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Quota Law, Policies of (In)Visibility and Decolonial Citizenships

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ABSTRACT – Quota Law, Policies of (In)Visibility and Decolonial Citizenships. The reality that Brazilian educational inequality accompanies the social markers of difference is a fact that resonates in the most varied researches. Although the Federal Constitution advocates the right to education as fundamental, it is known that a large part of Brazilian society does not access this right satisfactorily. For this reason, the objective of this work is to discuss the impact of Law n. 12.711/12 after ten years of its validity, understanding social policy as an instrument to mitigate this scenario and to outline decolonial citizenships. From the methodological point of view, it is a qualitative study, carried out through a bibliographic and documental survey guided by decolonial studies.

Keywords: Affirmative Actions. Coloniality. Educational Inequality. Public Policy. Ethnic-Racial Relations.

RESUMO – Lei de Cotas, Políticas da (In)Visibilidade e Cidades Decoloniais. A realidade de que a desigualdade educacional brasileira acompanha os marcadores sociais da diferença é um dado que ressoa nas mais variadas pesquisas. Embora a Constituição Federal preconize o direito à educação como fundamental, sabe-se que grande parcela da sociedade brasileira não acessa esse direito de maneira satisfatória. Por essa razão, objetiva-se, neste trabalho, discutir o impacto da Lei n. 12.711/12 após dez anos de sua vigência, entendendo a política social como um instrumento de mitigação desse cenário e de esboço de cidadanias decoloniais. Do ponto de vista metodológico, trata-se de um estudo qualitativo, realizado via levantamento bibliográfico e documental orientado pela abordagem epistemológica decolonial.

Palavras-chave: Ações Afirmativas. Colonialidade. Desigualdade Educacional. Políticas Públicas. Relações Étnico-Raciais.

Introduction

É na inconclusão do ser, que se sabe como tal, que se funda a educação como processo permanente (Freire, 2021, p. 57).

The deep social inequality that marks the Brazilian scenario is a problem highlighted in several researches and with the most varied approaches. In a territory of continental dimensions, the maintenance of the much-desired symmetry in health conditions, education, basic sanitation and work – among other fundamental rights to the core of the dignity of each subject – proves to be a challenge of daily renewal. In this context of multifaceted problems, educational inequality and the divergent chances of progression in the education system among social segments become decisive for the emergence of the abysses that exist in Brazil, since they work as a matrix that generates other conditions of social vulnerability and of precariousness of life, such as poverty, food insecurity, lack of access to contraceptive methods, etc.

It is undeniable that this educational inequality behaves as a cause and consequence of other social problems. This can be felt insofar as, as Ribeiro (2011) points out, inequalities of class, origin and location, as well as ethnic-racial inequalities have an incisive impact on the probability of the subject's progression in the educational system, especially when one considers the quality of education throughout life, which can even contribute to the lack of access of some social sectors to college education. Therefore, “public higher education in Brazil [becomes] a scarce collective good and, as such, an object of social dispute, which needs a model of social justice that regulates it” (Batista, 2015, p. 97), especially whether one takes into account that, in Latin America, the aforementioned training stage – in higher education – is considered one of the most privatist and elitist (Trevisol, 2015).

Another issue that resonates in the literature on the subject is the fact that historically marginalized social segments are also the ones that most face educational precariousness, especially due to a classist and racist management aimed at the resources that cross this system. For this reason, it is undeniable that class markers, as well as ethnic-racial markers become a core point for the consolidation of a situation of social vulnerability, giving rise to significant debates and attempts to mitigate the consequences of this scenario (Almeida, 2019).

In this sense, the study of public policies proves to be essential for the understanding of forms of state action to reduce social inequalities. By acting as a mechanism that drives government action through plans, programs, projects, databases or information and research systems, these policies are formulated and designed through a few stages, namely (i) agenda setting; (ii) identification of alternatives; (iii) evaluation of options; (iv) selection of options; (v) implementation; and (vi) evaluation of results (Souza, 2006, p. 26-29).

Starting from the observation that educational inequality in Brazil is notorious and latent, this work focuses on the sixth moment, that

of (vi) the public policy cycle. Thus, one intends to analyze some of the results of the social policy of quotas in Brazilian public federal institutions, regulated by Law n. 12.711/12 – also known as the Quota Law in Universities –, and its potential for granting the citizenship of historically subordinated subjects.

Methodologically, this is a qualitative study carried out through a bibliographic and documentary survey guided by the decolonial epistemological approach. At first, the influence of colonial power for the consolidation of a profoundly unequal society in Brazil is discussed, pointing out dehumanization and social exclusion as immediate consequences of coloniality and structural racism. A second moment is dedicated to the study of the Quota Law in Universities, its approval scenario and its ability to break with the paradigm of education as a privilege for a few and as an instrument of power. Finally, one works with the hypothesis that the aforementioned normative constitutes a mechanism that helps in the creation of decolonial citizenships, towards a world where others are possible (Grosfoguel, 2008, p. 74)¹, inserting subjects and peoples historically marginalized in the social spaces they are denied.

In the end, it is concluded that, despite severe reactionary criticism and attempts to dismantle public higher education free of charge for all, the affirmative policy in question is essential for the promotion of the right to education in Brazil. In a scenario in which the population is mostly composed of black people, it is impossible to affirm the exercise of a fundamental right without them having unimpeded access to all social spaces. It was also observed that the Quota Law contributed – and still contributes – significantly to increasing the access of black and indigenous students to federal public institutions, which contributes to the project of building decolonial citizenships that privilege, among other aspects, the rupture with the logics of power and the subordination of coloniality and, consequently, the dismantling of structural racism.

Coloniality and Structural Racism: facets of the historical construction of dehumanization and social exclusion in Brazil

Some foundational myths that are too ingenious and important for the maintenance of coloniality and structural racism today hover in the social imagination of Brazilians. Although it is well known and indisputable that the territory currently correlated to Brazil was already inhabited at the time when Europeans landed and inaugurated the so-called “New World”, it is common for official historiography to persist influencing the collective memory with the maxims of conquest, discovery and demographic void. However, contrary to this narrative is the reality that the colonial enterprise in the Abya Yala lands was responsible for the genocide of indigenous populations, for the insertion of new diseases brought about by the transatlantic displacement, as well as for

the unimaginable domination and exploitation of natural resources and peoples who were in this space or who were brought to it for the purpose of enslavement (Nascimento, 2016; Mignolo, 2017).

The roots of this process that extends over time lies in the colonial construction of ethnicity and race as categories aimed at social discrimination. In Quijano's understanding, race is the central category that generates a turning point in the world, constituting the first "id-entity" of modernity. From this process derives, according to the author, "the codification of the differences between conquerors and conquered in the idea of race, that is, a supposedly distinct biological structure that placed some in a natural situation of inferiority in relation to others" (Quijano, 2005, p. 117). Consequently, a system of exercise of power was inaugurated, whose sophistication lies precisely in the ability to concatenate different shades of social hierarchy, creating intersections of vulnerabilities that are perpetuated in the structure of modern institutions, especially of the state. Quijano calls this ingenious and dehumanizing model of domination and exploitation coloniality.

Thus, in today's society, the pattern of power associates, on the one hand, the coloniality of power, a system of social domination that basically consists of the universal social classification of the world's population according to the idea of race, established and imposed first in America and then across the planet as a central expression of European colonialism and which allows for worldwide control of subjectivity and collective authority; and, on the other hand, capitalism, which is a structure of control and exploitation of labor formed by the articulation of all existing forms around capital (wage-capital) and the world market (Quijano, 2001, p. 11-12, our translation).

The articulation of these two pillars of the world pattern of power was what made possible the division of social roles according to the phenotypic-social classification of the most diverse civilizations. In this sense, "for each 'race' a specific form of institutionalized control was imposed", which permeated from slavery in relation to blacks to servitude in relation to indigenous people (Quijano, 2001, p. 12). This architecture of the colonial modern world triggered in Latin America what González (2020) called disguised racism or denial, which is supported by three premises: (i) the theory of miscegenation; (ii) the fallacy of assimilating blacks into the pattern of a prosperous society; and (iii) the myth of racial democracy, especially in Portuguese-Spanish colonization countries. Thus, it is a discrimination that, although diffuse, is active and sophisticated (Nascimento, 2016, p. 97-99).

One of the characteristics that imply this idea of sophistication of Brazilian racism concerns the introjection of this colonial imaginary in the local elites, generating a system of internal colonialism propagated by the subalterns themselves, who, rejected or unaware of their non-hegemonic situation, propagate the colonizer's discourse (Mignolo, 2017). This fact can be illustrated by the speech of the Brazilian delegate

at a meeting of the United Nations (UN) that dealt with the apartheid regime in South Africa, as demonstrated by Nascimento (2016, p. 105), when quoting an excerpt from the aforementioned speech. In the words of the Brazilian representative:

This [anti-racist] position is known and invariable. It represents the very essence of the Brazilian people, who were born from the *harmonious fusion of various races, who learned to live together and work together in an exemplary community* (Nascimento, 2016, p. 105, emphasis added).

The excerpt pronounced in the international arena draws attention because it faithfully reproduces the celebratory narrative of modernity based on a dichotomy between winners and losers. When discussing that there was a “harmonious fusion” and that these subjects learned to “live together”, the whole scenario of genocide, ethnocide, epistemicide and exploitation engendered by the colonizers is hidden, as if resistance and violence were never present in the colonial process (Quijano, 2005). Furthermore, this discourse propagates, at a global level, the mystique that sustains and maintains the profound Brazilian inequalities, namely, the myth that there is a racial democracy in Brazilian territory. In this sense, it is important to assert that

The ideology of the state of racial democracy established in Brazil mobilizes the production of discourses and the way of understanding the production of racial inequalities, in such a way that the victims themselves are influenced in relation to the development of conceptions that deny the existence and importance of racism in the production of inequalities that affect them and in relation to a political position favorable to reparatory measures (Moura; Tamboril, 2018, p. 598).

Contrary to this colonial(ist) narrative, the racism that exists in the Brazilian scenario is structural, that is, it resides in the structures that (in)form the Brazilian state since its constitution as such, as well as in the structures of organization of the predominant mode of production around the globe, considering the particularities of each country. In the lesson of Almeida (2019, p. 33), racism stems from the very social structure that normalizes violence limited to interpersonal relationships and naturalizes the institutional disarrays that reverberate the modern-colonial rule according to which blacks and indigenous people are less or not human (Lugones, 2020) and, therefore, should not protect rights nor possess legal assets.

In this sense, “the viability of the systemic reproduction of racist practices lies in the political, economic and legal organization of society” (Almeida, 2019, p. 34), which, in turn, is a tributary of the Luso-Hispanic model of state, of law and individual dynamics. According to Carvalho (2020, p. 93), one of the most successful connections created by the colonizers was that between the white Brazilian elite and the European elite, since the former began to feel like a direct heir of the civi-

lizations and traditions of the ancient world and, for this reason, acts to promote the maintenance of its instruments of power – such as the educational system.

Quota Law: a realm for the dismantlement of education as an instrument of, for and by hegemonic subjects and groups

The approval of Law n. 12.711, on August 29, 2012, also known as the Quota Law or the Quota Law in Universities, did not result from a peaceful, linear or consensual process. From the first bill that addressed the issue – Bill n. 73 of 1999 – until the current wording of the aforementioned regulation, more than twelve years have passed and sixteen other bills were proposed to regulate the matter (Anhaia, 2019, p. 112-114). Thus, it consisted of a slow and controversial procedure, whose dissent persisted even after its validity, splitting opinions that include both the voluntary adhesion of federal institutions even before the normative, that is, institutions that already applied the reservation of vacancies² (Anhaia, 2019, p. 108), as well as the deep disobedience and annoyance of some sectors anchored in the maxim that “Brazil is not bicolor” (Munanga, 2020).

However, it should be noted that among the political-social actors that are essential for this process of designing and approving the regulations is the Black Movement. Its performance was strategic, acting in the decisive forums of educational policy and influencing international meetings and conferences aimed at debating racial discrimination. For example, the placement of the racial debate in the processing of the Law and Basic Guidelines – Law n. 4.024/61 – as well as the massive participation of the movement in the III World Conference against Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance, promoted by the United Nations (UN) in 2001, in Durban, South Africa, where the Brazilian state began to recognize the consequences of racism existing in the national territory (Gomes, 2012) and reaffirmed its commitment to the “adoption of measures that could minimize or mitigate the consequences of its effects” (Santos, 2012, p. 289)³.

Furthermore, Brazil’s participation in this Conference proved to be relevant because “it was decisive for the strengthening of the debate and for the definition of the first experiences of affirmative action in higher education”, evidencing the potential of articulation of the Black Movement and contributing to the strengthening of social justice (Trevioli; Nierotka, 2015, p. 581). Indeed, affirmative actions⁴ seek to broaden access to institutions by social segments that are underrepresented in them, as well as to raise resources capable of guaranteeing the permanence of these segments in the aforementioned institutions, so that they do not settle for the mere pretense of curbing discriminatory behaviors, but, on the contrary, imply the assumption of an active stance by the state in promoting measures whose scope and result are material equality (Moura; Tamboril, 2018; Crosara, 2017).

Thus, public affirmative action policies for higher education operate as a compensatory social policy, “whose offer is focused on citizens who, for reasons of their ethnic, racial and/or socioeconomic origin, have not had / have access” to this space (Batista, 2015, p. 95-96). Covering black, indigenous and white students from public schools, considering the average family income (Munanga, 2020, p. 118), they constitute measures that integrate the existential minimum, given their essentiality for the construction of individual personality and for the exercise of autonomy (Fonte, 2013, p. 210-211). They are, therefore, emergency measures, of a partial and temporary nature, remaining inadequate to solve structural problems⁵ (Valentim, 2012, p. 79), but being fruitful in the urgent and complex reversal of a situation of social marginalization.

Such importance is felt to the extent that, if teaching spaces are inaccessible to a large part of the Brazilian population and, the higher the level of training, the greater the obstacles to insertion in this space (Batista, 2015), education assumes a role of an instrument of, for and by hegemonic subjects and groups. Saying that education can be an instrument for hegemonic subjects and groups implies the understanding that the benefits of a qualitative education only belong to those authorized and legitimized in this social space.

Continuously, affirming that education becomes a tool for the hegemonic subjects and social groups touches on the perception that the production of knowledge starts to be shaped and formatted to meet the demands and social interests of a small and very well selected social segment, leaving aside other forms of knowledge and knowing. Finally, education as an instrument for hegemonic subjects and groups ends and restarts the feedback loop of this unequal construction, for, as only the same subjects occupy a space and the knowledge produced in it is guided by their interests, education is established as a right by the social segment that accesses and exercises it.

As a result, the debate on the quota system shakes the power bases that sustain hegemonic groups and subjects, giving rise to positions contrary to its implementation. Among them, mention is made of the manifesto *All have equal rights in the Democratic Republic – positioning of Brazilian intellectuals against the racial quota system*, sent to the National Congress in 2014 with the request that Bill n. 73/1999 - Bill of Quotas - and n. 3,198/2000 – Bill of the Racial Equality Statute – were not approved. In addition, the Direct Action of Unconstitutionality (ADI) n. 3,197 was being processed by the Federal Supreme Court, which questioned the constitutionality of quotas in state universities in Rio de Janeiro (Trevisol; Nierotka, 2015, p. 583-584).

In the face of this troubled and conflicting scenario, it is possible to observe that

In the manifestos against this policy [quotas in universities] it is possible to verify two positions, one of them conservative, the other of the critical field. The first, unequivocally reactionary, clearly reveals the indecent vigi-

lance of the white and whitened Brazilian elites to prevent and frankly bar the passage of the excluded through the access corridor to the positions of control of national life that form the public university (Segato, 2021b, p. 248).

It is evident, therefore, that the obstacles in the debate on quotas for universities, although these are public policies that are correct for fundamental rights (Fontes, 2013, p. 201), come up against ethnic-racial discrimination and the meritocratic discourse that guide contemporary society. Under the scope of merit for individual effort, the discrepant reality that the Brazilian educational system does not behave equally to everyone is hidden, reasserting that, on the contrary, it promotes competitiveness, productivism and anti-dialogical competences of the faculty and students. (Sousa; Nascimento, 2019, p. 770).

In addition, several contradictions on the subject persist. One of the most prominent is that pointed out by Almeida (2019, p. 130), when he explains that, even if the majority of society believes that the problem of racism has an educational root, there is also a position against quotas. This is due, in the author's view, among other factors, to the fact that the university and academic spheres are also a space of power, places of technical and scientific training that enable the individual to occupy «private» social spaces of subjects and hegemonic groups.

In view of this scenario, it is possible to affirm that the Quota Law in Universities, its context of social struggle and political approval, as well as its epistemological basis and its purpose of pursuit of social justice emerge as fertile ground for the dismantling of elitist, elite and privatized education in Brazil. Considering that the aforementioned instrument promotes diversity and defends the access of subordinated subjects to spaces of power and social negotiation, it becomes capable of subverting the logic that prescribes education as a technology for maintaining power, that is, as an instrument of, for and by hegemonic subjects and groups.

A Horizon of Decolonial Citizenships: repercussions of the quota law in a policy scenario of (in)visibility

The arduous, slow and controversial path for the approval of the Quota Law in Universities proved to be a favorable space for several hidden and silenced discussions of/in the political-social scenario. According to Segato, the regulation was able to summon various sectors and social spheres to debate, contributing to the deepening of “the reflection on the existence of a racial issue, previously only debated in the ranks of the black movement” (Segato, 2021a, p. 319), thus rescuing the “political meaning of race as a principle capable of destabilizing the deep structure of coloniality” and operating as an “instrument of rupture with a politically anodyne and covertly ethnocidal miscegenation” (Segato, 2021b, p. 255).

Still, the articulation and social mobilization, which resisted these more than twelve years of political obstacles and social conflicts,

evidenced the potential of the performance of strategically organized civil society. As Nascimento et al. (2008, p. 4) highlight, the approval of the Quota Law was the result of a historical struggle in which, through social action, the “effervescence of debates in political and academic environments in all regions of the country” was achieved, materializing a “tireless political pressure” (Cara, 2012, p. 11) towards the expansion of the fundamental right to education for all.

In view of this, it is possible to observe that the process of denial-affirmation of this right cannot be separated from its ethical-political layer, given that the overcoming of the existential and material conditions that reproduce injustice presupposes the dismantling of the mechanisms of social hierarchy (Sousa; Nascimento, 2019), such as the coloniality and structural racism that permeate the educational system.

In the perception of quota students themselves, the Quota Law in Universities works as a means of access to educational justice that must always be allied to improving the quality of the entire schooling process, for, as Haas and Linhares (2012, p. 853) emphasize,

It is not enough to provide access, as it is necessary to grant, after admission, equal conditions for the student to remain in public higher education, since individuals in this contingent are hardly on equal terms with regard to the socioeconomic issue. Otherwise, the university would have to admit the considerable risk of dropout of this group of beneficiaries due to lack of social, economic and intellectual conditions.

In this way, it seems, Law n. 12.711/12, although it cannot resolve all the issues related to structural racism and coloniality in the Brazilian scenario that cover educational inequality, is fruitful because (i) it seeks to promote equality and diversity; (ii) it tries to remove some of the obstacles to the ascension of socially minority groups, especially in prestigious spaces such as the university; (iii) it manages to maintain a social space for the debate on the measure, considering, above all, that the regulations themselves provide for their need for revision; (iv) and promotes the reception and possible composition of racial conflicts (Almeida, 2019, p. 32).

Another impact of the regulation is the increase in the number of black and indigenous students in various institutions. By way of illustration, at the University of Brasília (UnB), 7.600 black students were able to enter the institution through affirmative action to reserve vacancies, with an increase, between 2011 and 2016, of 19% in the number of enrollments by blacks and browns in the undergraduate courses at the university (Brito, 2018). This result is supported by the research carried out by Senkevics and Mello (2019), in which it was found that the Quota Law expanded the “participation of students from public schools and black/indigenous people in institutions, courses and shifts of different levels of competitiveness and social prestige”.

Although there is no consensus, in decolonial studies, on what are the trajectories or behaviors able to trigger changes, in fact, structural, it remains to be defined in the field whether this action should occur through, with or despite the state, or even beyond it. Despite this, it is possible to consider that the struggle that surrounds the argumentative framework of the Quota Law is part of a post-1980s scope of claims that began to seek for “inclusion in the system” and for resources capable of expanding the conditions of survival within it, instead of going against it (Segato, 2021b, p. 247), which is often a decolonial strategy of political advocacy and legal mobilization.

The Quota Law in Universities is close to this action, by increasing the political-social processes of decolonization through direct influence on the logic of functioning and hierarchy of the university. “Decolonizing, in this context, means intervening in the constitution of this university space at all levels: in the student body, in the faculty, in the institutional format, in the way of living and in its general epistemic conformation” (Carvalho, 2020, p. 81).

Educational inequality is not only related to the fact that, although the majority population, blacks and indigenous people are minorities in universities; it also understands the reality that their knowledge and ways of (re)existing are hidden from the curriculum. Carvalho (2020) discusses the theme, exposing the implementation of the *Encontro de Saberes* project at the University of Brasília (UnB), whose scope was to insert this social portion into the university’s faculty. According to the professor, the decolonization of the academic field must start from within and, for that, it must assume its responsibility for ethnic-racial, political, pedagogical and epistemic inclusion towards pluriversities.

It should also be noted that another important effect triggered by the affirmative action under analysis was the ability to tension the debate on the legitimate production of knowledge in this space, for, as soon as it was implemented, the measure signaled the “collapse of the Western humanistic tradition” (Carvalho, 2020, p. 93). Consequently, the greater diversification of the faculty and students of universities opens horizons to a future pluriepistemic world, in which knowledge is found, as well as its constituent and constitutive subjects (Carvalho, 2020, p. 99).

For this reason, it is argued that the Quota Law in Universities, although it suffers from numerous criticisms and has been the target of fraud that, to a certain extent, puts its social effectiveness under suspicion, is a policy that helps in the design of decolonial citizenships, by breaking with the policies of invisibility, imposed and sustained by the modern-colonial power, which structure contemporary institutions – among them, the universities.

Final Remarks

In view of the proposed discussions, it is possible to perceive that the Quota Law in Universities appears as an essential measure of reversal of structural racism and coloniality in the Brazilian state. Once a type of racism based on the myth of racial democracy is perpetuated on the national scene, daily discrimination becomes part of the social imaginary with a status of naturalness, eventuality or indifference, dissolving the ability of society to admit its share of social responsibility at this juncture.

In light of the fact that the modern-colonial world-system interferes at all levels of social and institutional relations, making them subject to the ethnic-racial classifications engendered by colonialism and updated by coloniality, the process of social marginalization of blacks and indigenous is also reflected in all areas of daily life – among them, the educational system.

In this sense, the adoption of the quota system manages to fill part of the gap in rights existing in the Brazilian legal system, which, despite prescribing the right to education as fundamental and belonging to all, disqualifies some to the detriment of their phenotypic characteristics, reinscribing a system of domination and exploitation.

It is important to emphasize that the university itself benefits from the Quota Law, insofar as it promotes and protects diversity in a space that advocates and is nourished by it. Thus, if it is possible to say that the regulations positively impacted the lives of various subjects and peoples in a historical process of exclusion, it is undeniable that the whole of society increases with a more plural university. It is important to emphasize, however, that promoting conditions for access to universities is not enough. In order to think of a society with less educational inequality, towards decolonial citizenships and the consolidation of visibility policies, it is essential, above all, to offer conditions for permanence and recognition in this space.

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Notes

- 1 Thinking of a world where other worlds are possible is a premise from the Zapatista movement that summarizes one of the main objectives of the decolonial struggle.
- 2 As was the case with the University of the State of Rio de Janeiro (UERJ), which already complied with the provisions of Law n. 3,708/03, responsible for stipulating the reservation of 40% of vacancies in state universities for self-declared black candidates. In addition to UERJ, another 71 institutions implemented some form of affirmative action before the legislation in this work analyzed. See Fernandes, 2016.
- 3 It is important to highlight, at this point, that since 1967 Brazil has been a signatory to the UN International Convention on the Elimination of All Forms of

Racial Discrimination, an instrument by which Brazil committed itself “to apply affirmative action as a way of promoting equality for inclusion of historically excluded ethnic groups in the process of social development” (Brasil, 2004).

- 4 As an example of other affirmative actions aimed at higher education, there is the University for All Program (*ProUni*), created through Provisional Measure n. 213, of 2004, and the Support Program for Restructuring and Expansion Plans of Federal Universities (*REUNI*), created by Decree n. 6,096, of 2007, as an incentive for federal public institutions to adhere to affirmative actions.
- 5 On this issue, one asserts that a structural change requires the adoption of multidimensional measures that touch, among other fields of action, the transformation of the mode of production and epistemic disobedience.

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