



## Brazilian social formation and structural racism in the institutionalization of children and adolescents

*Formação social brasileira e racismo estrutural na institucionalização de crianças e adolescentes*

*Formación social brasileña y racismo estructural en la institucionalización de niños y adolescentes*

Teresa Cristina Torres de Abreu do Amaral<sup>1</sup>

 [0009-0005-93240904](https://orcid.org/0009-0005-93240904)

Ana Paula Procopio da Silva<sup>2</sup>

 [0000-0003-4420-1114](https://orcid.org/0000-0003-4420-1114)

**Abstract:** This article addresses the relationship between the institutionalization of Black children and adolescents in Brazil and the racism that structures social formation, data from the MCA (Child and Adolescent Module) Census of the Public Ministry of the State of Rio de Janeiro forms the empirical basis. From the 21<sup>st</sup> to 34<sup>th</sup> censuses, data on color or race are analyzed. Finally, we present reflections regarding anti-racism as an ethical-political foundation in working with children and adolescents in conditions of institutionalization.

**Keywords:** Institutional care for children and adolescents. MCA RJ Census. Brazilian social formation. Structural racism.

**Resumo:** O artigo aborda a relação entre a institucionalização de crianças e adolescentes negros no Brasil e o racismo que estrutura a formação social, tomando como base empírica os dados do Censo Módulo Criança e Adolescente (MCA) do Ministério Público do Estado do Rio de Janeiro. Nos censos 21<sup>o</sup> ao 34<sup>o</sup> são analisados os dados de cor ou raça. Por fim, apontamos reflexões no sentido do antirracismo como fundamento ético-político no trabalho com crianças e adolescentes em condição de institucionalização.

**Palavras-chave:** Acolhimento institucional de crianças e adolescentes. Censo MCA RJ. Formação social brasileira. Racismo estrutural.

**Resumen:** El artículo aborda la relación entre la institucionalización de niños y adolescentes negros en Brasil y el racismo que estructura la formación social, tomando como base empírica los datos del Censo MCA (Módulo Niño y Adolescente) del Ministerio Público del Estado de Río de Janeiro. En los censos del 21<sup>o</sup> al 34<sup>o</sup> se analizan los datos referentes al color o la raza. Finalmente, se presentan reflexiones orientadas hacia el antirracismo como fundamento ético-político en el trabajo con niños y adolescentes en situación de institucionalización.

**Palabras-clave:** Acogimiento institucional de niños y adolescentes. Censo MCA RJ. Formación social brasileña. Racismo estructural.

<sup>1</sup> Student in the Regional Development and Social Work Doctorate Program, Federal Fluminense University - UFF. Social Worker for the Health Ministry at the Traumatology and Orthopedy National Institute, Municipal Social Work Secretariat of Rio de Janeiro. Lattes: <https://lattes.cnpq.br/7663102769956252> - E-mail: [tabreudoamaral@yahoo.com.br](mailto:tabreudoamaral@yahoo.com.br).

<sup>2</sup> PhD in Social Work, Federal University of Rio de Janeiro - UFRJ. Assistant Professor at the Social Work College of the State University of do Rio de Janeiro - UERJ. Lattes: <https://lattes.cnpq.br/6172895336666864> - E-mail: [procopio.anapaula@gmail.com](mailto:procopio.anapaula@gmail.com).

## Introduction

This article, originating from a master's thesis research, addresses the institutionalization of children and adolescents from the perspective of race relations and anti-racism<sup>3</sup> throughout Brazilian history and its relation to the kind of racism that structures the country's social formation. The text points out the inseparability between slavery and racism to analyze the kind of treatment Black families have received from the Brazilian state after abolition, in a racialized analysis of the laws affecting Black children and adolescents, mainly regarding the contemporary policy of institutionalization.

The theoretical-methodological support is based on the historical-dialectical materialism to discuss how historical processes that regulate social relations in Brazil set the place to be occupied by Black children and adolescents in society. The focus is on institutionalization, which is seen as a space/strategy for the control of Black bodies and socialization for work in a dependent capitalist society. The research carried out was bibliographic and document analysis alongside the analysis of empirical data collected from the Child and Adolescent Module (MCA) Census of the Public Prosecution of Rio de Janeiro (2018-2024) to establish a relationship between structural racism and the historical trajectory of the Brazilian state treatment of issues related to children and adolescents, which is notably revealed in the expressive number of Black minors in institutions.

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<sup>3</sup> Aware of the long historical trajectory discussed, we inform that the terms childhood, children, and adolescents used in the text refer to historically constructed categories and concepts dependent on temporal and sociocultural contextualization. In studies addressing Black enslavement and colonization processes, the term child appears to designate individuals who arrived on different continents and who were not adults, even though, at the time, there was no precise delimitation of age range in contemporary terms. Lima (2022), in the preface to the work *Social Work and Institutional Care of Children and Adolescents*, highlights that "minorism," widely used to represent the non-adult segment in Brazil, was based on a colonial and slave-owning societal model. In the system of Foundling Wheels (18<sup>th</sup> century), the term child designated the subjects deposited there. However, the use of the word adolescent is not observed in that historical context, nor does the Geneva Declaration (1924), the first international instrument to recognize specific rights of children, use it. Nevertheless, we chose to maintain both terms in this work in their contemporary conception as defined in the Child and Adolescent Statute (ECA, 1990), even in historical periods when the terms were not recurrent, aiming to highlight their conceptual relevance and their consolidation as categories that express legal and social protection. The terms child and adolescent acquired greater accuracy from studies in the second half of the 20<sup>th</sup> century that delimited specific age ranges, recognizing these subjects as people in a peculiar condition of development, with their own characteristics, and no longer as "things," miniature adults, labor, or stigmatized subjects. Furthermore, it is fundamental to recognize the influence of international movements in redefining the conceptions of childhood and adolescence, especially regarding the consolidation of normative frameworks for comprehensive protection. In this sense, we agree with Costa Junior's conception (2021, p. 64) regarding "[...] decoding the form of childhood based on the criteria with which we have learned to deal with it and, thus, bringing down the house of cards, the conceptual building, dismantling the glass ceiling in which essentializing ideas of childhood (and of the child) as an age of life or as an experience with the world have historically been projected".

In Brazilian history, we emphasize the constituent processes of late slavery (1850-1888), with the end of the international trafficking of enslaved Africans and the social transformations that impacted the transition to capitalism (Moura, 1994). We highlight the Law of the Free Womb (1871) and its unfolding in the racist way in which the State has historically dealt with Black families.

From the 1988 Constitution onwards, there have been remarkable advancements in the field of child and adolescent law, mainly with the *Estatuto da Criança e do Adolescente - ECA* (1990) [Child and Adolescent Statute], and the consolidation of this segment of society as subjects of rights, in addition to reinforcing family's, state's and society's responsibility in raising them. However, in the MCA census system, a brief approach to the profile of those institutionalized reveals that despite all the legal support, there is still a recurrent racial bias confirming the historical trend of institutionalization of Black children and adolescents, even under the logic of the *Plano de Convivência Familiar e Comunitária* (2006) [Family and Community Coexistence Plan]. This is the perspective that sheds light on our discussion of the relation between the State contemporary policy named *acolhimento institucional* [institutional care] and racism, highlighting anti-racism as an ethical and political foundation in working with children and adolescents in institutional care.

### **Racism and slavery in the Brazilian social formation**

Colonial domination established unprecedented plunder through the expropriation of land and the lives of Indigenous populations, the theft of treasures and the production of wealth, which organized a society objectively based on large landholdings, monoculture, and the enslaved labor of Black men and women kidnapped from the African continent. Simultaneous to the consolidation of the colonial system, the modern idea of race as a justification for exploitation and oppression was forged and disseminated in the organization of labor, contributing to the centrality of racism in the Brazilian social formation.

The functionality of the race category for the processes of implementation and development of capitalism involves the construction of an ideological strategy of domination based on racial hierarchy, with political and economic objectives intrinsically linked to colonial invasion and domination, and subsequently to imperialism and neocolonialism (Oliveira, 2021).

The differences between conquerors and conquered went beyond phenotype and extended to subjective and behavioral aspects, where, in addition to physical beauty, positive moral values, intelligence, and leadership skills are ascribed to the White race, while imperfections and negative values are attributed to other racialized groups. Colonialism instituted meritocracy anchored in whiteness and the belief that social inequalities are related only to individual potential. In contemporary times, this is the framework for disregarding the historical socio-racial disadvantages produced by successive systems of exploitation.

The slavery period in Brazil was rather long, being classified by Moura (1994) into Full Slavery (1500-1850) and Late Slavery (1850-1888), considering the social organization of labor characterized by the conflict between two fundamental classes: the enslaved and the masters. The structure of slavery encompassed the powers of the judiciary, administration, and politics. Social life aimed at keeping the existing order, but such movement was not only internal; all relationships were directly linked to the events, interests, and demands of the international market.

In the 19<sup>th</sup> century, Brazil's emancipation from Portugal was driven by the needs of international capitalism, prompting the country to rearrange social relations with legislative reforms to implement a new social order, typical of Latin American nations recently emerging from colonialism, namely, dependent capitalism, which required free labor under conditions of super-exploitation. Therefore, capitalism structured on slave-based foundations originated a particular racial, sexual, and gender division of labor, which, even today, maintains the socio-racial inequities that impact the reproduction of the workforce. This means that the contemporary stratification of social relations in Brazil does not have its slave-based legacy as its sole explanation.

The social structure established by colonialism, expropriation and death processes alongside Black and indigenous resistances are synthesized in the way the Brazilian State abolished slavery in 1888 and became a republic in 1889. The incomplete abolition, without any compensation rights, was not a historical accident, but rather the system's need to keep a significant segment of the Brazilian population always on the margins of minimum survival conditions, with only the options of super-exploitation or death (Silva, 2021).

## Free womb in an enslaved body?

Enslaved children and adolescents were not seen as infants or young individuals in development; they were considered merchandise. According to Albuquerque & Fraga Filho (2006), during the Atlantic crossing, children over 10 years old generally came along, as younger children were more valued for internal enslavement in Africa. The commodification of children was established by categorizing them into "footed children," those who could already walk, and "breastfed children" or newborns, for the purpose of taxing the former or exempting the latter from taxes.

In that human market, enslaved people between the ages of fifteen and twenty were worth more than those in other age groups; men were valued more than women because the focus was on direct labor in colonial production (Albuquerque & Fraga Filho, 2006). For Indigenous and Black children in Brazil, violence was the prevailing prerogative. The former were subjected to forced catechism by the Jesuits, while Black children were used as everyday objects in the "family homes" where they were raised.

By approaching Law n° 2,040, of September 28, 1871 (Free Womb Law), we seek to question the formal meaning of the freedom granted and its implications for the treatment of free Black children and adolescents before and after abolition.

The principle that *all human beings are born free* has never been true for everyone. When we critically examine the definition of *freedom*, we realize that the freedom enshrined in that law is based on the contradiction that justifies black slavery, and its text is full of conditions that sought to maintain the established social order while promoting the gradual overcoming of slavery.

Art. 1<sup>st</sup> Children born to enslaved women in the Empire since the date of this law shall be considered free. § 1. Said minor children shall remain in the power and under the authority of their mothers' masters, who shall be obliged to raise and care for them until they reach the age of eight. Upon reaching this age, the mother's master shall have the option of either receiving compensation of 600,000 réis or utilizing the services of the minor until the age of 21. In the first case, the Government shall receive the minor and determine their fate in accordance with this law. The monetary compensation fixed above shall be paid in annuities with an annual interest of 6%, which shall be considered extinguished at the end of 30 years. The declaration must be made within 30 days of the child reaching the age of eight. Failure to do so will be understood as the individual's choice to use the child's services (Law n° 2.040, of September 28, 1871).

The first article refers to an unspoken contradiction: the myth of the free womb in an enslaved human body. The Black child was not born free. The child of the "free womb" was

the offspring of a woman deprived of her right to motherhood. The owner retained the power to perpetrate violence against both. Notwithstanding the implicit terms, the formal legal freedom of the children was conditioned by several factors set forth in the law. Until the age of eight, they would remain under the power of their mother's owner, whose obligation to "care for" and "treat" them does not specify the quality of the conditions of their upbringing. Would they be raised as free children? According to the letter of the law, no, because the owner would receive a compensatory sum from the State at the end of eight years or could keep a young worker until the age of 21 under their possession. In other words, the children of the "free womb" were a good deal, one way or another. The fate of the free child was not the decision of their mother, but of the owner and, ultimately, of the State. Therefore, the termination of parental rights is not exactly a new phenomenon in our society.

The role of the State as mediator of the rights of the owner and the child also needs to be considered, especially its role as an intervener. If the owner chose compensation, the children were taken to an Association authorized to operate by the Government, which was subject to legal inspection. However, the law did not detail the conditions of the care provided, but it allowed the transfer of children and young people to work, with the money received remaining in the possession of the institution. Institutionalization appears from this period as the State's response to dealing with Black children deprived of their right to family life.

Reading reality from a holistic perspective shifts the focus from the Law of the Free Womb solely as a protective law to include it within the broader context of specific liberal transformations of late slavery, which served both to expand free labor and to trivialize the super-exploitation and use of Black child labor.

The Free Womb Law synthesized diverse conceptions and interests from the elites and society as a whole, but also allowed within a rather limited and controlled logic, so that the owners would not suffer losses, a minimum of recognition of rights for enslaved Black families. This occurred especially due to the need to internalize in them, before abolition, the values of family models considered most appropriate, under the aegis of hygienist medicine anchored in bourgeois sociability.

The discourses on motherhood and childhood that began to be disseminated contradicted reality. However, they prepared for the end of slavery, consistent with the needs

of labor exploitation, since in the context of the transition to free labor there was a need for free Black children and young people to also form part of a cheap and super-exploited workforce, with the socially accepted justification of preventing them from wandering the streets and containing a supposed propensity for crime.

### **From minor codes to the Family and Community Coexistence Plan**

In the post-abolition period and during the Republic, racism was repurposed as a structuring element of the new mode of production. Socio-racial stratification was consolidated by the absence of specific policies for Black populations. On the contrary, state intervention aimed at criminalizing and blaming them for conditions of poverty and misery. For Black children and adolescents, institutionalization remained the strategy to remove them from the streets. And because, especially from the 1930s onwards, “[...] within the orbit of capital and social labor relations, the goal was to create docile bodies, educated for work, aligned with the nationalist project that at that moment was gaining new ground as truth and mobilizing force” (Costa Junior, 2021, p. 140).

The processes preceding abolition resulted in a significant number of Black children surviving as beggars, causing social unease among the middle and upper classes of society who demanded that the State remove them from the streets (Souza & Lino, 2022). In the first decades of the 20<sup>th</sup> century, the way to resolve this expression of the social issue was institutionalization in asylums, reformatories, and juvenile correctional facilities. All were racialized responses to contain free Black populations, considered a danger to society and a hindrance to the country.

The Brazilian bourgeois state's treatment of Black populations has always been marked by surveillance and repression, and with children and adolescents, there is a historical process of judicialization of their issues. In the Republic, the first specific law for this social group was Decree N<sup>o</sup> 17,943-A of October 12, 1927, the "Minors' Code." Over time, the term "minor" produced an implicit understanding of the race and class of this group, which was mostly institutionalized. And even almost 100 years after the Code and the Child and Adolescent Statute (1990), terms such as "minor" and "delinquent" persist in the social imagination when referring to Black and poor children and adolescents who are in foster care or who have committed an infraction.

The 1927 Code incorporated eugenic ideology that characterized Black people, especially males, as dangerous. Thus, according to institutional logic, Black boys should be rigidly controlled. It was also the legislation that set the age of criminal responsibility at 18, separating so-called juvenile offenders from adults. Black and poor families, considered incapable of caring for and educating their children, were legally forced to relinquish their parental rights to specialists appointed by the State. Many internalized this stereotype, believing in state institutions as an opportunity for their children to access food, healthcare, and vocational training. This propaganda led many Black families to voluntarily institutionalize their children (Souza & Lino, 2022).

Following the example of other legislation from the First Republic, such as the Criminal Code of 1890, the Minors' Code does not mention Black populations as targets of intervention in its content. However, it is aligned with the Brazilian state's project of whitening the population through the surveillance and containment of Black families, by normalizing and institutionalizing their children and adolescents. This is especially evident in the emphasis on combating vagrancy, a legal construct that specifically targeted Black people and contributed to the naturalization of the figure of the child laborer, even with the prohibition of work for children under 12 years of age.

Currently, the entrance of Black adolescents into the workforce "as early as possible" continues to be highly valued, often at the expense of leisure and the right to "go about their business" without being seen as potentially criminal. This is a rather complex ideological construct that, in its origin, joined what we call eugenic hygiene with the moralistic and Christian social movement that Faleiros (2021, p. 43) points out in the perspective of assistance and protection for *abandoned* and *delinquent minors*.

Here, the eugenic solution disguised as hygienism offered the possibility of racial control aligned with the formality of the social contract established by abolition. This guaranteed the State justification for rigid intervention on the large contingent of individuals diagnosed as inferior, incapable of exercising freedom, dangerous, responsible for disturbances of order and, therefore, of the nation's progress (Silva, 2022, p. 41).

In the 1930s, childhood protection in Vargas's government was linked to the industrialization expansion, with the demands from employers for increased exploitation of adolescent labor, including lowering the minimum age and establishing working hours equal to those of adults, citing the high incidence of vagrancy among minors and the increase in

delinquency (Faleiros, 2021). During that period, Decree N<sup>o</sup> 22.42 of November 3, 1932, which established the conditions for the work of minors in industry, while prohibiting work for those under 14 years of age, allowed professional practice from the age of 12, under specific conditions.

The Childhood Policy that in Vargas's era proposed "[...] repression, assistance and defense of race, has become a national issue, and, considering how it was structured, it shall be long-lasting and have deep influence in the trajectories of poor children and adolescents of this country" (Faleiros, 2021, p. 57). It seems relevant to emphasize that the poverty mentioned by that author has color since the children and adolescents targeted by the institutionalization policy were and are still Black individuals.

According to Faleiros (2021), in 1964 the Fundação Nacional do Bem-Estar do Menor (FUNABEM) [National Foundation for the Well-being of Minors] implemented the National Policy for the Well-being of Minors anchored in a strong policy of militarization and the formation of "good people." From 1964 to 1989 FUNABEM, in conjunction with the State Foundation for the Welfare of Minors (FEBEM), public and private entities, formed a *system* of care units, many of which were denounced as spaces of violence, repression, and torture.

Law n<sup>o</sup> 6,697, of October 10, 1979, repealed the 1927 decree and introduced the term "minor in an irregular situation," which was not present in the previous law. Considering that the word "irregular" means "not conforming to the moral rules of conduct," we infer that the new code continued the conservative project, adding the repressive aspects of the period.

The situations considered *minor in an irregular situation* included the evaluation that their families could not afford basic survival conditions such as health and mandatory education. Such evaluation did not question insufficient life conditions as a responsibility of the State with the protection of the working class. Conversely, it was based on blaming families. The moral dimension was also used to justify the institutionalization of minors based on allegations of their exposure to situations that violated "good morals".

According to Faleiros (2021), when the Code of Minors, of 1979 adopted the "regular situation" interpreted the issues relating to the State responsibility as individual issues. It considered irregular individuals rather than their life conditions, which were forged in the contradiction of capitalist social relations. Despite the nationalistic propaganda of the military governments, the conditions of childhood treatment did not improve; on the contrary, they

worsened. This was a period of national wage stagnation, increased inequality due to income concentration, intensified human rights violations, and a rise in the use of child and adolescent labor to supplement family income.

Poor and destitute Black families that sought support from the State to bring up their offspring would run the risk of having them institutionalized under the justification of abandonment. The “institutionalization culture” (Rizzini & Rizzini, 2004) was built in conjunction with institutional racism, because the approach adopted by the Brazilian State to confront this particular expression of the Brazilian social issue was the mass institutionalization of Black children and adolescents.

In the late 1970s, in the context of political and economic exhaustion of the civil-military dictatorship and the rise of civil society movements, the struggles for the rights of children and adolescents gained relevance and were later included in the list of social rights discussed in the 1987 National Constituent Assembly.

Article 227 of the Federal Constitution of 1988 set the legal bases for the Child and Adolescent Statute, defining it as the duty of the family, society, and the State to ensure, with absolute priority, the rights to life, health, food, leisure, professional training, culture, dignity, respect, freedom “[...] and to family and community life, in addition to protecting them from all forms of neglect, discrimination, exploitation, violence, cruelty, and oppression (Brasil, 1988).

The ECA - Law nº 8,069 approval on July 13, 1990, spread the concept of children and adolescents as subjects of rights throughout society, materialized the mobilization of social movements, and represented progress, especially when compared to previous legislation, since it abolished terms such as "minor," "delinquent," and "irregular situation" from its text. However, despite the ECA establishing that the responsibility for the comprehensive care of children and adolescents involves various public and private entities, including the family and/or responsible individuals, unlike previous Codes of Minors that focused solely on the family, the hegemony of the judiciary and a conservative view of poor are still observed. It mostly targets Black families, who are still seen as incapable of supporting their children and adolescents. Furthermore, there is a lack of questioning of the structural dimensions of the Brazilian social formation that influence institutional processes.

The *Plano Nacional de Promoção, Proteção e Defesa do Direito de Crianças e Adolescentes à Convivência Familiar e Comunitária* (PNCFC) [National Plan for the Promotion, Protection and Defense of the Rights of the Child and Adolescent to Family and Community Coexistence] was launched in 2006. Its proposal is to strengthen the paradigm of full protection and preservation of family and community bonds, following ECA guidelines, such as:

[...] A public policy whose priorities in institutional care include the preservation of family ties, personalized care in small groups, the non-separation of sibling groups, and the need for integration with the local community. However, not every action taken in the name of protection guarantees children and adolescents the preservation of their rights guaranteed by law (Souza & Lino, 2022, p. 109).

However, we observed that this field remains tense due to two competing conceptions: the *Doutrina da Situação Irregular* [Doctrine of Irregular Situation], based on the intense control of poor families, and the *Doutrina da Proteção Integral* [Doctrine of Full Protection], whose basis is the right of children and adolescents to family life, ensured by social protection policies (Saraiva, 2022).

Although ECA and PNCFC do not address the reality of Black children and adolescents who have historically been viewed with racism by authorities, in a racialized manner, this does not mean that socio-racial, class, gender, and sexual orientation inequalities are being disregarded in those documents.

### **I want to have eyes to see: the reality unveiled by the MCA Census**

The censuses from which we extracted the data for analysis are part of a project by the Public Prosecutor's Office of Rio de Janeiro, carried out since 2008, called the *Módulo Criança e Adolescente* (MCA) [Child and Adolescent Module]. This module is characterized as an online system with consolidated statistical data on all children and adolescents enrolled in foster care programs in the State of Rio de Janeiro. The MCA publishes the censuses twice a year, with publicly accessible information.

The MCA implementation, as registered in the 1<sup>st</sup> Census Presentation (2008), resulted in broad institutional mobilization involving the Public Prosecution, representatives of foster care institutions, the Justice Court and technical-academic support by the Law Course of the University Estácio de Sá. It also benefited from the collaboration of the

Municipal Social Assistance Secretariats of the municipalities of Rio de Janeiro and Niterói, as well as the civil association called Instituto Quintal de Ana.

According to the data presentation, the institutionalization of children and adolescents in the state of Rio de Janeiro was, up to that point, dispersed and disorganized. The MCA implementation enabled the systematization of such information and the elaboration of a more accurate diagnosis of the institutional care in the municipalities of that state. This initiative favored the interaction between agencies that formed the Rights Guarantee System and contributed to greater speed in defining and addressing situations involving children and adolescents in institutional care.

Although all information generated from the first census is relevant, for the purposes of this research, which focuses on the relations between race and class and their effects on the institutionalization of children and adolescents, our analysis starts with data from the 21<sup>st</sup> census (2018). In that year the color/ethnic group data was included and revealed that out of the 1,724 institutionalized children and adolescents in the state of Rio de Janeiro, 67% were Black. We observed that the data was approached differently from the official parameters of the *Instituto Brasileiro de Geografia e Estatística* (IBGE) [Brazilian Institute of Geography and Statistics], which uses the term color or race for identification alternatives. From the 22<sup>nd</sup> Census (2018) onwards, the data became race/color/ethnicity, with the sum of brown and black people understood as the black race. This brings us back to the reflections of Kabenguele Munanga (2003, p. 10) on the use of the term ethnicity as a means of softening racial conflict. We observed the way this specific data was approached:

Although race does not exist biologically, this is insufficient to eliminate the mental categories that sustain it. The difficult part is annihilating the fictitious races that haunt our collective representations and imaginations. While classical racism feeds on the notion of race, modern racism feeds on the notion of ethnicity defined as a cultural group, a category that constitutes a more acceptable lexicon than race (politically correct speech).

Considering that ethnicity refers to a group of individuals with common geographical, cultural and social aspects such as language, religion or worldview and being aware that the African diaspora in Brazil caused an almost annihilation of original African references, we point out the contradiction of anti-Black racism being labeled as ethnic prejudice since in our country, people are not discriminated against because of their Bantu or Yoruba origin, but because they are Black. Thus, we analyzed the data on the color or race of children and

adolescents from the 21<sup>st</sup> to 34<sup>th</sup> Censuses, correlating it with family neglect as the predominant reason for their placement in foster care, based on the construction of Tables 1 and 2, with data from the Public Prosecutor's Office of Rio de Janeiro/Child and Adolescent Module (MPRJ/MCA).

**Table 1 – Color or race**

PUBLIC PROSECUTOR'S OFFICE OF RIO DE JANEIRO – MPRJ								
CHILD AND ADOLESCENT MODULE – MCA								
CENSUSES OF INSTITUTIONALIZED CHILDREN AND ADOLESCENTS IN THE STATE OF RJ								
CENSUSES	Nº of institutionalized individuals	Mixed-race	Black	Negro	White	Yellow	Indigenou s	Ignored
21 <sup>st</sup> /2018	1724	661	505	1166	316	3	1	238
		38.34%	29.29%	67.63%	18.33%	0.17%	0.06%	13.81%
22 <sup>nd</sup> /2018	1650	727	552	1279	317	9	0	45
		44.06%	33.45%	77.51%	19.21	0.55%	0	2.73%
23 <sup>rd</sup> /2019	1723	805	585	1390	313	14	0	6
		46.72%	33.95%	80.67%	18.17%	0.81%	0	0.35%
24 <sup>th</sup> /2019	1575	723	527	1250	304	16	0	5
		45.9%	33.46%	79.36%	19.30%	1.02%	0	0.32%
25 <sup>th</sup> /2020	1425	652	468	1120	298	5	0	2
		45.75%	32.84%	78.59%	20.91%	0.35%	0	0.14%
26 <sup>th</sup> /2020	1277	581	419	1000	273	3	1	0
		45.50%	32.81%	78.31%	21.38%	0.23%	0.08%	0
27 <sup>th</sup> /2021	1318	631	417	1048	257	6	4	3
		47.88%	31.64%	79.52%	19.50%	0.46%	0.30%	0.23%
28 <sup>th</sup> /2021	1369	627	482	1109	249	8	0	3
		45.80%	35.21%	81.01%	18.19%	0.58%	0	0.22%
29 <sup>th</sup> /2022	1455	662	496	1158	287	9	1	0
		45.50%	34.09%	79.59%	19.73%	0.62%	0.07%	0
30 <sup>th</sup> /2022	1471	625	518	1143	317	11	0	0
		42.49%	35.21%	77.7%	21.55%	0.75%	0	0
31 <sup>st</sup> /2023	1512	667	517	1184	318	8	1	1
		44.11%	34.19%	78.3%	21.03%	0.53%	0.07%	0.07%
32 <sup>nd</sup> /2023	1505	681	511	1192	309	4	0	0
		45.25%	33.95%	79.20%	20.53%	0.27%	0	0
33 <sup>rd</sup> /2024	1519	648	551	1199	309	6	5	0
		42.66%	36.27%	78.93%	20.34%	0.39%	0.33%	0
34 <sup>th</sup> /2024	1559	702	550	1252	296	10	1	0
		45.03%	35.28%	80.31%	18.99%	0.64%	0.06%	0

Source: The authors with MPRJ/MCA data.

The historical series presented in Table 1 shows that from the 21<sup>st</sup> (2018) to the 34<sup>th</sup> census (2024) Mixed-race and Black children prevailed among those institutionalized in the State of Rio de Janeiro. All Censuses after the 21<sup>st</sup> presented over 70% institutionalized Black

children and adolescents, in censuses 23<sup>rd</sup>, 28<sup>th</sup> and 34<sup>th</sup> that group reached 80%, while White children and adolescents never reached 22% in any of the Censuses.

The number of those in institutional care classified as Mixed-race is significant, which makes it even more important to consider the group of Black and Mixed-race individuals as Black, in accordance with the idea that the racial problem in Brazil relates to structural inequalities between White and Black people, and not between Mixed-race and Black people.

In the 2022 IBGE census, the percentage of individuals self-declared as White was 43.5%, while Mixed-race were 45.3% and Black were 10.2%, with Black populations appearing in greater numbers in indicators of destitution, poverty, and precarious access to goods and services. Access to such information is only possible through the qualified collection of racial data. Taking that into account, the set of data analyzed in the MCA Censuses follows the national pattern of socio-racial inequities. And the way the color or race data is filled in indicates the complexity of both self-declaration and hetero identification of race in a country where the strength of the myth of racial democracy obscures the structural determinants associated with skin color and race.

In Brazil, being a Black person means to go through intense experiences of racial discrimination. Symbolic or concrete alignment with whiteness is perceived and used as a strategy for protection and social acceptance, even though this dynamic reproduces harmful racial hierarchies for Black and Mixed-race people.

Society, in general, continues to associate Black population with bad behavior, typical of ignorant, undisciplined and violent people. Mixed-race is a transitional category, a place where people with lighter skin can, if they so wish, assume an identity disconnected from their connection to the Black population, which lends legitimacy to the whitening policy, residual in Brazilian life. (Eurico & Passos, 2022, p. 10)

This makes the debate on race relations and the confrontation of institutional racism essential, as well as the recovery of the struggles that Black social movements have intensified in recent decades for a positive racial identification of being Black and demanding reparations in the form of promoting racial equality in various public social policies. Also, because beyond racial identification, it is also a process of self-definition for children and adolescents in reaction to the stereotypes placed on Black people, opening possibilities to break with the historical dehumanization of their bodies and as an alternative to recognition (Paula, Santos & Silva, 2023, p. 53).

The term *ignored* indicates both that the information was not filled in, and the use of term by the professionals of the institutions. These actions reinforce racial violations since the qualified collection of color or race data in the institutional documents and systems refers to the assessment and confrontation of socio-racial inequalities that affect individuals and reveals the social construction surrounding racial stereotypes that determine the place each group occupies socially. It is also a central element for equity in public policies (Eurico & Passos, 2022). Taking that into account, our question is, what is really ignored? The color or race of those children and adolescents or their own existence and that of their families?

Although institutional care is an exceptional measure, data verified over a historical period confirmed the perception that reality goes against the National Policy for the Rights of Children and Adolescents (PNCFC), whose guiding principle is family and community life. In other words, more than a situation, foster care, for Black children and adolescents, has the character of a social condition imposed by the State. The analysis shows that between 2018 and 2024 there was a decrease in the total absolute number of children and adolescents in foster care; however, we observed a significant increase in the percentage of Black children and adolescents, from 67.63% in 2018 to 80.31% in 2024.

Institutional care is a highly complex service within the Special Protection framework, as outlined in the National Social Assistance Policy (PNAS) (Brazil, 2004), as a temporary and exceptional protective measure arising from threats or violations of rights, whether: “I) Due to action or omission by society or the State; II) Due to lack, omission, or abuse by parents or guardians; III) Due to their conduct” (ECA, 2019, p. 67). Of the 26 factors related to the institutional care of adolescents in the State, categorized in the MCA census descriptors, our analysis is limited to the most recurrent reason, namely, *neglect*<sup>4</sup>.

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<sup>4</sup> “Negligence – Lack of care, dedication, accuracy, interest, attention; carelessness, obliviousness. [Legal]; 1. Lack of surveillance; carelessness, negligence, sloppiness; 2. Feeling that someone or something does not deserve your attention or respect; inattention, disinterest, disdain; 3. Lack of initiative; indolence, inertia, laziness” (Michaelis Dictionary – <https://michaelis.uol.com.br>). The debate surrounding the meanings of the term and what motivates the institutionalization of Black children and adolescents reveals a lack of opportunities for families to care for their children as stipulated by law.



**Table 2 – Institutionalization factor**

<b>PUBLIC PROSECUTOR’S OFFICE OF RIO DE JANEIRO – MPRJ</b>			
<b>CHILD AND ADOLESCENT MODULE – MCA</b>			
<b>NEGLIGENCE AS A FACTOR OF INSTITUTIONAL CARE IN THE CENSUSES OF CHILDREN AND ADOLESCENTS IN THE STATE OF RJ (2018-2024)</b>			
<b>CENSUSES</b>	<b>Negligence factor</b>	<b>CENSUSES</b>	<b>Negligence factor</b>
21 <sup>st</sup>	546 (31.67%)	28 <sup>th</sup>	497 (36.30%)
22 <sup>nd</sup>	588 (35.64%)	29 <sup>th</sup>	526 (36.15%)
23 <sup>rd</sup>	612 (35.53%)	30 <sup>th</sup>	517 (35.15%)
24 <sup>th</sup>	551 (34.98%)	31 <sup>st</sup>	591 (39.09%)
25 <sup>th</sup>	530 (37.19%)	32 <sup>nd</sup>	610 (40.53%)
26 <sup>th</sup>	462 (36.18%)	33 <sup>rd</sup>	563 (37.06%)
27 <sup>th</sup>	487 (36.95%)	34 <sup>th</sup>	661 (42.40%)

**Source:** The authors with MPRJ/MCA Data.

In all censuses the reason that led more children and adolescents to institutional care was *negligence*, defined as the child’s or adolescent’s deprivation of what is essential to their healthy development (MCA MPRJ, 2021, p. 38). On the other hand, as pointed out by Nascimento (2016, p. 76 *Apud* Souza & Lino, 2022, p. 111) negligence specified solely as a voluntary and irresponsible act by the family, takes on an individual character, a depreciative valuation that,

[...] assumes that when a father or mother does not behave according to an established social mandate, they are considered negligent, and as a result, the child will have an unhappy fate [...] from the relationship between negligence/protection/institutional care, the criminalization of poor families and the punitive legal and social interventions against poverty are conceived [...] Given that the law states that the family can no longer provide shelter due to poverty, the poor family gains the new status of a negligent family, a categorization that justifies state intervention in providing such care.

When unveiling the racial and class significance of the assessment of neglect related to Black families, we understand that: “[...] often, the criminalization of the poor is hidden as a justification for the breaking of family ties, through official actions” (Eurico, 2020, p. 105). The impossibility of maintaining dignified conditions for raising children, which is stigmatized by institutions, is an expression of the social issue.

[...] In the name of protection, the financial hardship of many families of children and adolescents in foster care is transformed into negligence and incompetence in caring for their children. Taking advantage of poverty, stereotypes and demeaning remarks silence and condemn the ways of life of many - poor and Black- families (Souza & Lino, 2022, p. 111).

Terms such as negligence and others used to justify foster care often mask the social conditioning factors of race, gender, and class, as well as the State's omission in caring for

families whose power has been taken away. Conversely, an analysis of these elements dismantles the idea of the State as the natural protector of childhood, which hides "[...] the true interests of accumulating profit margins, exploiting workers, and maintaining the existing order" (Saraiva, 2022, p. 84).

We are aware of serious situations of family negligence, which might put the lives of children and adolescents at risk, regardless of social class, race or territory. However, the forms of care provided to Black families in slave quarters, quilombos (maroon settlements), favelas (slums), and peripheries are those that have historically been considered insufficient or inadequate. In all MCA Censuses, neglect has been cited as a reason for placement in shelters in over 30% of cases, reaching 42% in the 34<sup>th</sup> census. This indicates the need to investigate, among members of the rights guarantee system, possible perceptions linking inadequate social practices or conditions of financial instability to the assessment of neglect in relation to Black families.

### **Considerations about institutional care in an anti-racist approach**

The challenge of building up an anti-racist approach within the given reality is based on the recognition of the determining role of racism in the country's social formation, identifying the history of Indigenous peoples and Black populations in their struggles for rights.

Race, racism and racial discrimination are categories that throughout the Brazilian history have both named and synthesized the reality of social/racial inequalities, which in all spheres of social life impact on Black populations of all ages. On the other hand, they express the fight of Black social movements for the accountability of the Brazilian State in confronting racism as a national issue.

In the 19<sup>th</sup> century, from the perspective of hygienist medicine, Black women were accused of not showing affection for their children. This, to a certain extent, brings us to the present-day reality of families with children institutionalized under a legal interpretation that deems them incapable of providing care.

Although historically Black women have been the primary caregivers for the children of white middle- and upper-class families, they have been considered unfit to care for their own children. Currently, with children in institutional care, their maternal capacity continues

to be questioned, not as any woman, but as Black women. Thus, state intervention says much more about what these women cannot bear due to the absence of social policies in their daily lives than about a supposed intrinsic moral incapacity.

The way children are brought up, the food, the religious practices, the arts, the Black experiences in general are marked by stereotypes fabricated by Whiteness, which create barriers of access for Black families, their children and adolescents to the legally guaranteed right to family and community life. Anti-racism requires confronting the "white filter" that mediates the listening of Black families in institutional spaces. African populations in the diaspora were violated in their most basic right, stripped of their formal humanity, and placed in the condition of enslavement. However, dehumanization failed as a project, insofar as women and men treated as objects built new ways of living, reinvented their cultures, and resisted for the perpetuation of their existence.

In the MCA censuses, most children and adolescents are Black, and family negligence is the main reason recorded for institutionalization. Our approach to this data is the promotion of a debate about the association between race and characterization of parental practices considered negligent alongside the persistence of racialized structures in social protection policies.

The high percentage of Black children and adolescents in institutional care provokes a critical enquiry since despite all normative advances towards full protection of children and adolescents, a significant part remains being directed to institutions to the detriment of living with their families in dignified conditions. How can we ensure the material and social conditions that allow working-class families to fully care for their children, with access to education, basic sanitation, public safety, social assistance, housing, health, sports, culture, and leisure in a racist society with dependent capitalism whose sustenance lies in the super-exploitation of labor? We believe that shifting the focus from institutionalization to promoting family and community life is not just a theoretical debate, but a collective strategy that needs to be embraced by the components of the rights guarantee system, by workers, families, and the children and adolescents assisted.

Despite the importance of ECA and other rights guarantee laws, since they originate in historical social struggles of the working class, their formal legal dimension still shows contradictions that keep oppressions and prevent the transformation of their reality. Thus, the

effective implementation of laws in daily life involves political training and organization in confronting the elements that drive the capitalist system, such as racism. The institutionalization of children and adolescents continues to be justified based on the image of control constructed around Black families as dysfunctional. The functionality of this institutionalization for the control of bodies and the formation of surplus labor is not questioned. Considering the contradictory nature of relations in bourgeois sociability, we understand that the promulgation of a law, however good it may be, only covers the formal dimension of reality. Its realization in social life requires a permanent daily exercise of collective mobilization to guarantee the materialization of the rights foreseen.

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Teresa Cristina Torres de Abreu do Amaral & Ana Paula Procopio da Silva  
*Brazilian social formation and structural racism in the institutionalization of children and adolescents*

**Submitted on:** *December 31, 2025*

**Evaluated on:** *February 02, 2026*

**Accepted on:** *March 10, 2026*