in this age group were illiterate, against 7.4% among blacks and browns.

Regarding the level of education, in 2022, there was a significant advance in education, with more than half of women (55.2%) achieving at least the completion of secondary education, surpassing men, of whom 51.0% reached this level of education. This progress, documented by IBGE (2023), reveals an upward trend since 2016, with growth being more pronounced among women, indicative of overall improvements in education. However, when analyzing the data from a racial perspective, it is identified that 60.7% of white people had completed at least elementary school, in contrast to 47.0% of black people, reflecting a discrepancy of 13.7% between these groups. Despite a reduction in this difference, from 16.6% in 2016 to 13.7% in 2022, the disparity persists, pointing to continued inequalities in educational opportunities for these communities (IBGE, 2023).

The regional analysis also revealed an improvement in the proportion of individuals aged 25 and over who completed compulsory basic education, with a highlight to the increases in the North (8.5%) and Central-West (7.9%) regions. In the Southeast, South, and Central-West regions, more than 50% of the population has completed high school, while in the North and Northeast, the majority of the population in this age group has not completed basic education, with the Northeast having the highest percentage of non-completion: 55.9% (IBGE, 2023).

These data illustrate an improvement in educational rates, but point out that black people, especially black women, continue to be at a disadvantage in the labor market. Black women face significant obstacles in accessing employment, revealed by the high unemployment rate. In addition, when inserted in the labor market, their labor force is often underutilized, poorly paid, and subject to precarious and informal employment conditions, reflecting the persistent socioeconomic inequalities in Brazil.

The tragic event that occurred at the Vardo dos Fogos factory, in Santo Antônio de Jesus, on December 11, 1998, serves as a point of analysis to understand the marginalization faced by black women in the Brazilian labor market, especially in the Northeast region. The explosion, which resulted in the death of 60 people, including 40 women, 19 girls and a boy, in addition to seriously injuring six others, is an emblematic case judged by the Inter-American Court of Human Rights (IACHR Court) on July 15, 2020. This case reveals the negligence of the authorities in supervising the working conditions and safety of employees. The operating authorization granted by the Ministry of the Army and the Municipality of Santo Antônio de Jesus, without proper inspection of working conditions, especially in a high-risk activity such as the production of fireworks, highlights the State's failure to protect its citizens (Inter-American Court, 2020).

Working conditions at the factory were extremely precarious, with employees, mostly women, working in inadequate tents, without appropriate places for rest, food or toilets, and storing explosive materials in the same place where they worked. The absence of personal protective equipment and adequate training for such dangerous work highlights the vulnerability of these workers to significant risks (Inter-American Court, 2020). (TAVEIRA, Élide Martins; BEDIN, G; PORTO, R. T. C, 2023). This case illustrates how the intersection of gender, race, social class, and regionality can result in an acute vulnerability to abuse and neglect, with black women often finding themselves at the bottom of the country's socioeconomic pyramid (Inter-American Court, 2020). "Only 52% of black women are in the

labor market Women are the majority of the Brazilian population, and black women are 28% of the total." The numbers are from the Institute of Applied Research (Ipea), which has a new version of the Portrait of Gender and Race Inequalities platform. With more than 300 indicators and 2 thousand graphs produced from information from the Continuous National Household Sample Survey of the Brazilian Institute of Geography and Statistics (IBGE), the new version of this platform brings updated data from 2016 to 2022, in ten dimensions of social life, disaggregated by Federation Units, to subsidize the debates for improvements in each territory, with the purpose of improving public policies. (IPEA, 2024).

Another relevant data is the drop in Social Security protection. It fell among all groups, but among black women the situation is worse. More than a fifth of them (21%) are unable to contribute to Social Security and are left without access to the social safety net (IPEA, 2024).

Other interesting data made available by the OXFAM Brazil website, extracted from PNAD: 52% of entrepreneurs in Brazil are black, There are 14 million people, most of whom are women, especially black. 82% of black entrepreneurs do not have a CNPJ, The income of black business owners is 32% lower compared to whites. In this sense, discrimination and social inequality are observed, making it difficult to rise in the world of decent formal work and that enhances the financial autonomy of the black population, especially black women. Then, the challenges of black women in Brazil, Argentina and Uruguay will be addressed, in general.

THE CHALLENGES OF BLACK WOMEN IN BRAZIL, ARGENTINA AND URUGUAY

As previously addressed through statistical data, the challenges faced by black women in Brazil are evident, with regard to their insertion in the world of formal work and ensuring access to justice with the effective reduction of social inequalities. These challenges with regard to the development of public policies for social inclusion to promote solutions that aim to improve the social inclusion of marginalized, vulnerable groups: the black population, highlighting black women in this dimension, is also a social problem, of invisibility, discrimination and social inequality in Latin America, to cite: Argentina and Uruguay.

The discussion about racism in Argentina is complex. The language, with pejorative terms and racial stereotypes, reflects the deep roots of racism, as seen in the problematic association of the word "quilombo" with negative concepts, distorting its historical meaning

of resistance and cultural freedom. Thus, the importance of a decolonial approach to understanding and dismantling the structures of inequality and discrimination that affect the Afro-descendant community in Argentina is highlighted, an effort that requires significant legislative, educational, and cultural changes to achieve racial equality and social justice (Martina-Silva, 2023b). The narrative about racial identities in Latin America has been shaped by perceptions of biological differences and patterns of "civility," based on the mastery of writing and the development of social, political, and economic institutions, classifying non-whites and non-Europeans as inferior. This construction was reinforced by religious interpretations and became institutionalized in discriminatory laws and social practices. In Argentina, Brazil, and Uruguay, according to Frattini and Lammic (2023), the unemployment rate is double or even higher than that of non-Afro-descendant men. When we analyze paid domestic work, according to ECLAC (2023), in Brazil and Uruguay more than 16% of black women perform this profession in the labor market, approximately twice as many as women who are not of African descent.

Pereira (2023) highlights that racism, intertwined with colonialism and power, has roots in sixteenth-century globalization, the African diaspora, and the expansion of European empires, culminating in a "Western ideology" that rationalized cultural domination and racial stratification (Gabaccia, 2019). In addition, a recent World Bank report highlights the vulnerability of Afro-descendants in Uruguay, who constitute the main ethnic-racial minority, representing approximately 8.1% of the population according to the last census in 2011. The study points out that the Afro-Uruguayan community has twice the national poverty rate, about 20%, and earns an average of 11% less than the rest of the country's population for the same work. The probability of Afro-descendants completing high school is 20.7% lower compared to other groups. Historically, it has taken the Uruguayan Parliament almost two centuries to elect a black member, a milestone reached only in 2005. The first black senator, Gloria Rodríguez, was only elected in 2020, representing an important step towards the recognition of the rights of this community. However, Rodríguez, who belongs to the National Party, points out that despite these advances, Uruguay still has a long way to go to reduce racial disparities. She emphasizes: "The rights have already been acquired. The challenge now is to implement them. We still carry the weight of slavery on our shoulders" (AFP, 2020)

Amanda Díaz, head of the Department of Afro-descendants of the Ministry of Social Development, vehemently criticizes the Uruguayan reality, classifying the country as

"extremely racist." She argues that the narrative of equality among all has been used as a veil to mask racial discrimination. According to Díaz, being black in Uruguay is associated with a negative connotation, a perception that contributes to the underrepresentation of this community in official statistics. She suggests that many people of African descent choose not to identify as such in official scenarios, leading to a discrepancy between the reported numbers and reality. "When it comes to self-declaring, many choose not to identify themselves as black, with this possibility. Thus, the official percentage of 8% probably underestimates the true proportion, which could reach 12 or 14%," explains Díaz (AFP, 2020).

It is important to encourage Argentina⁵ and Uruguay⁶ it has a Protocol and a Guide for judgment with a gender perspective, both instituted as strategic and political actions to confront gender violence in these countries.

Both Brazil and Argentina and Uruguay have Protocols for Judgment with a gender perspective, however, the challenge lies in verifying how they are applied, and whether they are effectively applied in the justice systems. In addition, if they are used to reduce social inequalities and applied in labor lawsuits, involving the world of formal work and women, black women.

CONCLUSION

The proposed work, linked to an ongoing research project, initially had the scope of presenting the research to be carried out over a period of three years on the insertion of black women in the world of formal work, in Brazil, Argentina and Uruguay. Therefore, there are still no partial results or answers to the object of investigation.

Over time, black women have conquered rights such as insertion in the labor market, working hours, maternity leave, among others, however, there are many discrepancies, prejudices and unequal treatment in relation to men. In this aspect, the gender issue requires reflections and social and legal confrontations. In the midst of this, the ethnic-racial category also needs to be debated and analyzed along with gender, as black women are

⁵ *Administration of Justice and Gender Perspective* – Ministry of Women, Gender and Diversity Argentina. Available at: <https://www.cnj.jus.br/programas-e-acoas/protocolo-para-julgamento-com-perspectiva-de-genero/protocolo-de-outros-paises/> Access: 10 Dez.2024.

⁶ *Guide for the Judiciary on Gender Stereotypes and International Standards on Women's Rights* – Committee on the Elimination of Discrimination against Women (CEDAW Committee) Uruguay. Available at: <https://www.cnj.jus.br/programas-e-acoas/protocolo-para-julgamento-com-perspectiva-de-genero/protocolo-de-outros-paises/> Access: 10 Dez.2024.

invisible in society and distant from the world of formal work. Therefore, one of the great challenges when rethinking inclusive labor public policies for women is not to forget black women. In this sense, the effectiveness of public policies and affirmative actions such as the protocol with a gender perspective and recently the racial one requires a commitment to the human rights of these women.

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