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GENDER AND RACE EQUALITY IN COMMAND AND MANAGEMENT POSITIONS IN COMPANIES

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INTRODUCTION

The purpose of this study is to analyze the inclusion of women in society and the job market. And since we can't understand today without knowing yesterday (our history and context), we will look at the legal norms that were designed to develop, over the centuries, the breaking down of concepts and prejudices that are still rooted in the present day.

At this point, we will look back at Colonial Brazil, Empire Brazil and Republican and Independent Brazil, when women were confined to the private sphere of the home and under the direction and command of their fathers or husbands. Reflecting and formulating questions, we add esteem to the competencies of the female worker and to the theme of gender equality and parity in positions of command and management.

Women in Brazil have conquered their freedom at the heart of society with movements that were blocked during the dictatorship, but which still stand firm and, as a result, produce new laws that strive for gender equality, as we will see in this study. We do not intend to exhaust the subject here, due to its importance, scope and the need for new institutional and academic developments, private and public policies to expand information on the importance of gender equality and women in the job market with parity in positions that require complexity, management, such as the essential *long manus* of the employer and the State, in other words, positions of high trust.

The history of Law 14.682/2023¹, which began with Bill 3.792/2019, was aimed at combating violence by working men against their wives, daughters, in short, women in

1. http://www.planalto.gov.br/ccivil_03/_ato2023-2026/2023/lei/L14682.htm#:~:text=LEI%20N%C2%BA%2014.682%2C%20DE%202020,selo%20Empresa%20Amiga%20da%20Mulher.

Art. 1 The Women's Friendly Company seal is hereby created to identify companies that adopt practices aimed at the professional inclusion of women who are victims of domestic and family violence.

I - Reserve a minimum percentage of 2% (two percent) of the workforce to hire women victims of domestic and family violence, guaranteeing the anonymity of this condition (...).

2. GIULANI, Paola Capellin, Os movimentos de trabalhadoras e a sociedade brasileira p. 641. Historia das Mulheres no Brasil. Ed. Contexto. São Paulo:2020.

their social life. In other words, a "punitive" means for men in positions of command and management, evolving in the Women's Commission until its enactment on September 20, 2023. Notably, in a restrictive way, it was intended to protect women victims of violence, with a 2% reserve in the workforce to be hired.

Certainly, the scope of the new law implemented does not meet the need for equality and gender parity, but it has become a means, albeit a punitive one, of curbing violence against women. It's a good start, an initiative and a step in the right direction, but it's still a long way from achieving the goal of equality advocated in Article 5, *caput*, of the 1988 Constitution of the Federative Republic of Brazil (CRFB). The legislator has therefore missed the opportunity to seal in our country the progress that several other nations have been striving to achieve on this issue.

The enslavement of black men and women was a historical factor in several countries, and Brazil, with the Golden Law of May 13, 1888 (135 years ago), signed by Princess Izabel, authored by Rodrigo Augusto da Silva, freed 700,000 enslaved people and the State did not intervene and/or fund the minimum maintenance of these workers, who did not have housing, food, social security, jobs, access to education, being at the mercy of their own fate; which reflected, and still reflects, in several places around the world.

At the beginning of the 20th century, two decades after the abolition of slavery and the trade in Africans in Brazil, some segments of the workforce were already demanding labor rights and social security protection².

WOMEN IN SOCIETY

At the beginning of the 20th century, the process of shaping citizenship began to emerge from the *laissez-faire* ideology characteristic of the First Republic³; In this context, it is important to comment on two important points for a better understanding of the issue, namely: the legacy of patriarchy, which influenced legislation until a little more than halfway through the 20th century, and changes in legal norms, which currently affect women and their role in social, cultural, educational and labor market life, in short, their civil life on an equal footing.

During this period, working class women were almost invisible and subjected to terrible working conditions, because patriarchy, as mentioned above, assigned women to devotion to the family and domestic work.

There have been many studies in the social sciences and psychology dedicated to the marriage contract, which we have doctrinally substantiated:

(...) Once again, the challenge here is to question the social contract as a relationship between individuals who, being free and equal, would voluntarily accept subordination. The sexual contract is therefore not exclusively a matter for the private world. Including patriarchy as a key element in thinking about the social contract means recognizing that there is also a sexual contract, which subjugates women to men in their public and private relationships. (...) The sexual contract is therefore not exclusively a matter for the private world. The relations of subordination of women by men - which are not reached by contract theories because they supposedly operate only in the domestic sphere - are recomposed in civil society, so that it becomes possible to question the universal character of the freedom that is created in the original pact. We already know that the civil liberty originated in the contract depends directly

on the equality of those who make the pact, which means that if we are dealing with a brotherhood of men, liberty is beyond the reach of all women. (...) Exchanging one's "capacity for work" for an ideally fair wage is the privilege of the working man. Women - whether they work or not, whether they are paid or not - are always obliged to give of themselves to look after their husbands, families and homes⁴.

The sexual division of labor rewards women's individual freedom. Without exhausting the subject, we point out the constitutional evolution in Brazil and some ordinary ones on the subject:

- Constitution of 1824: The first Brazilian Constitution made no mention of women's rights, as it was believed that women did not have political or civil rights.
- Constitution of 1891: This was the first to formally recognize equal rights for men and women before the law. However, this equality did not extend to the right to vote, which remained restricted to men.
- 1934 Constitution: Recognized women's right to vote, allowing them to vote and run for political office. The Constitution also banned wage discrimination based on sex.
- Constitution of 1937: During the Estado Novo period, it restricted women's rights, eliminating the right to vote and limiting their political participation.
- Constitution of 1946: The 1946 Constitution restored women's right to vote and recognized equal civil rights for men and women.
- 1967 Constitution: The 1967 Constitution reiterated equal rights for men and women, but not specific gender issues.

3. GIULANI, Paola Capellin, Os movimentos de trabalhadoras e a sociedade brasileira p. 641.

4. NICOLETE, Roberta Soromento, *et al.* Available: <https://revistarosa.com/3/o-sexo-do-contrato-social>.

- 1988 Constitution: The 1988 Constitution was a milestone in the evolution of women's rights in Brazil. The Constitution established equal rights for men and women, prohibited discrimination based on sex and guaranteed the right to maternity leave.

We'll start here by dealing with legislation aimed at women's lives in the job market, in society and in the family. Our legal system, at the beginning of the 20th century, specifically the Civil Code of 1916, which followed the model of the Philippine Ordinances⁵, prolonged the patriarchal model, excluding women from public life and from their ability to make decisions. Let's take a look at Article 6, which was in force (1916-2001):

The following are incapable of exercising certain rights or of exercising them: I - People over the age of sixteen and under the age of twenty-one; II - Married women, for as long as the marital partnership continues; III - Prodigals; IV - Forest dwellers. Sole paragraph. Forest dwellers shall be subject to the tutelary regime established in special laws and regulations, which shall cease as they adapt to the civilization of the country.

Within the family, naturally, out of zeal and appreciation for family members, time is set aside for care work. However, since ancient times, a certain idea has been created that this type of work is for women. Let's take a look at studies on the subject:

The massive entry of white women into the labor market in Brazil began in the 1970s, largely due to pressure from the feminist movement. As far as black women are concerned, they have always worked,

because when slavery was abolished there was no kind of public policy aimed at including those who had been enslaved until then. As a result, it was often left to men to start informal businesses and to women to do domestic work, a space in which black women still prevail. (...) As we began by discussing the topic above, this article focuses mainly on the reality of the former, who are the majority in privileged social classes, and who have the resources to ensure that children's/adolescents' education remains online. Before that, the domestic space was almost exclusively the domain of women, who were solely responsible for looking after the house and the children (as well as the elderly and infirm), while men were responsible for providing the material resources needed to support the family. In economically and socially privileged families, it was - and still is - common for some of the care activities to be delegated to other women, usually black and poor. Thus, in our country, the practice was adopted of delegating to other women some of the activities that would fall to wealthy women, instead of sharing them with the husband or partner⁶.

With regard to the subjection of women, and focusing on black women, Brazil ratified the United Nations Convention on Slavery, signed in Geneva on September 25, 1926 and amended by the Protocol opened for signature at the United Nations headquarters in New York on December 7, 1953, which was implemented by Decree 58.563 of June 1, 1966⁷. Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, which dealt with servitude and the negotiation of women,

5. <https://www2.senado.leg.br/bdsf/item/id/242733>

6. MACHADO, Monica Sapucata, et al.

As Mulheres e as tarefas de cuidado no contexto da pandemia de Covid-19 no Brasil: (não) divisão das responsabilidades parentais e o homecholling. Revista da Faculdade Mineira de Direito | V.24 N.47 | Dossiê "O desafio do trabalho feminino e sua relação com o Direito: entre o trabalho de cuidado, emocional e de (re)produção", pág.183.

<https://periodicos.pucminas.br/index.php/Direito/issue/view/1270/243>

Accessed on 8/11/2024.

7. Available: http://www.planalto.gov.br/ccivil_03/Atos/decretos/1966/D58563.html#:~:text=DECRETO%20N%C2%B A%2058.563%2C%20DE%20I%C2%BA,Aboli%C3%A7%C3%A3o%20da%20Escravid%C3%A3o%20de%201956,p.82e115.

as seen in the institute of *dowry* (the transfer of a woman as the property of her parents or guardians to her fiancé/husband in exchange for goods and/or money).

This scenario lasted from colonial Brazil until the 19th century and the couple's choice of love had major obstacles due to the *pater familias*, which established the family business by bringing together families with the same purchasing/political power - reason - and did not think about the question of feelings, as popularly called "arranged marriage"⁸.

SECTION I - Institutions and Practices Similar to Slavery - Article 1: Each of the States Parties to this Convention shall take all feasible and necessary measures, legislative and otherwise, to bring about progressively as soon as possible the complete abolition or abandonment of the following institutions and practices, wherever they may still exist, whether or not they fall within the definition of slavery contained in Article 1 of the Slavery Convention signed at Geneva on September 25, 1926: (a) debt bondage, that is to say, the state or condition resulting from the fact that a debtor has undertaken to provide, as security for a debt, his personal services or those of someone over whom he has authority, if the value of these services is not fairly assessed when the debt is settled or if the duration of these services is not limited nor their nature defined; b) servitude, i.e. the condition of anyone who is obliged by law, custom or agreement to live and work on land belonging to another person and to provide that other person, for remuneration or free of charge, with certain services, without being able to change his condition. c) any institution or practice by virtue of which: I - A woman is, without her having the right to refuse, promised or given in marriage, for remuneration in money or kind given to her parents, guardian, family or to any other person or group of persons; II - A woman's husband, his family or clan

have the right to give her away to a third party, whether for a consideration or not; d) Any institution or practice whereby a child or adolescent under the age of eighteen is handed over, either by their parents or one of them, or by their guardian, to a third party, for remuneration or not, for the purpose of exploiting the person or work of said child or adolescent. Article 2: With a view to putting an end to the institutions and practices referred to in Article 1(c) of this Convention, the States Parties undertake to establish, where appropriate, adequate minimum ages for marriage, to encourage the adoption of a procedure whereby both spouses-to-be may freely express their consent to marriage in the presence of a competent civil or religious authority, and to encourage the registration of marriages.

Women were considered "relatively incapable", on a par with minors and forest dwellers. It was enough to be a married woman for this condition of restriction to surface, a situation that lasted until the 1970s, reaching a little amplification in the public space, as we will see in the course of this study, has been given to adapting the facts to the norms⁹.

Let's see:

Married Women's Statute, Law 4.121 of August 27, 1962: **THE PRESIDENT OF THE REPUBLIC**, I hereby make known that the CONGRESS

decrees and I sanction the following Law: **Art. 1** Articles 6, 233, 240, 242, 246, 248, 263, 269, 273, 326, 380, 393, 1,579 and

1.611 of the Civil Code and 469 of the Code of Civil Procedure are now in force with the following wording: II - Civil Code Art. 6 They are incapable in relation to certain acts (art. 147, no. I), or the manner of performing them:

(...)

8. Available: <https://www.scielo.br/j/rbepop/a/cq4RmWTCFynwptbqCrBbYYJ->

9. DINIZ, Maria Helena. *Compêndio de Introdução à Ciência do Direito. Introdução à Teoria Geral do Direito, à Filosofia do Direito, à Sociologia Jurídica, à Logica Jurídica, à Norma Jurídica e Aplicação do Direito*. 26ª edição de acordo com o CPC/2015. Ed. Saraiva. São Paulo/SP: 2017.

II Art. 233. The husband is the head of the marital partnership, a function he exercises with the collaboration of his wife, in the common interest of the couple and their children (arts. 240, 247 and 251). He is responsible for: I - the legal representation of the family; II - the administration of the common property and that of the woman's private property which it is the husband's duty to administer, by virtue of the matrimonial regime adopted, or of an antenuptial pact (arts. 178, § 9, no. I, c, 274, 289, no. I and 311); III - the right to fix the family's domicile, with the exception of the possibility of the woman appealing to the Judge, in the event of a deliberation which harms her; IV - providing for the maintenance of the family, subject to the provisions of arts. 275 and 277." III Art. 240. Upon marriage, a woman assumes her husband's surname and the status of his partner, consort and collaborator in the family's burdens, and is responsible for its material and moral direction. Art. 242. A woman may not, without her husband's authorization (Art. 251): I - carry out acts which the husband could not do without his wife's consent (art. 235); II - dispose of or encumber real property in her private domain, regardless of the property regime (arts. 263, ns. II, III and VIII, 269, 275 and 310); III - dispose of her real rights over other people's property; IV - enter into obligations which could the alienation of the couple's assets¹⁰.

In subsequent years, Law 6.515 of December 26, 1977 (the Desquit and Divorce Law), in addition to stating that the wife assumes collaboration with her husband and family responsibilities, still maintains that the divorced woman retains her "incapacity" to file for divorce, and may do so through a curator, ascendant or sibling:

Art. 24 - Divorce terminates marriage and the civil effects of religious marriage. Sole Paragraph - The request shall only be made

by the spouses, but may be exercised, in the event of incapacity, by a curator, ascendant or sibling. Art. 240 - Upon marriage, the woman assumes the status of partner, consort and collaborator of the husband in the responsibilities of the family, and is responsible for its material and moral direction.

Private relationships are generally governed by bilateral contracts, although they may contain unfair terms. In this case, one or both parties have the right to take the matter to the Judiciary to resolve the issue. Currently in Brazil, Law 10.406 of 2002¹¹ gives men and women the same *status* in terms of their civil capacity to take care of family responsibilities and to collaborate in the upbringing of their children, as can be seen in Articles 1, 1565, 1567, 1568 and 1634 of the current Civil Code.

Notably, the formal heteronomous source has evolved in the sense that men and women have assumed equality and equity in: 1) responsibilities and burdens with the family; 2) collaboration between husband and wife, in the interests of the couple and the children; 3) competing with their proportional income from work, for the support of the family and the education of the children; 4) custody that can be unilateral or shared, but always with attention to the specific needs of the children and the necessary time spent with parents and family members.

Article 1634 of the Brazilian Civil Code, Law 10.406 of January 10, 2002¹², states:

Both parents, regardless of their marital status, are responsible for the full exercise of family power, which consists of, with regard to their children: (Editing provided by Law No. 13.058, 2014) **I** - Directing their upbringing and education; (Editing provided by Law No. 13.058, 2014) **II** - Exercising unilateral or shared custody under the terms of art. 1.584; (Editing provided by Law No. 13. **III** - to grant or

10. https://www.planalto.gov.br/ccivil_03/leis/1950-1969/l4121.htm

11. https://www.planalto.gov.br/ccivil_03/leis/2002/l10406compilada.htm.

12. https://www.planalto.gov.br/ccivil_03/leis/2002/l10406compilada.htm

deny them consent to marry; (Edited by Law 13.058, 2014) **IV** - to grant or deny them consent to travel abroad; (Edited by Law 13.058, 2014) **V** - to grant or deny them consent to move their permanent residence to another municipality; (Edited by Law 13.VI - Appoint their guardian by will or authentic document, if the other parent does not survive them, or the surviving parent is unable to exercise family power; (Edited by Law No. 13.058, 2014) **VII** - Represent them in court and out of court until they are 16 (sixteen) years old, in civil acts, and assist them, after that age, in acts in which they are parties, suppressing their consent; (Edited by Law No. 13.VIII - Claim them from anyone who unlawfully detains them; (Included by Law No. 13.058 of 2014) **IX** - Demand that they render them obedience, respect and the services appropriate to their age and condition. (Included by Law No. 13.058 of 2014)

Constitution of the Republic of 1988, art. 5, caput and 227, of the Federal Constitution.¹³

Everyone is equal before the law, without distinction of any kind, and Brazilians and foreigners residing in the country are guaranteed the inviolability of the right to life, liberty, equality, security and property, under the terms of the following: I - men and women are equal in rights and obligations, under the terms of this Constitution; (...) It is the duty of the family, society and the State to ensure to children, adolescents and young people, with absolute priority, the right to life, culture, dignity, respect, freedom and family and community coexistence, in addition to placing them safe from all forms of neglect, discrimination, exploitation, violence, cruelty and oppression.

It is important to note that the working condition of black women has always existed since the colonial period until 1888, with the

13. https://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm

14. <https://www.ipea.gov.br/portal/busca-geral?q=Desigualdade%20Racial#:~:text=Participa%C3%A7%C3%A3o%2C%20Ocupa%C3%A7%C3%A3o%2C%20Time%20of%20Work,of%20work%20signed%20se...>

15. https://www.planalto.gov.br/ccivil_03/leis/l5859.htm

16. <https://legislacao.presidencia.gov.br/atos/?tipo=LCP&numero=150&ano=2015&ato=aa0MzZE9UNVpWTDba>

17. https://www.planalto.gov.br/ccivil_03/decreto/2002/D4377.htm#art4- Adopted by the United Nations General Assembly on 18/12/1979, it entered into force on 03/09/1981.

abolition of slavery on 13/05/1888; remaining, without having the protective mantle of the minimum rights assured, mainly because a representative number of black women dedicated themselves and dedicate themselves to domestic work¹⁴, which had legislation on 11/12/1972, Law 5.859¹⁵ and Complementary Law 150, of 01/06/2015¹⁶.

Let's refer to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, of December 18, 1979¹⁷, ratified by Brazil by Decree No. 89.460, of March 20, 1984, with new wording by Decree No. 4.377, of September 13, 2002:

Article 1 For the purposes of this Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. Article 2^o: States Parties condemn discrimination against women in all its forms, agree to pursue, by all appropriate means and without delay, a policy aimed at eliminating discrimination against women, and to this end undertake to: Article 3^o: States Parties shall, in all States Parties shall take all appropriate measures, including legislative measures, to ensure the full development and advancement of women, with a view to guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on an equal basis with men. Article 4^o: 1. The adoption by States Parties of special measures of a temporary nature designed to accelerate de facto equality between men and women shall

not be considered discrimination as defined in this Convention, but shall in no way imply, as a consequence, the maintenance of unequal or separate standards; such measures shall cease when the objectives of equality of opportunity and treatment have been achieved. Article 5: States Parties shall take all appropriate measures to: a) modify the sociocultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary practices, and of any other kind which are based on the idea of the inferiority or superiority of either sex or on stereotyped roles of men and women; b) ensure that family education includes a proper understanding of motherhood as a social function and recognition of the common responsibility of men and women with regard to the upbringing and development of their children, on the understanding that the interests of the children shall be the primary consideration in all cases.

In the same vein, the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance¹⁸.

1. Racial discrimination is any distinction, exclusion, restriction or preference, in any area of public or private life, the purpose or effect of which is to nullify or restrict the recognition, enjoyment or exercise, on an equal basis, of one or more human rights and fundamental freedoms enshrined in international instruments applicable to States Parties. Racial discrimination can be based on race, color, descent or national or ethnic origin.

(...)

4. Racism consists of any theory, doctrine, ideology or set of ideas that enunciate a causal link between the phenotypic or genotypic characteristics of individuals or groups and their intellectual, cultural and personality traits, including the false concept of racial superiority. Racism leads to racial inequalities and the notion that

discriminatory relations between groups are morally and scientifically justified. Every racist theory, doctrine, ideology and set of ideas described in this Article are scientifically false, morally reprehensible, socially unjust and contrary to the fundamental principles of international law, and therefore disturb seriously undermines international peace and security and is therefore condemned by the States Parties.

We can see, therefore, that throughout the 20th century, women (regardless of race) were gradually inserted into the heart of the labor market, with conquests, protections and achieving equality, although with many challenges, as is well known! The UNDP (United Nations Development Program) report, in which Brazil was the only Portuguese-speaking country to take part, reveals that Gender Inequality has reached 85% of the global population, and that around 9 (nine) out of 10 (ten) men and women have prejudices against women, as shown below:

UA - UNDP (United Nations Development Program) TI - Gender Social Norms Index 2023 (GSNI)

EN - Newspaper article DP - 2023

TA - UNDP (United Nations Development Program)

AB - Without tackling gender-biased social norms, we won't achieve gender equality or the Sustainable Development Goals. Gender-biased social norms - the underestimation of women's capabilities and rights in society - restrict women's choices and opportunities, regulating behavior and setting the limits of what women are expected to do and be. Gender-biased social norms are a major impediment to achieving gender equality and empowering all women and girls. Gender bias is a widespread problem around the world. The Gender Social Norms Index (GSNI) quantifies bias against women by capturing people's attitudes about women's roles in four main dimensions: political,

18. https://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2022/Decreto/D10932.htm - Decree No. 10.932/2022

The analysis showed differences in the level of occupation between men and women, i.e. the proportion of men aged 14 and over working was higher than the proportion of women in the same age group also working. In the 2nd quarter of 2023, the occupation level of men in Brazil was estimated at 66.8% and that of women at 47.1%. The different behavior of this indicator between men and women was seen in the five Major Regions, especially the North, where the difference between men and women was the greatest (23.7 percentage points), and the South, with the smallest difference (18.3 percentage points).

In this context, we can say that working women face a lot of challenges in the job market due to their gender, as it is culturally ingrained that care work is for women, with a high percentage of unpaid domestic work being assigned to them in a large part of the population.

This significant gender gap stems from the concept that women are solely responsible for unpaid domestic and care tasks, allocating 10 (hours) more per week for this purpose; with fewer job opportunities and salaries; resulting in just over half of women being in the labor market in Brazil. That's just 52% of black women and 54% of white women. The difference is even greater for men. Among them, the rate is around 75%²⁴.

SEXUAL DIVISION OF LABOR

When we talk about equality between men and women, art. 5 of the CRFB/88, there has been progress in Brazilian society, but there is still a need to implement the reconstruction

24. <https://agenciabrasil.ebc.com.br/radioagencia-nacional/direitos-humanos/audio/2024-08/ipea- apenas-52-d-black-women-are-in-the-labor-market>

25. ipea.gov.br/portal/categorias/45-todas-as-noticias/noticias/15269-igualdade-de-genero-e-raca-e-melhoria-de-politicas-publicas-norteiam-apresentacao-de-plataforma-do-ipea?highlight=WyJkZ_XNpZ3VhbGRhZGUlLCJyYWNpYWwWwILCncmF-jaWFsliwiZGVzaW - Accessed 10/11/2024

26. WERMMUTH, Maiquel Angelo Dezordi, et al. Trabalho doméstico e escravidão no Brasil sob perspectiva biopolítica: um continuum de violência e exploração de violência e exploração dos corpos femininos. Revista da Faculdade Mineira de Direito | V.24. N. 47| Dossiê: “O desafio do trabalho feminino e sua relação com o Direito: entre o trabalho de cuidado, emocional e de (re)produção”. Pág. 225. Source: <https://periodicos.pucminas.br/index.php/Direito/issue/view/1270/243> - Survey carried out on 04/11/2024.

of public information systems and the mainstreaming of public policies, along with the portrait of gender and race inequalities, according to data from the Institute of Applied Economic Research - IPEA²⁵.

Along the same lines, we turn to the Dossier “The challenge of women’s work and its relationship with the law: between care work, emotional work and (re) production”, which contains the following reflections:

The fact that domestic activities, carried out essentially by young and adult women, are designated as mere outgrowths of the feminine essence, i.e. women’s devotion and mission, removes their socio-political and economic value in patriarchal environments. When paid and then effectively transformed into domestic workers, these women also remain devalued by being seen in a disqualified way, so much so that these activities continue to be carried out by women from disadvantaged communities, with low levels of education, mostly from races and ethnicities considered inferior, a situation that makes them vulnerable to human and labor rights abuses (HIRATA, 2019). In general, a significant proportion of care work is done unpaid, mainly by women, even in households that hire domestic workers and/or caregivers (IPEA, 2016, p. 20). The benefits of this work are mostly collectivized, and the burden of performing it falls primarily on women, consisting of financial obligations, loss of opportunities and lower wages. However, in addition to the unpaid work done by women in their homes, an understanding of reproductive and care work must also encompass the forms of work done for pay²⁶.

For several decades, domestic workers were deprived of minimum rights. In 2015, Constitutional Amendment 150, known as the “Domestic Workers’ PEC”, was enacted, causing a social impact of improvements for this category and adjustments mainly for the Brazilian middle class, bringing guarantees and equal rights with other workers - urban and rural, such as retirement due to disability, age and length of service, sickness benefit, social security benefits, etc.

Maternity, additional hours and night work, FGTS + 40% and unemployment insurance (having worked 15 months in a 24-month period)²⁷.

According to the Inter-Union Department of Statistics and Economic Studies (DIEESE), the majority of this workforce is made up of 92% women, 66% of whom are black, 42% aged between 45 and 59 and 63% with less than high school education^{28,29}.

Observing that, to date, the position of cleaner has no specific regulation to protect this category of workers, who offer their services to the same person/employer up to two days a week, which does not constitute an employment relationship under the Consolidation of Labor Laws in our country.

The Institute for Applied Economic Research (IPEA), in August 2024, with the project Retrato da Desigualdade de

27. https://www.planalto.gov.br/ccivil_03/leis/lcp/lcp150.htm

28. <https://www.dieese.org.br/boletimespecial/2024/trabalhoDomestico.html>

29. <https://www.gov.br/igualdaderacial/pt-br/composicao/secretaria-de-gestao-do-sistema-nacional-de-promocional-equality/directorate-of-evaluation-monitoring-and-information-management/information/informe-edicao-mulheres-negras.pdf>

30. <https://www.ipea.gov.br/portal/retrato?view=default>

31. <https://www.ipea.gov.br/portal/categorias/45-todas-as-noticias/noticias/15264-retrato-das-desigualdades-21-2-of-occupied-black-women-are-unable-to-contribute-to-security#:~:text=In%202022%2C%20only%2063%25%20of%20the,underutilized%20in%20the%20labor%20market.&text=Nesta%20nova%20vers%C3%A3o%2C%20o%20projeto,amplo%20repert%C3%B3rio%20de%20interven%C3%A7%C3%B5es%20p%C3%ABlicas>. Accessed on 10/11/2024

32. <https://www.ipea.gov.br/portal/retrato?view=default>

33. <https://www.ipea.gov.br/portal/categorias/45-todas-as-noticias/noticias/15264-retrato-das-desigualdades-21-2-of-occupied-black-women-are-unable-to-contribute-to-security#:~:text=In%202022%2C%20only%2063%25%20of%20the,underutilized%20in%20the%20labor%20market.&text=Nesta%20nova%20vers%C3%A3o%2C%20o%20projeto,amplo%20repert%C3%B3rio%20de%20interven%C3%A7%C3%B5es%20p%C3%ABlicas>.

34. <https://brasil.un.org/pt-br/91601-declara%C3%A7%C3%A3o-universal-dos-direitos-humanos>

35. <https://www.gov.br/trabalho-e-emprego/pt-br/noticias-e-conteudo/2023/junho/mte-lanca-cartilha-com-orientacoes-orientacoes-de-direitos-de-trabalho-de-trabalhadoras> - Accessed 10/11/2023

Gênero e Raça (Portrait of Gender and Race Inequality)³⁰, analyzes that just over half of women are in the labor market, 52% of black women and 54% of white women; for men the difference is substantial, at around 75%³¹.

It also reveals the lack of integration of these women into the social security system, with 21.2% of employed black women currently unable to contribute to the fund and, therefore, without the mantle of minimum protection to guide the human dignity of the worker, art. 1, III, 194 and 201, CRFB/88 and the Universal Declaration of Human Rights^{32,33,34}.

Brazil has made available a booklet on the rights of women workers³⁵, as a way of promoting the right to information, a fundamental right enshrined in art. 5, XXXIII, of the Federal Constitution of 1988, with topics on: 1) women and the job market; 2) labor rights; 3) maternity protection; 4) discrimination, violence against women in the workplace; 5) how to recognize violence, bullying and discrimination; among other important information:

The sexual division of labor is the separation and hierarchization of occupations according to people's gender and the gender roles assigned to them. It is based on the idea that women are naturally responsible for domestic and care work, while men should carry out work that is considered productive.

This way of dividing work between men and women is particularly harmful to women, as it goes beyond the private sphere and assigns women to socially devalued and worse paid occupations³⁶.

The mass dissemination of this material, which is available on the Federal Government's website, is of the utmost importance, as it presents to society as a whole the international covenants to which our country is a signatory, such as: the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará), adopted in 1994 (Decree No. 1.973, of August 1, 1996)³⁷; - the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the UN General Assembly in 1979 (Decree No. 4.373, of September 13, 2002) ; - the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Decree No. 4.316, of July 30, 2002) 377, of September 13, 2002)³⁸; Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Decree No. 4.316, of July 30, 2002)³⁹, Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance⁴⁰, together with other internal regulations aimed at the female gender and its legal protection.

BLACK WOMEN AND ACCESS TO THE JOB MARKET

As we have seen so far, our country's legal system has evolved a lot from the 20th to the 21st century, expanding national debates and forums; introducing United Nations guidelines,^{41,42,43} aimed at empowering women and girls; implementing legislation to achieve gender equality in the public and private sectors, and in the workplace. Eliminating the so-called "structural machismo" that comes from the patriarchal model.

In this sense, the doctrine teaches us:

In Brazil, since the 19th century, Brazilian society has undergone a series of transformations: the consolidation of capitalism; the rise of urban life which offered new alternatives for social interaction, the rise of the bourgeoisie and the emergence of a new mentality - the bourgeoisie - which reorganized family and domestic life and the time spent on women's activities (...) During this period, we also witnessed the birth of women in the relationships of the so-called bourgeois family, now through the appreciation of the intimacy of motherhood. A solid family environment, a welcoming home, educated children and a wife who was devoted to her husband, the children and free from any form of productive work represented the ideal of righteousness and probity, an indispensable social treasure⁴⁴.

A study carried out by the IBGE⁴⁵ (Brazilian Institute of Geography and Statistics), in a survey in Brazil - PNAD Continuous 2022, found

36. <https://www.gov.br/trabalho-e-emprego/pt-br/noticias-e-conteudo/2023/junho/mte-lanca-cartilha-com-orientacoes-sobre-os-direitos-das-mulheres-trabalhadoras>

37. https://www.planalto.gov.br/ccivil_03/decreto/1996/d1973.htm

38. https://www.planalto.gov.br/ccivil_03/decreto/2002/d4377.htm

39. https://www.planalto.gov.br/ccivil_03/decreto/2002/d4316.htm

40. https://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2022/Decreto/D10932.htm

41. <https://www.onumulheres.org.br/planeta5050-2030/paridade/>

42. <https://odsbrasil.gov.br/objetivo/objetivo?n=5>

43. <https://www.ipea.gov.br/ods/ods5.html>

44. D'INCAO, Maria Ângela. *Mulher e Família Burguesa. História das Mulheres no Brasil*. Pág. 223. Ed. Contexto. São Paulo: 2020

45. <https://educa.ibge.gov.br/jovens/conheca-o-brasil/populacao/18319-cor-ou-raca.html>

that 43.5% of Brazilians declared themselves as white, 45.3% as brown and 10.2% as black⁴⁶.

Two decades ago the country adopted internal measures to combat discrimination and ethnic intolerance, legislating on the responsibility of public authorities for the inclusion and qualification of the black population in the job market, the Statute of Racial Equality, Law 12.288/2010⁴⁷.

It then enacted Law 12.314/2010⁴⁸, which establishes that the Presidency of the Republic is made up of the Secretariat for Women's Policies, the Secretariat for Human Rights, the Secretariat for Policies for the Promotion of Racial Equality, among others; it goes on to guarantee study places in secondary and higher education institutions for people declared to be brown, black and indigenous, by virtue of Law 12.711/2012, with new wording by Law 13.409/2016.711/2012⁴⁹, as amended by Law 13.409/2016, in a proportion of the total number of places at least equal to the respective proportion of black, brown, indigenous and disabled people in the population.

Decree No. 9571/2018, which establishes the National Guidelines on Business and Human Rights, for medium and large companies, including multinational companies operating in the country, which in its article 3, XIII, requires: promotion and support for inclusion and non-discrimination measures, with the creation of incentive programs for hiring vulnerable groups⁵⁰.

With these affirmative policies, the social life of people who declare themselves to be brown or black is beginning to have incentives for social inclusion and entry into secondary and higher education institutions, but we have not found any effectiveness in terms of the number of people occupying positions of command and management in both the public and private sectors. A social difference that deserves our reflection in the social sciences and in the fundamental social right to work, art. 7, 8, 9, of the CRFB/88, with observance of the fundamental constitutional principles, 1, III, IV, 3, I, III and IV, of the same Legal Diploma.

In recent years, there have been many movements of black women who have made their mark in the most diverse areas of society, such as work, education (higher education), leading roles in art and television journalism, pride in their skin tone and hair, in short, a maturing and recognition of their value in society⁵¹. However, there are still substantial difficulties in reaching and rising to positions of command and management or public office of notoriety.

Affirming what has been said so far in this study, we cannot fail to mention the great campaign carried out by the Institutions representing the Human Rights of Black People^{52,53}, in the year 2023, for the current President of the Republic to appoint a Black Woman (historical reparation) to the Supreme Court - Federal Supreme Court - in view of the retirement of Justice Rosa Weber, which took place in October 2023⁵⁴.

46. <https://www.gov.br/secom/pt-br/assuntos/noticias/2023/12/pardos-sao-maioria-da-populacao-brasileira-pel-the-first-time-ibge-indicates> - next census to be released in december 2024.

47. https://www.planalto.gov.br/ccivil_03/_ato2007-2010/2010/lei/l12288.htm

48. http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2010/lei/l12314.htm

49. www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/l12711.htm

50. https://www.planalto.gov.br/ccivil_03/_ato2015-2018/2018/decreto/d9571.htm

51. <https://coalizaonegrapordireitos.org.br/>

52. <https://almapreta.com.br/sessao/politica/temos-muitas-mulheres-capacidades-movimento-negro-lula-ministra-negra-stf/>

53. <https://www.cnnbrasil.com.br/politica/indicacao-de-mulher-negra-ao-stf-seria-reparacao-historica-avalia-especialista/>

54. <https://www.trt4.jus.br/portais/trt4/modulos/noticias/585465#:~:text=Ministra%20do%20TST,I%20e%20o%20C%3%93rg%C3%A3o%20Special.>

The movement's coalition pointed out that our Supreme Court, which has been in existence for 130 (one hundred and thirty) years, has only had three (3) women as Justices and none of them have been black⁵⁵. There is still much debate and great hope that this movement, which already has a significant number of supporters, will become a milestone in the history of achievements following the abolition of slavery and will confirm that we are all equal before the law; in respect for the command of human rights in Brazil and in the globalized world.

The number of women in management positions in Brazil is very low compared to the male gender, even though the domesticity assigned to women in our society broke down at the end of the 20th century, as we have already seen. And it's even more pronounced

55. <https://ministranegranostf.com.br/>

56. Decision of the Superior Labor Court, on the issue of gender and racial discrimination: I - AGGRAVO DE INSTRUMENTO INTERPOSED BY THE CLAIMANTS. LAWS No. 13.015/2014 AND 13.467/2017.ADOPTION OF RESOLUTION No. 492/2023 OF THE NATIONAL COUNCIL OF JUSTICE (CNJ).

JUDGMENT FROM A GENDER, RACE AND CLASS PERSPECTIVE AND IN LINE WITH THE OBJECTIVES OF THE ILO'S GLOBAL COALITION FOR SOCIAL JUSTICE (111TH INTERNATIONAL LABOR CONFERENCE, 2023). EFFECTIVELY PAID DOMESTIC WORK

DECENT FOR EVERYONE (...) 11. Despite all the exclusionary systemic structure, after the continuity of intense political articulation of the workers, the PEC das Domésticas (EC 72/2013) came into force on April 2, 2013, equalizing the rights of the categories of urban workers, rural workers and, finally, domestic workers. In 2015, Complementary Law 150 (LC 150/2015)

(...) 13. Given this context, it is clear that racism is one of the main parts of the engine that drives not only society, but also the Brazilian labor market. In the world of work, especially in the domestic sector, racism is the driving force behind the reproduction of unlawful acts by employers, often in the form of (in)direct and/or structural discrimination. In addition, the propagation of the slave-like view that there are no limits to the expropriation of black women's labor affects not only their physical and mental health, but also their lives and the existence of their dependents. (...) 16. Although racism continues to operate as a pattern to keep black people on the margins of the labor protection system, enjoying a work environment free of structurally racist and discriminatory patterns is the right of all workers. With specific regard to the right to a working environment free from racism and racial discrimination, there is a vast legal framework from which to draw the unequivocal conclusion about its meta-individual nature. These are the rights provided for in Articles 1 and 3, caput, of Law No. 9.029/1995; Article 1, item 2 of the Inter-American Convention Against Racism, Racial Discrimination and Related Forms of Intolerance (Decree No. 10.932/2022); Article 1, items 1 and 2 of ILO Convention No. 111. (...) 3. Convention 190 of the International Labor Organization includes psychological violence in the list of those to be curbed in the world of work. Furthermore, it qualifies it based on its effects - and not on its repetition - and, finally, it includes in the list of people legally protected by the Convention all those who, in some way, relate to the world of work. In this scenario, it is considered that patriarchal, racist and classist aspects are incorporated into the most diverse segments of society. As a result, it is understood that women and women workers are assigned various social roles, which, as a rule, place them either in conditions of subalternity, or of dehumanization and disregard for the social value of paid and unpaid domestic work - which is exacerbated for black women. In other words, the Protocol states that patriarchy, racism and other oppressions influence judicial action. The document drawn up by the CNJ is an important instrument that seeks to break with the "silence of the jurists" - a famous expression adopted by professor Dora Lúcia de Lima Bertulio in 19891 - as it recognizes the role of law in maintaining the privileges of dominant structures, to the detriment of substantive justice. Source: <https://www.tst.jus.br/web/guest/jurisprudencia>.

57. Available: https://www.onumulheres.org.br/wp-content/uploads/2021/09/ONU_BROCHURA- WEPs_EN_REV.pdf.

when it comes to black women, as we've seen from the statistics so far.

Our Superior Labor Court has been emphasizing in its rulings the repudiation of discriminatory acts and declaring gender equality and racial discrimination!⁵⁶

The international community has adopted the 2030 Agenda for sustainable development with 17 goals formulated by the United Nations (global goals). Equality means good business⁵⁷, achieving the Millennium Declaration with eight goals in the year 2000; including the United Nations Beijing Declaration and Platform for Action, universally adopted at the fourth World Conference on Women in 1995; ratifications of international labor standards, including gender equality, equal pay (No. 100, 1951), discrimination (No. 111, 1958), workers with family responsibilities

(No. 156 of 1981) and maternity protection (No. 183 of 2000), innovation with the WEPs and the Sustainable Development Goals⁵⁸.

PROPOSAL FOR THE INCLUSION OF BLACK WOMEN IN LEADERSHIP AND MANAGEMENT POSITIONS

According to the INSG (Index of Social Gender Norms) report, as discrimination against women continues, with data showing that 9 out of every 10 men are prejudiced against women, as they are better in politics and in positions of command and management, the international and internal norms of each country should encourage education and the valorization of work/care, leading those who carry out paid work to fund the public welfare of those who carry out the work/care, minimally speaking; as well as widely convey the duty of family (parental) responsibility, removing the character of patriarchy that still reflects in society, and government and tax policies to encourage women in positions of command and management, especially black women as a result of history in our country⁵⁹.

In 2021, the number of black women in university seats and intellectual training has been growing significantly, dispelling the prejudice that they are inserted in the domestic sphere (work/care) and in activities with low complexity, not least because the indicative rate of higher education in Brazil reveals that women, and specifically black women, have a higher rate than men in higher education, let's see:

58. Available: https://www.onumulheres.org.br/wp-content/uploads/2021/09/ONU_BROCHURA- WEPs_EN_REV.pdf

59. <https://www.undp.org/pt/brazil/news/novos-dados-mundiais-do-pnud-mostram-que-preconceitos-de-genero-continue-to-be-rooted>

60. <https://www.andifes.org.br/?p=89578>

61. <https://vestibular.brasilescola.uol.com.br/enem/prouni-2024-conta-com-mais-de-13-milhao-de-inscricoes-e-maioria-e-mulher/355938.html#:~:text=Pro Uni%202024%20registra%20mais%20de%2067%25%20de%20inscri%C3%A7%C3%B5es%20de%20candidatas%20mulheres>

62. <https://www.ilo.org/publications/impact-care-responsibilities-women%25s-labour-force-participation>

63. <https://www.gov.br/mec/pt-br/assuntos/noticias/2024/setembro/fies-beneficia-mais-de-50-mil-estudantes-mmajority-are-women>

64. <https://apublica.org/2023/07/mulheres-negras-dobram-participacao-nos-cursos-mais-disputados-do-prouni/>

65. <https://www.gov.br/inep/pt-br/assuntos/noticias/censo-da-educacao-superior/inep-lanca-painel-de-estatisticas-do-censo-superior>

Discriminated against in the job market, black women have made a series of educational advances and are today the largest group in public higher education institutions, according to recent surveys.

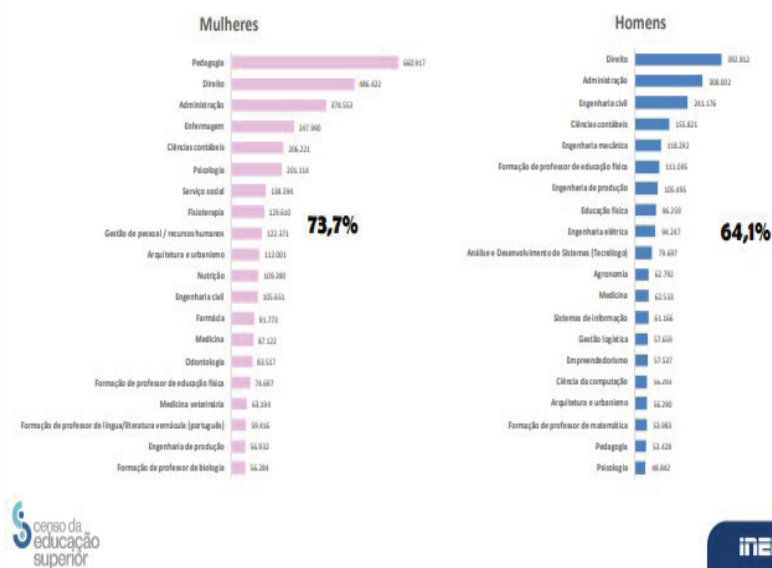
An analysis of data from the National Household Sample Survey (PNAD) ... shows that they accounted for 27% of public higher education students in 2019, the year of the most recent edition of the survey.

Despite the achievements in education, progress still needs to be made in other areas. Recent research by Insper shows that, even among those who have completed public higher education, a white man earns on average almost 160% more than a black woman⁶⁰.

On 26/07/2024, data from the University for All Program - PROUNI, with more than 150,000 applicants, 1.3 million applications and the majority are women.^{61,62} In the same vein, Student Financing - FIES, show that the majority of people benefiting from the policy in 2023 were women (68.23%) and blacks (56.1%)⁶³. Black women increased their percentage of participation in Pedagogy, Medicine and Law courses⁶⁴.

Women enrolled in higher education, according to the Higher Education Educational Sense - INEP - Instituto Nacional de Estudos e Pesquisas Educacionais Anísio Teixeira, updated on 25/10/2023⁶⁵:

Os 20 Maiores Cursos em Número de Matrículas



However, we realize that the number of these professionals in the market is not equivalent to the number of students graduating from higher education who are not being absorbed by the qualified workforce in the job market, according to the statistical summary of 29/10/2024, presented by the International Labor Organization (ILO), since care responsibilities are excluding and preventing millions of women around the world from taking up jobs paid⁶⁶.

Politically, Brazil has been ensuring women's protection through affirmative policies, with mandatory training for magistrates, related to human rights, gender, race and ethnicity and women's institutional participation in the Judiciary, through the Protocol for judgments with a gender perspective and Resolution 492 of 17/03/2023.^{67,68}

66. <https://www.ilo.org/pt-pt/resource/news/trabalho-de-cuidados-n%C3%A3o-remunerado-impede-708-milh%C3%B5es-of-women-of>

67. <https://atos.cnj.jus.br/files/original144414202303206418713e177b3.pdf>

68. <https://www.cnj.jus.br/wp-content/uploads/2021/10/protocolo-para-julgamento-com-perspectiva-de-genero-cnj-24-03-2022.pdf>

69. https://www.ilo.org/brasilia/noticias/WCMS_885549/lang--pt/index.htm

70. SANTOS, de Souza, Boaventura. Introduction: to broaden the canon of recognition, difference and of equality. In: Reconocer para Libertar: os caminhos do cosmopolitismo multicultural, Rio de Janeiro, Civilização Brasileira, 2003, p.56. See also, by the same author, For a multicultural conception of human rights.

In the same vein, the International Labor Organization, Conference 111 on March 17, 2023, in a general study on gender equality and work, affirmed the urgent need to eliminate all forms of discrimination in the employment and occupation of female workers with family responsibilities⁶⁹.

We draw on the lessons of the jurist Boa Ventura, who in 2003 already stated:

“(..)

We have the right to be equal when our difference makes us inferior; and we have the right to be different when our equality makes us unequal. Hence the need for an equality that recognizes differences and a difference that does not produce, feed or reproduce inequalities⁷⁰

In this respect, we believe that the first key instrument to neutralize and eliminate discrimination against black women in positions of power and management must be greater representation of women in politics and non-violence, in accordance with Law 14.192, of August 4, 2021;⁷¹, which imposes the defense of human interests and affirmative actions for the inclusion of white and black women, equally, to achieve equality and gender parity in all positions of power and management in the public and private sectors.

As we have already seen, we have legislation aimed at promoting public policies to combat discrimination and development in the social, health, leisure and work sectors. Of course, it undoubtedly needs more additions! But, above all, society needs these legal norms to be effective, otherwise the brown and black population will be faced with a dead law, with no practical life, at the mercy of their own fate!

In a study of women's lives in society at the beginning of the 20th century, Claudia Fonseca⁷², records:

“The poor woman, surrounded by an official morality completely disconnected from her reality, lived between the cross and the sword. Her husband's meager and regular salary would only be able to meet the household's needs by a miracle. But the housewife, who tried to escape poverty through her own work, risked suffering the weight of the “public woman”

Instead of being admired for being a “good worker”, like a man in a similar situation, women in paid employment had to defend their reputation against moral pollution, since sexual harassment was legendary (...)”

In our opinion, the representation of the category's union is very close to the working class in the labor market, and can and should

develop normative implements to generate access for women, specifically black workers, to training and, in return, direct negotiation with their employers to insert a consistent number in positions of command and management and achieve parity in the labor market, in the form of art. 8, of the CRFB/88 and 570, of the CLT. P

In this sense, we bring studies in Brazil:⁷³

“(…)

At the international level, collective bargaining is a reality, encouraged by the ILO, as is evident from the terms of Conventions 98 and 154, both ratified by Brazil. In Brazil, the 1988 Constitution expressly recognized collective bargaining agreements for the private sector, in article 7, item XXVI: “recognition of collective bargaining agreements”. At the infra-constitutional level, the Consolidation of Labor Laws expressly deals with the issue in articles 611 to 625.

The International Labor Organization and its members do not let up in their efforts to promote union representation and improve the working conditions of human workers, as we can see from the conventions, treaties and recommendations issued for this purpose; promoting better conditions in the workplace.

We believe that the issue we are dealing with can and should be the subject of demands, not excluding the possibility of promoting and including black women in positions of command and management, simply by making use of the power conferred by the original constituent, provided for in item III of article 8 of the Federal Constitution of 1988 and by the Treaties and Conventions of the International Labor Organization, to which our country is a signatory.

71. https://www.ilo.org/brasilia/noticias/WCMS_885549/lang--pt/index.htm

72. FONSECA, Cláudia. Ser Mulher, mãe e pobre. Pág. 517. História das Mulheres no Brasil. Ed. Contexto: São Paulo:2020.

73. MONTAL, Zélia Maria Cardoso. A Organização Internacional do Trabalho e seu protagonismo vanguardista na tutela dos direitos sociais dos trabalhadores. Pág. 67/68. Obra: Os Direitos Humanos e Fundamentos dos Trabalhadores antes os Retrocessos no Mundo do Trabalho. Ed. Arraes. Belo Horizonte/MG:2019.

Not only that. It is well known that there are several non-governmental organizations and associations that represent the black community and fight for women's rights. Law 7347, of July 24, 1985, which regulates the legitimacy of civil associations to represent on behalf of the community, according to art. 1, VII - the honor and dignity of racial, ethnic or religious groups.

For a free, just and caring society, art. 3, I, of the CRFB/88 - fundamental constitutional principles - we conclude that social dialog between Trade Unions, Associations representing the black female race and Companies, in the form of 1º, IV, 3º IV, 4º VII and art. 170, of the CRFB/88, can promote policies between these three civil society actors, to promote and include a greater number of black female workers in the workforce of companies and, on the other hand, seek to reduce tax burdens so that direct negotiation through collective bargaining agreements and conventions achieves the interests of all involved.

In addition to this proposed triangulation of collective social actors, we infer that the terms of ILO Convention 111, which combats non-discrimination in occupations between men and women, was ratified by Brazil on November 26, 1965, by Decree 62.150/68, with new wording by Decree Law 10.888, dated November 5, 2019⁷⁴. Therefore, non-discrimination in occupations between men and women is maintained. Equality and parity of gender and female race in the public and private sectors is imperative.

Brazil has promotion and incentives with the *Emprega mais* program Women:⁷⁵

(...)

Art. 5 Establishments where at least 30 (thirty) women over 16 (sixteen) years of age work will have a suitable place where employees can keep their children under supervision and assistance during the breastfeeding period.

Sole Paragraph. Employers who adopt the day-care reimbursement benefit provided for in articles 2, 3 and 4 of this Law for all employees who have children up to 5 (five) years and 11 (eleven) months of age shall not be obliged to install an appropriate place for the care and assistance of their employees' children during the breastfeeding period, under the terms of the heading of this article.

The progress has been gradual, there's no denying that, although the action of union representation with proposals and collective bargaining can raise the rate of black women workers in positions of command and management, with knowledge management capacity (statistical data, as done in this study, show an increase in the rate of higher education, without there being competition with parity with other ethnicities; we have the legal instruments to start this social advance!

We draw on the lessons of Bauman:⁷⁶

“(...)

Accepting the world placidly and collaborating with the accumulation of injustices that we challenge with words is also a choice, just like the protest and active resistance that we direct against the endemic iniquities that the world forces us to follow obediently. Life can only be a work of art if it is a human life, the life of being a human being, that is, a being endowed with will and freedom of choice.

(...)

74. https://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2019/Decreto/D10088.htm#art5

75. https://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2022/Lei/L14457.htm

76. BAUMAN, Zygmunt. 44 Cartas do Mundo Líquido Moderno. Pág. 215. Ed. Zahar. Rio de Janeiro: 2022.

CONCLUSION

Given the approach presented throughout this study, there is no doubt that women are experiencing a new space, but they need a more effective look at the job market. As has been pointed out, the principle of equality is not limited to formalism, but also to substance, i.e. equal treatment for the equal and unequal treatment for the unequal.

The right to work translates minimum values that cover life, access to health, education, social security, housing, leisure and access to information; all of which are considered to be fundamental clauses, of which the employee, the company and the collective representative body can engage in peaceful dialogue, since it is in everyone's interest. By minimizing differences and expanding a non-conflictual working environment, society as a whole gains from its share of participation, leading to greater circulation of goods and services, both for the worker who becomes a consumer and the employers who will remain in full economic activity as a result of consumption.

The statistics presented in this study show that men and women are treated differently in the job market, as they assign family duties and obligations to women. Companies need an internal policy to publicize the importance of men and women caring for children and the elderly, and to make their workers aware that too much housework for one person affects the productivity of paid work. Therefore, the duty of care at the heart of the family falls to the working couple.

Black women suffer significant social pressure, as a historical component of slavery, which ended in Brazil in 1888; but access to education, housing, leisure, among other minimum rights, are hindered by acts of gender and racial prejudice.

With the promotion of public policies for access to education in all its stages up to higher education, the scenario began to signal

an increase in the number of women in higher education institutions, both public and private, in other words, a qualified workforce for taking on positions of command and management; as recorded above in a survey by the Federal Government.

However, it is a public and notorious fact, not only in Brazil, but in the globalized economy, that there are few women in positions of command and management, and more accentuated when the female gender is of black color and race.

Let's remember that paternal love is also part of the working man's life. The division of domestic tasks and responsibilities towards children, parents and parents-in-law reveals a human being who is aware, respectful and in tune with the 21st century, according to studies on the subject.

Finally, we believe that both male and female workers need to invest in their own studies and careers and protect their families; and understand that unpaid care work is not just for women.

There are many international standards aimed at protecting women in the labor market, as we pointed out in the course of this study, issued by the United Nations and the International Labor Organization, which have been ratified by Brazil, without, however, having an assertive effectiveness.

Gender equality and parity in leadership and management positions comes from a new dynamic of the 21st century, and is aimed at eradicating prejudice, discrimination, symbolic violence and demerit based on gender, race and color.

Finally, negotiation between collective entities such as those proposed here (trade unions, non-governmental organizations and gender and race institutions, companies) has the power to negotiate amicably, assuming a role of the middle ground, an Aristotelian teaching, in which virtue lies in the middle ground, that is, each one gives in a little so that the scales balance on their pendulum.

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