

# **BETWEEN SLAY DIGITAL MARKETING AND AFFIRMATIVE ACTIONS FOR THE INCLUSION OF BLACK PEOPLE IN THE LABOR MARKET: CASE STUDY OF THE MAGAZINE LUIZA TRAINEE PROGRAM**

## **ENTRE O MARKETING DIGITAL DA LACRAÇÃO E AÇÕES AFIRMATIVAS PARA INCLUSÃO DE PESSOAS NEGRAS NO MERCADO DE TRABALHO: ESTUDO DE CASO DO PROGRAMA TRAINEE DO MAGAZINE LUIZA**

Samia Moda Cirino<sup>1</sup>

Vanderson Patric Araújo Souza<sup>2</sup>

### **RESUMO**

Trata-se de estudo de caso do *Programa Trainee* da empresa Magazine Luiza. O objetivo é verificar se esse Programa consiste em efetiva ação afirmativa para inserção de pessoas negras em cargos de liderança no mercado de trabalho. A hipótese de pesquisa consiste na caracterização do Programa como marketing digital da lacração. Para tanto, inicialmente, foi necessário contextualizar as estratégias mercadológicas empreendidas pelo capitalismo na era digital a partir dos conceitos de psicopolítica e de regime da informação desenvolvidos por Byung Chul-Han. Esses conceitos permitem demonstrar o *modus operandi* desse regime, pela cooptação de pautas identitárias, exploradas nas mídias digitais para ganho de mercado. Em sequência, a análise do problema, isto é, do racialismo como instrumento de dominação obstativo da inserção de pessoas negras em cargos hierarquicamente elevados na estrutura ocupacional, é feita a partir do referencial teórico de Sueli Carneiro. As categorias de raça, de racialidade e de racialismo trabalhadas pela autora dão supedâneo para a compreensão da real função da questão racial no capitalismo. Entendido o caráter estruturante do racialismo no capitalismo, passou-se à análise propriamente do Programa e da sentença que julgou a validade do projeto. A análise desses documentos pautou-se em três campos de validade: fático, legal e de racionalidade. Os resultados obtidos foram no sentido de que o Programa encontra respaldo nos aspectos fático e legal. Todavia, identificamos o uso de termos no Programa que permitem concluir pela ausência de verdadeira mudança da cultura institucional hábil a transformar efetivamente a segregação de pessoas negras no mercado de trabalho brasileiro.

**Palavras-Chave:** Psicopolítica. Raça. Marketing Digital. Ações Afirmativas. Capitalismo.

### **ABSTRACT**

The article is a case study of the 2021 Trainee Program of the brazilian company Magazine Luiza (Magalu). The objective is to verify whether this Program is truly an affirmative action to insert black people into leadership positions in the job market. The research hypothesis consists of characterizing the Magalu Program as slay digital marketing. For this purpose, it was initially necessary to contextualize the marketing strategies undertaken by capitalism in the digital age based on the concepts of psychopolitics and information regime developed by

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<sup>1</sup>Doutora em Direito, pela Universidade Federal do Paraná (UFPR). Professora do Programa de Mestrado Profissional em Direito, Sociedade e Tecnologias das Faculdades Londrina. E-mail: [samiamoda@hotmail.com](mailto:samiamoda@hotmail.com). ORCID: <https://orcid.org/0000-0003-4209-0350>.

<sup>2</sup>Mestrando em Direito, Sociedade e Tecnologias das Faculdades Londrina. E-mail: [admpatric@gmail.com](mailto:admpatric@gmail.com). ORCID: <https://orcid.org/0009-0006-3650-6662>

Byung Chul-Han. These concepts allow us to demonstrate the *modus operandi* of this regime through the co-optation of identity issues, exploited in digital media to gain market share. Next, the analysis of the problem, that is, of racialism as an instrument of domination that hinders the insertion of black people into hierarchically elevated positions in the occupational structure, is done based on Sueli Carneiro's theory. The way this Brazilian author works with the categories of race, raciality and racialism provides support for understanding the real function of the racial issue in capitalism. Having understood the structuring nature of racialism in capitalism, the Program and the ruling pronounced in ACPCiv 0000790-37.2020.5.10.0015, which judged the validity of the company's project, are analyzed. The study of these documents was based on three fields of validity: factual, legal and rationality. It was concluded that the Program is supported in factual and legal aspects. On the other hand, we identified the use of terms in the Program that allow us to conclude that there is no true change in institutional culture capable of effectively transforming the segregation of black people in the Brazilian labor market.

**Keywords:** Psychopolitics. Race. Digital Marketing. Affirmative Actions. Capitalism.

## INTRODUCTION

*De espírito aberto, te convido a esse diálogo, confiante de que é possível conquistar corações e mentes, mesmo entre os que, como tu, rejeitam o som de vozes subalternas, para construir outros cenários e roteiros que representem a emancipação para todos (Sueli Carneiro. Dispositivo de racialidade: a construção do outro como não ser como fundamento do ser. 2023, p. 12).*

In the Information and Knowledge Age Society, companies have found in social media a new space for marketing strategies, whose advantages were once unimaginable in the industrial capitalism. It is not just a matter of selling products or services, but also, under the guise of sustainable practices, expanding markets, creating demand and dependence among consumers/users, and, above all, increasingly involving individuals in a post-industrial capitalist model of life. After all, at a time of intense crisis for the capitalism, it is this psychological engagement that will ensure the continuity of this socioeconomic system. More specifically, we refer to the subprime mortgage crisis of 2008, which began in the United States but impacted the entire system of globalized and financialized capitalism, a crisis that was exacerbated by the Covid-19 pandemic beginning in 2020.

From a Marxist perspective, whether these crises are considered cyclical, that is, inherent to the capitalist system, or structural, that is, shaking the very foundations of capitalism, such as alienated labor and a gendered and class-based society, this scenario of intense economic, political, and social crisis exposes the limits of a collapsing system that needs new strategies for its perpetuation.

In a hyper connected society, without limitations of space and time, social networks serve this purpose as a stage for what we call digital marketing of sealing. It is no surprise that capitalism appropriates criticism and reframes it with strategic use of identity agendas, such as feminist movements, black movements, LGBTQIA+ movements, among others. What we are saying is that, under the guise of implementing business practices to address issues related to gender and race, for example, companies resort to the use of digital marketing of social justice, whose purpose is not to address the social problem that motivated the campaign, but rather to win the sympathy of the subjects and, with that, the consumer market and, ultimately, the perpetuation of the capitalist economic system.

In light of this phenomenon, this research seeks to analyze the Trainee Program of 2021 of the Magazine Luiza company (Magalu), widely publicized on social networks and digital media, which sparked debates about digital marketing when it announced that it would exclusively hire black people. The validity of the program was challenged in court in the Public Civil Action ACPCiv 0000790-37.2020.5.10.0015, filed by the Federal Public Defender's Office on October 5<sup>th</sup>, 2020, which was heard by the 10<sup>th</sup> Labor Court of the city of Brasília.

Based on this specific problem, this article analyzes whether the program and marketing of Magalu are consistent with the racial agenda that motivated it, as well as whether the reasoning used in the decision handed down in the mentioned Public Civil Action considered the possible instrumentalization of the racial issue. To this end, it is first necessary to outline an overview of the neoliberal capitalism in the digital age and of the information society itself. This contextualization is important to understand how capitalism acts with psycho power strategies to engage subjects in the perpetuation of this system. The analysis of these issues is based on the perspective of Byung-Chul Han, as the author demonstrates how power relations occur in capitalism in the digital age under the neoliberal aegis, especially with regard to the process of subjectivation.

Next, it is necessary to present some aspects of racism in the Brazilian capitalist system so that, in the final part of the article, we can assess whether the initiative program of Magalu is, in fact, a policy to combat racial discrimination in employment, or whether it was merely digital marketing hype.

## 1 PSYCHOPOLITICS IN DIGITAL AGE CAPITALISM

The 1970s marked a new direction in capitalism: neoliberalism. Whether or not it marks the beginning of a postmodern era is a long and controversial question. But there is one unavoidable premise: neoliberal ideology, using new information technologies and the context of progressive globalization to its advantage, has significantly transformed modes of production and life in the capitalist system.

In this research, this premise is based on the thinking of Byung-Chul Han (2020), who considers neo liberalism as a new technique of power, which he calls "psychopolitics." Despite our partial disagreement with the author's reading of bio politics in Michel Foucault's work, as well as his departure from the Marxist perspective on social classes in contemporary times, issues that we refrain from further consideration given the scope and limitations of this article, the reflections put forward by Byung-Chul Han have, in a way, pulled us out of our inertia to think about the way of life in the digital age. His books, written in the form of essays on topics related to the changes resulting from neo liberalism and technological advances, based on his reading of classics such as Karl Marx, Michael Foucault, and Hegel, provoke us to rethink the direction we are taking with regard to human labor, interpersonal relationships, and, ultimately, life itself.

The author (Han, 2020) considers that social transformations in capitalism under the neoliberal aegis, in a context of disruptive new technologies, are so profound as to identify a new ratio and defend the existence of a "second enlightenment". While in the first enlightenment myths were replaced by the rationality of statistics, in the second enlightenment big data is the source of knowledge. This second digital enlightenment is called by Han "dataism", because "everything must become data and information", leading inevitably to a "digital totalitarianism" (Han, 2020, p. 80). In this form of power, big data accesses the collective unconscious, promoting social patterns of behavior.

Dataism establishes a new form of domination, which Han (2022, p. 7) calls "information regime". In this regime, the collection of information and its processing by algorithms and artificial intelligence determine the social, economic and political processes. The information or data obtained are used for surveillance, control and prognosis of psychopolitical behaviors. In other words, the information regime makes communication become surveillance, because "the more we generate data, the more intensively we communicate, the more effective surveillance becomes" (Han, 2022, p. 13).

The information regime operates through the imperative of "transparency" according to which "everything must be available in the condition of information" (Han, 2022, p. 14). This imperative of a society of transparency makes information circulate freely, masking that "it is not the people who are really free, but the information" (Han, 2022, p. 14). Positive *stimuli* for exposure or transparency in digital spaces allow characterization of a psychometric profile (profiling) through which it is possible to better predict the behavior of a person.

With this, a "new digital class society" is inaugurated in which people are categorized as commodities: on the one hand, people of low economic value, called waste (garbage); on the other hand, consumers of high market value called shooting star (Han, 2020, p. 91). From this, the author considered that we live in a kind of ban-optico (from English to ban) by making a syllogism with the pan-optic (Han, 2020, p. 91). The pan-optic serves to monitor interns of a punitive-disciplinary system, while the digital ban-optical identifies and excludes economically useless people, maintaining the safety and efficiency of the system.

We are thus heading for the era of digital psychopolitics, in which big data is erected to very efficient psycho-political instruments, advancing from a passive surveillance (disciplinary power) to an active control through which the subject's own will is achieved. The digital psychopolitics for Han "is a knowledge of domination that allows to invest in the psyche and that can influence it at a pre-reflective level" (Han, 2020, p. 23). This is because big data makes it possible to predict human behavior, expressing a new form of power that makes human agency measurable, predictable and controllable. In this scheme, power "puts aside its negativity and passes for freedom" (Han, 2020, p. 26).

This is the power technique of the neoliberal regime for Han, subtle, silent and flexible, which translates into positivity to mask a false freedom. That is, instead of a disciplinary power dominated by negativity, inhibitory, prohibitive, the techniques of power involve optimization and motivation, making the subject submits to the context of domination by himself. This means that "instead of making people obedient, it tries to make them dependent" (Han, 2020, p. 26).

This power strives to produce positive emotions and exploit them, synthesized in what Han calls "pleasure capitalism" (Han, 2020, p. 27). What is stated is that the power technique of the neoliberal regime does not seize the individual directly, but in a silent and subtle way, ensuring that the individual has on himself so as to reproduce the context of domination and interpret it as freedom. For this, neo liberalism works with power techniques that act on emotions at a pre-reflective level to shape patterns and maximize consumption.

This is a very efficient means of psycho-political control; see that, as Han clarifies, emotions are the impulsive body response to action of which one is not explicitly aware.

The psychopolitical control of emotions is an identifiable information regime strategy, for example in digital marketing. When using guidelines sensitive to society, such as racial and gender issues, under a so-called social responsibility, companies resort to strategies of subjective cooptation of consumers/ users for market gain. If the marketing strategy "viralize" in digital media and the more likes it gets, the better the economic results can be.

It is precisely this strategic use of social guidelines, more specifically racial, that the present work seeks to analyze, in order to verify this psycho-political control of emotions in information capitalism. However, before we concretely analyze the marketing actions in the digital media based on this agenda, it is necessary to trace some aspects of the problem of racism in Brazil, in order to have a theoretical basis for analysis of the marketing strategy with racial agenda.

## **2 RACE AS A STRUCTURING ELEMENT OF CAPITALISM**

In the previous section, we examine the current stage of development of capitalism and its strategies for perpetuation by an information regime inherent to a digital psychopolitics. In this section, it is necessary to return to the analysis for another point. Thus, in this item, we do not deal specifically with the form of manifestation and operationalization of neoliberal capitalism in a digital society. Rather, we turn to the structuring aspects of this economic and social system on whose bases capitalism is based, that is, raciality.

Now, if the premise that guides us is that there is the strategic use of racial guidelines for marketing purposes in social networks, it is necessary to understand the real function that the analytical category race exerts in this system and how it is operationalized. The question that arises is whether the racial pattern is operationalized by capitalist power relations as a mere marketing strategy, or if race is inserted into the logic of this system in an embedded and essential way.

To answer this question, we start from the hypothesis that race is the structuring criterion of relations in multiracial societies of colonial origin. Although race is an identifiable category in the most diverse social compositions, the way it is inserted and which is operationalized by economic and social relations in capitalism evidences a paradigmatic change of its meaning and its use in this system that establishes itself from modernity.

In this condition, it cannot be understood only as a structural factor, that is, it is not a mere consequence of how power relations operate. We consider that in the capitalist societies of modernity, whose power relations were expressed initially from the idea of coloniality, race is structuring and, as such, serves as a support to the entire economic system, political and social, along with other structuring elements such as gender and class. Remove these structuring elements, the system falls apart.

It highlights the importance of exposing the true role played by race in capitalist power relations in a country whose population insists on propagating the myth of racial democracy. Such discourse, used as a power technique, denies the fact that the Brazilian population is mixed and masks the ideal of population bleaching. This strategy of whitening, as Sueli Carneiro (2023) points out, has not been exhausted by the policies of past centuries, through the arrival of European settlers; it remains alive, for example, in social media advertisements that praise the white person and stigmatize the delinquent as a black person.

This idea of whitening the Brazilian population makes it quite evident that coloniality is not only a geopolitical order. Rather, it consists in the way of ordering economic and social relations in capitalism, since modernity, based on elements such as race, gender and class. This form of power was not exhausted with the supposed independence of the colonized countries, expressing itself in contemporaneity as decolonial power. In this regard, for a matter of methodological consistency, it is important to emphasize that although we do not specifically adopt a decolonial theoretical framework in the present research, as well as the scope of the present work align the decolonial studies with other theoretical perspectives, as that of Sueli Carneiro, the approximations of the analyses of the themes on race allow to contextualize the critique that here is attempted. In other words, if the proposed analysis refers to the program of racial equity promoted by the company Magalu, based in Brazil, a country of colonial heritage and slave, the power relations to which the analyzes inevitably cover the logic exposed by the decolonial studies, under penalty of displacing the analyses from specific historical contexts quite different, as is the case of countries in Latin America.

From decolonial studies it is deduced that there is an intrinsic relationship between western modernity, capitalism and colonialism that engenders complex relations and interconnections among race, gender, class and geopolitics (Curiel, 2020). In other words, coloniality is not a mere racial categorization of the European non-white population, but represents the very relations of power, knowledge and subjectivation. In turn, the use of the term decolonial stems from the fact that the independences did not undo coloniality "that remained and reproduced itself as a standard for forms of labor exploitation, configuration of

social hierarchies, political administration of the now national republican states and subjectivity" (Segato, 2021, p. 56).

Understood that the critique drawn here is inserted in the context of capitalism founded on modernity in decolonial power structures, established from race, we go to the analysis of this category, resorting, therefore, to the studies of Sueli Carneiro. The choice for the author is due both to the fact that she is a scholar of the subject, as well as by virtue of being a black Brazilian woman and whom, in this condition, is able to present a more appropriate perspective to racial relations in Brazil from the subalternized view.

Having as its north the concept of device elaborated by Michel Foucault, Sueli Carneiro demonstrates the ontological constitution of black as "not being" in the dynamics of relations of modern society. In the Foucaultian perspective (Foucault, 2015), we understand by device the set of elements such as discourses, norms, scientific data, institutions and organizations that operate in a dominant strategic function in a given field of power to establish an ontological relationship, that is, of the subject as standardized identity (for example, white man) and of the Other as opposite exteriority (for example, black man). In this scheme, the standardized nuclear identity, synonymous with "whiteness" (ontology of being) is affirmed from the negativity (ontology of difference), that is, from the demonstration of not being the Other, placed as an object of inferiority and subjugation.

In this perspective, Sueli Carneiro considers that the device of raciality establishes an ontological view, since the affirmation of the being of white people, or the "hegemonic white self", is given by the negation of the being of black people, or the "Other Black". In this constitutive aspect, "racism reduces the being to its ontic dimension, denying it the ontological condition and leaving incomplete its humanity" (Carneiro, 2023, p. 19). In other words, the Being is limited to particular or determinative aspects, such as race, ethnicity, culture religion, among others, which represent the ontic aspect. In these terms, the ontological aspect is denied, that is, of the Being as such, or specifically as a human being. From this, the black is not placed as a subject, but as the Other or the Not-Being. In this logic, the black is constituted as a Non-Self, behold, he is deprived of the defining characteristics of full being: "self-control, culture, development, progress and civilization" (Carneiro, 2023, p. 91).

To better understand this constitutive aspect of subjects in modernity, it is necessary to pay attention to the distinction made by Sueli Carneiro (2023) between race, racism and raciality. For the author, race denotes a form of social classification, therefore not natural, based on the criterion of color in order to naturalize prejudices, interests and negative social

values (Carneiro, 2023, p. 20). In this sense, race is the criterion, while racism is the practice, or instrument of domination to naturalize social, cultural and personal differences. This relation of domination is guided by raciality, understood as "the production notion of an ontological field, an epistemological field and a field of power, thus conforming to knowledge, powers and modes of subjectivation whose articulation establishes a field of power" (Carneiro, 2023, p. 44). It is, therefore, the factor of subordination that articulates a network of elements well defined by the racial contract and that determines the social exclusion of black people. In this respect, the black person undergoes an interdiction process as a human being that operates exclusion in discursive production and social practices.

In short, in this relationship of power, race is the defining criterion of the own being of one and social relations; raciality is the logic, or device, that operates through various techniques of power (such as discourses and institutions) to establish the being and social relations; Racism is the practice or instrument of domination to naturalize differences. In this scheme, the being is defined from the criterion of color/ race (ontological aspect); defined its color/ race is erected to the condition of Being or Other/ Not Being by logic or the device of raciality (ontological aspect); established its condition of not being, the black person is subjected to the instrument of domination (racism) that excludes it from the deliberative and power spheres of the public sphere and disqualifies its knowledge and culture in a kind of spistemicide of valid knowledge in modern society.

In the operation of biopower, the device of raciality "promotes the life of the race considered healthier and purer and promotes the death of the race considered inferior" (Carneiro, 2023, p. 13). To the survivors of this logic of power relations, another form of assujeitamento is reserved, called by Sueli Carneiro, from the work of Boaventura de Souza Santos, of "epistemicide", referring to the role of education "in the reproduction and permanence of powers, knowledge and subjectivities that the device itself produces" (Carneiro, 2023, p. 14).

The social contract, paradigm of modern society, is for Sueli Carneiro (2023) a racial contract that presents an epistemological dimension, in order to establish in its rules and procedures what counts as moral and factual knowledge of the world. However, the reality established from this social pact, to sustain itself, diverges from the actual reality, in a kind of inverted epistemology, that is, that the epistemic authority imposes to see things under the perspective of the white being. This epistemological inversion, as called by Carneiro (2023), causes all forms of knowledge contrary to the white epistemic authority to be qualified as

"primitive and underdeveloped, because they do not reach the truth and remain on the plane of appearance" (Carneiro, 2023, p. 94).

That is, the device of raciality works on two fronts, in the discursive practices of "valid knowledge" (epistemicide), and in social practices, by prohibiting black people as human beings and moral, political and legal subjects. Epistemicide, as a constituent element of the raciality device, performs the kidnapping, demotion or murder of reason, cancels black people as "subjects of knowledge and intellectually inferior" (Carneiro, 2023, p. 16). In other words, the device of raciality, through epistemicide, "realizes the strategies of intellectual inferiorization of black and its cancellation as a subject of knowledge, which are forms of kidnapping, demotion or murder of reason" (Carneiro, 2023, p. 16). In another aspect, the device of raciality engenders social practices to "trigger a series of interdictions that function as an exclusion procedure" (Carneiro, 2023, p. 16).

Having understood the place of exclusion of black people in the Brazilian society as non-subjects, we pass in the next section to the analysis of the Racial Equity Program of the Magalu company and the judicial decision that analyzed the legality of this private sector policy.

### **3 THE 2021 TRAINEE PROGRAM OF MAGAZINE LUIZA**

At the end of 2020, the Magalu company published an announcement on social networks about a new 2021 *Trainee Program*, aimed exclusively at black people (self-declared black or brown). The company announced that 22,000 candidates across the country have applied, with a selection of nineteen at the end. After passing the training, it was conveyed by the company that these people would assume the position of senior analyst in several areas of the organization. This program of Magalu continued in the following years, with the opening of new selective processes exclusively for black people.

At the time, the factual justification presented for this action was that of reducing the racial differences existing in the leadership positions of the company. According to the material published by the company on its website (Magazine Luiza, 2022), after conducting an internal survey, it was found that although its workforce consisted of 53% black people, only 16% held leadership positions. In view of this data, the company disclosed that it sought assistance from "jurists, NGOs working for the cause of racial equity, representatives of the Prosecution of Labor, human resources executives from other companies and experts in

diversity and inclusion to define how to increase the number of black leaders in the organization" (Magazine Luiza, 2022).

Regarding the legal basis of the action in question, it is important to note that the company raised the Statute of Racial Equality, established by the Law no 12.288, of 2010, which aims "guarantee to the black population the effectiveness of equal opportunities, the defense of individual, collective and diffuse ethnic rights and the fight against discrimination and other forms of ethnic intolerance" (Brazil, 2010).

Tracing the factual and legal assumptions presented by the company for the institution of the program, the following analysis is based on three aspects of verification of its validity, that is, within the factual, legal and rationality that guided it.

In fact, the Program of the Magalu company is supported, here are the data collected in a survey on its employees showed that, although more than half of its workers are black people, they are not inserted in the hierarchically higher management positions. This factual situation in a large national company confirms the thesis defended in the previous section of this article, that raciality also operates in labor relations, reserving leadership places for white people while relegating black people to lower hierarchical positions in the lower-paid occupational structure.

Regarding the legal aspect, the legality of the Magalu Program was subject to the Public Civil Action 0000790-37.2020.5.10.0015, filed by the Union Public Defender's Office (DPU) on October 5<sup>th</sup>, 2020, which was adjudicated in the 15<sup>th</sup> Labor Court of the city of Brasilia-DF. In those proceedings, the DPU held affront to the art. 7o, XXX, of the Federal Constitution of 1988, which prohibits the use of criteria such as race for the admission of employees. Pointed out, also, violation of international norms and infra-constitutional that prohibit the discrimination of workers.

Among the arguments put forward by the DPU, it draws attention to the explanation that hiring only black people would be discriminatory, as it would deny access to employment to other ethnic and racial groups existing in Brazil, such as native peoples, foreigners, Asians, among others. In these terms, he considered that the action of Magalu could characterize a crime of racism, as provided for in the Law no 7.716 of 1989 (Brazil, 1989).

It also supported the thesis that the *Trainee Program* only with self-declared black candidates would consist of a business marketing strategy, technically called "lacração (lacing) marketing". That is, for DPU, the motivation of the Program would be exclusively political gain, expansion of profits and market range of the company.

The decision that judged the merits of the case in comment analyzed the issue, initially, based on the art. 5, caput, of the Federal Constitution<sup>3</sup>, that establishes the material equality of all people. In this regard, the judgment considered that the Program under discussion is constitutional; here the company has managed to demonstrate the existence of inequalities in the factual plan, ie the glaring disproportion of black people from its staff of workers who hold leadership positions.

These inequalities in the labor market must be corrected through affirmative actions that enable effective equality between subjects. Merely declaring human and fundamental rights, without considering the facticity of human relations, amounts to denying these very rights. What is stated is that it stems from the very fundamental character of the right to equality its material content. Being attached to the purely formal plane of equality, that is, equality before the law, amounts to confirming the myth of "racial democracy", which masks the Brazilian society stratified by issues of race, class and gender. In these terms, the constitutionally placed equality requires considering the inequalities between subjects, under penalty of the right to perpetrate violence in power relations that marginalize black people, erecting them to the position of Not-Being, as clarified in the previous section of this work.

On the sub-constitutional level, the judicial decision issued in the proceedings of the Public Civil Action analyzed the issue in the light of the mentioned Equality Statute (Law no 12.288, of 2010). Also, at the level of international law, he emphasized the commitment made by Brazil in the International Convention on the Elimination of All Forms of Racial Discrimination (UN, 1965), internalized in the national legal system through the Decree 65.810 of 1969. Likewise, the reasons for deciding invoked the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance, which entered the national legal system with constitutional status (art. 5, § 3, CF ) by means of the Decree 10.932 of 2022.

Given the content of these standards, it is clear that actions to promote policies aimed at eliminating inequalities can be exercised by the private economic sector, regardless of agreements with the Government. In this bias, specifically regarding the objective related to access, maintenance and rise of black people in the labor market, art. 38 of the Statute of Racial Equality (Law no 12.288, of 2010) places in charge of the Public Power the development of affirmative actions with this scope and, at the same time, it also enables actions by the private sector:

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<sup>3</sup>CF, Art. 5º - Todos são iguais perante a lei, sem distinção de qualquer natureza, garantindo-se aos brasileiros e aos estrangeiros residentes no país a inviolabilidade do direito à vida, à liberdade, à igualdade, à segurança e à propriedade, nos termos seguintes.

Art. 39. O poder público promoverá ações que assegurem a igualdade de oportunidades no mercado de trabalho para a população negra, inclusive mediante a implementação de medidas visando à promoção da igualdade nas contratações do setor público e o incentivo à adoção de medidas similares nas empresas e organizações privadas.

§ 1º A igualdade de oportunidades será lograda mediante a adoção de políticas e programas de formação profissional, de emprego e de geração de renda voltados para a população negra.

§ 2º As ações visando a promover a igualdade de oportunidades na esfera da administração pública far-se-ão por meio de normas estabelecidas ou a serem estabelecidas em legislação específica e em seus regulamentos.

§ 3º O poder público estimulará, por meio de incentivos, a adoção de iguais medidas pelo setor privado (Brasil, 2010).

In another aspect, the provisions contained in the Inter-American Convention against Racism make it impossible to accept the thesis raised by the DPU in the Public Civil Action, that the Magalu Program would represent a kind of discrimination of other racial and ethnic groups. This is because the Convention expressly excludes the characterization of racial discrimination from affirmative actions whose scope is to correct inequalities of certain groups:

#### Artigo 1

4. Não serão consideradas discriminação racial as medidas especiais tomadas com o único objetivo de assegurar progresso adequado de certos grupos raciais ou étnicos ou de indivíduos que necessitem da proteção que possa ser necessária para proporcionar a tais grupos ou indivíduos igual gôzo ou exercício de direitos humanos e liberdades fundamentais, contanto que, tais medidas não conduzam, em consequência, à manutenção de direitos separados para diferentes grupos raciais e não prossigam após terem sido alcançados os seus objetivos (OEA, 2013).

Also, the judicial decision in the Public Civil Action based, by analogy, the legality of the Magalu Program in the judgment handed down by the Supreme Federal Court (STF) in the ADPF 186, which considered racial quotas as a constitutional policy of affirmative action in the public university access system. The reasoning used in this case was that, if the Public Power can not only, as it should, undertake public policies for affirmative actions aimed at overcoming racial inequality, private organizations are also legitimate to promote such actions.

The above-mentioned normative frameworks make it quite evident that the Magalu Program finds legal support, as was decided in the Public Civil Action that questioned the plan of the company. But to recognize the legality is not equivalent to say that the action implemented by the company was not "lacração (lacing) marketing".

Specifically regarding the digital marketing thesis of the seal alleged by the DPU in the Public Civil Action, it is possible to infer from the reasons for deciding that the judge rejected its characterization, under the terms of the following sentence:

A decisão da Corte compatibilizou o princípio da igualdade material, previsto no art. 5º, caput, da CF/88, com a possibilidade de aplicação de ações afirmativas implantadas com o objetivo de permitir a superação de desigualdades decorrentes de situações históricas particulares que gerou o chamado racismo estrutural e da mesma forma se manifestou a ADC 41 do STF.

Thus, referring to the decision issued by the STF, the judge considered that the Magalu Program is not a purely marketing strategy, but affirmative action aimed at correcting "inequalities arising from historical situations" that generated "structural racism". Such terms used in the sentence highlight the need for a better referential approach to racial issues. Considering that the analysis of affirmative actions of racial patterns by the judiciary cannot be restricted to the legal aspect, the judging bodies must be able to understand the real function of race in economic and social relations engendered by power relations in capitalism.

As demonstrated in the present work, racism does not arise from a specific historical context of the past that is expressed as a consequence in the present. It is not a mere "historical heritage". Rather, it is the result of power relations that use the device of raciality to establish who counts as a Subject/Being and who is ontologically disregarded by Not-Being. In this logic, racialism is not a structural aspect, but structuring of the whole capitalist system, together with class and gender.

Having this reference in mind, in the case under discussion, it is possible to affirm that the rise of black people to leadership positions in labor relations is hampered or even hindered by racialism that elevates them as less capable. Without these premises, the analysis of the real objective of affirmative actions that use racial guidelines is unfeasible, thus displaced from the reality of economic and social relations in the context of a country submitted to the decolonial logic of power.

In addition to the basis used in the sentence, this discourse of common sense, that is, of racism as a merely historical fact, which, in turn, would generate a circumstantial and structural racism, is also found in the very material that the company Magalu published to publicize the *Trainee Program*. In addition to the propagated objective of diversity and inclusion in leadership positions, it is verified in the aforementioned material published on the internet that the scope of the company with this program is also marketing:

O programa foi uma decisão de negócio, cujo objetivo é corrigir uma distorção que afeta a competitividade do Magalu. A companhia acredita que profissionais com experiências, repertórios e visão de mundos diversos aumentam os níveis de eficiência e inovação das empresas (Magazine Luiza, 2022).

It should be noted that, at various points in the said material (Magazine Luiza, 2022), the company calls its employees "collaborators", as well as alludes that the action established by the program aims to combat "structural racism".

Obviously, it is not denied that the organization in question exploits economic activity for profit, that is, it is not a philanthropic entity or other non-profit organizations. Therefore, the fact of affirming in the disclosure material that there is a market purpose, by itself, does not allow concluding that it is digital marketing of lacing. The question we raise goes further, that is, whether the Program is only a marketing strategy that appropriates racial guidelines for market gain or if, as it intends to disclose the program, it is effective affirmative action as an exercise of social responsibility.

As seen, the factual and legal bases of the Program are valid, that is, there is, in fact, a glaring racial inequality in leadership positions in the company, as well as normative support for affirmative action undertaken by Magalu. But, if the scope of all affirmative action cannot be purely economic, the primary purpose of suppression of existing racism in labor relations requires a change in the so-called company culture, that is, its institutional values.

Firstly, if race, gender and class are engendered in capitalist power relations, it is necessary to resume the solidarity of class inherent to employment relations, discarding the discourse of the "employee collaborator". To call the employee collaborator or associate is a strategy of capitalism in order to mask class conflicts and cancel the possibility of "develop a class consciousness in itself and for itself, conforming the working class to the ideals of capital, to the point that the worker identifies with capital and gives in to the current capitalist mode of existence" (Coutinho; Cirino, 2018, p.5). That is, the worker cannot understand the real position he occupies in a class society "the construction of identity begins to be sought in a false identification with the other, which is foreign to it (capital), as well as in the kingdom of pleasure and consumption, annihilating the standard-worker for the sake of the master-worker" (Coutinho; Cirino, 2018, p. 6). In short, the worker embodies capital.

In this psychopolitics, the term "employee" has a pejorative connotation to such an extent that it was necessary to mitigate its negative load by more mild terms, as a collaborator/ associate, which refer more to the entrepreneur than to the worker. Neoliberalism has managed to precarize human labor in such a way that being called an employee is shameful. The most contradictory thing is that one is ashamed of being employed in a society constituted by the social division of labor.

In these terms, it will be in vain for the Magalu Program to insert more black people into its leadership cadres, but leave indene the institutional culture that nullifies class

consciousness. What is stated is that if the scope of the Program is not merely market-based, it must also work, in the entire scope of the company culture, the other exclusionary structures of capitalism, i.e., class and gender. Working only the aspect of race and gender in the organizational structure, but without acting on the class aspect, does not allow effective change of the condition of subordination to which these people were relegated.

In this respect, the program is part of the spistemicide mentioned by Sueli Carneiro, that is, it changes the factual truth, that these people are employed, to make prevail the distorted vision of the masked white elite in the speech of the entrepreneur. Vision so disconnected from reality that it makes us believe that all workers are, or aspire to be, entrepreneurs, when they are increasingly precarious and pejotized, kept in the class without capital.

## CONCLUSION

The analysis of the problem initially required its contextualization to understand how the psychopolitical instruments of contemporary capitalism use the identitarian guidelines, such as racial, to act on the pre-reflective level of the subjects-workers-consumers in the effort to produce positive emotions and exploit them. In this pseudo kingdom of freedom and transparency, the information regime works with optimization and motivation, that is, it makes use of emotions in ways sensitive to the enjoyment of society, such as racial and gender issues. The banner of social responsibility is raised by companies through digital marketing, masking the strategic use of these actions of subjective co-optation of consumers/users for market gain.

Understanding this psychopolitical action, the analysis of the use of racial pattern by the company Magalu required understanding what is the function of race, or more specifically, raciality, in the capitalist social and economic system. By moving away from common sense, that is, from racialism as a mere historical heritage and as a structural aspect, we were able to expose its real function, which is, of the structure of capitalism. This means that capitalism presupposes race (criterion of social classification), racialism (instrument of domination) and raciality (the logic that guides this relation of domination). There is no capitalism without these engendering, intersected by other markers, such as gender and class, that consolidate the ontological fields (who counts as Being and Not Being), epistemological (which knowledge are valid) and power. Remove these foundations, the system falls apart.

Based on these understandings, we sought to apply these concepts to the specific case, namely *Trainee Program* of Magalu, and to the court decision handed down in the Public Civil Action that analyzed the campaign of the company, in order to verify whether it can be understood as digital marketing of sealing. The analysis was divided into three aspects: factual, legal, and rationality.

In terms of facts, we concluded that the Program is justified, given that there is a striking quantitative difference in the number of black people occupying leadership positions in the company, despite more than half of its workforce being black. In this sense, it is an affirmative action promoted by the private sector in order to correct inequalities, and is therefore legitimate in this regard.

With regard to the legal aspect, the action of the company is protected by the Federal Constitution, especially in the art. 5o, caput, which enshrines the principle of material equality and, for this purpose, allows the adoption of positive discrimination measures. Furthermore, the Program in question is supported by the Statute of Equality (Law no 12.288, of 2010) and, at the level of international law, is in line with the commitments undertaken by Brazil under the International Convention on the Elimination of All Forms of Racial Discrimination and the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance.

Nevertheless, we consider that the analysis cannot be restricted to the legal-factual aspect, and should inquire about the rationality that guides the Program. This is because, without an adequate understanding of the function of race-racialism-raciality in capitalism, either by the managers themselves of the organization promoting the action or by the judiciary, when giving a response to the concrete case, there is no effective change of oppressive and excluding cadres. In this condition, the action dissolves into mere strategic marketing use of identity guidelines.

In the analyzed Program, we verified precisely this problem, that is, a mistaken understanding of the racial issue in Brazil, as well as a mistaken understanding of the class issue that intersects the racial agenda. This is because, by understanding racialism as a merely historical fact, it ends up assuming the mistaken premise that, after colonial slavery, racialism would express itself as what remained of slavery, its persistent consequence, but diluted in time. As seen, racialism is not a consequence; rather, it is a cause and therefore it has not ended colonial slavery, but remains vivid, strong and operative in the decolonial context.

Another misconception of the Program is to understand racialism as structural. If so, it would be a mere circumstantial aspect and mere result/effect - not cause - of power

relations. As if it were possible to eliminate it without transforming the very economic and social system on which it is based. On the contrary, racism is structure; it is base, pillar of the capitalist system, along with class and gender. Therefore, it is one of the causes for the system to operate as it does, to be exclusionary and oppressive. In this bias, the purpose of the racial agenda and all affirmative action that works with this identity issue is not to reshape, but to transform/ break with the system.

Finally, by referring at several times to its employees as collaborators, the Program makes any prospect of effective change fall by ignoring the class issue that does not separate from the racial question. Any Program that goes beyond the class consciousness is characterized as a strategy of co-optation of the worker, because it fosters the discourse of the entrepreneur and meritocracy. The shame that today accompanies the word employee is due to strategies of de-subjectivation of class collectives. Discredited in the recognition of work, it remains to seek recognition in the other, in the capitalist, even not occupying this place in the social structure.

The most contradictory in the case is that, if the program was motivated precisely because a small portion of its black employees are in leadership positions, therefore, by being in hierarchically inferior occupations, then, with lower remuneration and appreciation, the class issue is latent. It will not be enough to put more black people in management if, once in the prominent places, they identify with the capitalist, man and white, the Being in this system, while their peers remain relegated to Not Being.

Given these analyses, it is possible to conclude that, although legitimized in the factual and legal aspect, the Program does not sustain itself in the aspect of its rationality, is that, biased by a misreading of racism and for disabling any class consciousness in the discourse of the employee. This does not mean that affirmative actions focused on racial guidelines, such as the one practiced by Magalu, should not be implemented, or that the company should abandon the project. What is stated is that the Program needs to go through a restructuring that begins by changing the institutional culture itself with regard to these racial and class guidelines. In the form that is, unfeasible effective changes, is digital marketing of lacing.

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