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CONFERENCE PAPER

**CHALLENGES FOR ETHNIC EQUALITY AND RACIAL DIVERSITY IN  
RECRUITING STAFF FOR LEGAL AID SERVICES IN THE FUTURE:**

**- POSSIBLE IDEAS BASED ON THE EXPERIENCE OF THE PUBLIC  
DEFENDER'S OFFICE IN RIO DE JANEIRO –**

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*“In a racist society, it is not enough to be non-racist,  
we must be anti-racist.” - Angela Y. Davis*

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**Abstract:** *Legal aid services financed with public funds aim to ensure equal access to rights and justice, especially for people in situations of economic, financial and social vulnerability. In many countries, especially in the less economically developed, this population group is quantitatively the majority, although socially and politically excluded. Among such situations of social exclusion, the ethnic-racial origin stands out, especially in countries that experienced the enslavement of black Africans that lasted until the 19th century. And this has been a direct cause of social prejudice and of the reproduction of a vicious cycle of poverty that seriously harms the promise of effective equality, inherent to the Democratic Rule of Law. Paradoxically, legal aid services -*

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*reproducing the same logic that normally prevails in the field of legal professions and careers - even if they have among their clients mostly people belonging to these ethnic-racial groups - are usually provided by lawyers and public defenders recruited from socially privileged ethnic groups. This seems to be a reality regardless of the different recruitment mechanisms that are usually adopted: both in countries that apply supposedly more "impartial" or "neutral" criteria for admission, as is the case of the public examination system that seeks to select those who obtain the best results/scores in assessments of technical-legal knowledge (as is used in Brazil, for example) or those that adopt more "flexible"/"discretionary" recruitment criteria through curriculum vitae (resume) assessment and interviews to verify the desired qualification required for the function (as is the case in the United States, for example). The effort to achieve more effective levels of racial equality in contemporary societies has justified public affirmative action measures and policies. In this paper - which is inspired by the movement to defend and respect the rights of Afro-descendants called "Black Lives Matter" - we intend to raise awareness of the importance of concrete actions aimed at ensuring greater racial equality in the recruitment of lawyers working in the legal aid services of the future: we will present the concrete results of a project aimed at this objective, developed by the Public Defender's Office of the State of Rio de Janeiro, in Brazil, which has already started to produce positive effects in this regard.*

There are many challenges on the future horizon for "legal aid" services around the world. In recent decades, many countries that, in the context of the heyday of the welfare state period, experienced a kind of "boom" in expanding and facilitating access to justice (and to rights) for a wide range of their population, have experienced times of austerity and retraction. It was even considered that the complete collapse and closure of public legal aid services was imminent in some countries. It is true that, despite this phenomenon of retraction of legal aid services in those countries that had originally led the dissemination of such services, on the other hand, in certain regions of the planet, in countries that once had very precarious and limited systems of public legal aid services, were blooming innovative and promising initiatives and experiences with the implementation and expansion of programs aimed at promoting equal access to rights and justice<sup>3</sup>.

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<sup>3</sup> Among these experiences that have taken place in recent decades of implementing, expanding and/or improving state legal aid programs around the world, we can cite the cases of South Africa and the Republic of Fiji, Asian countries such as China, Japan and Taiwan, Latin American countries such as Argentina, Brazil and Chile.

Taking as a reference the real and current world framework, which we glimpse at the present moment, especially in these times still under the dramatic impact of the COVID-19 pandemic, it still raises reflections and questions about the possible and probable future horizons for public legal aid services and programs<sup>4</sup>. The situation is even more dramatic because we are faced with the global phenomenon of a high rate of displacement of people seeking to escape the most diverse ills, such as natural disasters, wars, political and religious persecution, in short, in search of better living conditions and better opportunities.

In this context, the guarantee of the effectiveness of equal access to the most basic existential rights and the protection of the guarantees provided by the various state justice systems become a major challenge. And this is particularly true in regions marked by ethnic-racial and cultural differences.

These disparities exist not only in countries impacted by current migratory movements, but also in countries whose demographic formation is marked by historical cracks resulting from past realities of discrimination and exploitation, as happened in places where the slavery regime prevailed, especially for black Africans. Although this issue receives greater visibility worldwide due to the current reality, especially in some countries of the American Continent, notably in the USA, it also has repercussions in many other countries, mainly in Western Europe, where it is also particularly impacted by contemporary migratory movements, which, in addition to black Africans, include other ethnicities and racial groups, with cultures and worldview very different from the white population of European origin. Regretfully, and surprisingly, even in the middle of the 21st century, strong feelings of prejudice and racial discrimination still remain latent<sup>5</sup>, especially

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<sup>4</sup> Among the contemporary works that are focusing on the issues that are glimpsed on the future horizon of legal aid services, in the post-covid-19 pandemic context and the challenges and perspectives that open up with technological advances, we have the book that is about to forthcoming, by Bloomsbury Publishing, entitled "*Legal Aid and the Future of Access to Justice*", by Catrina Denvir, Jacqueline Kinghan, Jessica Mant and Daniel Newman. Although the purpose of the book is focused on the reality of England and Wales, the reflections proposed there will certainly be valid for scholars and researchers on the subject...

<sup>5</sup> The recent episodes that have had worldwide repercussions, which occurred in Spain, of hateful behavior of prejudice and racial discrimination by soccer fans, offensive to the black Brazilian player Vini Jr, seem to show this sad reality of the contemporary world. See the article published by the BBC on its website: <https://www.bbc.com/news/world-europe-65685661>.

related to skin color, which violates fundamental rights, especially for black people.

Bearing in mind all these questions and challenges, it is always opportune to recall that legal aid services financed with public funds aim to ensure equal access to rights and justice, especially for people in situations of economic, financial and social vulnerability. There is no doubt that, in many countries, perhaps in most of them, and this is true, for sure, in the less economically developed ones, these specific groups are quantitatively the majority of the people, although they are the most socially and politically excluded. Very often, this situation of social and political exclusion is related to the fact of belonging to marginalized ethnic groups. These people are, therefore, the main targets and recipients of public legal aid services, which makes these even more essential.

Thinking about the future of legal aid services, particularly in countries where this reality of wide racial diversity occurs and in which some ethnic groups, despite being numerically high, are also proportionally the most underprivileged in terms of access to rights and justice, necessarily involves a reflection on the search for mechanisms aimed at expanding the presence of representatives of such groups among those who will form the staff of legal aid service providers.

In fact, in recent years, a theme that has become a global agenda, based on the very serious episodes of discrimination and racial violence that have occurred in the USA, has been the fight for respect for fundamental rights and for the improvement of the living conditions of black people, forming the movement which became known as "Black Lives Matter".

The present paper is inserted exactly in this context. The inspiration to address the issue and bring to light the concrete experience lived by the Public Defender's Office in Rio de Janeiro, Brazil, originated in a speech by Dr. Bryant Garth in which - presenting reflections on the importance of the Global Access to Justice Project<sup>6</sup> that had just been launched - he made some considerations on issues that he considered important in the future horizons of legal aid services. And, in his speech, he drew attention to the need to raise awareness

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<sup>6</sup> For more details about the Global Access to Justice Project, see the link: <https://globalaccesstojustice.com>.

to the importance of ensuring greater racial diversity within the scope of legal professions so that black people and other disadvantaged minorities - quoting here exactly the lines spoken by Professor Garth – “*are taught more by people like them, are represented in Court more by people like them, are judged and policed by more people like them*”<sup>7</sup>.

Therefore, the purpose of this paper<sup>8</sup> is to raise a reflection on the importance of ensuring racial diversity - compatible with the representativeness<sup>9</sup> of the different ethnic groups that make up the service's target public - in the recruitment of lawyers who will work providing legal aid in the future. This issue fits perfectly with the proposal of one of the panels that make up the ILAG Conference program, whose theme is the provocative question: “Where will legal aid lawyers come from in the future?”

For the development of this work, we sought to survey and review studies and research published on the issue. However, although we have found many papers dealing with the importance of ensuring greater racial parity between users and service providers in various professional areas (notably in the fields of education, medicine and even law)<sup>10</sup>, we were not able to identify research specifically regarding this issue of adequate mechanisms to ensure greater equality in the selection processes for the recruitment of

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<sup>7</sup> The statements made by Prof. Bryant Garth is accessible on the Youtube channel by the link: <https://youtu.be/XwJZCqeEDpU> (see, in particular, what was said after 5min30seconds)

<sup>8</sup> The present work is largely based on the article entitled “Caminhos da Defensoria Pública do Estado do Rio de Janeiro em prol da Equidade Racial”, by Livia Casseres, Daniele da Silva Magalhães and Adriana Britto, published in 2022 in the “Revista Defensoria Antirracista”, by Public Defender Office of the State of Rio de Janeiro.

<sup>9</sup> This pretense of representativeness is supported by the so-called theory of “representative bureaucracy”, whose references, among others, consist of the studies of J. Donald Kingsley, in his work “*Representative Burocracy: an interpretation of the British Civil Service*”, published in 1944 by Antioch Press, and also by F. C. Mosher, in his book “*Democracy and Public Service*”, published in 1968, by Oxford University Press. According to this theory, public officials from disadvantaged backgrounds can play a role in incorporating underrepresented groups' interests into the policy process, thereby contributing to better and more equitable policy outcomes.

<sup>10</sup> On the importance and practical consequences of seeking greater diversity/racial parity in relations between users and providers of public services, it is worth consulting the following paper: Janet Ward Schofield PhD, Lu-in Wang JD & Pat Chew JD and MEd (2007) “*Culture and Race in Provider-Client Relationships*”, In: *Social Work in Public Health*, 23:2-3, 1-33, DOI: [10.1080/19371910802147984](https://doi.org/10.1080/19371910802147984). As argued by the authors, in addition to raising a shared feeling of hateful social injustice, the lack of racial diversity, which rarely corresponds to the effective demographic composition of the population of a given country (or region), that is, the deficit of effective presence of members of different ethnic groups in certain professional activities traditionally carried out by members of the elites – as is the case of legal careers, medicine, and even teaching – produce several harmful/negative effects specifically in the relationship established between service provider and user.

members of discriminated ethnic groups to overcome the reality of their underrepresentation in the staff of service providers in public positions and professions of greater social prestige.

A preliminary issue that needs to be considered, so that this question related to the convenience and importance of ensuring greater racial diversity in the universe of public service providers, specifically in the field of legal professions, concerns the ways of recruiting the respective staffs. There are countries that adopt more flexible mechanisms and with some margin of discretion for hiring the professionals (in this case, the lawyers) to work in legal careers, through curriculum vitae (resume) assessment and interviews to verify the desired qualification required for the function, as is the case in the United States, for example. In this case, there is greater flexibility to consider the respective ethnic-racial origin as a differential to be prioritized among the candidates who are running for available vacancies. It is even admitted to have a proactive posture, as can be seen, for example, in the initiative carried out by the Federal Public Defender's office in Seattle, in the State of Washington, which launched a "Diversity Hiring Plan" on its website.

But this becomes slightly more complex in countries that adopt more strictly objective models, called "meritocratic"<sup>11</sup>, that is, "impartial" or "neutral" criteria for hiring staff, as is the case of the public examination system that seeks to select those who obtain the best results/scores in assessments of technical-legal knowledge. This is the system adopted in Brazil<sup>12</sup>, for example

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<sup>11</sup> For further reflections on the virtues of the meritocratic model of recruitment for public service careers, we recommend the work "*Meritocracy for Public Service Excellence*", published by the UNDP Global Center for Public Service Excellence (GCPSE), in 2015, available for free download at: <https://www.undp.org/publications/meritocracy-public-service-excellence>. And, for a critical view of the ills of strictly meritocratic systems and the risk of ending up producing dominant elites, without being accountable by the majority, resulting in deepening inequalities and social division, harmful to the common good, see the book "*Against Meritocracy: culture, power and myth of mobility*", by Jo Littler, available for download at: <https://library.oapen.org/handle/20.500.12657/25903>.

<sup>12</sup> As Anders Sundell points out, "recruitment to the civil service is, in order to prevent patronage, often centralized and based on performance in competitive examinations is generally assumed to be the most meritocratic method of recruitment (...) however, while some applicants may have skills suited for a specific position, they may not perform best in a general examination. As long as the system is not abused, a more flexible recruitment process based on, for example, interviews and CV screening, may be more meritocratic." And, adds the same author that "formal civil service examinations to recruit civil servants can be the most meritocratic only in countries where the risk for patronage is high". Precisely to avoid such risks, very high in countries like Brazil, that the Federal Constitution of 1988 adopted as a mandatory general rule that access to public civil service positions - which includes the careers of the Judiciary and the Public Defender's Office - only occurs by this mechanism. See:



where, despite the "good intentions" inherent in the meritocratic model, an undesired consequence of this model ends up raising controversy about its virtues, with regard to criteria of justice and greater social inclusion<sup>13</sup>. This is because what ends up happening is that privileged social and economic elite groups, mostly white-skinned, find themselves in an advantageous position to reach the top positions in the exams carried out, and thus obtain the available (and normally highly competitive!<sup>14</sup>) vacancies to the detriment of people from the less favored social and economic strata (where blacks are usually found).

Advancing in the reflections we are proposing, it is first necessary to discuss the appropriateness - or not - of taking aspects such as belonging to certain ethnic-racial groups, specifically related to skin color, as relevant and pertinent with regard to the composition of the staff of public service providers. Although in biological terms, there is a great consensus that the notion of race is a scientifically inoperative concept, incapable and inadequate to explain the diversity of physical characteristics existing among the diverse groups that form the human species<sup>15</sup>, it remains unequivocal that in social, cultural and historical perspectives the idea of race is an undeniable reality that is directly related to the structure of society and to the power relations that govern it. Indeed, the concept of race that we use today has nothing biological about it. So much so that the concepts of black, white and mestizo do not mean the same thing in Europe, the United States, Brazil or South Africa, for example.

Even though some anti-racist biologists have suggested that the concept of race should be banned from dictionaries and scientific works (to avoid ideological uses that would demean human groups based on this

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Sundell, Anders. 2014. "Are Formal Civil Service Examinations the Most Meritocratic Way to Recruit Civil Servants? Not in All Countries." In: *Public Administration* 92 (2): 440-457.

<sup>13</sup> In order to avoid these distortions, the virtues of a representative bureaucracy model are proposed, as mentioned above, to the detriment of traditional bureaucracy models, which defend strict isonomy and meritocracy as absolute values, while those affirm the need for the bureaucratic body to be representative of the composition of the society in which it is inserted.

<sup>14</sup> In the last access exam for the public defender's career in Rio de Janeiro, there were more than 300 candidates competing for each vacancy.

<sup>15</sup> MUNANGA, Kabengele. *Uma abordagem conceitual das noções de raça, racismo, identidade e etnia*. Palestra proferida no 3º Seminário Nacional Relações Raciais e Educação-PENESB-RJ, 05/11/2003. Available at: [https://www.geledes.org.br/kabengele-munanga-uma-abordagem-conceitual-das-nocoos-de-raca-racismo-identidade-e-etnia/?gclid=Cj0KCQjwmtGjBhDhARIsAEqfDEdVQ\\_CgzAwgiViP0GcMnHS8jIN\\_n1cTkVoBbOkpUTbQR7U8nkmFd8caAnx8EALw\\_wcB](https://www.geledes.org.br/kabengele-munanga-uma-abordagem-conceitual-das-nocoos-de-raca-racismo-identidade-e-etnia/?gclid=Cj0KCQjwmtGjBhDhARIsAEqfDEdVQ_CgzAwgiViP0GcMnHS8jIN_n1cTkVoBbOkpUTbQR7U8nkmFd8caAnx8EALw_wcB)

outdated classification), studies and research in the social sciences continue to use the category of race to describe reality on the social and political sphere.

Racism is a serious contemporary reality that must be seen as a global issue. Racism has been a recurring component of European history, and it is also present in countries on other continents of the globe. In the European case, a study of social attitudes conducted at Harvard University from 2002 to 2015 identified the countries in Europe with the highest incidents of racial bias, based on data from 144,038 Europeans<sup>16</sup>. The weakest racial discrimination was found in Serbia and Slovenia, and the most substantial racial bias was found in the Czech Republic, Lithuania, Belarus, Ukraine, Moldova, Italy, Portugal, Slovakia, and Malta. In other parts of the world, racism is also, unfortunately, a common problem. This also happens in Asian countries such as China and Japan. In an MSNBC article<sup>17</sup>, Yaqiu Wang<sup>18</sup> wrote, “for those who think the official line from Beijing is bad, check out the Chinese internet, where the rampant racism against Black people is often too appalling to repeat.” Wang described numerous other extreme instances of racism, including in a south Guangzhou city where Chinese authorities started a campaign requiring African residents to “forcibly” be tested for COVID-19 and ordered them to remain in quarantine in designated hotels. The African-American professor Baye McNeil, residing in Japan, in an interview with the BBC channel, points to “a level of everyday casual racism he experiences”<sup>19</sup>.

In particular, as an effort to fight to overcome situations of hateful violence and discrimination to which black people around the world have been subjected, mention should be made of the Black Lives Matter Movement, founded in 2013, which achieved projection and became a reference worldwide, mobilizing the international community to face and overcome racism, especially against black people, which is a scourge still present in our societies. This movement has not only raised awareness initiatives, but also concrete actions aimed at eradicating structural racism<sup>20</sup> and promoting

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<sup>16</sup> For more details, see: <https://theconversation.com/this-map-shows-what-white-europeans-associate-with-race-and-it-makes-for-uncomfortable-reading-76661>

<sup>17</sup> The text can be accessed at: <https://www.msnbc.com/opinion/covid-blackface-tv-china-s-racism-problem-runs-deep-n1258125>.

<sup>18</sup> She is a senior China researcher at the international NGO “Human Rights Watch”.

<sup>19</sup> See: <https://www.bbc.com/news/world-asia-53428863>.

<sup>20</sup> For a systematic view of the idea of structural racismo, see: ALMEIDA, Silvio Luiz de. *O que*



effective ethnic-racial equality, which is a regrettable reality in most countries in the world.

In many countries that face this deplorable reality of profound racial inequality in the social, cultural and economic structure, for some time, especially from the sixties of the last century, a struggle is being waged to implement public policies of "affirmative action" (racial quotas) aimed at ensuring greater racial diversity in sectors and social activities that were originally restricted to members of the elite formed by white people<sup>21</sup>, increasing the proportion of black people in these spaces.

In the case of Brazil, this struggle only gained strength in the early 2000s, originally through a policy of quotas for Afro-descendant students in public/state universities. Years later, the National Statute of Racial Equality was approved by the Brazilian Parliament, an important law passed in 2014, which also established a similar policy of quotas, with reservation of vacancies percentage for black people in exams (with written and oral tests)<sup>22</sup> to which interested people must submit to get a position or function in any career in the administrative-governmental sector of the civil public service, at the federal level, in Brazil. In 2011, similar legislation had already been approved, specifically for exams for access to civil service positions and careers at the state level in Rio de Janeiro. Thus, in compliance with this state law, since 2012, a policy of racial quotas has been implemented in the exams for access to the initial position of the public defender career in the State of Rio de Janeiro.

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*é Racismo Estrutural?* Belo Horizonte: Literacy, 2018.

<sup>21</sup> This elite was traditionally formed mainly by white men, who traditionally occupied the main positions and prominent functions, for example, in universities and in the public service.

<sup>22</sup> As already mentioned, in Brazil, access to positions in the civil public service is done through a system that purports to be "meritocratic", that is, an objective selection process, in which candidates for available vacancies undergo examinations of technical knowledge in the respective professional area, and those who obtain the best result/scores, according to the classification order, have the legal and constitutional right to be hired. In the case of vacancies and positions that require higher education, and whose labor regime offers very attractive remuneration (compared to the market average for similar activities) and also tenure of office regime, as is the case of the careers in the Justice System (judges, prosecutors and public defenders) there is usually a very high rate of competitiveness. The result is that, therefore, predominates among those who succeed white people from more privileged social strata, who have better opportunities to access a better quality educational standard. For example, in the last contest for the initial position of the Public Defender's Office in Rio de Janeiro, in 2021, there were only 38 vacancies available and a total of 11,247 candidates running for such vacancies, which generates a rate of more than 300 candidates per vacancy.

However, despite this reservation of quotas (20% of the vacancies for black candidates, and also for the physically disabled), due to the competitiveness of these tests that stems from the very high number of people enrolled in the exam in opposition to the reduced number of positions to be filled, it follows that the minimum score required to succeed in these exams was so high that none of the candidates who submitted intending to obtain one of those vacancies (reserved to be occupied by blacks and people with disabilities) managed to be approved. This same situation was repeated in the exams carried out in the years following 2012, generating a great debate and reflection on the need to rethink the model that had been adopted until then.

The selection procedure that was then being used was conceived requiring a minimum "cut-off" score, which was applied to all candidates, as a condition to pass the initial stage of the exams (in which objective written tests are carried out, with multiple choice questions). This mechanism's purpose then used has always been to make a very restricted screening to drastically reduce the number of competitors approved to the second phase, in order to allow more sophisticated assessments to be carried out in this next step of the exams, in which the candidates had to answer essay questions aimed at assessing technical-legal knowledge and also verifying the candidates' affinity with the specific professional profile of the career, in this case, the profile expected for a future staff of Public Defender's Office.

The new team chosen to rule the Public Defender's Office of Rio de Janeiro, which took over in 2015, led by Public Defender André Castro, considered that this issue of increasing racial diversity, especially with the admission of black people into the staff, was a priority. Several meetings and seminars were held with the participation of representatives of civil society, leaders of the black people movement, scholars and researchers dedicated to the subject. In 2017, a deep change was approved in the rules of the selection process, establishing a distinguishing "cut-off point" for the approval of candidates from the first to the second stage of the exams, with a view to increasing the chances of access for black people in the final stages of the selection process selection.

Even despite these modifications, again in the 2017 selection process, no black person was able to obtain approval to fill the racial quotas that had

been previously reserved as affirmative action. It then became evident that more effective and adequate measures were needed to achieve the objective. Thus, in 2019, a process of rebuilding the understanding of institutional racism began within the Public Defender's Office of Rio de Janeiro. The aim was to conceive structuring measures to face this undesirable reality of exclusion that was being repeated, successively, in the selection processes for the admission of new public defenders.

In 2017, a working group was created to strengthen and monitor the institutional affirmative action policy within the Public Defender's Office of Rio de Janeiro. Faced with this problem of the low level of effectiveness of the racial quota system in overcoming the barrier that prevented black people from accessing the Public Defender's career<sup>23</sup>, the group took this issue as a priority. It initially sought to make a diagnosis of the main points that caused this barrier to the success of black people<sup>24</sup> (and also other minorities such as disabled people, economically disadvantaged people and even indigenous people which, it should be noted, in demographic terms, are very few in the area of the State of Rio de Janeiro) in the selection process. At the end of December 2019, a Seminar was held to expand the discussion on the problem. The working group carried out comparative studies in several other Public Defenders in Brazil and even in other state legal careers to identify successful experiences in the effective selection and admission of black people to their staff.

These proposals were systematized in a report and presented to the Institutional Chief, who approved and submitted them to the Superior Council of the Public Defender's Office<sup>25</sup>, which is the autonomous body responsible

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<sup>23</sup> It should be noted that this problem is not restricted to the career of the Public Defender in Brazil. In reality, at least in our country, this disparity in access to other legal careers in the public service, such as judges and prosecutors, is perhaps even more pronounced. And common sense says that this reality seems to be repeated all over the world. Indeed, it seems unequivocal that the justice system is not very permeable/influenced by the specific perspectives of minorities... So, parity can help to better 'shape' the system and contribute to its evolution..

<sup>24</sup> The purpose of including disadvantaged minorities also included disabled people, economically disadvantaged people and even indigenous people which, it should be noted, in demographic terms, are very few in the area of the State of Rio de Janeiro.

<sup>25</sup> This is a collegiate body with attribution to define the superior guidelines and policies to be observed by the agency/institution.

for defining the rules to be observed in each selection process for admitting new members to the career. Among these measures were:

a) **suppression of the barrier clause in the first stage of the selection process (i.e. requirement of minimum score to be approved to the next phase), for registered candidates applying to occupy the quotas;**

b) **reduction of the minimum scores, required for approval in the second stage of the selection process, to a total of 30 (thirty) percent of correct answers in each panel<sup>26</sup>, adopting as an approval criterion the minimum of 50 (fifty) percent of correct answers as the minimum arithmetic average for approval<sup>27</sup> to the third phase of the exams (oral examination);**

c) participation as a member of the examining board (which is normally composed of 03 members) of at least 1 external examiner, observing race and gender parity;

d) increase in the percentage of vacancies reserved from 20% to 30% of the total, for black, diseabled and indigenous people;

e) the oral test, the last stage of the selection process, became just classifying and no longer eliminatory.

The XXVIII selection recruitment process, with public examinations for admission to the Public Defender's Office of Rio de Janeiro took place between 2020 (in the midst of the COVID pandemic) and 2021, implementing the aforementioned changes approved by the Superior Council. The first effect of these alterations was a significant increase in the total number of people enrolled in the recruitment process, specifically applying for racial quotas, further increasing the disproportionality in the "candidates x vacancies" ratio. (in the 2018 contest there were 276 people enrolled in the quotas and in 2021 there were 1703 candidates who declared themselves black to apply for one of

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<sup>26</sup> The exams are carried out before 03 different examining boards (panels): one for evaluation in the area of private law, another in the area of criminal law and another in the area of public law.

<sup>27</sup> This allows the approval of candidates registered for vacancies in the quotas who, although they have achieved a lower performance in a certain area (such as private law, for example), but have obtained higher marks in another area (such as criminal law, for example), reaching the minimum grade of approval of 50% in the average of the three evaluation boards.

the racial quota vacancies). But this would be a good sign that black people who - until then - had not enrolled in the contest for not seeing any chance of success, felt motivated to try. The number of black candidates who passed to the second phase also increased significantly: there were 53 in 2018 and the number increased to 1273 in 2021. At the end of the selection process, it was finally possible to effectively fill the quotas that had been reserved. The total number of approved was 74 people, of whom 21 (twenty-one) were black candidates, and 20 (twenty) of them managed to enter exactly within the percentage that had been reserved for racial quotas.

This number still has a very small impact if we consider the total number of lawyers' staff who make up the Rio de Janeiro's Public Defender's Office. Of the total of 732 Public Defenders, in the year 2021, only 99 declared themselves to be of the color/race black (which is equivalent to only 13.6% of the total, being disproportional, since the official bodies calculate that this percentage reaches 55 % in the state of Rio de Janeiro). Although the persistent under-representation of blacks and indigenous peoples in the cadres, and despite the historical non-compliance with the racial quotas policy in force in the State of Rio de Janeiro, since 2011, still place the Public Defender's Office in a position very far from the ideal of equity, the fact is that the degree of effectiveness of these measures of affirmative action was unprecedented, and this will be recognized as a historic landmark for the institution, a decisive step towards the construction of a new – and more inclusive - Public Defender's Office. So we believe that if the recruitment model adopted in the last selection process is maintained - and perhaps even improved – the percentages of black people admitted to the Public Defender's career will gradually increase, until the desired racial parity is approached.

In order to further accelerate this increase in the percentage of black people who succeed in the selection process for the Public Defender's Office in the near future, other measures were conceived and are also being implemented. Indeed, as already mentioned, the low approval rate of black people in the selection for admission to the Public Defender's career (and other state legal careers) is largely due to difficulties in accessing quality education in their basic training, as well as the economic and financial limitations of their families. Thus, most of these young blacks do not have the opportunity - during

the period in which they attend the Law Course - to dedicate themselves exclusively to their studies. They usually attend evening courses at private universities. And, after graduation, they need to continue working for their own livelihood, which makes it extremely difficult to have time to dedicate to deepening their studies specifically in preparation for the highly competitive selection process - with the level of intensity necessary to obtain results competitive enough to gain approval. On the other hand, young people from the white economic-financial elites receive all the support from their families so that - even after completing their law degree - they dedicate themselves almost exclusively to complementary courses and studies specifically aimed at preparing for success in the selection process of the Public Defender (and other legal careers).

It should also be noted that, in parallel with the efforts to ensure success in the policy of racial quotas, to increase the percentage of black people composing the institutional staff, efforts were also made to implement proactive measures to fight structural racism, seeking to bring the issue to the debate, discussing the various forms of prejudice and racial discrimination culturally impregnated many times in a subconscious and subliminal way.

In the context of demands and debates for the implementation of affirmative actions in the Rio de Janeiro PDO, the importance of creating a specific thematic coordination to think about and fight against institutional racism emerged. A body located within the management structure was considered necessary, which could plan actions on the subject and make the institutional commitment visible to society as a whole.

In 2020, COOPERA - Coordination for the Promotion of Racial Equity of the Public Defender's Office was created. This was a pioneering step in the Brazilian justice system. It has the mission of confronting institutional racism, internally to the Public Defender's Office, as well as the role of a body that formulates anti-racist policies for access to justice.

This coordination has the challenge of qualifying the legal assistance provided by the Public Defender's Office to ensure greater racial equality in the provision of the service, as well as taking an internal look at the challenges of deconstructing a bureaucracy built under the hegemony of a racial group that



traditionally occupies almost all of the institution's spaces of power. COOPERA has had, since its creation, as one of the priority lines of work to promote the racial "literacy" of the professionals of the Public Defender's Office of Rio de Janeiro, in the most varied hierarchical levels, from diverse initiatives of awareness and interactional improvement - through courses, workshops, etc - to better understand the subliminal dynamics of racism present in the institutional functioning and operation.

Another important initiative was the "First ethnic-racial census of people working in the Public Defender's Office", in partnership with the Department of Research and Access to Justice, which had the objective of producing a diagnosis of who are the people who make up the institution, how they interact from the point of view of racial dynamics and what they think about issues such as racism and the inequalities that result from it. Yet another measure implemented, aimed at identifying and more accurately recording the profile of the public effectively assisted by the Public Defender's Office, was the mobilization to fill in the race/color question of users in the electronic systems for recording services, which was the subject of the preparation of a booklet that established guidelines for filling in, in addition to carrying out training actions.

But, returning to the issue of the struggle to overcome the historical difficulty that black people have always faced in order to succeed in the selection processes for admission to the Public Defender's Office, based on the reflections around racial equity conducted by COOPERA, a special program was conceived granting scholarships aimed at interfering in the competitive environment of students/professionals who intend to take examinations to access the public legal careers (not only the Public Defender's Office, but also for the careers of judges and prosecutors, among others), of in order to expand the opportunities for black people to achieve effective access to such public positions. This program, launched in 2021, was named the Abdias do Nascimento<sup>28</sup> Program, in honor of an important black Brazilian leader who dedicated his life to the cause of racial justice.

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<sup>28</sup> For a summary of his biography, see: [https://en.wikipedia.org/wiki/Abdias\\_do\\_Nascimento](https://en.wikipedia.org/wiki/Abdias_do_Nascimento).

The idea of creating a scholarship program with the purpose of encouraging black candidates to prepare for the selection process for admission to the Public Defender's Office came up in meetings held with representations of civil society and groups of the black people's movement. The intention was to strengthen and give effect to affirmative action policies and guarantee the fulfillment of racial quotas<sup>29</sup>.

This initiative is fully in line with the ideas proposed in the paper "Culture and Race in Provider-Client Relationship", already mentioned above, whose authors highlighted that an important step (to ensure greater racial diversity) would be

*“to adopt multi-faceted policies specifically designed to encourage underrepresented minorities to pursue careers in these fields. Such policies could range from efforts to stimulate minority students' interest in pursuing such careers through internships and mentorship experiences to the forgiveness of educational loans for individuals who find employment in specific fields to support of professional schools' programs to recruit promising minority undergraduates”* (p. 27).

There was a similar precedent, considered successful, within the scope of the Brazilian Government, at the Rio Branco Institute (official preparatory school for the diplomatic career in Brazil). It was decided that the program would be implemented with financial resources from the budget<sup>30</sup> of the PDO Center for Legal Studies - CEJUR (a complementary body aimed at training and professional improvement of the Public Defender's Office staff) with the support of *Escola Superior da Defensoria Pública* - FESUDEPERJ (training school attached to the Public Defender's Office that offers preparatory courses

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<sup>30</sup> The CEJUR budget comes from amounts received from attorney fees arising from cumbence paid when the party sponsored by the Defender's Office wins the case.

for candidates for the public defender's career, which usually have to pay tuition to attend courses).

According to the budget possibilities, 12 grants were offered, in the amount of R\$ 13,000 (thirteen thousand brazilian reais), to be paid in 10 monthly installments of R\$ 1,300 (one thousand, three hundred brazilian reais). Of these grants, 10 would be for black people and 02 for people with disabilities. During these 10 months, scholarship holders would have the obligation to attend intensive courses offered free of charge at FESUDEPERJ; submit monthly summary sheets of the content of two subjects that are part of the public exams program for the career of Public Defender; participate in weekly monitoring and coaching meetings; present a monthly report on activities carried out, such as a study schedule, indicating the courses and classes attended.

The program had the participation of veteran public defenders and some recently approved in the last selection process, who freely accepted the mission of offering individual mentoring to fellows, helping with the planning of studies in order to optimize their preparation to take the tests.

The results of this first group of PAN (Abdias do Nascimento Program) scholarship holders were considered positive. Two black people were approved in the last selection process for admission to the Public Defender's Office in Rio de Janeiro, in 2021. Another was approved in the public examination for the same career in the state of Bahia. Another fellow was successful and managed to pass the public exam for the career of Federal Police Chief. Three of the fellows participating in the program had reached the final stages of the selection process for public defenders in the states of Paraná, Mato Grosso and Sergipe. According to testimonies of participants in the first group of PAN, the program proved to be truly transformative, enhancing their chances of success in the selection process, not only for the Public Defender's Office but also broadening horizons and alternatives for eventually applying for other positions in public legal careers.

Thanks to the success achieved, it was possible to obtain the support of an international organization, the Open Society Foundation, which signed an

agreement with the Public Defender's Office of Rio de Janeiro and will be offering financial support for the continuity of the PAN.

Through the initiatives described above, although still with a quantitatively small impact, an attempt was made to point out creative and promising paths for a transformation of the profile of the future members of the staff of the Public Defender's Office of Rio de Janeiro, seeking greater ethnic diversity towards the desired racial parity in the composition of career members.

This experience - still incipient, as it depends on future improvements - can serve as inspiration, especially in countries that adopt supposedly "meritocratic" models of professional recruitment, where the admission of new lawyers depends strictly and objectively on the score obtained in evaluation tests of legal knowledge. As already mentioned, this seeks to raise awareness of the importance of concrete actions aimed at ensuring greater racial equality in the recruitment of lawyers working in the legal aid services of the future.