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## “Work takes up all your time”: Social Security, Blackness, and the spatio-temporal logic of Brazilian Law

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### Abstract

The Brazilian social security system, as part of an anti-Black structure, perpetuates racialized exclusion through its socio-legislative processes. By analyzing the regulation of labor temporalities, judicial interpretations, and the landmark case of *Fazenda Brasil Verde v. Brazil*, this study examines how Black people’s access to social security is systematically hindered. The article develops the concept of *ontological labor*, defined as the work of existing within anti-Black structures, and applies it to the field of social security to challenge current institutional frameworks. It concludes that while Social Security Law has transformative potential, persistent colonial structures and social death logics produce a system that maintains racial disparity. The study proposes three concrete legal mechanisms for reform: a constitutional amendment to classify racism as a social risk under Article 201, automatic contributory amnesty for victims of slave-like labor, and the formal recognition of non-documentary evidence for periods of structural informality.

### Key words

Social security; welfare state; Afropessimism; Brazilian law; ontological labor

### Resumen

El sistema de seguridad social de Brasil, como parte de una estructura antinegra, perpetúa la exclusión racializada a través de sus procesos sociolegales. Mediante el análisis de la regulación de las modalidades laborales, las interpretaciones judiciales y el caso emblemático de *Fazenda Brasil Verde c. Brasil*, este estudio examina cómo se obstaculiza sistemáticamente el acceso de las personas negras a la seguridad social. El artículo desarrolla el concepto de *trabajo ontológico*, definido como el trabajo de existir

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dentro de estructuras antinegras, y lo aplica al ámbito de la seguridad social para cuestionar los marcos institucionales actuales. Concluye que, si bien la ley de Seguridad Social tiene potencial transformador, las estructuras coloniales persistentes y las lógicas de muerte social producen un sistema que mantiene la disparidad racial. El estudio propone tres mecanismos jurídicos concretos para la reforma: una enmienda constitucional para clasificar el racismo como riesgo social en virtud del artículo 201, una amnistía contributiva automática para las víctimas de trabajo análogo a la esclavitud y el reconocimiento formal de pruebas no documentales para los períodos de informalidad estructural.

### **Palabras clave**

Seguridad social; Estado del bienestar; afropesimismo; derecho brasileño; trabajo ontológico

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## 1. Introduction

Social security and, consequently, the pension system are inseparable from the capitalist structure governing modern States (Fraser 2022). This premise does not merely reaffirm the colonial exploitation of Brazil; instead, this article investigates the hypothesis that, given the intrinsic link between capitalism and Afropessimism, the pension system may reproduce systemic social ailments against Blackness through its own institutional frameworks.

Beyond the established anti-Black policies within Brazilian socio-legal labor arrangements, contemporary social policies replicate historical scenarios where the Black population remains at the bottom of the social valuation pyramid. In this hierarchy, these individuals are treated as disposable.

Specifically, the segment of the population that subsists through labor and whose ontologies intersect with their self-identification as Black (*pretos* and *pardos*) faces a series of anti-Black mechanisms within the labor law framework. In this context, the development of Afropessimism in Brazil, coupled with racialized labor temporality as analyzed through the concept of ontological labor, directly undermines the social benefits accessible to the Black population.

The title “Work takes up all your time” originates from the song *Periferia é Periferia* by Racionais MC’s (1997).<sup>1</sup> For the Black subject, the lyrics condense a binary between dreaming and surviving: the struggle for survival consumes the time the social security system requires to be invested in a future. This racialized perspective on temporality is the thread this study follows. Employing a legal-sociological methodology with a descriptive character, this research examines the specificities of labor temporalities applied by Brazilian labor courts through a racial lens and the structural obstacles the Black population faces in accessing the social security system.

A legal-sociological perspective is employed to comprehend the relationship between the social phenomenon of Black non-humanity within an anti-Black context and the legal phenomenon itself. The objective is to construct a framework that accounts for the demands of Black existence within a labor context that fundamentally denies said existence. Thus, the proposed legal research seeks to understand the efficacy and effectiveness of normative relations.

Within the capitalist system, while all are affected by working time, this impact is not uniform. Time transcends a mere physical measure; it is a social, political, economic, and ontological category inextricably linked to power relations, specifically, racial and capitalist ones. Law interprets time in specific ways, opening avenues to discuss what time signifies in contexts by bridging the gap between labor and anti-Blackness.

The methodology adopts a critical stance, viewing Law as a scientific process containing flaws that must be identified and interrogated (Gustin *et al.* 2020).

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<sup>1</sup> Racionais MC’s is a Brazilian rap group. The group’s discography documents the living conditions of the Black population in urban peripheries. Their lyrics address state violence, systemic racism, and the economic exploitation of Black workers. This historical record establishes the group as a cultural reference for the Black demographic in Brazil.

The study employs inductive reasoning, moving from specific data to construct a broader scenario. The approach is legal-interpretative, seeking to deconstruct the structure of Black working time and the effects and problems arising from its interpretation and application.

Source analysis will encompass both direct and indirect sources, drawn from legal studies and interdisciplinary fields. This methodology proposes a reflection on how Black existence itself constitutes an ontological labor, representing a continuous violence against the ontology of Black workers, transcending the capitalist exploitation identified by Marx (2009), ultimately becoming an impediment.

Initially, the study describes the reality of racial division of labor in Brazil. It examines how Brazilian Law rejects an interpretation rooted in colonial processes. Subsequently, an analysis of the concept of ontological labor distinguishes it from *emotional labor* and applies it to the *third shift* performed by Black subjects. The study then anchors these theoretical discussions in the landmark case of Fazenda Brasil Verde to illustrate how the State steals Black time. Building on this, the research examines the repercussions of the anti-Black structure within the 2019 Pension Reform (EC 103/2019), exploring how these legal shifts specifically impact Black existence and its precarious access to social security. Consequently, it theorizes potential avenues for change by expanding legal temporalities and examining their impact on the pension system.

This study proposes a reform in the recognition of labor time to alter how the social security system treats Black individuals. The central hypothesis is that the Brazilian State, through its legal frameworks and institutional practices, systematically denies the ontological dimension of Black labor, reproducing the same exclusionary logic that the discourse of *racial democracy*, although historically refuted, continues to obscure.

Observations on the development of capital and the neoliberal alignment of the State in public policy reveal a progressive erosion of fundamental rights. This occurs even though

[...] pensions are an objective right, determined by labor and won through the historical social struggles of the working class. Conversely, the insurmountable conditions of structural unemployment and labor precariousness — characterized by high levels of informality — restrict this right to workers with stable employment or those who contribute to social security. Consequently, a large portion of the working class remains without social protection. (Boschetti 2012, 49, author's translation)

This immense portion is mainly formed by Black bodies (IBGE 2019). Social security policies repeat this violence; as tools for potential practical social change, the failure to reach the Black population with these rights results in the maintenance of the perception of Blackness as disposable and non-human.

## 2. Legal spheres of black labor

Firstly, it is necessary to explain the theoretical keys that will be used to construct a critique of the labor sphere related to Black bodies and the Brazilian legal perception of these spheres. This study draws on the theoretical contribution of Afropessimism alongside the analytical lens of decoloniality; together, these theories expose the socio-legal reality faced by Black people.

By Afropessimism, it must be understood that modern social and State development relations were and still are based on prospects of advancement through the exploitation of Black life. Being Black is more than a social marker or an epistemological and ontological process of developing the nature of one's being; it is a raw material that can be used and, when unutilized, discarded and replaced. Mbembe (2014) indicates that the Black body is a *metal body* due to this measurement of a mineral extraction process that occurs with the lives of Black women and men.

Afropessimism establishes the idea of social death that accompanies the Black body from birth. Black life is born dead because it adjusts to an anti-Black reality grounded in three pillars: (i) The rupture of Blackness's epistemological and biological ties with its ancestry; (ii) Classification as non-human, thus suffering from the possibilities of violence and disposability; (iii) The understanding of the Black body as a receptacle for gratuitous violence (Wilderson *et al.* 2017).

From the conception of social death, reflections within the social conjuncture reinforce the violence directed at the Black body. Within a logic of capital, Afropessimism reinforces a process of exploitation that goes several steps beyond what the anti-Black body suffers. No other racial group has suffered or suffers from anything like what Blackness has been subjected to since colonial processes, because the visualization of the Black body as non-human distances it from any comparative position with any other ontology.

This exclusion from the grammar of humanity establishes the requirement for a continuous effort prior to any formal labor relation. The system visualizes the Black body as a disposable vessel. Its presence within institutional spaces necessitates constant negotiation against the systemic denial of its subjectivity. The gap between structural dehumanization and the requirement to inhabit hostile environments produces a specific labor dimension.

This specific dimension is developed here as ontological labor, drawing on the work of Kim *et al.* (2020) on the unremunerated burdens borne by Black subjects within structurally unequal institutions, and on Ahmed's (2004) account of the exhausting labor of occupying spaces not designed for Black presence. The concept, as applied in this study, describes the continuous expenditure of energy required for a Black subject to exist within anti-Black structures.

Employers commodify and request emotional labor. Ontological labor is the unremunerated energy expenditure required for a Black subject to exist in anti-Black spaces. In the context of Brazilian Labor Law, this expenditure constitutes a Third Shift: (i) First Shift: precarious productive labor; (ii) Second Shift: reproductive care work; (iii) Third Shift: the ontological work of producing oneself as a credible subject before the State. This dynamic includes the bureaucratic necessity to prove a labor history in a system structured to erase it. When a Black worker stands before a labor judge or a social security official, they are not merely presenting evidence; they are performing ontological labor to bridge the gap between their reality and the *white time* of the institution.

Following the logic of anti-Black development, colonization is intrinsically connected to the unfolding and maintenance of Afropessimism in society, understanding the figure of the colonizer and the processes of exploitation from the unfolding of capitalism.

Brazil was the largest importer of Black bodies during the slavery period. The nation was the second-to-last country to promote legislation for the liberation of the enslaved. Within a colonial rationality of an ideal modern European figure, Brazil repeated the nuances of domination that the white, heterosexual, non-disabled, Christian man applied and maintained in the country (Corraide and Pereira 2021).

Decolonial studies reference the coloniality of being, knowledge, and power (Quijano 2005, Mignolo 2010), so that within a geopolitical reasoning, it is possible to understand a conception of the construction of a *Global North* regarded as a scientific reference point and as the locus of modern State development, which consequently maintains the reproduction of violence manifested for hundreds of years.

The dialogues between decolonial studies and Afropessimism establish the understanding that Brazil operates in an anti-Blackness reality. Brazilian institutions reflect the social characteristics constructed during the colonial period.

Consequently, since Law is the producer of a scientific process based on Eurocentric developments, as well as a tool for factual social management that transforms into both an influencer and an influenced element of the social environment in which it is embedded (Moreira 2017), Labor and Social Security Law function as technologies for the reproduction of social violence, across various spheres, that targets the Black body.

Regarding Labor Law in particular, it is important to address specific directives concerning the relationship between labor and Blackness.

Brazil experienced a liberation process from slavery, starting with the Lei Áurea<sup>2</sup>. This process resulted in the displacement of Black people into precarious tasks and jobs considered inferior and poorly remunerated.

Accordingly, the Black population also constitutes the largest social group within the categories of informal and domestic labor (IBGE 2019), it being essential here to consider an intersectional lens of race and gender, all of which establish direct connections with the activities performed during the slavery period.

These conditions are compounded by an anti-Black judiciary that reproduces anti-Blackness in its decisions, aligns itself with capital, and advances against workers' fundamental rights. This occurs alongside a legislative development that dismantles collective struggles and specific legislative changes that primarily affect the categories in which Black and poor workers are situated.

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<sup>2</sup> The Lei Áurea (Law 3.353/1888) formally abolished slavery in Brazil. The State enacted this legislation without providing economic reparations, land distribution, or social assistance to the newly freed population. The absence of material support restricted Black individuals to precarious labor and structural marginalization. The law terminated the formal institution of slavery while preserving the national anti-Black economic order.

Furthermore, due to precarious labor conditions and a complex context of anti-Blackness, Black bodies experience the temporalities of their activities in ways that differ from those of any other workers.

### 3. Brazilian labor-legal time

According to the Constitution of the Republic of Brazil (1988), Article 7, Clause XIII, the standard workweek in Brazil is 44 hours. Within this common framework, there are variations such as the 12x36 shift, tools like the compensatory time off (bank of hours), and the intermittent work model, which allows the employer to call the employee only when necessary (Delgado 2020). However, despite the established legal limits on the workday, reality moves in the opposite direction from what Brazilian legislation projects.

This disparity is best understood through the lens of racial capitalism. As Gargi Bhattacharyya (2018) argues, racial capitalism operates by creating *edge populations*, groups pushed to the margins of the formal economy, serving as a buffer for crises and a source of cheap extraction, without ever being fully integrated into the social contract of protection. The informal job market is not a *failure* of the system; it is a feature of racial capitalism that ensures a vast pool of labor that contributes value but does not accrue rights.

Capitalism is a regime that benefits from continuous exploitation; persuading the working class to expand their daily routines, spending more and more hours working based on the fallacy of quick wealth, is a deliberate narrative designed to exhaust workers and, consequently, keep the system functioning while generating even more wealth for a few power holders.

The requirement for continuous time is a form of temporal violence against subjects whose lives are structurally subjected to interruption, such as police violence, by incarceration, or by the gig economy. The Law demands a linear, temporal performance (the career) from subjects forced to live in cyclical or fragmented time (the hustle). By demanding *white time* (linearity) as a prerequisite for rights, Labor Law implicitly excludes those performing ontological labor in the margins.

When observing the Black worker within the logic of capital's time, an even more aggressive perspective of the exploratory process emerges. Beyond the previously discussed anti-Black conjuncture, the process of coloniality and the repetition of colonial precepts create specific scenarios regarding the relationship between Blackness and labor temporalities.

Due to socio-historical conditions, Black bodies remain channeled into professions considered inferior by the collective imagination, which pushes them into informal market categories, domestic work, and similar activities (IBGE 2019).

Formal employment relations involve structures of violence that condemn Black employees to experience perspectives different from those of any other group of employees from other ethnic-racial backgrounds (Corraide and Pereira 2021).

The first scenario involves the treatment of workers in informal and precarious formal categories. This group includes street vendors, app-based workers, and domestic workers. These activities remain in a legislative gray area. This area allows for scenarios

such as the *maid's room*<sup>3</sup> or drivers working 15 hours a day during the early morning hours when prices are higher, in activity settings where irregularity permits exceed legally defined workdays.

In the second scenario, even though a complete set of supposed legal protections is targeted due to the formal nature of the employment relationship, what can be observed besides the complete dismantling of basic judicial protections for workers developed through decades of struggle for minimum rights are structural problems that affect Black bodies. As they are part of the consequently poorer population, settled in the peripheries, they require longer commuting times. This is in addition to access difficulties; there are correlations between time, housing, and higher economic costs, not to mention family security relations and life goals that are hindered by being far from commercial development centers.

However, in both perspectives, there is a relationship between time and anti-Blackness that affects all categories of labor relations and exceeds the limits of violence defined by other workers.

Ahmed (2004) provides a key theoretical resource for understanding this dimension. Within the framework of an anti-Black society, the Black worker experiences a state of eternal labor. Beyond the tasks assigned to them, there is a labor of exploitation that affects the ontology of these workers: the work of having to adjust oneself to anti-Black structures.

This involves mimicking hairstyles and speech patterns, conforming to other epistemological norms, and managing transportation, clothing, and behavior within work environments.

This pervasive need to manage one's own existence within anti-Black structures is not merely a psychological or performative burden; it manifests as a literal seizure of life-time and physical autonomy. When the state and private actors collaborate, whether through active exploitation or systemic indifference, the subjective *state of eternal labor* described by Ahmed (2004) crystallizes into tangible forms of modern slavery. To understand how these theoretical layers of ontological exhaustion and *stolen time* operate within the Brazilian legal and social fabric, one must examine the specific instances where structural discrimination is codified through the absolute dispossession of the worker's body and future.

The theoretical abstraction of *stolen time* finds its most brutal concrete expression in the case of *Fazenda Brasil Verde v. Brazil*, judged by the Inter-American Court of Human Rights (IACtHR) in 2016. This case serves as the jurisprudential anchor for understanding how the Brazilian State manages Black time through negligence and erasure.

The case involved the enslavement of 85 workers (mostly Black and Brown men from the impoverished Northeast) at the Fazenda Brasil Verde in Pará between 1989 and 2000. These men were subjected to forced labor, debt bondage, and threats of death. Crucially,

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<sup>3</sup> The maid's room in Brazil reflects the country's colonial past by embedding social and racial divisions within homes. These small rooms relegate domestic workers to the margins, reinforcing inequality and class separation through spatial isolation, akin to a modern-day senzala.

the IACtHR recognized that this was not merely a private crime, but a result of historical structural discrimination based on the economic position and race of the victims.

From a social security perspective, the case reveals dual theft. First, the immediate theft of labor power through slavery. Second, the actuarial theft: during the years of enslavement, these workers did not contribute to the INSS.<sup>4</sup> When rescued, although they might receive indemnity for moral damages, their time of service remains a void in the social security records. The State, which failed to prevent their enslavement despite repeated complaints since 1989, also fails to count this time of ontological survival as a time of contribution.

The Fazenda Brasil Verde precedent illustrates that the Brazilian legal system operates under a *chrononormativity*<sup>5</sup> inaccessible to the Black subject. The worker is punished twice: once by the enslaver, and again by the pension system that tells him he has not worked enough to retire. This creates a scenario where the Black body is consumed by work but is statistically invisible to the institution of retirement (Fornasier and Tondo 2018).

No other worker from other ethnic-racial groups experiences this type of exploitation process that transcends the modulations of capitalist norms. Ontological labor refers to a space-time in which Black bodies are constantly working. They work in all dimensions of life, in all spaces, and at all moments of their lives, within a structure that abstracts their vital energies to fuel a system and increasingly enrich anti-Black bodies.

Brazilian Labor Law utilizes non-eventuality to define a formal employment relationship. This requirement demands consistent recurrence in the worker's activities (Delgado 2020). Capitalist logic subjects the worker to productivity time managed by the employer (Marx 2009).

The concept of non-eventuality fails to capture the Black labor reality. The anti-Black societal structure exploits the worker at an ontological level. This exploitation expands Black activity into continuous labor. The legal framework restricts the recognition of this continuous labor. This restriction directly dictates access to social security benefits. The pension system relies on the formal measurement of labor time to grant protection.

#### **4. Social security and its (in)competence**

The Brazilian State developed the social security system during the industrial era to protect formally recognized labor (Silva 2012). The system incorporates the temporal restrictions of Labor Law. Constitutional Amendment 103/2019 (Pension Reform) utilized these restrictions to deepen the racial disparity in benefit access.

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<sup>4</sup> The INSS (Instituto Nacional do Seguro Social) is the Brazilian federal agency responsible for the administration of the Social Security system, tasked with collecting contributions and distributing benefits such as retirement pensions, disability insurance, and unemployment compensation.

<sup>5</sup> Chrononormativity is the institutional organization of human bodies through standardized temporalities to maximize capitalist productivity. The State establishes a linear timeline of expected life milestones, including continuous formal employment and retirement. This temporal standard regulates subjects and assumes universal access to institutional protections. The legal framework imposes this timeline on Black workers while structural anti-Blackness systematically excludes them from the material conditions necessary to fulfill it.

The 2019 Reform established a minimum retirement age of 65 for men and 62 for women. The State presented this change as a fiscal necessity based on general life expectancy increases. This aggregate data obscures racial disparities. According to the IBGE (2019), the life expectancy of Black men in Brazil is 67.5 years, compared to 73.1 years for white men. By setting the minimum age at 65, the State establishes a system where Black men possess, on average, only 2.5 years of retirement.

This legislative calculation functions as a death clause for this demographic. The legislation transfers wealth from Black workers to white beneficiaries by ignoring these structural life expectancy disparities.

Furthermore, the reform increased the difficulty of informal-sector workers transitioning to the formal system. For Black women, the situation is even more dire. Data from IPEA (2024) indicates that 21.2% of occupied Black women are unable to contribute to social security, placing them in a zone of total exclusion from future protection. This is the practical result of the *Third Shift*; the ontological labor of survival does not generate the contribution receipts required by the neoliberal State.

Workers and their collective struggles are part of the narrative of expanding the pension program. At the same time, ideals of truly inclusive social development remain projected into a future yet to be achieved (Dowbor 2021).

The reality is that, both globally and particularly in Brazil, there have been constant dismantling attempts driven by a logic of economic financialization that increasingly distances the human factor and clings to the numbers generated by capital. This causes various effects, such as [...] unemployment, a drop in the wage bill and consumption, with evident losses in revenue from the different sources of Social Security financing and an increase in expenditures to protect the unemployed and those without income. (Ferreira in press, author's translation)

Initially, the categories covered by social security were defined for specific activities, and only over time were they expanded to include lower-valued categories, such as domestic workers and rural activities.

These effects carry even greater weight and impact for Black bodies. It is essential here to have critical insight to observe that this slow progression of which categories are covered and which are not by the social security system inherently carries a purpose of racial exclusion of workers. Silva and Lima (2020) state that the Brazilian social security system depended on salaried labor from categories with mobilization capacity. The State expanded protection in the 1970s to rural and domestic workers. Black people form the majority of these categories. The 1988 Federal Constitution introduced the universalization of access to social security.

However, even with the idea of a universalization process for access, it is still possible to perceive a structure that, due to its anti-Black construction, hinders the granting of rights:

Art. 1. Social Security (Previdência Social), through contribution, aims to ensure its beneficiaries indispensable means of maintenance, due to incapacity, involuntary unemployment, advanced age, length of service, family responsibilities, and the imprisonment or death of those on whom they depended economically. Art. 2. Social Security is governed by the following principles and objectives: I - universality of

participation in social security plans; II - *uniformity and equivalence of benefits and services to urban and rural populations.* (Law 8.213/1991, author's emphasis and translation)

Even though the legislation presents an idea of universalization and uniformity, along with a notion of representation of time and labor, the opposite is what Brazilian social reality produces. The problem concerning Black existence in Brazil goes far beyond a legislative process that fails to reach factual reality.

The process of legislative application and the socio-political visualization of Law seem to fail to understand that the entire historical burden and anti-Black social structure promote a systematic exclusion of Black bodies from accessing fundamental rights. Regardless of legislation dictating a context for expanding social security, the Black body remains inserted into the margins of labor relations; even when situated within a formal context, there is still constant violence and structural impediments that highlight the differences in how Black and anti-Black workers are perceived.

The dominance of white men in spaces of power and decision-making is one of the reasons why the development of social security policy has historically occurred without concern for the access conditions of the Black population. The approval of the Organic Law of Social Security (Lei Orgânica de Previdência Social - LOPS) in 1960 and the failure to expand coverage to domestic workers, rural workers, and the self-employed are expressions of this, given that these are occupations where the Black population is prominent, especially as domestic servants. (Lima 2020, 106, author's translation)

The result of the anti-Black structure, the ontological exploitation of Black labor, and the displacement of Blackness to the labor margins regarding the social security program is the burden on access policies to the social protection system. A never-ending circle of precariousness is experienced, in which those who cannot access the system are those who "[...] are in precarious occupations, have the lowest incomes or have none at all, have the lowest educational levels or are functionally illiterate [...]" (Silva 2012, 42, author's translation), and this lack of access keeps these bodies that live from labor, the majority being Black women and men, at the same social level.

The attacks on fundamental labor rights reflect this neoliberal contribution that takes over state spheres, which certainly harms the entire population but falls with greater weight upon the Black and poor population.

Ramos (2019) indicates that dominated classes organize to demand State intervention against poverty. The State mediates relations between the market and society. Dominant forces instrumentalize the State in a capitalist society to regulate social life for market interests. The State responds to social demands with repression or reformist measures. The disputing agents possess unequal strength.

The maintenance of a circle centered on the connection between the Black body, anti-Blackness, and labor is observed, highlighting the (non)access to social security and a base of potential rights not integrated into bodies that are kept away from a specific logic of capital and labor, with expectations of requirements that are only accessed and considered of quality because they are solely associated with anti-Black bodies.

The relationship that the Black body had in the past, possesses in the present, and will have in the future is directly proportional to its relationship with social security rights. Consequently, the precariousness of Black labor generates structural problems intrinsic

to the social security directed toward Black female and male workers: “[...] the precariousness of Black labor generates intrinsic structural problems in the social security directed at Black workers” (Leiria 2021, 101, author’s translation).

Eurico (2019) observes that Article 201 of the Federal Constitution establishes a contributory general regime. This structure associates the lack of contribution from precarious workers with an inability to plan long-term. This lack of protection stems from a societal project. This project determines positions in the division of labor based on gender and race.

The social security model adopted by Brazil does not present a prospect of change that could, in any way, alter the Black reality. Brazilian society does not present a plan to alter its anti-Black structure. Much less does capital or the world of labor.

Leiria (2021) argues that the exclusion of Black and pardo people originates in the slave regime. This pattern reproduces during capitalist transitions. Institutional rules within social security policies perpetuate exclusionary patterns. The path-dependence approach explains this continuous exclusion. Social security models presuppose specific behavioral patterns that influence the degree of exclusion for the Black population.

## 5. Ontological labor and social security

Social security effects require alteration for a population that faces a specific context of labor exploitation. The analysis of Black ontological labor promotes a change in the treatment of fundamental rights. The logic of ontological labor within Social Security Law must be anchored in expanding the understanding of *time worked*. A step toward altering the current social security process for the Black body is to decouple it from a single spatio-temporal language in relation to capital. It implies recognizing that the time spent *surviving* the anti-Black structures of the State — whether in the queues of the INSS, in the informal market, or recovering from the trauma of racial violence — is a form of labor that contributes to the maintenance of society.

A recurring distinction requires clarification before proceeding. Although closely related, ontological labor differs from the idea of labor ontology. Ontological labor is the work of existing described previously, where the process of surplus-value extraction falls not only on the activities performed by the worker but also on all the nuances that constitute their existence in the world. Conversely, the ontology of labor, as a central element in the work of György Lukács (2015), relates labor as the conductive element of human sociability and the necessity for the field of labor to be embedded within the nature of every human existence so that this body is perceived as one that adds value within a capitalist logic.

These two perspectives move together, starting from the logic that the State is also part of a capitalist structure and is governed by a neoliberal rationality in which, now more than ever, life is valued as an object of exchange for the generation of surplus-value.

Within this mercantile logic, the Black body that lives through labor occupies a precarious place, reflected in its social security rights.

Leiria (2021) demonstrates that the Black population faced an unemployment rate 38% to 45% higher than white people between 2012 and 2020. The employed Black population receives 38% lower income. These differences affect retirement benefits. Black men

receive an average of 76.34% of the amounts received by white individuals. Black women receive 65.57%. In retirement models associated with financial capitalism, Black men receive 42.08% and Black women receive 20.54%. Leiria classifies this empirical evidence as a Brazilian social security apartheid.

The labor times and the conditions and positions occupied by the bodies of these Black men and women allocate them to positions of incomplete access to their fundamental social security rights, unlike the access enjoyed by anti-Black bodies.

To rethink the place of ontological labor and social security is to recognize the ontological labor of Blackness and thereby allow other possibilities to be recognized by social security, consequently expanding the protective logic of these existences. It is about providing the minimum to survive with dignity, thus allowing the achievement of the freedom to choose to be and live as one wishes, and to reduce poverty across society (Raventós 2004).

It is important to understand that the labor time shaped by Labor Law in present-day Brazil does not capture the real situation of a Black body within a formal employment relationship, nor does it capture all the violence involved in labor relations in general. Thus, this worker's time is not free, and its recognition within the logic of social security does not allow for a factual change in the precarious reality in which capital aims to keep these people. To exist is to suffer through capital, still being exploited for who one is, serving not only through the exercise of one's activity but also generating profit from the ontology of one's being.

For this multiplicity to remain intelligible, control mechanisms act upon it. One of them, quite typical, concerns the schedule. It is the factory time clock, the sirens signaling intervals, the regulated time to serve, to replenish the energy spent on duty, for love, for reading. Even the moments that appear to be 'free' are exposed to regulation, insofar as there is time to exercise them: love is not made in the light of day; leisure is left for Saturdays and holiness for Sundays — these temporalities are, by no means, free. (Gomes 2020, 4, author's translation)

The objective is to return the ownership of time to Black workers and propose a reinterpretation of the recognition of rights and labor to achieve social change.

Closed complementary social security, or pension funds, is intended for consumer-citizens, whether workers or not, in sufficient financial-economic conditions and capable of contributing to a private social security system through capitalization. All of this occurs within a system where profitability is linked to the constant reduction of costs and where the precariousness of human labor increases, with it the reduction of real wages. (Esteves 2016, 203, author's translation)

Brazil implements affirmative action policies, such as racial quotas in public service (Law 12.990/2014) and public universities. These policies reach a formal and restricted segment of the population. The majority of the Black population remains in informal labor and performs unremunerated ontological labor. Current affirmative actions fail to integrate this demographic base into the social security protection system.

The amendment of Article 11 of Law 8.213/1991, by allowing special conditions and recognizing that Brazil is founded on the prospect of anti-Black existence, would expand the scope of fundamental rights to transform narratives of misery customarily imposed on Black bodies. The expansion of these precepts of social security recognition would

allow more Black bodies to be categorized as eligible for social security programs based on specific characteristics, enabling them to maintain basic social logics.

It is necessary to go beyond a social imaginary of demerit regarding social security policies, labor violence, and the lack of questioning of the logic of exploitation (Piedade 2017). The proper social function of the social security system has never reached the Black population.

Regarding non-contributors, in both 1995 and 2005, Black people were proportionally more represented than white people, highlighting the difficulties of contribution for this population. The year 1995, seven years after the promulgation of the 1988 Federal Constitution and the establishment of Social Security, shows that this policy could not correct inequalities between groups; in fact, based on the data, the percentage gap increased between 1995 and 2005. The counter-reform within the Social Security framework is one possible justification for this. Intensified in the 1990s, these reforms imposed major setbacks on the realization of the rights they provided, thus minimizing the possibility for social security to impact racial inequalities, even though this was never a declared objective of the policy, unlike gender inequalities, which had greater visibility. (Lima 2020, 125, author's translation)

A reparative legal framework requires specific institutional mechanisms. Three concrete pathways integrate the theoretical concept of ontological labor into the applied pension system.

First, the legislature must amend Article 201 of the Federal Constitution to classify racism as a social risk equivalent to disability or occupational hazard. This constitutional amendment would establish a reduced minimum retirement age and a lower contribution time requirement for self-identified Black workers, operationalized through the same autodeclaration mechanism already used in Law 12.990/2014 (the racial quota law for federal public service). The technical basis for differential thresholds already exists in Brazilian Social Security Law: rural workers (Article 201, § 7, II, CF/88) and workers in hazardous or unhealthy conditions (Law 8.213/1991, Articles 57 and 58) retire under differentiated criteria. The argument that anti-Blackness constitutes a form of structural occupational hazard, measurable through the life expectancy data already collected by IBGE, provides the constitutional grounding for this extension.

Second, the INSS must implement automatic contributory amnesty for workers rescued from slave-like labor conditions, financed by the Union through a dedicated public fund. The legal mechanism already exists in outline: Law 10.803/2003 defines contemporary slave labor, and the IACtHR judgment in *Fazenda Brasil Verde v. Brazil* established State responsibility for the structural conditions that enable it. What is absent is the actuarial consequence: rescued workers must have the period of enslavement counted as fictitious contribution time for the purposes of grace period (*carência*) calculations under Law 8.213/1991. Article 55, § 2 of that law already contemplates fictitious time for military service; the same logic extends to periods of State-enabled slavery. The Union's failure to prevent the enslavement, established by the IACtHR, generates the obligation to subsidize the contributory gap it produced.

Third, labor courts and INSS administrative boards must formally accept non-documentary evidence to prove periods of extreme informality. Brazilian procedural law already permits free judicial conviction (*livre convencimento motivado*) based on

witness testimony and circumstantial evidence. What is required is a specific normative instruction, issued by the INSS and the Superior Labor Court (TST), establishing that sociological reports on spatial segregation, community testimony, and historical labor geography constitute valid proof of contribution time for workers in regions and sectors with documented patterns of informality and racial concentration. This expands the logic of Article 55, § 3 of Law 8.213/1991, which already allows rural workers to prove labor time through informal means, extending it to urban workers in conditions of structural informality produced by anti-Blackness.

## 6. Conclusion

The social security program reproduces violence directed at Black bodies. Anti-Blackness within Social Security Law operates through barriers to access and theoretical frameworks that conflict with the labor conditions of Black workers. A reform in the recognition of labor time alters how the social security system treats Black individuals. Brazil is an anti-Black country. The judiciary, an institution situated within coloniality, upholds the obstacles faced by the Black population that depend on social security policies.

Capitalism expands, affecting not only the means of production but also the logic of wages, the valuation of human lives, financialization, and, consequently, the control of the social security system. At all costs, the logic of austerity is promoted to blame the worker and credit, through logical fallacies, the privatization of the social security system (Esteves 2016).

The analysis of the *Fazenda Brasil Verde* case and the 2019 Pension Reform reveals that the Brazilian State operates on a necropolitical actuarial logic. It extracts value from Black life while actively betting on its premature death to balance the pension books. The “work takes up all your time” verse is not a metaphor; it is a description of a system in which Black time is entirely subsumed by the struggle for survival, leaving no residue for the “rest” or “retirement” promised by the Constitution.

While a narrative of a need for social security reform is maintained (a specific change that feeds a liberal market logic), what is observed is a discourse that complies with the entire Afropessimist process, the marginalization of existences, and a reasoning of exploitation and violence. The proposed reforms do not affect those who truly need them; they possess a financial logic that merely feeds back into a dialectic of increasing capital for those already in power and precariousness for those who have always been in fragile positions (Esteves and Gomes 2020).

The proposal to utilize ontological labor, then, stands as a tool to alter the social and economic perspective of the Black population. While recognizing that exploitation transcends the logic of labor exercised in the legal field and the social imaginary, it is understood here that this exploitation reaches an ontological sphere of being, and that the social security system should also consider this level of exploitation.

Today’s logic of time fails to encompass the accurate measure of exploitation suffered by Black male and female workers. Expanding temporalities of labor within social assistance programs alters a state, political, legislative, and social logic that classifies the Black body as worth less within Brazilian society.

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