

# ARTIFICIAL INTELLIGENCE AND RACIAL DISCRIMINATION IN BRAZIL

key issues and  
recommendations

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# Introduction

Tarcízio Silva<sup>1</sup> and Fernanda dos Santos Rodrigues Silva<sup>2</sup>

The recognition of the possibility of incorporating racial discrimination into technologies and institutions in the field of artificial intelligence can be considered a fact in Brazil due to emblematic cases, scientific literature, and civil society activities on the topic. As for emblematic cases, the press and academia were able to record damages linked to technologies such as facial recognition in public space<sup>3</sup>, moderation of organic content on digital platforms<sup>4</sup>, computer vision moderation of advertising content, and racialized precariousness of platform workers<sup>5</sup>, among others<sup>6</sup>.

The terminology linked to algorithmic racism and discriminatory biases in the country is already common. Literature reviews indicate local production that addresses the ways in which emerging digital technology can incorporate subjective and structural mechanisms of racial, gender, and other discrimination<sup>7</sup>. The political conception of the term “algorithmic racism” has been raised by authors who observe how the discriminatory impacts of A.I. can intensify racial oppression and reproduction of white supremacy<sup>8</sup> and how such an arrangement takes shape in the socio-technical context through algorithmic biases<sup>9</sup>. Such replacement of complex deliberation processes about individuals and situations, by algorithms, is rejected by jurists who identify its discriminatory potential<sup>10</sup>.

1 Tarcízio Silva is a Senior Tech Policy Fellow at Mozilla Foundation, consultant on digital rights at ABONG and author of books like “Racismo Algorítmico: inteligência artificial e discriminação nas redes digitais”.

2 Fernanda Rodrigues is Head of research and researcher at the Institute for Research on Internet and Society. PhD student in Law at the Federal University of Minas Gerais - UFMG. Master’s degree in Law from the Federal University of Santa Maria - UFSM.

3 RIBEIRO, Gustavo; SCALZARETTO, Natália. **How Brazil uses facial recognition to make arrests.** The Brazilian Report, 29 Nov. 2019. Available at <https://brazilian.report/tech/2019/11/29/tech-roundup-brazil-facial-recognition-make-arrests>

4 INTERVOZES. **Conselho Nacional de Direitos Humanos solicita explicações ao Instagram sobre retirada de conteúdos.** Aug 4 2021. Available at <https://intervozes.org.br/conselho-nacional-de-direitos-humanos-solicita-explicacoes-ao-instagram-sobre-retirada-de-conteudos/>

5 JORNAL DO BRASIL. **Violência contra entregadores tem herança escravista, diz pesquisador.** 07 Mar. 2024. Available at <https://www.jb.com.br/brasil/direitos-humanos/2024/03/1049021-violencia-contra-entregadores-tem-heranca-escravista-diz-pesquisador.html>

6 A digital repository on algorithmic racism includes Brazilian cases - <https://desvelar.org/casos-de-discriminacao-algoritmica>

7 SIMÕES-GOMES, Letícia; ROBERTO, Enrico; MENDONÇA, Jônatas. **Viés algorítmico**—um balanço provisório. Estudos de Sociologia, v. 25, n. 48, 2020.

8 SILVA, Tarcízio. **Racismo algorítmico: inteligência artificial e discriminação nas redes digitais.** Edições Sesc SP, 2022.

9 KREMER, Bianca. **Racismo Algorítmico.** Rio de Janeiro: CESeC, 2023.

10 MOREIRA, Adilson José. **Tratado de direito antidiscriminatório.** Editora Contracorrente, 2020.

Regarding the engaged civil society, the relationship between artificial intelligence and racial discrimination has been recognized in different arenas of advocacy. The debate surrounding the proposal of a bill to regulate artificial intelligence in a committee of jurists is an eloquent example. Established by the Senate in 2022, the commission was comprised of a 18 jurists without the inclusion of a single person of Brazilian African descent, even though it is the largest share of the population<sup>11</sup>. However, organizations with anti-discrimination agendas proposed the topic in public hearings and written contributions. The lack of acknowledgement from legislators to some constitutional commitments, such as combating direct and indirect discrimination<sup>12</sup>, was noted by civil society groups, which also pointed out issues such as the rejection of the trade secret argument as an evasion of transparency and accountability and the need for technology bottom-up development that considers the country's particularities<sup>13</sup>. The balance of civil society participation in the proposal of law PL 2338/2022 demonstrated that the regulatory framework on AI in the country must explain the impacts of racism and mechanisms to mitigate it<sup>14</sup>.

Finally, the production of data and analyses on racism and artificial intelligence in Brazil generated impacts on the Executive Branch by registering the issue in official policy documents of the current government. We can highlight the *Presidential Message to the Multi-Year Plan (PPA) 2024-2027*, which sought to consider, regarding technological transformations and digitalization of society and economy, the “issues for the access of different segments of society to public goods and services, expanding the biases and forms of discrimination embedded in algorithms”<sup>15</sup>; the public policy *Juventude Negra Viva* (“Alive Black Youth”), which presents mitigation proposals by recognizing that AI can reproduce “the necropolitics” playbook and the colonialist ties that promote the physical and social death of the Black population”<sup>16</sup>; and the document *Racism on the Internet: evidences for the formulation of digital policies*<sup>17</sup>, developed by the Ministry of Racial

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11 Coalizão Direitos na Rede. Regulação de Inteligência Artificial: um tema transversal que exige debate multissetorial e interdisciplinar, disponível em <<https://direitosnarede.org.br/carta-aberta-regulacao-ia/>>, 2022

12 JURISTAS NEGRAS. Contribuição ao projeto de Lei 21- A de 2020, disponível em <<https://legis.senado.leg.br/comissoes/arquivos?ap=6916&codcol=2504>>, 2022.

13 MULHERES NA PRIVACIDADE. Contribuição escrita à consulta pública no âmbito da CJSUBIA, disponível em <<https://legis.senado.leg.br/comissoes/arquivos?ap=6916&codcol=2504>>, 2022.

14 SILVA, Fernanda dos Santos Rodrigues. “Nada mais sobre nós sem nós”. Escurecendo o Debate sobre a Regulação de IA no Brasil e Pensando Mecanismos de Combate ao Racismo Algorítmico. Relatório de Pesquisa do Programa Líderes LACNIC 2.0, 2023.

15 BRASIL. Plano plurianual 2024-2027: mensagem presidencial/Ministério do Planejamento e Orçamento, Secretaria Nacional de Planejamento. Brasília: Secretaria Nacional de Planejamento/MPO, 2023, p. 66.

16 BRASIL. Plano Juventude Negra Viva. 2024. Available at <https://www.gov.br/igualdaderacial/pt-br/assuntos/plano-juventude-negra-viva>

17 BRASIL. Racismo na Internet: evidências para formulação de políticas digitais. 2023. Ministério da Igualdade Racial; Secretaria de Comunicação Social da Presidência, 2023. Available at <https://www.gov.br/igualdaderacial/pt-br/assuntos/gti-comunicacao-antirracista/biblioteca/RelatrioWebinrioRacismonaInternet.pdf>

Equality in partnership with the Presidency's Secretariat for Social Communication, which enumerates public policy recommendations to combat algorithmic racism, increase diversity in the ecosystem of media and promote Black-owned media.

However, the contradictions are numerous when we can identify that support for the deployment of facial recognition technologies in public spaces crosses different political spectrums. From parties and governments ranging from the Right to the Left, the technocentric and punitive discourse<sup>18</sup> is a constant that opens space for more harmful surveillance.

In this way, **this document aimed to gather the contributions of Brazilian experts to inform the thematic report of the Special Rapporteur to the Human Rights Council on AI and racial discrimination.**<sup>19</sup> Below are considerations from the Global South on the following topics: *The Role of Meaningful Connectivity: Reflection on the Relationship between Racism and Digital Divides; Diversity Crisis in Technology; Threats to Freedom of Expression: Reflection on the Impact of AI on Communication Platforms and Risks to Freedom of Expression; Hate Speech; Data Protection, Artificial Intelligence, and Race; Education and Digital Sovereignty; Digital Policies in the Amazon: Recommendations from the Territories; Brazil's facial recognition rising tide, law enforcement digital stage, and the threat to Black communities (and efforts to stop it).*

At the end, there is a list of all contributors who helped write this contribution.

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18 MELO, Paulo Victor. "A serviço do punitivismo, do policiamento preditivo e do racismo estrutural", *Le Monde Diplomatique*, 18 mar. 2021. Available at <<https://diplomatie.org.br/a-servico-do-punitivismo-do-policiamento-preditivo-e-do-racismo-estrutural/>>, acesso em 03 mar. 2023.

19 UNITED NATIONS. Call for input: thematic report on artificial intelligence (AI) and racial discrimination. Available at: <https://www.ohchr.org/en/calls-for-input/2024/call-input-thematic-report-artificial-intelligence-ai-and-racial>

# The Role of Meaningful Connectivity: Reflection on the Relationship between Racism and Digital Divides

Ana Bárbara Gomes Pereira<sup>20</sup>

The latest census data from Brazil demonstrate that our black population continues to represent the majority among those in socio-economic vulnerability. They occupy fewer leadership positions, receive lower salaries, and suffer more from issues of unemployment or underemployment<sup>21</sup>. This data, in turn, influences the possibility of access to goods, services, opportunities for social mobility, and, evidently, access to technologies and the digitization process.

The data on internet access in Brazil demonstrate how the availability of quality internet is associated with geographical, class, and racial disparities. Brazilian suburbs lack sufficient infrastructure to provide internet access and thus favor digitization, innovation, access to knowledge, the digital market, and all the possibilities of empowerment that access to technologies through meaningful connectivity entails. To cite its relation to labor market insertion, according to the Regional Center for Studies on the Development of the Information Society ([Cetic.br](http://Cetic.br)) survey which provides indicators on the quality of internet access in Brazil, among individuals who access the internet for work and/or studies purposes, 43% are white and 38% are black<sup>22</sup>.

The research conducted by Instituto Locomotiva and Consumer Protection Institute - IDEC - demonstrated that the Brazilian population belonging to classes C, D, and E only have access to the internet until the 23rd of each month. This means one week of the month deprived of services and tools available on the internet. The percentage of people from classes C, D, and E who are limited to accessing zero-rated applications (such as WhatsApp and Facebook) is higher among black individuals (42%) than among non-black individuals (38%), causing this population to suffer more from the deprivation of internet access. They are also the ones who most refrain from using the internet to “save” mobile data and prevent it from running out more quickly<sup>23</sup>.

20 Ana Bárbara Gomes Pereira is a Director of the Institute for Research on Internet and Society (IRIS). She has a Master's in Science and Technology Policy from the University of Campinas (UNICAMP).

21 IBGE. **Desigualdades Sociais por Cor ou Raça no Brasil**. Estudos e Pesquisas • Informação Demográfica e Socioeconômica • n.48. ibge, 2022. Available at: [https://biblioteca.ibge.gov.br/visualizacao/livros/liv101972\\_informativo.pdf](https://biblioteca.ibge.gov.br/visualizacao/livros/liv101972_informativo.pdf) Accessed: 28 mar. 2024.

22 [CGI.br/NIC.br](http://CGI.br/NIC.br), Centro Regional de Estudos para o Desenvolvimento da Sociedade da Informação ([Cetic.br](http://Cetic.br)), **Pesquisa sobre o uso das tecnologias de informação e comunicação nos domicílios brasileiros - TIC Domicílios 2023**. Available at: <https://cetic.br/pt/tics/domicilios/2023/individuos/C8/> Accessed: 28 mar. 2024.

23 **Barreiras e limitações no acesso à internet e hábitos de uso e navegação na rede nas classes C, D e E**. IDEC E INSTITUTO LOCOMOTIVA. Novembro 2021; Available at: <https://idec.org.br/sites/default/files/>



This inequality is also evident from a geographical perspective regarding infrastructure availability. The city of São Paulo has one of the most unequal connectivity indices in the state. The 2022 Inequality Map presented an indicator considering the quantity of antennas/area in km<sup>2</sup> per district. While in affluent neighborhoods like Itaim Bibi, the distribution of mobile network infrastructure reaches 49 per km<sup>2</sup>, in Marsilac it's only 0.02 per km<sup>2</sup>; in the most populous neighborhood of the eastern zone, the index is 1.31 per km<sup>2</sup>.

A study conducted by Instituto Interoivos and National Coordination of Quilombos Articulation - CONAQ - demonstrated the precariousness of internet access and technologies in Brazilian quilombola territories. According to CONAC, there are over 6,330 quilombola territories in the Brazilian state. In the struggle for access to land rights and recognition of their identities, the fight for access to information is also added. In a reality where the availability of computers is practically nonexistent, internet access is mainly done through mobile data shared among many people. In this context, other technologies are mobilized - such as community radios, letters - but they do not reach the necessary speed for access to essential information and services. During the pandemic, this meant isolation from prevention measures. Of the 29 communities surveyed by the study, 22 did not receive guidance from the government on coronavirus protection measures<sup>24</sup>.

Even traditional Brazilian communities living in urban contexts report a scenario of digital exclusion and precariousness in accessing technologies, as demonstrated in the study by the Institute for Research on Internet and Society (IRIS). It is common for families to share the same device, rely on neighbors' broadband, and struggle to access government services available on the internet due to low technological appropriation<sup>25,26</sup>. These populations, in turn, have less access to education and digital literacy that favors technological appropriation. This implies less availability of access to information fact-checking resources and greater exposure to the harms of misinformation - a problem that has considerably worsened with the rise of generative AI and its ability to create images and texts<sup>27</sup>.

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[pesquisa\\_locomotiva\\_relatorio.pdf](#). Accessed: 28 mar. 2024.

24 BORGES, LizelY. BASTER, Kel; DEALDINA, Selma. **Como quilombolas estão atravessando a pandemia no Brasil?**. Nexo Jornal. 28 de Abr de 2020. Available at: <https://acervo.socioambiental.org/acervo/noticias/como-quilombolas-estao-atravessando-pandemia-no-brasil> Accessed: 28 mar. 2024.

25 GOMES, Ana Bárbara; GERTRUDES, Júlia Maria Caldeira; DA SILVA, Lucas Samuel; SANTARÉM, Paulo Rená da Silva. **Apropriação tecnológica no Brasil: uma perspectiva do Sul Global**. Belo Horizonte: Instituto de Referência em Internet e Sociedade, 10 de setembro de 2023. Available at: <https://irisbh.com.br/publicacoes/apropriacao-tecnologica-no-brasil-uma-perspectiva-do-sul-global-sobre-inclusao-digital-e-empoderamento-de-comunidades/> Accessed: 28 mar. 2024.

26 GOMES, Ana Bárbara; GERTRUDES, Júlia; ROCILLO, Paloma. **Conectividade Significativa em Comunidades Brasileiras**. Relatório. Belo Horizonte: Instituto de Referência em Internet e Sociedade, 2022. 35 p. Available at: <https://irisbh.com.br/publicacoes/conectividade-significativa-em-comunidades-brasileiras-relatorio-das-entrevistas-com-lideres-comunitarios/> Accesses: 28 mar. 2024.

27 BIRD, Charlotte; UNGLESS, Eddie L.; KASIRZADEH Atoosa. **Typology of Risks of Generative Text-to-Image Models**. 8/07/2023. Conference on AI, Ethics, and Society (AIES 2023). Available at: <https://arxiv.org/>



In a context of extreme social inequality, as is the case in Brazil and other countries, digitization centered around spaces of economic power concentration ends up placing the population either on the margins of technology or as objects of it. In the context of Minas Gerais - Brazil, for example, a region suffering from the predatory activities of mining companies, the modernization of processes and automation of activities and risks does not accompany growth with environmental concern and the safety of populations living nearby. These populations, as environmental sociology literature has pointed out, have been experiencing environmental racism, which combines socioeconomic vulnerability with exposure to life-threatening risks of inhabiting areas prone to environmental disasters such as the risk of tailings dam failures, for instance<sup>28</sup>.

The advancement of artificial intelligence and disruptive technologies must not lose sight of how different social realities will be impacted by them. Otherwise, we will reinforce our social dysfunctions that currently institutionalize discrimination based on color, class, and ethnicity. Significant advancements can be observed with the development of AI in supporting education. Recently, UNESCO published a guide for policymakers highlighting the potentials and risks of AI in education; it is an important and meaningful resource<sup>29</sup>. However, if we do not consider our inequalities, not even these advancements will be accessible to the majority of the world.

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[abs/2307.05543](https://doi.org/10.1111/abs/2307.05543) Accessed: 28 mar. 2024.

28      PACHECO, Tânia. **Racismo Ambiental: expropriação do território e negação da cidadania**. SRH (org.). Justiça pelas Águas: enfrentamento ao Racismo Ambiental. Salvador: Superintendência de Recursos Hídricos, 2008.p.11-23. Available at: <https://racismoambiental.net.br/textos-e-artigos/racismo-ambiental-expropriacao-do-territorio-e-negacao-da-cidadania-2/> Accessed: 28 mar. 2024.

29      MIAO, Fengchun; HOLMES, Wayne ; RONGHUI Huang; HUI Zhang; **AI and education: guidance for policy-makers**. UNESCO. 2021. 45p. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000376709>. Accessed: 28. mar. 2024.

# Diversity Crisis in Technology

Taís Oliveira<sup>30</sup> and Tarcízio Silva<sup>31</sup>

The diversity crisis in technology in Brazil is another issue that echoes the concepts present in the report *Racial Discrimination and Emerging Digital Technologies*<sup>32</sup>, which states that technology produced in fields like artificial intelligence and algorithmic systems disproportionately excludes minority groups like women and racialized groups, increasing the probability to reproduce inequalities when deployed. In a survey with 130 AfroBrazilian technologists from different sectors, the issue most cited by respondents around race and technology was the Epistemicide, or the erasure and dismissal of Black, African-centered, anti-racist contributions about digital technologies. AfroBrazilians do not feel represented in developing digital technologies or in key spaces like policy-making or law-making spaces<sup>33</sup>.

Even user data about disparities in access to digital technologies, such as internet access or device ownership, must be improved. The primary research survey on internet access in Brazil, TIC Domicílios, began presenting data on racial disparities only after the 2019 report, with little data granulation<sup>34</sup>. Additionally, quilombola, rural, and riverside communities face information gaps about digital inequalities, with only recent systematized data<sup>35</sup>.

When disparities in internet access and device ownership are connected to other exclusions, such as leading technology companies or occupying development positions, the ground becomes fertile for the reproduction of oppression through algorithmic racism. The state and private sectors produce little quality data on the topic, with civil society groups being the main actors responsible for delivering information.

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30 Taís Oliveira is the Founder and Executive Director of Instituto Sumaúma, public relations, Master and PhD student in Human and Social Sciences at the Federal University of ABC (UFABC).

31 Tarcízio Silva is a Senior Tech Policy Fellow at Mozilla Foundation, consultant on digital rights at ABONG and author of books like “Racismo Algorítmico: inteligência artificial e discriminação nas redes digitais”.

32 ACHIUME, ET. **Racial discrimination and emerging digital technologies**: a human rights analysis. Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and racial intolerance (No. A/HRC/44/57). United Nations, 2019.

33 REDE Negra em Tecnologia e Sociedade. **Anti-racist Priorities regarding Technology and Society**: survey with black experts. Report. Ação Educativa, 2021. Available at <https://tecla.org.br/biblioteca-tecla/anti-racist-priorities-on-technology-and-society/>

34 FONSECA, M.; SOARES, M. **Diversidade na Governança da Internet no Brasil**: aplicação de indicadores de gênero, raça e território de 2005 a 2020. V Encontro da Rede de Pesquisa em Governança da Internet. 2022.

35 CRISÓSTOMO, Maryellen; VICTOR MELO, Paulo; TERSO, Tâmara. TICs, raça, mulheres e territórios: o podcast Ondas da Resistência como ocupação das plataformas digitais em uma perspectiva interseccional. **Revista Fronteiras**, v. 24, n. 1, 2022.

Regarding the presence of black and indigenous women in the information technology sector, the *Quem Coda* studies<sup>36</sup> found that in 32.7% of companies, there are no single Black person on the technology teams; and that in 68.5% of cases, Black people represent a maximum of 10% of people on technology teams. Research by the *Black Rocks Startups* group found<sup>37</sup> that in 26% of startups in the country, less than 1/4 of the employees are Black. And when it comes to Black developers already in technology companies, the *Mapa de Talentos Negros na Tecnologia* survey found<sup>38</sup> that 26.3% of respondents do not feel valued in the organization they work for, and 30.56% feel that they do not have the same opportunities to grow as other co-workers.

The situation is also severe and under-studied in decision-making spaces linked to the state or multi sectoral institutions. Among the examples recorded is the absence of black people in legislative deliberation spaces, such as the *Committee of Jurists responsible for subsidizing the preparation of a draft substitute for the bills on artificial intelligence*<sup>39</sup> or the years of zero representation of black people from civil society on the advisory council of the Internet Steering Committee<sup>40</sup>.

In short, the diversity crisis in technology is a factor that can deepen racial discrimination in artificial intelligence technologies through several expedients, including, but not limited to, a) lack of plurality in the ideation and planning of digital technologies; b) limites in the speculative projection of damages and impacts; c) negatively biased development of governance mechanisms, which may not consider the diversity of contexts, interests, and problems.

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36 Quem Coda - <https://gente.globo.com/quem-coda-br/#metodologia>

37 BlackOut – Mapa das Startups Negras - <https://blackrocks.com.br/estudos>

38 Quem Somos: Mapa de Talentos Negros em Tecnologia - <https://comunidade.afroya.tech/quemsomos>

39 URUPÁ, M. Coalizão pede inclusão de segmentos vulneráveis na Comissão de Juristas de IA do Senado. Teletime, 02 Mar. 2022, available at <https://teletime.com.br/02/03/2022/coalizacao-pede-inclusao-de-segmentos-vulneraveis-na-comissao-de-juristas-de-ia-do-senado/>

40 OKBR. Candidaturas comprometidas com defesa dos direitos digitais são eleitas para o CGI.br. 20 Dec. 2023. Available at <https://ok.org.br/noticia/candidaturas-comprometidas-com-defesa-dos-direitos-digitais-sao-eleitas-para-o-cgi-br/>

# Threats to Freedom of Expression: Reflection on the Impact of AI on Communication Platforms and Risks to Freedom of Expression

Fernanda dos Santos Rodrigues Silva<sup>41</sup>

With the widespread use of digital platforms as means of communication and social interaction, people are often exposed to the automated decisions of content moderation mechanisms. However, concerning a tool capable of removing posts, suspending or banning accounts, reducing or increasing the reach of certain users, it is evident that automated content moderation can directly impact individuals' exercise of freedom of expression on digital platforms.<sup>42</sup>

An erroneous intervention on an individual's content can result in their silencing, also undermining their ability to enjoy digital space on equal terms with others. In the case of Black individuals, researchers have identified not only that this group had more content removed than others, but also that a significant portion of their removed content consisted of posts involving racial justice issues or addressing racism.<sup>43</sup> As identifying whether this type of content is harmful or not would require moderation capable of considering, in addition to the discourse, the identity of the post's author and the identity of those described in the post, in order to understand the context in which it is embedded, such cases are considered "gray areas."<sup>44</sup>

However, it cannot be denied that currently, content moderation represents a true product of digital platforms.<sup>45</sup> Those recognized for having a more sanitized and healthy virtual environment may attract more users seeking safer spaces. However, if this same

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42 DUTRA, Luiza. Da moderação de conteúdo à liberdade de expressão: até onde e de que forma regular? **Blog do IRIS**, 12 abr. 2023. Disponível em: <https://irisbh.com.br/da-moderacao-de-conteudo-a-liberdade-de-expressao-ate-onde-e-de-que-forma-regular/>. Acesso em: 28 mar. 2024.

43 HAIMSON et al. Disproportionate Removals and Differing Content Moderation Experiences for Conservative, Transgender, and Black Social Media Users: Marginalization and Moderation Gray Areas. In: **Proceedings of the ACM on Human-Computer Interaction**, v. 5, Issue CSCW2, Article No.: 466pp 1–35. <https://doi.org/10.1145/3479610>.

44 *Ibidem*.

45 SILVA, Fernanda dos Santos Rodrigues; GERTRUDES, Júlia Maria Caldeira. **Online Content Moderation Governance: perceptions on the role of actors and regimes**. Belo Horizonte: Institute for Research on Internet and Society 2023. Available at: <https://irisbh.com.br/wp-content/uploads/2023/11/Online-Content-Moderation-Governance-IRIS.pdf>. Accessed: 28 mar. 2024.

moderation ends up having disproportionate effects on certain groups, especially when they seek to express their own marginalized identity in the digital realm, efforts must be made to ensure that this profit is not obtained at the expense of historically vulnerable individuals.

Experts point out that this is not only a matter of technical difficulty in analyzing contextual content that would prevent adequate moderation of “gray areas,” but also of a possible lack of investment and economic interest from platforms in solving this problem.<sup>46</sup> In this sense, the absence of norms establishing minimum parameters for content moderation activities can hinder the reaction of minority groups to injustices, considering not only the lack of guarantees of due process in this procedure<sup>47</sup> but also transparency regarding the reasons for the takedown of their content.

In addition to this, there is opacity surrounding decisions on content recommendation on digital platforms, which can also be considered a moderation activity, as it establishes which advertisements and content will appear with priority for users based on extensive profiling of their information. Complaints from Black influencers suggest that their content would have lower reach and therefore less recommendation compared to other White influencers, even within the same niche.<sup>48</sup>

Considering that many individuals today work as influencers as a profession, it becomes even more relevant to understand how these automated mechanisms function, as they can impact even the way these people earn their livelihood. Knowing the reasons why certain content, and not others, appears first on the timeline and preventing practices such as shadowbanning,<sup>49</sup> where the user’s content is moderated without even being informed, are part of a set of measures that can help protect the right to freedom of expression equally.

In Brazil, Bill 2,630/2020,<sup>50</sup> popularly known as the “Fake News Bill,” has a chapter dedicated solely to establishing rules for due process in content moderation. The goal is to establish minimum guidelines for digital platforms to carry out their moderation activity without infringing on users’ right to well-founded decisions, notification of interventions

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46 *Ibidem.*

47 SILVA, Fernanda dos Santos Rodrigues; GERTRUDES, Júlia Maria Caldeira; DUTRA, Luiza Correa de Magalhães; SILVA, Rafaela Ferreira Gonçalves da. **Guia informativo:** devido processo na regulação da moderação de conteúdo ao redor do mundo. Belo Horizonte: Instituto de Referência em Internet e Sociedade, 2023. Disponível em: [https://irisbh.com.br/wp-content/uploads/2023/12/Cartilha\\_Guia.pdf](https://irisbh.com.br/wp-content/uploads/2023/12/Cartilha_Guia.pdf). Acesso em: 31 jan. 2024.

48 GOMES, Alessandra; BORGES, Ester. Denúncias de discriminação algorítmica no Instagram sob uma lupa. **Revista Rosa**, v. 5, n. 2, 29 mai. 2022. Disponível em: <https://revistarosa.com/5/discriminacao-algoritmica-no-instagram>. Acesso em: 28 mar. 2024.

49 RADSCH, Courtney. Shadowban/Shadow Banning. In: BELLI, Luca; ZINGALES, Nicolo; CURZI, Yasmin (orgs.). **Glossary of platform: law and policy terms**. Rio de Janeiro: FGV Direito Rio, 2021.

50 BRAZIL. **Bill No. 2630/2020 and its attachments**. Establishes the Brazilian Law of Freedom, Responsibility, and Transparency on the Internet. Available at: [https://www.camara.leg.br/proposicoesWeb/prop\\_mostrarintegra?codteor=2265334](https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=2265334). Accessed on: 25 Jan. 2024.

in their content, deadlines for appeal, among others. The proposal also provides for basic information to be presented on how content recommendation is made on these digital platforms, so that individuals understand why they are being directed to certain posts or advertisements.

These provisions are in line with the already approved Digital Services Act,<sup>51</sup> which established detailed rules for intermediaries' activity in the European Union. Like in Bill 2,630, norms are introduced to provide more transparency about moderation activity. Such initiatives are encouraged, as they can reduce the disproportionality of erroneous decisions regarding minority groups and ensure the proper exercise of the right to a full defense and adversarial process in cases of challenge.

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51 EUROPEAN UNION. **Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022.** Regarding a single market for digital services and amending Directive 2000/31/EC (Digital Services Regulation). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32022R2065>. Accessed on: 18 Apr. 2023.

# Disinformation and hate speech as a way of legitimizing the brutality and murder of black and poor people in Brazil

Gabriela de Almeida Pereira<sup>52</sup>

On March 24, 2024, Brazil watched closely as Domingos Brazão, an advisor to the Court of Auditors of the state of Rio de Janeiro, Chiquinho Brazão, a federal deputy for the União Brasil party (RJ), and Rivaldo Barbosa, former chief of the Civil Police of Rio de Janeiro, were arrested as the main suspects in the assassination planning of Marielle Franco, a councilwoman murdered on March 14, 2018, in a case that also killed her driver Anderson Gomes. Immediately after the murder, Marielle became a target of fake content repeatedly spread on social media<sup>53</sup> to diminish public outrage over her death and defame the human rights activist's image, in a series of lies that continue to spread even six years after the attack.

The rumors that state agents may be directly involved in planning Marielle Franco's murder raised questions about the involvement of government representatives and public security officials in producing hate speech and all the disinformation surrounding the name and image of Marielle Franco, due to the speed with which false content about her was created and circulated. The dehumanization that occurred with Marielle Franco both online and offline, fueled by lies spread about her, is not new and has not stopped in the year of her death. False and misleading content continues to this day, fueling memes, stickers, and posts that mock the crime and Marielle's memory.

In June 2018, Marcos Vinícius da Silva, 14, was killed wearing a school uniform during a Civil Police operation in Complexo da Maré, Rio de Janeiro. In April 2019, musician Evaldo Rosa dos Santos had his car shot at during an army operation in Guadalupe, Rio de Janeiro. Of the 257 rifle and pistol shots fired at Evaldo's family car, nine hit the musician. In May 2020, 14-year-old João Pedro was killed inside his home during a police operation in Complexo do Salgueiro, in São Gonçalo, Rio de Janeiro.

All of these people were black. No one on this list died just once. They were all victims twice: first of state violence, and then of equally serious symbolic violence. Marielle, Marcos Vinicius, Evaldo and João Pedro were the targets of fake news that went viral as

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53 TARDÁGUILA, Cristina. Por que Marielle Franco é citada em tantas notícias falsas – sobre ela e sobre outros? 25 mar. 2019. <https://lupa.uol.com.br/jornalismo/2019/03/25/artigo-fake-news-marielle>



soon as the cases gained widespread repercussions, precisely because they involved the suspicion of the possible participation of state agents. The strategy was similar in all cases: misleading photos of similar people or manipulated images were used to criminalize the victims as a way of justifying the violence and diminishing the commotion over the murders.

In 2021, a person who had their reputation damaged in life, also refers to the same type of situation. Adriana Santana de Araújo, the mother of Marlon Araújo - one of those killed in a police operation that took place in Jacarezinho - was named as the protagonist of a video in which a woman appears dancing with a rifle in her hand. The video was widely circulated and Adriana received a series of threats, starting to take four prescription drugs a day to deal with the psychological impact of the verbal attacks.

There are mothers and fathers, widows, children and people close to the victims who have barely been able to process their grief, as they have had to fight for the memory of their lost relative or even their own, as in Adriana's case. And, it should be remembered, the truth hardly travels the same path as a lie and doesn't have the same speed.

The creation and viralization of rumours involving black people gain momentum by reinforcing the many lies that have been built up about the black population for centuries in order to normalize racist practices. Kimberly Grambo, a researcher at the University of Pennsylvania, explains that “fake news that falsely and negatively portrays a particular ethnic, racial, or religious group has the power to impute a ‘terrible criminality’. It implies an unworthiness of citizenship or even dehumanizes individual members of those groups. History is littered with violent examples demonstrating why society should aim to prevent these effects”<sup>54</sup>.

According to a report released by Safernet<sup>55</sup>, reports of crimes involving hate speech on the internet have tripled in the last six years in Brazil, with a particular increase in attacks involving religious intolerance, racism and xenophobia. The survey also shows that aggressions motivated by hatred, prejudice and intolerance skyrocket in election years, becoming “a powerful political platform to attract the attention of the audience and give visibility and notoriety to broadcasters”.

Disinformation and hate speech are intertwined and reinforce each other. Disinformation uses narratives that confuse and help to reinforce beliefs and prejudices, many of which are built on hateful discourses that try to justify the death and brutality of the murder of poor and black people, most of the time by criminalizing the victim, as if by discrediting them, this justifies their murders.

A researcher into hate speech on social networks and the representation of ethnic

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54 GRAMBO, Kimberly. Fake news and racial, ethnic, and religious minorities: a precarious quest for truth. 10 out. 2019. <https://racism.org/articles/basic-needs/media/6697-fake-news-and-racial-ethnic>

55 Safernet. Crimes de ódio têm crescimento de até 650% no primeiro semestre de 2022. <https://new.safernet.org.br/content/crimes-de-odio-tem-crescimento-de-ate-650-no-primeiro-semester-de-2022>

minorities in mass media, Luiz Valério Trindade identifies black women as the main victims of hate speech at a national level and observes in this wide distribution of hateful content a direct relationship with ideological motivations characterized above all by beliefs in white supremacy, but also in motivations anchored in the “economic exploitation of hate by the corporations behind social networking platforms”<sup>56</sup>.

In an article published in the MIT Technology Review<sup>57</sup>, Karen Hao draws attention to the joint evolution of hate speech and disinformation by pointing out that as new falsehoods emerge, new people and groups become targets. “To catch things before they go viral, content-moderation models must be able to identify new unwanted content with high accuracy. But machine-learning models do not work that way. An algorithm that has learned to recognize Holocaust denial can’t immediately spot, say, Rohingya genocide denial. It must be trained on thousands, often even millions, of examples of a new type of content before learning to filter it out. Even then, users can quickly learn to outwit the model by doing things like changing the wording of a post or replacing incendiary phrases with euphemisms, making their message illegible to the AI while still obvious to a human. This is why new conspiracy theories can rapidly spiral out of control,” wrote Hao.

The questioning regarding the potential involvement of public agents in generating false narratives about black and/or underprivileged individuals who have fallen victim to state violence, coupled with the propagation of hatred facilitated by social media platforms and the lack of decisive measures to safeguard the black and marginalized communities from the perils of false and malicious content generated through artificial intelligence, underscores the urgent necessity for a thorough investigation into cases involving racism, disinformation and misinformation. Moreover, it is essential to invest in the formulation of policies aimed at protecting vulnerable groups on social media, holding platforms accountable for the spread of such content, and implementing media literacy initiatives that directly address the realities faced by Black people in Brazil, thus helping to mitigate the harmful impacts of informational disorder on this group, which represents the majority of the Brazilian population.

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56 TRINDADE, Luiz Valério. **Discurso de ódio nas redes sociais**. Editora Jandaíra, 2022, p.112.

57 HAO, K. How Facebook got addicted to spreading misinformation. MIT Technology Review. 11 mar. 2021. <https://www.technologyreview.com/2021/03/11/1020600/facebook-responsible-ai-misinformation/>

# Data Protection, Artificial Intelligence, and Race

Horrara Moreira<sup>58</sup>

From the paradigm of Afrocentricity<sup>59</sup>, the reflections of this topic are predominantly guided by the work of Brazilian black scientists researching the impacts of digital technologies from a racialized critical perspective, referring in particular to the doctoral thesis of Bianca Kremer, Bianca Kremer, *Direito e tecnologia em perspectiva amefricana: autonomia, algoritmos e vieses raciais*<sup>60</sup>, and to the book by Deivison Faustino and Walter Lippold, *Colonialismo Digital: por uma crítica hacker-fanoniana*<sup>61</sup>.

Artificial intelligence, understood as rules for processing information for decision-making, essentially depends on the primitive accumulation of data, especially personal data. From an expansionist perspective, personal data is understood as any information capable of identifying or making identifiable a natural person.

The shift from market capitalism to data capitalism has transformed basic aspects of human life. Wealth generation and profit are redefined by datification<sup>62</sup>, making personal data the basic unit of value in the economy, once again influencing the human experience of black people worldwide.

Race as a social construct takes on new contours in the universe of data processing by artificial intelligences. There is a false perception that automated systems do not reproduce prejudices and discriminations present in the material world, a phenomenon

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59 ASANTE, Molefi Kete. **Afrocentricidade: notas sobre uma posição disciplinar**. In: NASCIMENTO, Elisa Larkin. *Afrocentricidade: uma abordagem epistemológica inovadora*. São Paulo: Selo Negro, 2009. p. 93-110. Disponível em: <https://speciesnae.files.wordpress.com/2015/05/mazama-asante-afrocentricidade.pdf>. Acesso em 29 de mar. 2024

60 CORRÊA, Bianca Kremer Nogueira. **Direito e Tecnologia em perspectiva amefricana: autonomia, algoritmos e vieses raciais**. Rio de Janeiro, 2021. Tese de Doutorado. Tese de doutorado. Departamento de Direito, Pontifícia Universidade Católica do Rio de Janeiro. Available at <https://www.maxwell.vrac.puc-rio.br/58993/58993.PDF>

61 FAUSTINO, Deivison e LIPPOLD, Faustino, 2023. *Colonialismo digital: por uma crítica hacker-fanoniana*. Rio de Janeiro: Boitempo.

62 Datificação - transformação da ação social em dados quantificáveis. Ver VAN DIJCK, José. *Datafication, dataism and dataveillance: Big Data between scientific paradigm and ideology*. *Surveillance & Society*, v. 12, n. 2, p. 197-208, 2014

known as algorithmic bias. We are facing a new paradigm regarding the definition of what it means to be human.

From data collection for commercial exploitation to the platformization of public policies by governments, the primitive accumulation of personal data and its processing by artificial intelligences inaugurate “new forms of exploitation, oppression, and political, ideological, and subjective control, stemming from a phenomenon here named as primitive data accumulation.”<sup>63</sup>

In Brazil, data protection has been a fundamental right since 2022 (Art. 5th, LXXIX CF), infra regulated through the General Data Protection Law - LGPD (Law No. 13,709/2018), which establishes rules and principles for data processing to “protect fundamental rights of freedom and privacy and the free development of the personality of the natural person.”

The LGPD establishes that data regarding racial or ethnic origin are sensitive data and imposes specific conditions for the treatment of this type of information, guided by the principle of non-discrimination. Regarding artificial intelligence, the bill (PL 2338/2023<sup>64</sup>) proposing regulation in Brazil is in the process of approval in the National Congress. The approach chosen by legislators is that of accountability regarding the potential risks of artificial intelligence.

However, the drafting of the normative framework for AI in the country may not be sufficient to eliminate cases of algorithmic racism. For example, Art. 15 of PL 2338 authorizes the use of artificial intelligence by biometric identification systems for crimes punishable by a maximum penalty of imprisonment exceeding two years; searching for victims of crimes or missing persons; or crimes caught in the act, which in practice will legalize violations of human rights already described in the previous section.

From the absence of information or lack of transparency about the construction of systems and databases that feed them, or even in the face of proof of algorithmic racism, although Brazil has legal provisions against discrimination, governance and oversight mechanisms, as well as the justice system and public policies, do not seem capable of interrupting the functioning of artificial intelligence applications that are harmful to the black population.

This is an anti-racist approach in the formal, non-material realm, which reproduces and reinforces processes of human hierarchy through governance and techno-regulation

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63 LIPPOLD, W.; FAUSTINO, D. **Colonialismo digital, racismo e acumulação primitiva de dados.** *Germinal: marxismo e educação em debate*, [S. l.], v. 14, n. 2, p. 56–78, 2022. Disponível em: <https://periodicos.ufba.br/index.php/revistagerminal/article/view/49760>. Acesso em: 29 mar. 2024.

64 Disponível em: <https://www25.senado.leg.br/web/atividade/materias/-/materia/157233>. Acesso em: 29 de mar de 2024

mechanisms<sup>65</sup>. In order to build paths that can point towards the development and use of technologies truly beneficial to humanity, we highlight the need for enforcement and banning of artificial intelligence technologies that generate discrimination.

Additionally, we reinforce the need for the elaboration of algorithmic impact assessments and data protection, accountability, and full reparation of damages caused by artificial intelligences.

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65 Corrêa, op. cit, 2021.

# Education and Digital Sovereignty

Daiane Araújo<sup>66</sup> and Juliane Cintra<sup>67</sup>

The concept of digital sovereignty has been gaining strength in recent years. A milestone in these discussions is the denunciation of Edward Joseph Snowden, a former CIA systems administrator and former NSA contractor who denounced the NSA's surveillance program to spy on heads of state in countries in the Global South, including Brazil. At that moment, countries from the BRIC economic bloc increased their reflections on how their States could achieve technological autonomy.

Bibliographical references regarding the concept of digital sovereignty are presented through some pillars, such as national cyberspace security, the development of science and technology from a state perspective, and the agency and autonomy of personal data. In addition to these premises, significant connectivity<sup>68</sup> emerges as an essential element for achieving digital sovereignty.

Currently, countries like Brazil need more practical policies to achieve digital sovereignty. An example of this is the data presented by the Observatório de Educação Viglada, which indicates that over 80% of public universities and educational institutions use Google or Microsoft in their teaching ecosystem. Research, cloud applications, and video calls are all from private companies in countries in the Global North, especially the United States. Thus, most data generated by the country in these institutions is controlled by private foreign technology companies.

Last year, the CGI (Brazilian Internet Steering Committee) and the NICBr (Ponto BR Information and Coordination Center) presented three studies on these companies' entry into public education<sup>69</sup>. The reports presented evidence that most agreements between educational institutions and these companies were made as donations, and the institutions would not have to pay for their use—conditions later changed.

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67 Juliane Cintra de Oliveira is the Technology area coordinator at Ação Educativa. She has a master's degree in Human Rights from the University of São Paulo - USP. She also attended a postgraduate course (lato-sensu) in Culture, Education, and Ethnic-Racial Relations at the Center for Latin American Studies on Culture and Communication at the University of São Paulo Research Center. She has a degree in Social Communication (Journalism) from UNESP (Universidade Estadual Paulista "Júlio de Mesquita Filho" - 2008). As part of her institutional representations, she is a member of the Executive Board of Abong - Brazilian Association of NGOs. She has experience in the field of Communication, emphasizing Popular Communication, Technology, Ethnic-Racial Relations, Gender, and Human Rights.

68 See IGF. Policy Network on Meaningful Access (PNMA). Available at <https://www.intgovforum.org/en/content/policy-network-on-meaningful-access-pnma>

69 CGI. Educação em um cenário de plataformação e de economia de dados: parcerias e assimetrias. São Paulo: CGI, 2022. Available at <https://cgi.br/publicacao/educacao-em-um-cenario-de-plataformizacao-e-de-economia-de-dados-parcerias-e-assimetrias/>

This situation was exacerbated mainly during the COVID19 pandemic, when the educational institutions needed to adapt to remote teaching.

Two issues mark this process. One is that the data generated by students, teachers, and the entire education network was not considered as having added value through collecting personal data, which is how these companies obtain their profits. The other is that, during this process and especially during the COVID-19 pandemic, the number of users of these applications increased, and these companies began to charge institutions for using their tools; that is, the Brazilian State and educational institutions pay these corporations twice<sup>70</sup>, one with a monthly fee or contract and the other with the data collected<sup>71</sup>.

One of the premises of digital sovereignty is related to the regulation of digital platform systems. This debate is still open in Brazil, but crucial to the approximation of the digital sovereignty that we desire. In the country, the main groups affected by the lack of regulation, low digital literacy, and limited access to broadband internet are historically racialized and low-income groups. Data from the survey TIC Domicílios shows that 84% of households had access to the internet in the last three months; of these, 41% do not have fixed broadband, and 99% of households with computers are in class A versus 11% in classes D and E, considering that xx of our population in D and E are black. The 2023 data from TIC Domicílios also shows that 17.2 million people who declare themselves black or mixed race do not have access to the internet compared to 9 million white people. This population also accesses the internet mainly via cell phone, 64% of them - compared to 49% of white people.

This data demonstrates part of the exclusion mechanism. However, not only that, it is also a narrative that discards the role of black and poor people in contributing to the construction of popular digital sovereignty in the country. Not having access to broadband internet and not having the opportunity to know that the internet is not just private and American applications are barriers to the full sovereignty of the Brazilian population. Additionally, limited use of the internet for information gathering can harm the use of the potential of the internet to be instruments that confront stories and narratives that have been distorted throughout history in our country, such as the worldviews of societies beyond those of Europe and the United States.

Digital sovereignty can be effective for the lives of Black people in this country. The concept of a popular digital sovereignty centralizes these people as builders of technologies for the common good. Considering the value of data for the development of AI, it is an

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70 EBC. MEC fecha acordo com Google para oferta de ferramentas educacionais. Agência Brasil - EBC, 20 Jun. 2022. Available at <https://agenciabrasil.ebc.com.br/educacao/noticia/2022-06/mec-fecha-acordo-com-google-para-oferta-de-ferramentas-educacionais>

71 Rede Brasil Atual. Plataformas escolares Google e Microsoft se dizem gratuitas, mas faturam com dados. RBA, 20 Nov. 2022. Available at <https://www.redebrasilatual.com.br/educacao/google-microsoft-plataformas-escolares/>



issue that requires a training process and that this information needs to reach people. Unfortunately, the situation of the working class in Brazil, especially black women in general, does not allow us - in general - to stop and think about how harmful this data collection is and that these people are convinced through the attention economy that everything collected is to improve their experiences as users.

Rejecting the notion that sovereignty is linked only to the State, we must also observe traits of sovereignty that social movements<sup>72</sup> have created, for example, the Vias Campesinas that says that individuals have the right to plant to feed themselves without harmful pesticides<sup>73</sup>, the right to choose what food you want to eat, the right to autonomy. Finally, we propose that there is no way to discuss popular digital sovereignty<sup>74</sup> without radicalizing the debate, where everything that should not be done to have sovereignty is systematically taking away from black and poor people the possibility of deciding on a more collective and supportive use of technologies. , a use that improves people's living conditions.

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72 FABRINI, João. Os movimentos camponeses e a soberania alimentar nacional. **GEOgraphia**, v. 19, n. 39, p. 54-69, 2017.

73 PESSOA, Bianca; DEPIZZOL, Iolanda. Theodora Pius: "Eles querem monocultura, nós queremos justiça e a democratização dos sistemas alimentares". MST, 15 Jan. 2024. Available at <https://mst.org.br/2024/01/15/theodora-pius-eles-querem-monocultura-nos-queremos-justica-e-a-democratizacao-dos-sistemas-alimentares/>

74 MTST. O MTST e a luta pela soberania digital a partir dos movimentos sociais. 2023. Available at <https://nucleodetecnologia.com.br/cartilha/>

# Digital Policies in the Amazon: Recommendations from the Territories

Jéssica Botelho<sup>75</sup>, Allan Gomes<sup>76</sup> and Thiane Neves Barros<sup>77</sup>

For centuries, the Amazon has been the target of attacks, with its lands devastated and its communities marginalized. The neglect with which it is treated is revealed not only in the physical exploitation of its resources but also in the negligence with which public policies are structured to meet the demands of the populations living here. With digital technologies, this scenario is reconfigured and continues to reproduce stigmas, misinformation, and historical inequalities, putting the civil, political, economic, social, and cultural rights of Amazonian people at risk.

From the lack of infrastructure for internet connectivity to the harassment of companies for the popularization of satellite connection in the territory,<sup>78</sup> for example, are just some of the facets of a structural problem: the gap in digital policies centered on justice, inclusion, and sovereignty of Amazonian communities, historically ignored and oppressed by environmental racism.<sup>79</sup>

The populations of the Amazon, rich in biodiversity and cultural diversity, face constant threats that go beyond environmental degradation, profoundly affecting the social and cultural fabric of their communities. These threats are intensified by the absence of inclusive digital policies that take into account the peculiarities and needs of their populations, which are predominantly indigenous and black.

Faced with this scenario, our proposal is to rethink internet governance - and other forms of digital policies - based on the multidimensional logic of Amazonian territories, from their own worldviews to vulnerabilities and violations that require special attention.<sup>80</sup> The creation of solutions is also in the territories in question, overcoming an exogenous

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76 Allan Gomes is a journalist with a master's degree in cinema and audiovisual at UFF, and coordinator of the Popular Center for Communication and Audiovisual (CPA).

77 Thiane Neves Barros is an advertiser with a master's degree in communication and a doctorate in communication at UFBA. She is a member of the NÓSMULHERES-UFPA research group.

78 BOTELHO, Jéssica. REGATTIERI, Lori. NEVES BARROS, Thiane. **Starlink nos rios e céus da Amazônia Brasileira**. Disponível em <<https://direitosnarede.org.br/2023/11/29/starlink-nos-rios-e-ceus-da-amazonia-brasileira/>> Acesso em 28 de março de 2024.

79 BOTELHO, Jéssica. GOMES, Allan. **Carta de Recomendações para Políticas Digitais na Amazônia**. Disponível em <https://cpa.org.br/wp-content/uploads/2023/12/Carta-de-Recomendacoes-para-Politicais-Digitais-na-Amazonia.pdf> Acesso em 28 de março de 2024.

80 BOTELHO, Jéssica. GOMES, Allan. **Carta de Recomendações para Políticas Digitais na Amazônia**. Disponível em <https://cpa.org.br/wp-content/uploads/2023/12/Carta-de-Recomendacoes-para-Politicais-Digitais-na-Amazonia.pdf>. Acesso em 28 de março de 2024.

dynamic and a discriminatory, predatory, and colonialist bias towards these communities.

Thus, our recommendations aim to focus on strategies that promote territorial sovereignty and self-determination of these communities, essential in the fight against racial discrimination and environmental racism.

- **Construction of Digital Policies from the Territory**

Development of decisions, actions, and programs in dialogue with local communities, ensuring active participation and self-determination. Implementation of digital policies that respect and promote their cultural, social, and environmental diversity. Contribution to the global struggle against racial discrimination and environmental racism through inclusive and fair digital policies, emphasizing collective and efficient strategies that prioritize local communities. Ensure the right to communication, information, and dignified representation in the digital age for Amazonian populations.

- **Right to Communication and Information**

The precarious digital infrastructure in the Amazon prevents its communities from having full access to information and being able to communicate their realities, needs, and innovations. The construction of strong local media, capable of narrating the stories of the Amazon with authenticity and depth, is essential. Investment in digital infrastructure that meets local needs is recommended, promoting transparency and combating information blackout. Digital education programs should be implemented to empower communities to navigate the digital environment, discern reliable information, and combat desinformation.

- **Strengthening Sociodiversity**

Promoting a digitally inclusive Amazon involves recognizing and valuing its multiple voices and narratives. It is crucial to encourage the production of data and content that reflect the cultural and social richness of the region, going beyond its biodiversity. Transnational solidarity and the strengthening of Latin American networks can broaden the reach of these narratives, promoting a richer and more complex understanding of the Amazon. Decentralization of research and the valorization of local experiences are fundamental for an authentic and diversified representation of the region.

- **Data, Digitalization, and Automation Systems**

Data and digitalization policies in the Amazon should be guided by the principles of transparency, participation, and mutual benefit. The use of open-source software and community participation in database construction are essential to ensure that technologies serve local communities, respecting their sovereignty and traditional knowledge. It is imperative to combat data extractivism and promote data governance that involves

affected communities, ensuring that technological advancements benefit all involved fairly and equitably.

# Brazil's facial recognition rising tide, law enforcement digital stage and the threat to Black communities (and efforts to stop it)

Pedro Carvalho Monteiro<sup>81</sup>

In the vast subject of Artificial Intelligence (AI) and racial discrimination, one of the most concrete examples is the wide expansion of facial recognition and other predictive systems for law enforcement agencies. In 2019, there were 43 initiatives for facial recognition applications with 13 being for law enforcement<sup>82</sup>. Four years have passed and now, as revealed by the research group O Panóptico, there are 195 projects for the use of facial recognition and more than 67 million Brazilians are being surveilled with the help of the said biometric tool.<sup>83</sup>

Concerns involving facial recognition and racial discrimination, especially in law enforcement, are very well in both the academic field and in civil society, both in Brazil and in international contexts. These concerns are derived from a sociotechnical view<sup>84</sup> on the subject that doesn't limit itself to the risks of bias and false positives, but also through the social contexts and the institutions in which these technologies are being deployed. Research has shown that facial detection and analysis algorithms are designed in ways - largely by being trained on datasets largely non-representative of populations or being based on biased models for machine learning - to promote algorithmic injustice towards Black people, especially Black women.<sup>8586</sup>

But beyond the technical origins of discrimination, understanding FRT dangers to Black communities in Brazil is also to understand the ways law enforcement has been deeply connected with racism in our country. Brazil's criminal justice system is already rooted in racial targeting of Black communities, with the incarcerated population being mostly Black young men and the criminalization of Black women being an increasing tangent.<sup>87</sup>

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82 <https://igarape.org.br/infografico-reconhecimento-facial-no-brasil/>

83 Information available at O Panóptico:<<https://www.opanoptico.com.br/#contribua>>

84 BROWNE, Simone. *Dark Matters: on the surveillance of blackness*. Londres: Duke University Press, 2015, p.16.

85 BUOLAMWINI, Joy. *Gender Shades: Intersectional Phenotypic and Demographic Evaluation of Face Datasets and Gender Classifiers*. Submetido no Programa de Media Arts and Sciences do Massachusetts Institute of Technology. 2017.

86 BIRHANE, Abeba, PRABHU, Vinay Uday. Large Datasets: A pyrrhic win for computer vision? Proceedings of the IEEE/CVF Winter Conference on Applications of Computer Vision (WACV), 2021, pp. 1537-1547

87 SINHORETTO, Jacqueline. *Violência, controle do crime e racismo no Brasil contemporâneo*. **Novos**

Artificial Intelligence systems like facial recognition are dependent on both the training data and the design but also on the historical and social contexts to which their operators apply them.

In 2019, when facial recognition was still in the early stages of its expansion, a report done by the Rede Observatórios de Segurança (Network of Public Security Observatories) showed that 90% of the arrests done with the help of facial recognition were of Black people.<sup>88</sup> Academic work has also shown that arrests were done in the state of Bahia - the pioneering use of biometric identification through CCTV system in Brazil and replicated nationwide - are mainly from two drug-related offenses and propriety crimes like robbery and theft, two processes of criminalization processes deeply rooted in racism and class.<sup>89</sup> Beyond the numbers, Brazil also has cases of arrests and State violence which include facial recognition in its narratives as the younger man who got put at gunpoint in front of his mother after being falsely accused by the system; another man who spent 26 days wrongfully arrested because of a false-positive<sup>90</sup>.

These stories represent how the expansion of facial recognition in Brazil indicates the connection between racial discrimination and AI. This enormous tide of biometric surveillance is also tied to legislative gaps that could lead to mitigating the risks concerning these technologies or even the ban on their use considering the multiple risks and human rights violations, especially considering discrimination. The lack of both regulation on Artificial Intelligence and data protection in the field of law enforcement undermines the possibility of stopping the harm these technologies breed. But also it's essential to highlight that no lawless zone exists in the subject and Brazil's constitutional and legal system provides enough legal ground to question these technologies.

Both having a Constitution that puts equality and non-discrimination as fundamental values and one of the cornerstones of its fundamental rights and also being a signature party of the Convention to Eliminate All Forms of Racial Discrimination puts the obligation for Brazil (and other countries) to avoid the use of tech with discrimination potential. On the other hand, while not having specific legislation for law enforcement-motivated data processing, the General Data Protection Law (LGPD)<sup>91</sup> of Brazil still applies its principles

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**Olhares Sociais**, v. 1, n. 2, p. 4-20, 2018.

88 NUNES, Pablo. Novas ferramentas, velhas práticas: reconhecimento facial e policiamento no Brasil. In: RAMOS, Sílvia (coord.) Retratos da Violência: Cinco meses de monitoramento, análises e descobertas. Rede Observatório de Segurança, junho-out 2019, p. 67-71. Disponível em: < <http://observatorioseguranca.com.br/wordpress/wp-content/uploads/2019/11/1relatoriorede.pdf> > Acess CHATby March 29th

89 MONTEIRO, Pedro. Reconhecendo Faces, Enclausurando Corpos: terror racial, vigilância racializadora e o uso policial do reconhecimento facial na Bahia. Dissertação apresentada ao Programa de Pós-Graduação em Direito, Faculdade de Direito, UFBA, 2022.

90 ALENCAR, Itana. Com mais de mil prisões na BA, sistema de reconhecimento facial é criticado por 'racismo algorítmico'; inocente ficou preso por 26 dias. g1 Ba, 01 Sep. 2023. Available at <https://g1.globo.com/ba/bahia/noticia/2023/09/01/com-mais-de-mil-prisoas-na-ba-sistema-de-reconhecimento-facial-e-criticado-por-racismo-algoritmico-inocente-ficou-presos-por-26-dias.ghtml>

91 BRASIL. Lei nº 13.709, de 14 de agosto de 2018. Lei Geral de Proteção de Dados Pessoais (LGPD). Diário Oficial da União, Brasília, DF, 15 ago. 2018.

and data recipient rights even considering its legal exception for law enforcement, criminal investigations, state defense, and security.

In front of the challenge of facial recognition, it's important to highlight how civil society and especially the Black movement have been confronting the subject. Brazil has since 2022 the campaign "Tire Meu Rosto da Sua Mira" (Take My Face Out of

Your Target")<sup>92</sup> in defense of a ban on facial recognition. With signatures from a diverse number of institutions, organizations, and individuals and a varied number of initiatives (protests, information on the subject, *habeas corpus*, anti-facial recognition makeup techniques, etc.), the campaign became a pedagogical, political, and social collective space against not only facial recognition but also surveillance systems that by integrating with an already racially defined punitive architecture lead to targeted discrimination and violence against Black people.<sup>93</sup>

Another important initiative, very connected to the campaign was the efforts against the public bid for Smart Sampa - a project from the Prefect of São Paulo, the most populated city in Brazil and its economic center, focused on digitalizing the public infrastructure of the city through integration of databases together with the private sectors. One of the main concerns over the project was the addition of an FRT system for the Municipal Guard, including the possibility of said system identifying "vadiagem" - a term deeply historically intertwined with the criminalization of Black people - something that was taken out of the bid proposal after strong resistance from civil society and the Black movement.<sup>94</sup>

It's important to highlight the public hearing in the 182 Period of Sessions of the Inter-American Commission of Human Rights concerning racism in facial recognition in Brazil, resulting from the work of Uneafro - União de Núcleos de Educação Popular para Negras/os e Classe Trabalhadora (Union of Popular Education Center for Black People and Working. In this session, the issue of facial recognition in Brazil was discussed as a systematic violation of human rights, especially for Black people, highlighting how it reinforces discrimination.<sup>95</sup>

Reports from O Panóptico about the situation of facial recognition in Brazil in certain

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92 Campaign 'Tire Meu Rosto da Sua Mira' <https://tiremeurostodasuamira.org.br/>

93 SALOMÃO, Elizandra; MONTEIRO, Pedro Diogo Carvalho. O slave ship como paradigma de análise dos aparatos de vigilância no genocídio antinegro pelo estado brasileiro. Anais do CONGRESSO DE PESQUISA EM CIÊNCIAS CRIMINAIS, IBCCRIM, 2020.

94 HAMADA, Heloise. Pesquisadores e movimentos criticam implantação de sistema de reconhecimento facial em São Paulo. Câmara Municipal de São Paulo, 19 Oct. 2023. Available at <https://www.saopaulo.sp.leg.br/blog/pesquisadores-e-movimentos-criticam-implantacao-de-sistema-de-reconhecimento-facial-em-sao-paulo/>

95 <https://uneafrobrasil.org/uneafro-na-cidh-racismo-no-reconhecimento-facial-no-brasil/>



locations such as the states of Rio de Janeiro<sup>96</sup>, Goiás<sup>97</sup>, and Bahia<sup>98</sup> show different issues with the use of the technology. The contrast between its declared efficiency and the results provided; the lack of transparency; and the place of the private sector; the contrast between the state founding of these technologies for law enforcement and other public policies such as healthcare, education, and or basic sanitation. We understand that these issues are not disconnected from racial discrimination but deeply rooted in it, considering for example how transparency gaps lead to not materializing the effects of the discrimination resulting from FRT; or another example of how the redirection of state budget spending to these technologies leads to other essentials conditions for live to sabotaged and affected mainly Black and lower-income communities.

All these elements show how the deployment of facial recognition for law enforcement - and other areas as access for social security benefits - is deeply ingrained with racial discrimination. Brazil shows how this issue is materialized in our day to day, in our routine, with tragic repercussions. But it also shows strong research work to question the issue that can contribute to the efforts of the United Nations to eliminate all forms of racial discrimination, especially racial.

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96 A Rio of cameras with selective eyes: the use of facial recognition by the Rio de Janeiro state police / Pablo Nunes, Mariah Rafaela Silva, Samuel R. de Oliveira. – Rio de Janeiro : CESeC, 2022.

97 From the plains to Brasilia [livro eletrônico]: how the state of Goiás influenced the expansion of face recognition technology in Brazilian public safety / Pablo Nunes, Thallita G. L. Lima, Yasmin Rodrigues. – Rio de Janeiro : CESeC, 2023. Available at: <[https://drive.google.com/file/d/1doYpbTfC\\_noB9Jlx1vTYSafmi-lmTISM/view](https://drive.google.com/file/d/1doYpbTfC_noB9Jlx1vTYSafmi-lmTISM/view)> Access by March 29th

98 The hinterland will turn into sea [livro eletrônico]: facial recognition expansion in Bahia / Pablo Nunes, Thallita G. L. Lima, Thais G. Cruz. – Rio de Janeiro : CESeC, 2023. Available at: <[https://drive.google.com/file/d/1eP\\_M11C\\_P5TFGu-b9wisEQgJVSEiSNha/view](https://drive.google.com/file/d/1eP_M11C_P5TFGu-b9wisEQgJVSEiSNha/view)> Access on March 29th

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