Conflict of speeches about the “racial” quotas: the case of UENF

Discursos em confronto sobre as cotas "raciais": o caso da UENF

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ABSTRACT: In Brazil, the poverty and the minority access of the most part of the population to university degree started to be related to racism. The Representative House of Rio de Janeiro State approved in 2003 the so-called "racial policy of share". The law in order to reduce the disproportional racial composition in the universities reserves 20% of State University vacancy to self-declared Afro-Brazilians and to students that prove they are poor. But, in the UENF, we were able to verify the inefficiency of a social inclusion when using this law and the persistence of controversy about its legitimacy.

Keywords: racial policy of share; racism; poverty; university; social inclusion

RESUMO: No Brasil, pobreza e acesso minoritário de grande parte da população ao grau universitário começaram a ser relacionados ao racismo. A Câmara Representativa do Rio de Janeiro aprovou, em 2003, a chamada "política de cotas raciais". A lei, a fim de reduzir a desproporcional composição racial nas universidades, reserva 20% das vagas das universidades estaduais aos que se auto-declaram afro-brasileiros e aos estudantes que provam ser pobres. Mas, na UENF, pudemos verificar a ineficiência de uma inclusão social pelo uso da presente lei e a persistência da polêmica sobre sua legitimidade.

Palavras-chave: política de cotas raciais; racismo; pobreza; universidade; inclusão social

Introduction

Semantically, affirmative action is synonymous with positive discrimination and positive action. The former is the terminology used in North American Law, while the second is commonly used in European Law since 1976 (GILLIAM, 1997; MOEHLECKE, 2002).

1 The original research was derived from the dissertation "The access of black institutions of higher education and the quota policy: limits and possibilities from the case UENF" advocated by Shirlena Campos de Souza Amaral under the guidance of Adelia Miglievich, in PPGPS –UENF, in 2006. This English version, still unpublished, was prepared for presentation at ISA (International Sociological Association) in 2007.
They broadly designate special measures intended to eliminate imbalances between given segments of society, until these imbalances are neutralized, which is achieved by means of effective measures in favor of the classes that are in disadvantaged positions (MENEZES, 2001, p. 27).

In Brazil, the determination to treat everyone equally before the law is part of the constitutional legal system ever since the Imperial Chart of 1824, although during this time that imperative was in force paradoxically in the company of the slave owning regime, abolished at a later period, only in 1888. It was only when the 1934 Constitution was enacted that the Brazilian legal statute became uniform for all (VILAS-BÔAS, 2003, p. 18). All the same however, the delayed formalization of the free status of black people in Brazil did not allow spontaneous equalization of the life opportunities available to non-blacks. The implementation of affirmative policies, thus, oriented towards the black population of Brazil, was based, according to Feres Junior, on the principles of redress and diversity (2006, p. 11-17).

In modern western societies, in which the equality principle regulates democratic society, this often derives from the unequal treatment of groups, commonly called “minorities”\(^2\), in order to favor them in a given circumstance, so as to ensure true justice. This perception invokes the rights to dignity and moral acknowledgement of authenticity, as postulated by the Canadian philosopher Charles Taylor, the author of “Sources of the Self: The Making of the Modern Identity” (1997).

Cittadino (2005), making use of Taylor’s ideas, asks how “one can suppose the critical exercise of a conscience whose identity is not acknowledged in its relations with the ‘significant others’?” Both authors converge to the argument of Axel Honneth, a professor at the Frankfurt Institute and author of “The Struggle for Recognition: Moral Grammar of Social Conflicts” (2003), that only “visibility” can replace “repression” – in a reference to Freud.

Miglievich Ribeiro (2006), in a perspective similar to that of Cittadino, relates the proposal of affirmative actions to policies of acknowledgment as strategies to overcome the obstacles derived from current discriminatory practices that prevent equal participation of a significant share of society in the political deliberation processes. Therefore, referring to

\(^2\) The term “minority” came from the United States of America and defines a minority group in relation to another in terms of disadvantages, lack of opportunities, economic exploitation and social discrimination. It may also refer to a racial or ethnic group regarding a member of the group. Cf. CASHMORE, Ellis. “Dicionário de relações étnicas e raciais”, 2000.
Charles Taylor, remembered by virtue of the thesis according to which the perception of human beings – of themselves and of others – derives from the always pre-reflexive notions and reactions, relating to issues of justice, respect and a decent life, he observes that these “institutions” actually express “strong evaluations” – those that make one decide between “what one should do”, and “what one should not do” – derived from culturally constructed moral demands which crystallize the “moral topography” of a society in a given time. From this “topography” are taken forms of social classification that allow one to recognize the others as similar, or not see them as strangers (and inferior). Human beings behave in such a way as to distinguish the others as “relevant” or not, depending on the degree to which they look like themselves, like parents, children, friends, loved ones or are different from them. Others are judged pre-reflexively, according to criteria that for many centuries have been received during the socialization process itself. Miglievich Ribeiro argues, along the lines of the previous argument, that if modern western civilization, to which all are heirs, blacks and non-blacks, has taught society to give importance to Europeanized cultural practices, it is difficult to deny how much racism there is when this same society faces judgments that tend, for instance, to call certain religious practices “magic” and “irrational”, and others “religion”.

Feres Júnior (2006, p. 11) questions, as had already been done by Cittadino (2005), the feasibility of offering a special right when the victims of the aggressors are distant in time. Even if this redress were possible, a complicating factor would be the great miscegenation of the Brazilian population. As to the claim of diversity to support affirmative practices for groups submitted to very different ways of life, such as riparian populations, the caboclos (backwoods people), the landless, the rural day workers, the shanty town dwellers, and others, considering the complexity of Brazilian society, it is an ineffective argument. And, when the intention of the debate is access to higher education, where it would be necessary to “adopt countless selection criteria” (FERES JÚNIOR, 2006, p. 12-13), the question is how to implement the affirmative policy. The challenge of effectively adopting affirmative actions for the black does not mean denying the need and legitimacy of the policy.

In the view of the author (IBID., 16-17), the argument of social justice is generally that of greater legitimacy. For this purpose, the author builds on the foundation of the constitutional text of 1988 – articles 170 and 193, respectively - which deal with equality guided by economic and social criteria – and on the thesis that poverty has a color, when he mentions that: “(...) suffice it to see that in Brazil the race/color variable is responsible for
great socioeconomic inequality, in order to be able to justify the creation of policies aiming at promoting those who are in an unfavorable situation”. This foundation is strengthened by the fact that applying this principle may extend to “other groups that suffer, or may in future suffer from discrimination”. Furthermore, using another logic, social justices combines with – and does not go against – the right to redress, “which in the case of descendants of Africans and Native-Brazilians, has a strong appeal in public debate” and with positions taken by the legislative and judiciary powers.

From the understanding presented here of affirmative action rather as “distributive justice” instead of “cultural justice”, not meaning that the latter is not able to express itself, we bring to the debate the North American political philosopher John Rawls (1921-2002), and not as is more usual, the communitarian scholars Walzer and others. Rawls (2000) is responsible for a “turnaround” in the contractualist tradition that from then on requires, beyond the legitimacy which assumes obedience to the typical procedures of decision-making in a Democratic State, also a moral justification. Rawls comes to understand that the most valid concept for a democracy is the concept of justice as equity, since it aims at supporting itself only on the intuitive ideas that are at the basis of the political institutions of a constitutional democratic regime and in the public traditions that rule their interpretation. This means that justice as equity is a political concept of justice that seeks a consensus which is at least a “consensus by juxtaposition”, i.e., a consensus that includes all opposed philosophical and religious doctrines, i.e., that tries to find a point in common between the divergences that occur in democratic societies.

According to Rawls, inequalities from birth and socially less favored positions referring to gender, “race” and ethnic groups are undeserved and bear no relation to individual merit. For this reason, according to the philosopher, they must somehow be compensated for (MOEHLECKE 2004, p. 762), as stated by Rawls himself, in his book “A Theory of Justice”:

> The principle – of difference – determines that, in order to treat people equally, to provide genuinely equal opportunities, society must give more attention to those with less innate gifts and those from less favorable social positions. The idea is to redress the deviation of contingencies towards equality.

We do not, however, perform a comparative study, although we encourage it. We do indeed wish to share with our colleagues a specific experience which, in our opinion, in its
pioneering aspect, i.e., in what it does right and in its mistakes, gives us a chance to point out relevant issues that should be taken further in future studies. In the State of Rio de Janeiro, in access to education at its two state universities, the so-called “quota policy for blacks” was implemented in a movement with steps forward and backward. About this event, we will concentrate our attention on the experience at the Universidade Estadual do Norte Fluminense Darcy Ribeiro, in Campos dos Goytacazes, in the north of the state of Rio de Janeiro, a region marked by poverty and high rates of social inequality, as opposed to the flourishing oil economy which, however, mostly employs qualified workers from outside the region, while the history of the great majority, as yet without guaranteed fundamental rights, is connected to planting and cutting sugarcane. The citizens of the currently decadent sugarcane plantations region carry within themselves the mark of a predatory economy. In the last few decades, unlike the historical opposition between masters and slaves, that continued to prevail in relations between the bosses and their employees, an emerging middle class is taking shape. The movement is historically recent but important. Living mainly from trade and services, this middle segment also produces the new university students, many of whom are the target of the current quota policies.

The confrontation of discourses and ideologies: from ALERJ to UENF in the State of Rio de Janeiro

In a review of the pioneering history of the implementation of the Quotas Law by UERJ and UENF – when initially places were reserved in the undergraduate courses at these universities, according to Law nr 3,524, of December 28, 2000, and Law nr. 3,708, of November 9, 2001 – this was not recalled as an achievement of the university administrators, on the contrary. Professor Salassier Bernardo, former President of UENF, said that “really, UENF and UERJ were pioneers, but this topic was (pre)defined and we came into it later”. He concludes with his perception that the academic community had its voice minimized or abolished in the course of implementing the law: “the process did not come from the structure of the state universities (...) it was the government, and we were thus run over”\(^3\).

\(^3\) A different experience occurred, for instance, at the University of the State of Bahia (UNEB), where the inclusion program was discussed, voted and implemented in the entrance examination of 2003, by the University Council itself, through Resolution nr. 198 of 2002. Cf. FREIRE, 2004.
Remembering the procedure of implementing the quotas law for UERJ and UENF, it should be mentioned that the first Law, nr. 3,524/2000, originated in Bill nr 1,653/2000 and its author was the Executive Power – in the terms of Bill nr. 1,258/2000, drawn up by Congressman Edmilson Valentim (PCdoB) – came, according to Professor Wanderley de Souza, from the high school students’ movement (UBES). His statement sheds light on the subject:

During this period I was already acting as State Secretary (...) This initiative came from the student movement, the group of UNE and UEE, in 2000 (...). Because we came to office in 99 and there was this student movement that brought the proposal to Governor Garotinho. He liked it and we drew up the bill, and it went to the state congress that reserved 50% of the places to students who had graduated from public schools. So, I would say that this law was made partly with the initiative of the movements, with support from the state government and from the state congress. I would say that the universities resisted, particularly UERJ (...).

This said, it cannot be stated that because it was “taken over” by the State Government and was enacted as a Law without wide debate in the university community, that the claim for a quota policy – initially exclusively meant for people who graduated from public schools – did not originate in movements of civil society able to exert pressure on the Legislative and Executive powers. Likewise, it is not true that universities did not express their point of view via the appropriate agencies, as contrary to the bill reserving places for graduates from public schools. It is essential to mention that before Bill 1,652/2000 was passed, precisely on September 21, 2000, in Notice CG./nr. 013), the then Provost for Undergraduate Studies at UENF, Professor Carlos Eduardo de Rezende, presented several observations regarding the correspondence --- Notice CECD n.º 64/2000 – sent by Congresswoman Andreia Zito, that provided for “the criteria to select and admit students from the state public schools”, among other measures. However, the technical reports did not disallow the bill, although they took a position against the policy. If worst came to worst, the University would accept to implement what was established as Law, suggesting only that more time be given to adapt to it. Thus, Bill 1,653/2000 was passed and gave rise to Law nr. 3,524/2000. According to Art 2, subsection I, sections “a” and “b”, this law aimed at guaranteeing that students who had graduated from the public school system would have 50% of the places in each undergraduate course at the Rio de Janeiro state universities reserved for
them, as long as they had taken all of elementary school and secondary school at public institutions belonging to the Municipality and/or State of Rio de Janeiro, and that they had been selected according to the terms established in Art. 1 of the Law.

In practice, Law nr. 3,524/2000 created two university entrance examinations, in which students from private schools or who at some time had attended a private school competed for 50% of the places; and the other 50% was competed for by students who had always attended a public school belonging to the state.

In Article 1, Law nr. 3,524/2000 established that the official high school institutions in the State of Rio de Janeiro, working with the state public universities, would introduce systems to follow the performance of students from the state school system (SADE), complying with the general standards of national education (Federal Constitution of 1988 and of the LDB (Law of Guidelines and Fundamentals) nr. 9394/96). Thus, leveraged by Joint Resolution nr. 005, of May 15, 2001, of the then State Department of Science and Technology (SECT) and of the State Department of Education (SEE), a Special Committee (COSADE) was formed, to define criteria and standards to implement the provisions of Law n.º 3,524/2000, within a period of at most 60 (sixty) days to write a conclusive report considering these tasks.

Curiously, even today, few teachers know about the 13 (thirteen) meetings that took place between the representatives of UENF, UERJ, FAETEC, SEE and the then SECT, during 2001 and the beginning of 2002, much less a conclusive report they drew up, calling attention to the possible failures of the UENF community in its own in-house communication, which could be credited to the excessive demands on a university that was still being institutionalized, and possibly to the placement of the debates on quotas at a secondary level, due to the existence of issues that were more present in daily life at university. In fact, UENF did not then have – and does not yet have – its own entrance examination, which, in a sense could make the deliberations on reserving places somewhat more distant from the community. Rarefied or not, the fact is that until then there was no written record of UENF participation in the process that had begun in 2000.

Beginning in July 2001, the meetings about the quotas policy at state universities already included a new social player, EDUCAFRO, the representative of the black social
movement, on a nationwide level\(^4\), which brought to the debate the demand for the so-called “racial quotas”. In a statement made by Professor Sonia Martins de Almeida Nogueira, recalling the meetings from July 2001 onwards, she in a way shows that the issue of “racial quotas” was already part of the debate, even if the speed at which it would become a Law may have been a surprise to all.

Professor Wanderley de Souza confirms that when the law to reserve places for blacks and mulattos was implemented, the President of EDUCAFRO Foundation, Friar David Raimundo Santos was an active participant. The latter, in an interview, confirms the participation of EDUCAFRO, already since the time of the first law, telling of the connection with the then Lieutenant-Governor Benedita da Silva:

> We say that EDUCAFRO not only participated in the implementation, it was also one of those that caused the development of the process. As in 1999, EDUCAFRO had an audience with the State Government(...) the latter gave lieutenant-governor Benedita the job of holding the audience. At the audience we proposed the following: ‘Governor, we have tried to achieve the quota through the legislature, but we did not manage and the legislative power did not take the cause further; we tried it through the judiciary, in São Paulo, and the judge dismissed the case and gave a no prosequeitor judgment. These were federal and state struggles(...). We were proposing it in all public units of Brazil.’ – So Lieutenant-Governor, what we still have left to try now is through the executive power(...). But, for this we have to convince you to talk with Governor Garotinho and see whether he wants to share with us this idea of working in favor of including quotas’. Lieutenant-Governor Benedita said: ‘Well, Father, you have a very firm proposal, it is in my interest, but I would have to consult the Governor’s staff, I am the lieutenant governor, I do not decide, I can only send it on. Therefore, I am going to make an appointment for a new audience on a certain day, and then I will have the State Government’s answer’.

In Friar Santo’s statement, the “sense of opportunity” of Congressman Amorim is noted, who took over as “his” a struggle which had begun long before he joined it. But EDUCAFRO does not consider this as discrediting his achievement, in which the outstanding role is given to then Lieutenant Governor Benedita da Silva, initially, and afterwards to the

\(^4\) Here it should be noted that among the thirteen meetings of COSADE, EDUCAFRO was present at the two last – which took place on January 25 and February 1, 2002- represented by Fábio Luiz da Silva Mendes, according to the Minutes of the Meetings of COSADE. In the agenda carried out it is written that the COSADE meetings took place precisely on September 28, October 5, October 9, October 26, November 9, November 23, November 30, December 14 and December 21 of 2001, and January 11, January 18, January 25 and February 1 of 2002.
Public Prosecutor’s Office. When Governor Garotinho, for “electoral” reasons, withdrew his accusation that the Quota Law was unconstitutional, he agreed with any quota, including the so-called “racial” ones. It is however curious to note that Governor Garotinho was not directly responsible for the quota policy; on the contrary, he was pressured to support them. It should also be noted that in the beginning the proposition of the policy already revealed the incompatibility that would grow over time between UERJ and EDUCAFRO, from which, apparently, UENF was spared, since it did not participate – and still does not participate – in the university entrance examination process. Friar Santos goes on with his statement that was given in an interview:

(...) On the appointed day we returned there, as agreed, and there were two State Government advisors who said: ‘we have assessed it and concluded that quotas are unconstitutional, it is impossible’. This made our blood boil, we told them that we did not accept that position and that if they continued to exclude blacks from the University, we would go to the State Prosecutor’s Office to have our rights acknowledged. And that is what we did: we filed a petition against the State Government, and against the President of the UERJ. Then the state Prosecutor accepted our proposal and sent a summons to the Governor and the UERJ to explain their actions. (...) Well, during this process, the Governor who had received the summons (...) realizing that he wanted to run for the Presidential elections, and also pressured by the PC do B (the Communist Party of Brazil), accepted to review the quota project, but not for blacks, only for the public school system, because this was the proposal of the PC do B. So the Governor bows to popular pressure. Then we began to discuss it, and a congressman (...) Amorim, seeing that the proposal was strong, went there and presented the project of the quota for blacks. (...). Thus, it was in this context, the great struggle was by EDUCAFRO that other social movements came along; so we had the pleasure of seeing several congressmen adopting the cause. The trigger of this process was the summons sent to the Governor, and UERJ tried to escape the situation as much as possible. I greatly sympathize with the position of the PC do B, because they were the Governor’s partner, they exerted the most pressure, all of this created the atmosphere(…). In our negotiations, right after this, we joined all projects into a single one, and then it was almost unanimous in the State Congress, since only two congressmen voted against it. It was a great victory. We feel that the congressmen listened to the people. So this step taken by ALERJ, with the Governor against the UERJ, was the historical step that revolutionized the topic of affirmative actions throughout Brazil (...).

It is important to illustrate the fact that on October 29, 2001, Professor Marcelo Shoey de Oliveira Massunaga, as Advisor to the Provost of Undergraduate Studies at UENF,
Conflict of speeches about the “racial” quotas: the case of UENF

in response to the request by Professor Salassier Bernardo, issued an unfavorable opinion - Memo PROGRAD n.º 101/2001 – concerning Bill nr. 2,490/2001, which established a quota of up to 40% for blacks and mulattos, and which had in fact been approved by ALERJ eleven days before this opinion. Among the things said in this document, the following conclusive considerations are underlined: that “reserving places for one of the poor and discriminated against classes of the population alone will not solve the greater problem which is how to change an unjust and antidemocratic society (...)

However, the opinion of UENF was once again ignored by the Executive and Legislative staff.

On November 9, 2001, still during the Anthony Garotinho Administration, Law nr.3,708 was enacted, which originated from Bill nr. 2,490/2001, presented by former Congressman José Amorim (PP), approved by ALERJ during the Session of October 18, 2001, - which, in Article 1 established the minimum quota of up to 40% for black and mulatto populations, to fill the places of the undergraduate courses at UERJ and UENF.

With a view to the effective implementation of the quotas, precisely on March 4, 2002, Decree nr. 30,766 was issued, regulating Law nr. 3,708/2001, which would impact university admission in 2003. Due to a literal interpretation of provision 3, it is of interest to explain that the decree involved determined the accumulation of the two quotas defined in the two state laws mentioned previously. Besides, in article 1, it was determined that the percentage that had been previously defined as “up to 40%”, now became exactly 40%, and, in the single paragraph it continued not to make a difference between blacks and mulattos. To enjoy these prerogatives, art. 5 of the aforementioned decree established the identification of black and mulatto students by means of a statement signed by the candidate himself, but this was optional. Likewise, it explained the meaning of black in the single paragraph of art.1, saying that: “for purposes of this Decree, black is a person of black color“.

At the time, a central issue became the question resulting from the literal hermeneutics that the accumulation of percentages would lead to reserving up to 90% of the places offered by the universities in their entrance examination, according to the determination of art 3, heading and its subsections of Decree nr. 30,766.

The result of the first entrance examination was not as expected. César (2005, p. 56) recalls the problem, saying: “the affirmative action policy that was to be the exception to the rule was becoming the rule itself”. This concept of rule, at UENF, appears to have taken shape in a few programs, especially those with a greater demand, such as Oil Engineering, in which
“65% of the places were filled through the quota system” (Salassier Bernardo, *apud* LIMA e ALVES, 2003, p. 117).

Referring to the experience at UERJ, also in its Entrance Examination of 2003, Machado (2005) says that possibly the main realization was that the law reserving places for students from public schools only, allowed a larger number of self-declared black or mulatto candidates to be admitted than the law itself that was to reserve places for blacks and mulattos. This means, in percentage terms, that the great majority, i.e., approximately 80% of the self-declared black or mulatto candidates were successful in the entrance examination, independent of the law of quotas for blacks and mulattos.

In the 2003 entrance examination Heringer (2004) noticed that after the first results there was a deluge of articles in the press aiming at showing the public the supposed “catastrophe” of the mechanism proposed, when it would really be convenient to inform the reader of the different views about the quotas policy which fed the problems arising during this first experience.

In the legal field it was no different. There were many questions and lawsuits regarding the constitutionality of the Quota Law, despite the great number of legal documents that strengthened the legal dispute about the laws. According to Machado (2005, p.30), in March 2003 there were a total of 300 (three hundred) requests for information and injunctions directed at UERJ, from dissatisfied candidates protesting about the results of the entrance examination, and their most common argument was the unconstitutionality of the Quota Law for blacks or mulattos, based on the principle that “all are equal before the law”. However, in July of that year only 6(six) students who filed a petition obtained pre-enrollment through a court decision, and a few months later there was not a single student enrolled through this sort of deliberation.

While UERJ received a very significant number of court orders, at UENF there were only 21 (twenty-one) injunctions ensuring places for students who were removed from the process although they had a score high enough to pass the 2003 selection process (LIMA e ALVES, 2003). This figure, together with the fact that the entrance examination to UENF is organized and held by UERJ, led to concentrating the resulting problems exclusively at UERJ.

It is interesting that already in March 2003, during the course of the heated debates and enrollments of the first “quota” students, at UERJ and UENF, the then State Governor –
Rosinha Garotinho- pressured to accept the possibilities of changes in the laws, determined that the department which was then called the State Department for Science, Technology and Innovation (SECTI) established another Working Group, except that this time the universities invited to discuss the subject would present proposals before any changes were voted at ALERJ.

It fell to Governor Rosinha Garotinho to send to the President and other members of the State Congress of Rio de Janeiro Bill nr 506, of June 27, 2003, that to constitute newly system of quotes to ingress in State Public Universities, “established a new percentage of the quota system to enter the State Public Universities”.

When Law nr. o. 4.151, of September 4, 2003, was signed by Governor Rosinha Garotinho, previous laws were revoked. This new regulation which went into force beginning with the selective process of 2004, with the possibility of being reassessed five years after its implementation, responded to several suggestions from the universities, such as the introduction of the criteria of underprivileged conditions to be defined by the Public State Universities, taking the socioeconomic level of the candidate into account. The criteria to establish the underprivileged conditions of the candidates set by the universities was an income of R$ 300.00 (three hundred reais), but in 20055, it became R$ 520.00 (five hundred and twenty reais)6.

Moreover, the terminology “blacks and mulattos” was changed to “blacks”, and students from the public school system continued to be favored – as long as they had taken all grades of the second cycle of elementary school at public schools in Brazil, as well as all grades of senior high school at public schools in the State of Rio de Janeiro – besides including handicapped people and people belonging to ethnic minorities. In article 5, Law nr. 4,151 defined the total minimum percentage of 45% for the underprivileged, distributed as follows: 20% for students from the public school system; 20% for blacks and 5% for handicapped people and from ethnic minorities.

The UENF (Universidade Estadual do Norte Fluminense Darcy Ribeiro), which was founded on August 16, 1993, today has 18 (eighteen) undergraduate courses and 13(thirteen) graduate programs, maintained by research laboratories distributed over four large centers,

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5 As published in the official notice of the discursive examination of the state entrance examination of 2005 (Cf. MANUAL DE CANDIDATO, 2004).
6 These values are the mean net monthly income of the family, which is obtained as a ratio between the sum of the net income of the family members and the number of family members.
and it is the only public university in the region today which contains the project to train scientific staff for the country and intervene in the typical regional development of the largest universities of Brazil. Since in 2003 it became the venue for the implementation of the controversial quotas policy approved by the State Congress of Rio de Janeiro in 2002, it has thus experienced the clashes of the society at large in facing or resisting to face the perverse social inequalities present in our daily life.

At UENF, the quota system for blacks underwent a clear reduction in the percentage of blacks (black and mulattos) who entered the undergraduate courses at UENF in 2004 and 2005. In 2004, 12.52% of black “quota students” entered the UENF courses, which already showed that the 20.00% of places reserved to this population group were not being filled. Theoretically, this would not have been a great problem if, in 2005 the number of unfilled places reserved for blacks by the quota system had not dramatically increased, with only 4.05% of the placed filled. In absolute numbers, in 2004 60 black quota students entered for a total number of 479 new students; in 2005 only 19 black quota students entered the graduate courses of UENF, out of a total of 469 students.\(^7\)

Beyond the good intentions of some university agents and complying with what was expected from them at the time of implementation, we seek to discuss the involvement of the academic community in formulating the policy, even to review the problems that later tend to point to the inefficacy of this public policy.

The lack of debates which would revolve around the legitimacy or not of the Quota Law and its forms of implementation was taken, by many of the managers interviewed, as a sign of the institutional weakness of the university, in becoming a political articulator respected by the Government, above all when the latter, having decided to implement the Law, sees in the academic community potential adversaries who are holding back the process. The timing of political action is well-known to be different from the timing scientific reflection. From the time Governor Garotinho took over the quota policy as something to be implemented in his administration, his Secretaries and advisors acted towards this purpose, but the academic community, which was to execute it, was not yet sensitive to this to the point of facing the challenges aroused by this policy, which were not few.

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\(^7\) Recent information has made this problem worse, since of 394 students who entered UENF in 2006, there were only 15 black quota students, showing an even smaller proportion of insertion of blacks, expressed by the percentage of 3.80% of the student body that was successful in the 2005 entrance examination.
The silence of the University – above all of those who theoretically could more strongly oppose the quotas, i.e., the students who were not included in them – showed the Secretary of Science, Technology and Innovation of the time, Professor Wanderley de Souza, that there were no obstacles on the part of organized groups at UENF. In this regard, he also revealed in an interview that he is proud of the pioneering attitude of the Government of the State of Rio de Janeiro, in implementing a policy which has only recently become an issue in the National Congress.

On the other hand, one does not deny the little effort made by the Government to promote a dialogue with the state universities, given that it was not interested in encouraging dissension and preventing the enactment of the Law within the intended timeframe. This attitude in the political struggle is nothing new. Here we have a problem for substantive democracy which, however, is not a stain on formal democratic procedures. As Friar Santos advocated in an interview: “The Law was approved at ALERJ. How can one call it antidemocratic?” When asked about the possible non-compliance of state universities with the quota legislation, he was emphatic:

The University never invited the black social movement for a dialogue at the campus. We achieved reserved places for blacks democratically. How can the University want to take this achievement away from us? The University is autonomous, but not sovereign. It exists to serve social demands.

For quite a few professors, “race” could not be taken as a criterion to reserve places at public university. If written into law, this classification would generate *apartheid* and other forms of “ghettoization”. This was not something completely unconscious, since many faculty members had not contributed to the success of the policy, even though they saw it as a law to be complied with”. They felt, however - some of them – that as educators or even specialists in the racial issue – they were not being “heard” much by the public managers. If the success of the policy depended on more than simply doing “homework”, but a lot on adherence and on the multiplying potential of the university professors, it is a fact that this involvement did not occur. Political pragmatism, in the academic community, had spoken louder than the true interest in the efficacy of social inclusion. On the opposite side, the black social movement felt that the lethargy of the university required a legal measure despite the building of a consensus in favor of the quota policy at public universities. According to black militants no
more time could be lost. Therefore in practice the policy exists, but its goals are not achieved. All the same, representatives of the black social movement believe that the lack of a legal text would be even more harmful to the cause of black inclusion, and now it is necessary to advance in the debate and prioritize new strategies to improve the legislation.

Final Remarks

In Brazil, according to the 1999 INEP/MEC census, private institutions are frankly dominant compared to the public ones, in placing graduating students aged 18 to 24 years, since 65% of the enrollments in undergraduate courses came from the private sector. Also at Brazilian public universities, the presence of black students is minimal compared to the number of black people living in the states and cities where the universities are located. At the University of São Paulo (USP), for instance, in 2001 there were 8.30% blacks (of whom 7.00% mulatto and 1.30% black) for a population of 29.90% mulattos and 4.40% blacks in the State of São Paulo. During the same period, at the Federal University of Bahia (UFBA), in the Brazilian state with the biggest black population, i.e., 79.10%, at university 50.80% were white and 42.60% were black. Also, at the University of Brasília (UnB), the total number of blacks was 32.30%, although the black population in the Federal District was 52.40%. At the Federal University of Paraná (UFPR), 8.60% of the students were black, for a population of 23.00% blacks in the state of Paraná. Most students at UFPR were white, 86.50%. Similarly, at the Federal University of Rio de Janeiro (UFRJ), the percentage of black students was 20.30%, in a state where 44.30% of its population is black (GUIMARÃES, 2003, p. 75-76). These figures, according to Freire (2004, p. 71-72), point to an increasingly excluding university system where the quota policies at public universities may be measures to minimize this reality. The author notes that, adopting the example of the southeastern region of Brazil, 80.00% of the offers of places in higher education are found in the private sector. This finding had repercussions in the investigation performed here, and we will describe the strategies that provided the foundation for this research here, so that we can show the problem of quota policies for blacks in its more or less effective results.

The difference between the variable of effectiveness, efficacy and efficiency should be rendered explicit. The first is an examination of the relationship between implementing a given program and its impacts or results – its

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The research began from a finding: from 2004 to 2005, there was a clear decrease in the number of black students who entered UENF using the quota system for blacks. In 2004, 60 students entered, and in 2006, 19. Percentagewise, it dropped from 12.5% to 4.05%. In 2006, the number diminished even further, to 15 students (3.80%). These figures are very low, if we compare them to the social inclusion intended by reserving places for blacks, which is 20%.

We know that we should not simply say that the reasons for the rejection of the quota policies is “positive discrimination”, a strategy of justice as equity. On the one hand the concept was identified that this covered up a greater struggle in favor of the quality of public school at the elementary and secondary level, and pointing to the root of the racial issue in Brazil, namely, unequal income distribution in the country. On the other hand, the perception of the political pragmatism (“opportunism”) of people who govern and lead the caucus at the State Congress, when they defended the quota policy caused rejection in the academic community. In fact, the “political game” took place during three administrations: the Garotinho Administration, the Benedita Administration and the Rosinha Garotinho Administration. At UENF, in turn, the course of the policy pervaded two university administrations, that of President Salassier Bernardo (1999 – 2003) and of President Raimundo Braz Filho (2003 – 2007), until the end of this research. Moreover, in evaluating the policy, the opinions of respected scholars that racial classification regulated by law instead of dealing with racism would strengthen it, were also taken into account.

As we perceive it, the controversy is not negligible. In fact, distributive justice, seen, according to Gomes (2001) as the need to promote equal distribution of burdens, rights, advantages, wealth and other important “assets” and “benefits” among the members of society, and cultural justice tend to complement each other, according to the argument of Nancy Fraser. We insist, however, on questioning the feasibility of something that some define as “historical redress”. We also insist on the objective establishment of new legal procedures to deal with the many disputes that will occur on the level of individual rights on which the legal tradition of the Democratic Rule of Law is supported, insofar as it affirms the rights of “communities”. Above all we should not close our eyes to the impact on the

success or failure; **efficacy** is the evaluation of the relationship between the goals and explicit instrument of a given program and its real results; this is a more feasible variable which is less difficult to perform.; and **efficiency** which is expressed by the evaluation of the relationship between the effort used to implement a given policy and the results achieved. Cf. ARRETCHE, Marta. “Tendências no estudo sobre avaliação”, 1999.
Brazilian social imaginary of the delicate task of redirecting the idea of “Brazilianness” founded on a mixed blood Brazil, despite the knowledge of racist practices which must be overcome in our country. Considering the practical challenges, researchers should make their analytic instruments even more effective insofar as the racial quotas policies lack better defined goals: social inclusion of poor blacks? Creation of black elites? Others? Here we have to render goals explicit and seek the best means to achieve them.

References


Conflict of speeches about the “racial” quotas: the case of UENF