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How gender and race structure the prison system: dialogues with Angela Davis about racism and sexism in Brazilian punitive control

Como gênero e raça estruturam o sistema prisional: Diálogos com Angela Davis sobre racismo e sexismo no controle punitivo brasileiro

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Abstract

We present an analysis of the phenomenon of female incarceration in Brazil, placing it as a concrete determination of the capitalist mode of production. We start from the issue of how the categories of gender and race act as structural elements of Brazilian penal control, based on the reading proposed by Angela Davis, in dialogue with authors of Brazilian feminist. For this reason, initially, we will promote initial debates about oppression as structures of social relations in capitalism. Subsequently, it will be necessary to discuss the oppression of gender and race in the Brazilian context, especially considering the overload of reproductive, invisible, and precarious work. Finally, we will analyze the consolidation of Brazilian punitive control as an instrument for the management of disposable bodies and the constant production and reproduction of racism and sexism in Brazilian culture. We will use materialistic analysis as a methodology, with the critical interpellation (ana-dialectical moment of the method) through the critical analytical, theoretical framework of the black feminism theory. With the formulations, we can conclude, in short, that the violent and racist management of the penal system maintains a solid Brazilian social structure, subjecting the bodies of black women to the harder process of vulnerability imposed by punitive state control.

Keywords: Criminology; Black feminism; Racism; Sexism; Criminal social control.

Resumo

Apresentamos uma análise do fenômeno do encarceramento feminino no Brasil, situando-o como determinação concreta do modo de produção capitalista. Partimos da problemática a respeito de como as categorias de gênero e raça atuam como elementos estruturantes do controle penal brasileiro, a partir da leitura proposta por Angela Davis, em diálogo com autoras do pensamento feminista brasileiro. Para tanto, buscaremos inicialmente traçar debates acerca das opressões como estruturantes das relações sociais no modo capitalista de produção. Posteriormente, discutiremos as opressões de gênero e raça no contexto brasileiro, em especial considerando a sobrecarga de trabalhos reprodutivos, invisíveis e precários sobre as mulheres. Por fim, analisaremos a consolidação do controle punitivo brasileiro enquanto instrumento de gestão de corpos descartáveis e constante produção e reprodução de racismo e sexismo na cultura brasileira. Utilizaremos como metodologia, a análise materialista, com a interpelação crítica (momento ana-dialético do método) por meio do marco teórico analítico crítico



do feminismo negro. Com as formulações apresentadas, poderemos concluir, em síntese, pela gestão violenta e racista do sistema penal de forma a manter sólida a estrutura social brasileira, sujeitando os corpos das mulheres negras ao maior processo de vulnerabilidade imposto pelo controle punitivo estatal.

Palavras-chave: Criminologia; Feminismo negro; Racismo; Sexismo; Controle social penal.



Introduction

"Prison has become an essential ingredient in our common sense. It's there, all around us. We don't question whether it should exist. It has become such a fundamental part of our existence that it takes a great stretch of the imagination to visualize life without it." (DAVIS, 2018, p. 20)

In "Are Prisons Obsolete?", especially in the chapter entitled "How Gender Structures the Prison System", Angela Davis provokes us not to take gender as just a marginal object of study in the criminological field but to reflect it as an element that truly structures modern forms of punishment. In this invitation, Davis points out that punishment is influenced by gender at the same time that it reproduces the generified hierarchy in our society, in a relationship understood here as being in constant movement (DAVIS, 2019, p. 65-66).

Therefore, we begin this work from an initial concern stemming from Angela Davis' text. In this book, Davis states that reflections on female incarceration are indeed urgent, especially considering the exponential increase in this form of social control over women. Throughout the text, the author discusses the racial differences that affect these women since their treatment in prison, although violent for all, is perpetuated differently for white, black, and immigrant women¹. As in the United States, female incarceration in Brazil is selective: official indicators show that incarcerated women here are black, young, poorly educated, single, and mother (BRASIL, 2019; 2018; INSTITUTO TERRA, TRABALHO E CIDADANIA (ITTC), 2019).

However, considering gender as an analytical category that structures the penal system implies looking at dissident bodies that do not perform cisgenderity or compulsory heterosexuality. It goes beyond thinking of gender solely in terms of the incarceration of women, as Davis proposes in her text, but includes people of non-binary genders, gays, lesbians, diverse sexual orientations, and queer possibilities. For us, in

¹ According to Almeida (2018, p. 19), the notion of race is not the same everywhere, its meaning is relational and historical, but always with contingency, conflict, power and decision. In the United States, racism views black people and immigrants as a subordinate group, and immigrants are also affected by xenophobia. In Brazil, on the other hand, it basically falls on the bodies of black people identified on the basis of a phenotypical set such as skin color, facial features, hair and this way of reading blackness falls on both black people born in Brazil and those who migrate and also face xenophobia. And we mustn't forget the indigenous peoples, the original peoples that the Brazilian state still keeps under guardianship, vilifying their most basic rights, as well as their very existence and survival. Dussel (1993, p. 160-162) reminds us that life and labor are extracted from both bodies to be objectified in the original value of capital.



line with the studies of João Manuel de Oliveira (2017, p. 27), the category of gender "[...] establishes a social organization marked by heteronormativity and gender normativity", defining social roles or gender stereotypes and, in a way that is not exempt from other matrices of oppression, such as race or class, heteronormativity classifies forms of sexuality, taking only heterosexuality as admissible or natural and the others as negative or inferior.

By broadening the debate and dialoguing with Angela Davis, we seek to understand how she analyzes the entire system of punishment, including male incarceration, as a gender-oriented phenomenon. Given its complexity, this proposition gives rise to numerous and relevant objects of analysis, as Davis (2019) also does, ranging from intimate searches, intramural sexual exploitation work, relations between public and private sentences, work inside prisons, and various other topics.

This paper aims to provide a broader perspective on the Brazilian penal system by examining it through the lenses of gender and anti-racism movements. By employing critical epistemologies, we aim to analyze the social relations of gender and race involved in punitive control. It is important to note that our reflections go beyond the works of Angela Davis. While she is a renowned thinker in this field, other researchers who focus on dissident bodies, LGBTQIA+, and women, particularly black women, in capitalist societies can provide even more insight. This text contextualizes these issues from a Brazilian perspective.

We feel it is appropriate to point out that the reflections contained in this text are part of a broader research project being carried out by one of the authors, in which we seek to understand the effects of penal control on women, even if they are not incarcerated, but rather men or people from their families. In this way, the penal control system impacts not only the individuals it incarcerates and captures but also the women who sustain the functioning of penal control in social reproduction. And although there are many different women, most of the penal system's actions fall mainly on those who are black and from low-income backgrounds.

Through a dialogue between Angela Davis and authors of Brazilian feminist thought and gender studies, we characterize this text as a critical feminist, anti-racist, anti-heteronormative, and Marxist analysis, which aims to analyze how the categories of gender and race act as structuring factors in Brazilian penal control. Therefore, the methodology employed in this study is historical and dialectical materialism, in the



decolonial form inferred from Marx by Enrique Dussel (2016): we begin with the ascent to the concrete totality, identified in the capitalist mode of production, passing through the moment of the explanatory descent of the determinations of the concrete, its abstractions, here delimited in the way the mode of production determines gender and race oppressions in Brazil. As this is a critique from peripheral bodies, we will adopt the *ana-dialectic* moment (beyond), the third moment of Dussel's method, which consists of the critical questioning of Totality (hegemonic, capitalist, white, male horizon) and its determinations, an interpellation made from Exteriority (the periphery, that is, beyond the white, the male, the mercantile). This critical interpellation will be represented through black feminist epistemologies, mainly from the possible and rich dialogues from these theories, including Marxist criticism, taken as a perspective for analyzing punitive control in Brazil.

Using this methodology, we have identified three distinct objectives for our analysis, which will be explored in detail throughout the various sections of this work. Our investigation begins by examining the fundamental debates surrounding how gender, race, and class oppressions shape social relations within the capitalist mode of production. From there, we will delve into the theoretical elements of gender and race oppressions specific to the Brazilian context, focusing on women's disproportionate burden of reproductive, invisible, and precarious work. This analysis sheds light on how the capitalist mode of production manifests itself in our peripheral society.

Finally, we will try to demonstrate the hypothesis of this research: the consolidation of Brazilian punitive control as an instrument for managing disposable bodies and the constant production and reproduction of racism and sexism in Brazilian culture. To this end, we will demonstrate that the Brazilian punitive structure was essentially organized to keep the black population in a position of subalternity so that racism, sexism, and colonialism are impregnated in the logic of punitive functioning. In short, the penal system reflects and serves the structures and dynamics of the capitalist mode of production, in which forms of gender, race, and labor domination converge.

We believe that the reflections proposed here present an important path towards a better understanding of the relationships between the penal system, gender, and, above all, race, bearing in mind that the analysis is carried out in a country whose penal system was forged and structured by racism, classism, sexism, machismo and various other oppressions that fall on bodies that escape the cisheteronormative, white,



Christian, capitalist, conservative standard. The study's opportunity lies in its contribution to a reading of feminist criminology that overcomes the gaps in its so-called traditional expressions, in which we understand that there is a concealment of relations between racism and female control in the Brazilian system. And it is in this country, famous for the construction of its fallacious racial democracy, that a permanent chain of discrimination, exclusion, and oppression has been established, engendering the micropower² of defining not only who dies but who can be captured by the technologies of control over bodies.

1 Structural oppressions: introductory debates on gender and race in the capitalist system

We understand that gender and racial oppression are not just a consequence of the socio-economic conditions that consolidate the capitalist mode of production. However, for methodological purposes and without ignoring the importance of power relations or analysis of subjectivities, the delimitation we propose for this analysis focuses on socio-economic aspects. In this way, we start from the assumption that gender and race oppressions are structural in the capitalist mode of production, aspects that we will try to present in this section.

Silvio de Almeida (2018, p. 131-132), in basing racism as a structural phenomenon, explains that economic theories, when focused on the political dimension, provide relevant explanations for racism, going beyond an individualistic perspective. Considering this, we can understand commodification as a process that is not natural and spontaneous but is constituted by "historical, state and inter-state relations" based on relations in which gender and race are part.

At this point, following Silvia Federici's lesson when she analyzes gender, we return to Marx's critique of so-called primitive accumulation, considering that this process of appropriation, which is still ongoing today, holds some relevant keys to explaining the contemporary social structure based on the capitalist mode of production. In short, primitive (original) accumulation is identified as a precondition for

² Despite the theoretical discussions between the author and Marxist readings, for a better understanding of this concept, we suggest consulting the elaboration of the idea of "Necropolitics" in Achille Mbembe (2018).



capitalist relations, a project of the European ruling class to respond to the crisis of accumulation and restructure economic and social relations. It follows that without the prior concentration of capital and labor, the development of capitalism would not have been possible and that the source of capitalist wealth lies in the dissociation between workers and the means of production (FEDERICI, 2017, p. 117-118).

The concentration of masses of capital and labor power under the control of a single class is a condition not only for the generation of more value but for the very existence of the capitalist system. For this social configuration to be possible, and considering that it hasn't existed since the dawn of society, let's assume there were times when money and merchandise weren't capital. At this point, two different types of owners met: the owner of the means of production, money, and means of subsistence and, on the other side, an owner of only labor power. If nothing else, their "best" option was to sell this labor power to the owner of the means of production. Marx identifies here a polarization that provides the conditions for the existence of capitalism, which produces and reproduces this relationship on ever larger scales (MARX, 2017, pp. 785-787).

From this historical moment, we can draw some reflections. Firstly, both owners of this social relationship are not on equal terms since one of them (the owner of the means of production) has a huge advantage over the one who only owns his labor power. Furthermore, we should also note that this polarization is not natural but rather the result of a long and complex historical development that ultimately consolidated the conditions for the development of capitalism. Returning here to the notion of primitive accumulation, this can be understood as the process that separated the producer - previously considered a serf in the feudal mode of production - from the means of production (MARX, 2017, p. 786-787).

However, this separation alone would not provide the stability needed to consolidate a new mode of production that had become global, so it was essential to create strategies that could provide stability to these new social relations. Moreover, the creation of these mechanisms also sought to prevent forms of resistance that might arise - and indeed, they did, based on the use of the state apparatus by the bourgeois class (MARX, 2017, p. 808-809). In this context, we can identify the first movements towards forming the working class and new forms of oppression and exploitation of



certain bodies. This is where we find the exploitation of women's bodies - whether white or black, with different modes of exploitation - and of the black population.

The expropriation of the means of subsistence from European workers, the enslavement of American and African peoples, the transformation of the body into a working machine, and the consolidation of women as beings destined for the reproductive role of the workforce were all means of capital accumulation when major transformations were made to the social position of women. This historical moment not only consolidated a new means of production but also marked huge differences within the working class through hierarchies of gender, race, and age (FEDERICI, 2017, p. 117-119).

In the scope of this text, it is necessary to situate this debate from the violent colonial process established since the fifteenth century in Latin America and the Caribbean, placing a careful lens on Brazil. Colonialism. Violence. Exploration. Domination. The experience of the colonial tragedy left scars and wounds that bleed and are still exposed today. When Césaire (2010, p. 31) attributed the equation "colonization = objectification", he immediately demonstrated that there was only room for domination, intimidation, and violence between the colonizer and colonized. According to the author, there was no human contact. The colonized object was merely an instrument of production. According to Quijano (2005, p. 107):

[...] the expansion of European colonialism to the rest of the world led to the development of the Eurocentric perspective of knowledge and, with it, to the theoretical development of the idea of race as a naturalization of these colonial relations of domination between Europeans and non-Europeans. Historically, this has meant a new way of legitimizing the old ideas and practices of superiority/inferiority relations between the dominant and the dominated.

In this way, race became the first fundamental criterion for the distribution of the world's population in the levels, places, and roles in the power structure of the new society. In this colonized world split in two, the borderline is established by the order³ and social cleavages originating in the notion of race. In "The Damned of the Earth", Fanon lists some characteristics that marked the colonial experience for the colonized and the colonizers. He interprets them in dialogue with Marxist theory, and by

³ "In the colonies, the legitimate and institutional interlocutor of the colonized, the spokesperson for the settler and the regime of oppression is the policeman or the soldier." (FANON, 2015, p. 54)



proposing an extension of this theory, he points out some gaps that need to be filled in when thinking about the scenario of life in the colonies, before which even pre-capitalist societies would also need to be rethought. It's just that the status differences established in the colonies are of a different order. From the historical process of colonization, it follows that the ruling class is not immediately characterized by factories, property, or bank accounts but rather by being that class that "comes from outside" and does not look like the locals; it is always a stranger (FANON, 2015, p. 56-57)

For Fanon (2015, p. 56), what fragments the world in the colonial context is, first and foremost, whether or not you belong to a certain race. This is why he reinforces his thesis that in this colonial world, fragmented and divided in two, the "economic infrastructure is also a superstructure. The cause is the consequence: someone is rich because they are white, someone is white because they are rich." (FANON, 2005, p. 56) Blacks from the African diaspora and native peoples were considered "Others". "To be the Other, in this process of relational subjectivation, is to be inferior to that which is established as the normative standard body and meets the ideal of whiteness." (FELIPE; LIMA, 2021).

Not just class, not just race. The division marked by the modern colonial world is attached to gender. The confluence of these three axes - work, race, and gender - is conceptualized by Aníbal Quijano (1992) as "coloniality". It characterizes the pattern of domination and exploitation in modernity, which derives from (and exists after the end of) colonialism. In this pattern, only the "work" axis has domination/exploitation as an invariable characteristic. We can, therefore, conclude that the subsumption of gender and race in modern work (capitalist mode of production) inevitably imposes a relationship of domination since domination is a condition for the possibility of all forms of exploitation (QUIJANO, 2010).

It is from this critical perspective that Federici (2017, p. 292), in her analysis of gender and race, points out how women's reproductive work contributed to the primitive accumulation of capital and how, in the violent colonial relationship, both race and gender discrimination were important markers of hierarchization and exploitation in favor of capital, determining different but markedly oppressive social roles for white women and, even more so, for colonized women (black and indigenous). Considering the permanence of these relations throughout modernity, we can conclude that colonialism has ended as a formal system of domination in our country. Still, the



perversity of coloniality remains alive, as Quijano (1992) points out, as an even more effective form of domination than colonialism. In analyzing the colonial difference in its material, economic, political, and cultural aspects, especially those related to the coloniality of power, María Lugones (2014) elaborates on the concept of the "modern/colonial gender system".

Modernity organizes the world ontologically in terms of homogeneous, atomic, separable categories. The contemporary critique of feminist universalism by women of color and third-world women centers on the claim that the intersection between race, class, sexuality, and gender goes beyond the categories of modernity. If woman and black are terms for homogeneous, atomized, and separable categories, then their intersection shows us the absence of black women - and not their presence. Thus, to see non-white women is to go beyond "categorical" logic. I propose the modern colonial gender system as a lens to further theorize the oppressive logic of colonial modernity and its use of hierarchical dichotomies and categorical logic. (LUGONES, 2014, p. 935).

The modern colonial gender system constructs a feminist epistemology permeated by the coloniality of power that violently inferiorizes colonized (non-white) women. The author questions the political practice of traditional/hegemonic feminism because it is limited to a single vision of what it is to be a woman based on the experiences of white and Western women. As reported in many of her texts, María Lugones builds her theory on gender anchored in the knowledge produced by African-American black feminists. She borrows the category of intersectionality to question a supposed universal patriarchy and demonstrate the inequalities and oppressions established among women. (LIMA; CHAGAS; SOUSA, 2022).

By paying attention to these differences established by women, Angela Davis (2016, p. 219-220) points to the emergence of the "housewife" as a by-product of a radical economic transformation. Still, this social construction ran counter to the reality of thousands of (racialized) immigrant workers in the United States who, during part of the day, were salaried employees and, during another fraction of the time, fulfilled their domestic obligations. The "housewife" reflected a partial reality, as she was a symbol of the economic prosperity the emerging middle-classes enjoyed. However, even though the figure of the housewife was not hegemonic, the ideology in force in the 19th century managed to establish the domestic environment and motherhood as universal for white women.

Black women, however, paid a high price for the strength they acquired and the relative independence they enjoyed. Although they have rarely been



"just housewives", they have always done household chores. In this way, they bore the double burden of wage labor and domestic chores - a double burden that always requires women workers to possess the perseverance of Sisyphus (DAVIS, 2016, p. 220).

In the 20th century, white/Bourgeois feminist struggles were narrated from the perspective of the theoretical waves that marked the demands for universal suffrage, inherent rights to one's own body and pleasure, the right to work outside the home, and political participation, among others. In Brazil, when it comes to the job market for women, Lélia González (2020a) states that this liberal feminism 'freed white women' from home but ignored the demands of black women who were unable to gain formal access to the most prestigious jobs because of their 'good looks'. In this sense, Lélia, confirming current social indicators, will say that this feminism has kept black women 'confined' as domestic servants. The black woman "[...] made possible and still makes possible the mistress's economic and cultural emancipation within the double working hours system. [...] The liberation of white women has been at the expense of black women." (GONZÁLEZ, 2020a, p. 43). Corroborating Lélia González's thinking, the intellectual Françoise Vergès calls this white/bourgeois feminism civilizing feminism and states:

Every day, everywhere, thousands of racialized black women 'open up' the city. They clear the spaces that patriarchy and neoliberal capitalism need to function. They do dangerous, poorly paid, unskilled work, inhale and use toxic chemicals, and push or carry heavy loads, which harm their health. (VERGÉS, p. 18, 2020).

There is, therefore, a material reality experienced daily by black women in Brazil - and racialized women in other parts of the world - which imposes a sexual and racial division of labor in the modern-capitalist world. They are axes of oppression concealed by the abstractions operated by the capitalist mode of production. The widespread circulation of goods was consolidated due to this and other historical processes, the division of labor, improved means of communication, and trade development. Pachukanis (2017) explains that this context represents tightening social ties and increased social organization, culminating in the organized bourgeois state. At this point, bourgeois property ceases to be fragile and unstable and becomes an absolute right, which finds its tools of protection and guarantee in legislation and the judicial system.



Following the ideas of Pachukanis (2017), we can see that social relations, constituted under this modality imposed by capitalism, require people to be equal at the negotiating poles. Specifically, during the exchange of goods, the parties must recognize each other as owners. The state's legal power appears here as an element in the constitution of this formal equality utilizing external coercion, even though this same equality does not materially manifest in social relations. As we have discussed, it must be recognized that the owner of the means of production, subsistence, and money is advantaged over those who only own their labor power so that inequality is expressed. These premises are important for understanding the oppressions of race and gender within a capitalist production context, which was built on foundations that could structure a society based on commodification and exploitation.

We return here to Silvio de Almeida (2018), who points out that these social relations are based on objective elements, which are the material possibilities of the development of this form of production, and also subjective elements when the individuals subjected to this reality are made to reproduce these social relations and naturalize their place in this social configuration, absorbing prejudices and discrimination. Racism, among other nuances and explanations, here establishes an ideology that naturalizes the supposed inferiority of blacks and indigenous people and makes the extreme exploitation of the workforce of individuals racialized as black commonplace (ALMEIDA, 2018, pp. 132-133). When we say that racism is structural, we mean that the ideology that determines the inferiority of black people, even if covered by the veil of formal equality, is an essential element in the consolidation of a society based on class division and the exploitation of the labor force of those who only have it.

With the elements brought up in the first section, we sought to establish some premises that will be of great value for the development of the work and for the intention of thinking about the categories of gender and race as one of the structuring elements of the penal system. Not initially working on punitive control, which we situate in this analysis as a determination of the concrete, we instead seek to locate the debate in a material context of production that sustains its functioning and its logic of exploitation in gender and racial oppressions, this context being the concrete Totality, the structured and dialectical whole (KOSIK, 2002) that determines the parts, its abstractions.



2 Gender and race in the debate: the centrality of gender and race oppressions to Brazil's social configuration

Having made brief initial considerations about the theoretical elements that underpin oppressions as structural in Brazilian society, we believe that it is important at this point to locate the discussion more closely at the national level, also giving greater expression to gender discussions. To this end, we sought to establish some dialogues between the theorists of black feminism and materialist feminism. To this end, we have considered that there is not always a rigid separation between the formulations, as various links have been established between these theories over time.

The crisis of the forms of social organization has its material basis centered on capitalism insofar as this system of production is built on the exploitation of human labor, the destruction of nature,⁴ and, as we have already discussed, racism and the exploitation of women, mainly through unpaid reproductive work. In this social context, although it is recognized that capitalism did not create the phenomena of exploitation of women, it must be acknowledged that it was under this mode of production that new forms of female exploitation were established so that capitalism and sexism are intrinsically connected (ARRUZA; BHATTACHARYA; FRASER, 2019).

Reproductive work, although essential to maintaining the workforce and, therefore, to productive work itself, is constantly disregarded. The workers subjected to it are assigned a role of subordination to capital and workers who can afford to pay for domestic services. This social structure, therefore, depends on the existence of gender roles for its maintenance. It turns out that this division of labor is not only sexual but also racial, so black and indigenous women⁵ have, throughout history, been forced to provide their labor at minimal cost, even to white women (ARRUZA; BHATTACHARYA; FRASER, 2019).

Silvia Federici calls "hidden work" the functions thousands of women perform worldwide in schools, factories, offices, and mines, so the female workforce truly drives

⁴ See Wolkmer and Ferrazzo's (2018) discussion of the "paradoxes of development", which, in the capitalist mode of production, not only intensify the domination and economic misery of peripheral countries, but have also led humanity to a planetary environmental tragedy.

⁵ In his *Ethics of Liberation*, Dussel (1992, p. 420) brings the "testimonial example" of Rigoberta Menchú, Nobel Peace Prize winner in 1999, as a powerful representation of these forms of oppression, since Rigoberta has the body of "a) a dominated woman, b) poor, from the peasant class, c) Mayan, as an ethnic group conquered 500 years ago, d) of brown race, e) from a peripheral Guatemala and exploited by North American capitalism. Five simultaneous and articulated dominations!".



the most diverse institutions. This shows that domestic work and the family are pillars of capitalist development (FEDERICI, 2018, pp. 68-69).

However, this reproductive work is distributed unequally, even among women. From the first pages of his formulations in "A Decolonial Feminism", François and Vergès draw attention to this issue. Every day, the world begins to function properly in universities, hospitals, companies, and the most diverse commercial establishments because an invisible contingent of women carry out the arduous work of cleaning, mostly done by black workers, in risky conditions and for poor pay. The naturalization of domestic roles imposed on women in a historical process often hides the exacerbated exploitation of these subjects, whose lives are seen as disposable (VERGÉS, 2020). In the preface to the Brazilian edition of the text, the author contextualizes the historical process of building these disposable subjects:

This economy of depleted bodies is historically anchored in slavery, a period in which the wombs of black women, whose exploitation is inseparable from social reproduction (as so many black feminists have shown), were transformed into capital. The manufacture of a differentiated vulnerability to premature death, analyzed by Ruth Wilson Gilmore, is the very sign of this economy: premature death of black lives, premature death of resources. Slavery manufactures extra lives, in which neither life nor death matters, the humus bodies of capitalism. For this symbolic and material economy, black women's status as superfluous people is associated with a necessary existence, and this is the apparent paradox of necessary and invisible lives (VERGÉS, 2020, p. 13).

Throughout Latin America, especially in Brazil, the colonial violence systematically perpetrated against black and indigenous women is a structural element of national identity. Sueli Carneiro explains that sexual violence is the "cement" of the hierarchies of gender and race in our society and is a living fact that is constantly reproduced in the social imaginary (CARNEIRO, 2011).

With this in mind, we are trying to establish that, when we think about the structuring elements of Brazilian society, not addressing the context, experiences, and violence that runs through the history of black women means incurring the same homogenized reading of the female figure that was consolidated in the formation of capitalism in Europe. Furthermore, we cannot ignore that the extreme exploitation of black women in Brazilian society, more than just a point of analysis, is one of the main elements in the formation of Brazil as a society and reflects how the penal system is structured.



In this sense, we consider it essential to take up the lessons of bell hooks⁶ (2020, p. 28) when she explains that, at various times in history, the use of the word "woman" or "women" refers only to white women, which, in addition to being a conscious choice or not, ends up perpetuating racism to the extent that it erases the specific historical determinations of black women, or homogenizes them about white women. Moreover, it is assumed that white women do not race, making whiteness a universal characteristic.

Lélia Gonzalez already affirmed the existence of strong violence against black women insofar as they are subject to racism combined with sexism. Using carnival festivities as an example, the author explains that black women, on this occasion, are transformed into deified, highly sexualized "mulattas".

However, the myth of racial democracy hides the symbolic violence exerted on these women when they are transformed into domestic servants. Mulatta and domestic, says Lélia, are attributes of the same subject. It is these women who, in Brazil, suffer conditions of extreme vulnerability, surviving on the provision of services, "holding up the family bar practically alone," and dealing with systematic police harassment (GONZALEZ, 2020b, p. 79-83). Taking this into account, we return to the writings of Sueli Carneiro to realize the myth of female fragility. However, it comes in a homogenizing sense of the condition of women, is historically constructed, as we outlined above, and does not correspond to the historical experience of black women (CARNEIRO, 2011). Because of the relevance of the reflection and the strength of the text, we bring you his words:

When we talk about the myth of female fragility, which has historically justified men's paternalistic protection of women, which women are we talking about? We black women are part of a contingent of women, probably the majority, who have never recognized this myth in themselves because we have never been treated as fragile. We are part of a contingent of women who have worked for centuries as slaves in the fields or on the streets, as vendors, greengrocers, prostitutes... Women who didn't understand anything when feminists said that women should take to the streets and work! We are part of a contingent of women with an object identity. Yesterday, at the service of fragile little maids and perverted plantation lords (CARNEIRO, 2011).

Returning to Lélia Gonzalez (2020c, p. 55-56), we realize that being a black woman in Brazil means being exposed to at least three forms of oppression that

⁶ In lowercase initial letters, according to the author's political decision.



intertwine and constitute their identities, which are articulated in the form of sexism, racism, and class exploitation. The author identifies, in the country's different economic configurations of capital accumulation experienced, an unequal and dependent development which, in addition to producing an industrial reserve army, produces a growing marginal mass with the hegemonic labor sector.

Although there has been growth in the middle-class sectors in Brazil since the 1950s, the author points out that the black population has been excluded from participating in this economic development, with the majority living in poor living conditions in terms of housing and health, as well as being subject to very precarious working conditions. The author, therefore, denounces the fact that while being a black man means being more subject to police violence and repression, black women see their situation of inferiority reinforced through domestic work in middle and upper-class families (GONZALEZ, 2020c, p. 58-59).

Lélia Gonzalez, in her article "For an Afro-Latin American Feminism", points out that the notion of equality present in Brazilian legislation is only formal insofar as the sophistication of Latin American racism lies in the social hierarchy organized in such a way that blacks and indigenous people occupy positions of subordination. At this point, the ideology of whitening is essential to the reproduction of the ideology that classifies the values of white culture as superior. In this context, the myth of racial democracy in Brazil is presented as a construction aimed at guaranteeing this social hierarchy so that equality before the law protects the idea of harmony between races (GONZALEZ, 2020d, p. 143-144). In this context, Lélia emphasizes that the awareness of oppression begins, first and foremost, with race being, along with class exploitation, a basic reference to the common struggle between men and women who belong to subordinate ethnic groups.

The historical experience of black slavery, for example, was terrible and painful for men and women, whether children, adults, or the elderly. It was within the slave community that political and cultural forms of resistance developed that today allow us to continue a multi-century struggle for liberation. The same applies to indigenous communities (GONZALEZ, 2020d, p. 147).

However, the author explains that it is in this context of participation in liberation movements that sexism becomes evident, often committed by partners in the struggle, which is why it is necessary to think about feminist theories and practices



(GONZALEZ, 2020d, p. 148). From the above, we sought to recover the main theoretical premises of Brazilian feminist thought to understand how gender and race relations are articulated in this context. We emphasize that historically constructed as a female role, reproductive work cannot be read solely through the lens of gender since it is mostly black women who do the invisible and undervalued work in capitalism. The country's colonial and slave-owning heritage, which will be revisited and analyzed from other perspectives, is already proving to be a determining factor in the excessive burden of oppression on black women.

Therefore, to analyze gender as a structuring factor in the penal system, we must also look at racial perspectives. This is because when we think about Brazilian penal control, we face a sophisticated mechanism for managing disposable bodies through genocide. In the sense of bell hooks' critique, not highlighting the racial element as one of the essential determinants of the application of social control would be to standardize different social experiences and promote a real erasure of the racism that permeates punitive control, as we will analyze more closely below.

3 Essential links between Brazilian punitive control, racism, and sexism

As discussed in previous sections of this paper, considering Brazilian social relations requires a careful analysis of the country's colonial and slave heritage, given its constant reproduction in the current social structure. It's no different when thinking about the penal system and the control it promotes over the subaltern classes. Zaffaroni points out that the penal systems of Latin America are truly marked by genocide and ethnocide, producing mass killings in the most vulnerable sectors of these societies today. The Brazilian case is no different. The process of incorporating our continent into the global mode of production that was being consolidated at the time was marked by the genocide of Latin American peoples, inherited by local social control systems. As a tool for legitimizing mass killings, the science of the time validated the inferiority of African and Latin American peoples (ZAFFARONI, 1991, pp. 118-125).

Ana Luiza Pinheiro Flauzina points out a connection between Latin American penal control and the social pact to which it promotes support and conformity between penal actions and the recipients of this policy. Racism, therefore, is the fundamental



element underpinning the genocidal nature of the penal system on the continent, in the same way that, as Lélia Gonzalez teaches, racism underpins the entire Latin American historical process (FLAUZINA, 2006, pp. 30-32).

What can be called the first penal system in Brazil was formed in the colonial-mercantilist period and had a well-defined domestic character, characterized mainly by the exercise of property power over enslaved people. Corporal punishment was applied extremely violently as a domination strategy for this social group (SERRA, 2009, p. 161-162). These first steps, taken between 1500 and 1822, formed Brazil's "backbone" of penal activity (FLAUZINA, 2006, p. 46).

The need to increase forms of free labor to increase the Brazilian consumer market was not enough to end the slave regime. For all, various legal mechanisms sought to extend this form of forced labor as far as possible. The organization of the management of the black population as disposable bodies therefore characterized the penal system of the Brazilian Empire. Criminal laws, especially the Criminal Code of the Empire, marked the reading of enslaved people as "persons" under criminal law. At the same time, they continued to be read as objects of possession under civil law (FLAUZINA, 2006, p. 53-55). Serra explains that Brazilian prisons reflected the social structure in force, with poor hygiene and ventilation, overcrowding, and the use of physical violence to maintain institutional order. The worst accommodation was reserved for the enslaved and former enslaved, and criminal policy made strong inroads into those considered unoccupied (SERRA, 2009, p. 179-183).

In the republican period, we moved from an openly racist approach to one based on the myth of racial democracy. The incentive to migrate to Brazil corresponded to the need for manpower characteristic of the period of industrialization. However, the intense exploitation of the work of black people still marked social relations in the countryside. Penal control was strongly guided by the duality of white producer versus black-businessman, ensuring that violence guaranteed the prevailing social order (FLAUZINA, 2006, pp. 67-68). Serra (2009, p. 192-193) points out that the period was marked by the continuity of previous exploitation strategies, adapting the need to control rebellious slaves to the control of freed blacks and the poor, taking as dangerous classes those not incorporated into the production system. For this reason, Flauzina (2006, p. 71-72) points out that the republican punitive system continued to be based



on the racial dimension, demarcating the positions of domination and subalternity in Brazilian society.

From these formulations, important elements can be extracted to understand the Brazilian penal system as structured in managing black bodies, seen as disposable. The violent and genocidal character, as denounced by Zaffaroni, marks the consolidation of social control in Brazil, marks that continue to be reproduced daily in the current penal institutionalization. In this sense, we consider essential the formulation made by Carla Benitez Martins (2018, p. 120) when she states that the Brazilian penal system does more than reproduce racism; it is also a real producer of it. The author also points out that violence as a permanent political practice in Brazil sustains the racist and wealth-concentrating social order so that the strong use of the repressive apparatus appears as a rule of the functioning of the state itself (MARTINS, 2018, p. 141).

Lélia Gonzalez, studying black Brazilian youth and unemployment, states that the persecution and violence of the criminal justice system is one of the greatest sources of cruelty to which black people are subjected, so the logic of police action is guided by the notion that "every black person is an outcast until proven otherwise" (GONZALEZ, 2020e, p. 46). Returning to the work of Angela Davis (2019, p. 70), whose provocations gave rise to the reflections proposed here, the author points out that the state control exercised over women through prison is often relegated to the condition of marginality, commonly justified by the low percentage of women in prison. However, the author points out that the political changes since the 1980s have increased female incarceration in the United States.

In fact, in Brazil, data from INFOPEN Mulheres shows a 576% increase in the female prison population between 2000 and 2017, reaching 37,380 women prisoners. In the same period, male incarceration grew by 220% (BRASIL, 2018, p. 10). The same report points to the over-representation of black women in Brazilian prisons, who comprise 68% of the prison population, while the black population in Brazil corresponds to 51% (BRASIL, 2018, p. 24). Davis points out that male criminality and, consequently, public punishment have always been seen as more normal when compared to female transgression. Women's bad behavior is seen as more threatening to society than men's, but the forms of punishment applied to them were not historically considered public (2019, p. 71).



Baratta points out that, in the capitalist context, the productive sphere is essentially for men, while women are left with reproductive work. Public penal control emerged as a way of controlling the social relations of productive work so that the social control most often exercised over women was informal in the context of the family. In other words, the penal system was aimed at men (BARATTA, p. 45, 1999). Davis warns that:

Before the emergence of prison as the main form of public punishment, it was common for those who broke the law to be subjected to corporal and often capital punishment. What is not usually recognized is the connection between corporal punishment imposed by the state and physical aggression against women in domestic spaces. This form of bodily discipline continues to be inflicted on women more routinely in intimate relationships, but it is rarely seen as related to state punishment (DAVIS, 2019, p. 74).

As you can see, the increase in female incarceration is mostly black Brazilian women. In this way, we can see that analyzing only gender as a structuring factor of the penal system without the necessary racial discussions could lead us to misread the target of Brazilian penal control.

A careful reading of the statistics on female incarceration shows that social control over white women is still mostly exercised in the private sphere. Public force is being used against the same women who have historically suffered from domestic punishment in the context of slavery and colonialism. As Flauzina points out, it is precisely within the execution of the domestic sentence that the Brazilian penal system is structured. Thus, it is not only the myth of female fragility that corresponds to a generalization of the figure of women in Brazilian society based on the experience of white women. The idea of social control restricted to the domestic sphere also fails to consider black women's experiences in Brazil. Pointing out the need to analyze social control over black women from structuring categories, Franklin (2017, pp. 45-46) points out that the readings in traditional feminist criminology have gaps, hiding the relations of racism and female control through the state sphere.

In Brazil, analyzing the possible contributions of black feminist criminology must also go through the interpretative deficiencies of the thesis that penal control has only a residual character in the control of women because they are restricted to the domestic environment is a criticism based only on the experiences of white women, which masks very complex historical processes regarding racism as a system that structures phenomena in the criminal field (FRANKLIN, 2017, p. 45).



Godoi's work (2017, p. 193) shows that the presence of families in the execution of sentences is essential to the viability of the punishment system, having a real centrality that is not contemplated when the experience of the families of incarcerated people is placed as a side effect or secondary. In other words, the articulation between sexism and racism in the Brazilian penal system is not a reflection of punitive dynamics but rather real structural elements of the penal system.

Therefore, we can read from the author's work that proximity to family, the maintenance of bonds of affection, and the positive impact on material aspects are part of the experience of serving time for prisoners. However, in another aspect, the flow of people visiting their imprisoned relatives informs the internal functioning of the prison (GODOI, 2017, p. 193).

From this perspective, the picture that emerges is not one of the imposition of a penalty on some which, due to faults or excesses, would end up contaminating many others, but of an expanded administration of penalties that also involves one other, prisoners and their families, as well as civil and state agents - who operate, to a large extent, by managing the multiple and indispensable flows of people, goods and information that enter and leave the prison precisely to make it work (GODOI, 2017, p. 193).

From this, we can see that the daily maintenance of the prison population, supposedly the responsibility of the state during the execution of the sentence inside the prison, mobilizes a series of activities in and around the institutions, ranging from food, clothing, personal hygiene, cleaning the environment and others.

A large part of the responsibility for maintaining the activities of social reproduction within the punitive system lies with the families of incarcerated people, who carry out a veritable supply of subsistence items in prisons at the time of their visits. It so happens that this exercise of social control through the penal system also affects the majority of the black population, especially women, who have historically been assigned reproductive work.

Historically, the role attributed to black women encompasses the domestic sphere, where they are given responsibility for invisible reproductive work, and the public and productive spheres, where they are seen as members of the labor market in the most precarious positions. In this context, the discourse of formal equality, adopted by the legislative apparatus, hides the discretionary application of punitive control over black women. It also camouflages the essential link between the Brazilian penal system and the unequal social configuration it seeks to guarantee.



In this way, even though the penal system does not act in the first instance in the mass incarceration of women when compared to male incarceration figures, we can affirm that gender relations make up the structures of punitive control from the moment, it is historically organized and managed to support a social order that ultimately conditions black women to a position of subalternity and accentuated vulnerability.

Final considerations

Based on Angela Davis' provocations, we sought to reflect on how the category of gender could be analyzed when considering Brazilian punitive control. To do this, we first established some theoretical premises that guided this study, based on the notion that the social relations developed under capitalism are sustained, in addition to class exploitation, by gender and racial oppression. Thus, we have seen that the constitution of black individuals as inferior and the attribution of reproductive work as a female obligation appear as mechanisms for organizing capital accumulation.

Subsequently, we analyzed gender oppression in Brazil in conjunction with race, highlighting that the most vulnerable social positions are imposed on black women. Despite its historical success, the myth of female fragility does not correspond to the reality of all women. The experience of black women does not allow us to identify that they were "spared" from being part of the labor market in heavy and precarious jobs, even though even these women suffered from the imposition of reproductive work. Therefore, we see an overload of exploitation of the black female population.

Finally, by exposing the main historical events in the formation of punitive power in Brazil, we can see that the management of the armed arm of the state was done in parallel with the control, especially of the black and poor population. Thus, we cannot say that black women share the female experience of greater subjection to domestic control when compared to public control. Although they are not subjected to incarceration in absolute numbers in the same proportion as men, black women suffer a greater incidence of state control than white women.

In addition, we could conclude that the Brazilian punitive structure was essentially organized to maintain the black population in a position of subalternity so



that racism, sexism, and colonialism are impregnated in the logic of punitive functioning. Instead of promoting social control of black women through informal channels, "sparing" them from being subjected to an extremely violent and genocidal control mechanism, the Brazilian state has historically acted with the same cruelty towards black women, maintaining the social pact of inequality. In short, the penal system reflects and serves the structures and dynamics of the capitalist mode of production, in which forms of gender, race, and labor domination converge.

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