

The Right to Affirmative Action for Blacks in Brazilian Universities

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“[The] adoption of a new principle of distributive justice is likely to create conflicts between claims under the old and new principles.”

Michael Rosenfeld²

1. Introduction

There are many ways to construe and interpret rights. In this article, I give a glimpse of my position, defended more fully elsewhere.³ On the one hand, I follow the usual position of grounding rights on the principle of human dignity. On the other hand, I defend the position that rights should be contextualised to the point that general rights, such as the right to education, can be deconstructed into specific rights, such as the right to affirmative action at universities. This deconstruction is required mainly because, embedded in the concept of rights, there is not only an idea of *equal* rights but also one of *universal implementation*. Rights when restricted to a guarantee by a legislative provision do not necessarily lead to equality. Rights are only truly equal when they are *implemented* for all. This universal implementation can only occur by taking into account the different vulnerabilities that each person faces as a result of discrimination. This is exactly what affirmative action does.

I also argue that the right to affirmative action is acknowledged by the Brazilian Constitution, a constitution that has been gener-

ous in recognising social rights and material equality. As a social right, the right to affirmative action is closely related to the idea of distributive justice. In this vein, the right to affirmative action is a right to a public policy, and not a right to be admitted to a particular university.

In part 2 below, I develop a conceptual framework from which I analyse the factual situation of racial discrimination in Brazil. In part 3, I discuss two aspects of that factual situation: (a) the fact that racial discrimination has been based on phenotype; and (b) the fact that it has been moulded into regional disparities.

2. The Right to Affirmative Action in the Brazilian Constitution

Two Starting Points: the Principle of Human Dignity and the Concept of Human Being

The right to affirmative action has two main elements: (a) it is grounded on the principle of human dignity; and (b) its structure var-

ies as the factual situation of discrimination varies. I will discuss in this part some of the implications of the right being grounded on the principle of human dignity, by exploring the content of “human dignity”. The content of human dignity is defined by the concept of the human being, as the human being is the subject of dignity. By studying this concept, it will be easier to understand why rights have to be “contextualised”, that is, why general rights have to be deconstructed into more specific rights that take into account a person’s vulnerabilities as well as the context where those vulnerabilities are produced.

The principle of human dignity is established in article 1 (III) of the Brazilian Constitution: “the Federative Brazilian Republic [...] is founded on [...] human dignity”. This principle implies the existence of a characteristic that all persons have in common by the mere fact of their humanity: dignity. The principle of human dignity encompasses, therefore, the principle of equality in dignity and that all persons are equal in dignity. Equality, therefore, is the foundation for the theory of constitutional rights and the theory of international human rights. If we accept the argument that all persons have equal rights, we do so because we also accept the argument that all persons are equal regarding this one essential, non-homogenising characteristic, whose possession does not override the possibility of human diversity. That essential characteristic is human dignity.

Agreeing that human rights are grounded on the idea of equal dignity does not amount to having those rights implemented for everyone. One question should still be answered: what are the human traits that give a person dignity? In other words, what is the content of dignity? I propose here a normative concept of human being,⁴ which will help

in identifying such traits. From those traits, the interpreter will be in a better position to fully understand the extent of constitutional rights, including the right to education. In other words, the interpreter will be in a better position to see why the general right to education should be deconstructed to form a specific right (the right to affirmative action in universities), which takes into account of a person’s vulnerabilities and the context where those vulnerabilities were moulded. Finally, the interpreter will be better placed to understand that the right to education goes far beyond its textual enunciation to encompass the consideration of factual barriers that impede the implementation of that general right for everyone.

The Principle of Human Dignity from Two Perspectives

The principle of human dignity should be approached from two different perspectives: a procedural perspective and a substantive perspective. From the procedural perspective, we should consider legal issues already agreed upon or made explicit by a democratic constitutional process. From the substantive perspective, we should consider other issues, not necessarily agreed upon or not made explicit by the constitutional process. These latter issues may have either a conventional or a non-conventional moral character.⁵ The consideration of procedural issues (agreed upon by the constitutional process) and substantive issues (of conventional and non-conventional moral character) in the analysis of the principle of human dignity is required by the belief that law’s legitimacy and justice are not merely the result of a pre-established procedure (even if this procedure is democratic); they are also the result of moral reasoning.⁶

The Procedural Perspective and the Constitutional Procedure

Taking into account the procedural perspective, we should start the interpretation of the principle of human dignity by analysing the concept of human being which is implicitly drafted by constitutional norms. Standing as a turning point in the transition to democracy, the Brazilian Constitution of 1988 encompasses both civil and political rights and economic, social and cultural rights; both the principle of liberty and the principle of equality; both formal and material principles.⁷

Those principles and rights imply a complex concept of human being that will serve as the content for the principle of human dignity. This concept will encompass the following elements, explicitly recognised in the Brazilian Constitution: (a) human autonomy (as recognised in the constitutional protection of physical integrity and freedom of thought and religion, article 5); (b) the contextualised character of human beings (as recognised in articles 3, 7, 37, 215 and 216, which embrace affirmative action programmes, the goal to eliminate poverty and the principle of diversity); and (c) the human potential for justice and for taking others into consideration (as recognised in article 3, regarding the Republic's goal to build a just and fraternal society).⁸

The Substantive Perspective and Moral Norms

Substantively, we should consider not only conventional moral norms, found in public debate on affirmative action programmes (analysed elsewhere)⁹ but also non-conventional or critical moral norms, that is, moral norms which are not necessarily accepted by the majority, but which are compatible with the principle of human dignity. According to

non-conventional moral norms, the human traits recognised by the Constitutional text, such as autonomy, diversity, and the potential to take others into consideration are articulated in a formula developed with the support of Charles Taylor's theory of human agency.¹⁰ The consideration of non-conventional moral norms in the analysis of constitutional norms is aimed at reducing the degree of discretion available to the interpreter, as well as to finding an interpretation¹¹ which will better respond to the principle of human dignity. I propose, therefore, the following concept of human being:

The human being is characterised by the potential for individual and inter-subjective moral articulation to follow a concept of "good", to learn about oneself, and to act morally on one's own empirical condition, on one's own identity.

This concept encompasses the notions of autonomy and diversity as well as the potential to take others into consideration, as established in the Brazilian Constitution. More specifically, this concept embraces the apparent dichotomies: (a) between equality (in dignity, characterised by a potential to make moral decisions which is inherent to all persons) and diversity (found in individual authenticity as well as in one's unequal empirical situation)¹²; (b) between autonomy (because no person is completely determined by one's environment; that is, every person has the potential for moral articulation) and context (because no person is completely free to make choices; because all persons are, to a certain extent, restrained by their empirical condition, that is, needing to act upon one's own empirical condition); (c) between instrumental reason (purely focused on the identification of adequate means to specific ends)¹³ and non-instrumental reason (focused on common ends or

even universal ends; that is, focused on inter-subjective moral articulations)¹⁴; and (d) between atomism (characterised by a complete autonomy between the self and the society which surrounds her)¹⁵ and belonging (to this society, the only place where one can develop one's moral potential).

Individual rights are grounded on a contextualised concept of the human being: of a being that is at the same time free and determined by one's environment. For this reason, individual rights should also be perceived as contextualised. More specifically, a contextualised perception of the human being implies a contextualised interpretation of the principle of human dignity, and a contextualised theory of rights.

The Impact on the Theory of Rights

The adoption of a contextualised concept of the human being will also be a basis for more efficient rights, including here the right to education. This is due to the idea that only by considering contextual inequalities among persons, only by considering the specific barriers faced by each group of persons in the implementation of their rights, is it possible to construe rights which can be equally implemented for all. Also only by considering those inequalities is it possible to implement the constitutional principle of human dignity.

As we adopt a contextualised concept of human being and human dignity, we must consider the context in the construction of the general right to education and of the specific right to affirmative action programmes at universities. Each group has specific vulnerabilities, but I will limit this discussion to addressing the right of a particular group, blacks, to affirmative action programmes in Brazilian universities. Although I will not

cover all aspects of this specific and contextualised right in this article, I will approach it, by highlighting some of the challenges faced by those who are discriminated against on the basis of race in Brazil.

3. The Brazilian Notion of Racial Discrimination and Its Implications on the Right to Affirmative Action at Universities¹⁶

There are a few peculiarities of the Brazilian notion of racial discrimination that are worth stating from the outset. It is clear that racial discrimination has persisted under a myth of racial democracy, in spite of the fact that blacks are almost a numerical majority in Brazil. Moreover, racial discrimination has been based on phenotype¹⁷; and has been moulded into regional disparities. I will focus my arguments in this paper on these two latter issues and I will discuss how those issues influence the configuration of the right to affirmative action for blacks in Brazilian universities.

The Meaning of Race in the Brazilian Context and the Identification of Beneficiaries Regarding the Right to Affirmative Action Programmes

A very strong source of continued *de facto* discrimination in Brazil is denial: denial of race and of racism. Denial is made possible, among other reasons, by a conceptual confusion involving the meaning of race. This confusion is related to the belief that there is no sufficiently objective way to define race in a country where so much miscegenation has occurred.¹⁸ The issue of racial identification is complex, and I do not intend to exhaust it here.¹⁹ It is relevant to say, however, that this problem of racial identification is particularly acute in Brazil, because Brazilians often deny the existence of race after assuming that the only valid definition of race is the one adopt-

ed in the United States. Race, some would say in Brazil, can only be precisely defined when legal segregation and the lack of miscegenation have allowed one to establish rigid racial lines based on ancestry. In this vein, the American “one drop of blood” policy would be the only way objective enough to define race. Because Brazilians have practically not been legally segregated since the abolition of slavery, and because Brazilian society is highly miscegenated, one would not be able to identify particular races in Brazil.

This argument is, however, flawed, since it disregards the fact that race, as a social (artificial) construction, will always vary from one society to the other, and will always carry complex definitions and complex processes of identification. In the United States, the Census Bureau started to collect information on colour in 1850.²⁰ Since then, different classifications were adopted, including the consideration of “mullatos” from the 1850 census (when enumerators were instructed to classify a slave as black or “mullato”) to the 1930 census.²¹ As of 1997, six racial categories are identified in the United States for census purposes: American Indian or Alaska Native, Black or African American, Hispanic or Latino, Native Hawaiian or Other Pacific Islander, Asian, and White.²² In Brazil, where race is based on phenotype and not on ancestry, identification will have to follow patterns different from those adopted in the United States. It does not mean, however, that identification will be impossible in Brazil. Reliable data on race started to be gathered in Brazil in 1872,²³ and it was suspended only between 1900 and 1930.²⁴ In the 1872 census, four terms were used: white, black, brown (*pardo*), and mestizo Indian (*caboclo*).²⁵ Today, the Brazilian census uses five categories: black, white, yellow, brown or *pardo*, and indigenous.

The possibility of racial identification in Brazil is also attested by the fact that blacks are often identified as a target for discrimination. The following numbers highlight the existence of racial identification and racial discrimination, as they make explicit the disparities between the representation of blacks in Brazilian society, on one side, and the representation of blacks in universities, on the other. Although blacks were 45.3% of the Brazilian population in 1999,²⁶ there were 1,140,000 white students 18 years or older enrolled in Brazilian universities in 1991 as compared with 277,000 black students. White students were 78.3% of university students and blacks were 19.7%. In 2000, there were 2,355,000 white students enrolled in Brazilian universities, amounting to 78.8% of Brazilian university students. However, there were only 576,000 black students, amounting to 19.3% of university students. If we consider only university students between 18 and 24 years old, there was an even steeper decrease in the number of blacks in Brazilian universities between 1991 and 2000: from 16.7% to 15.9%.²⁷

Understanding the social and artificial character of race is essential to understanding a particular context of discrimination and to fighting against it. In the case of Brazilian blacks, race is constructed and socially defined by phenotype, and not by ancestry, as is the case in the United States. Remedies should, therefore, target beneficiaries predominantly by phenotype in Brazil, and not ancestry.

This is not, however, a standard practice. At the Federal University of Sao Paulo (UNIFESP), for instance, quota candidates must prove that they or one of their ancestors is black, by presenting documents such as a birth certificate.²⁸ In order to assure

some objectivity, a better alternative would be to restrict identification to the analysis of phenotype, the only criterion which is compatible with the Brazilian notion of racial discrimination.

The identification of beneficiaries of affirmative action programmes in Brazil should start by self-identification, in order first to avoid external identification which could lead to invidious forms of discrimination, and second to strengthen self-recognition as a member of the discriminated group (there is still in Brazil a superficial denial of one's own and the other's race as an unsuccessful means of fleeing from the idea of discrimination).²⁹

Taking into account the degree of miscegenation and the resulting distrust concerning racial identification in Brazil (there is, however, a considerable degree of confluence between self racial identification and identification by third parties at a rate of 79%),³⁰ racial self-identification could be complemented by other means. In order to avoid fraud in obtaining benefits or simply in order to avoid distrust, a few additional identification mechanisms could be used, such as: (1) forms with multiple questions about the candidate's race (which could be used to assess coherence in one's self-identification);³¹ (2) signed statements; (3) interviews; and (4) photos.³² Furthermore, identification committees could be formed *after* the candidate's self-identification.

The specific right to affirmative action programmes for blacks in Brazilian universities encompasses, therefore, a right to affirmative action programmes that identify race by phenotype, as an identification method which better corresponds to the notion of race adopted in Brazil. Also, the specific right to affirmative action programmes should en-

compass an identification policy that would overcome the current distrust regarding self-identification in the country, so that the right is actually implemented for everyone. As mentioned before, in a contextualised theory of rights (grounded on a contextualised principle of human dignity) the universal implementation of a right is part of this right.

Regional Disparities

Another peculiarity of the Brazilian version of racial discrimination is regional disparities. While "the right to education for all" had already been recognised by article 149 of the 1934 Brazilian Constitution, inequality in education persisted in Brazil. Illustratively, illiteracy stood at 51.1% among blacks 25 years old or older in 1999, but was only 10.4% for whites.³³ The number of years of education among young whites increased from 2.9 years in 1960 to 8.3 years in 1999. Among young blacks, it increased from 1.3 years to 6.1 years in the same period. Although relative inequality has decreased, absolute inequality in years of education increased between blacks and whites from 1.6 years to 2.2 years of education.³⁴ Similar inequalities are found in universities, as mentioned above. Targeted, group-based policies are needed, but they might be needed in different ways in different regions in Brazil.

If we are talking about quotas, for instance, as a legitimate tool in affirmative action programmes, some conditions should be established for their application. Quotas should be determined on a level which is high enough to assure participation of blacks in the classroom (in the United States some scholars established this level at 17%)³⁵ and to overcome the idea that certain social positions are reserved for members of certain racial groups. Two specific issues should be con-

sidered in establishing quotas: (a) Brazilian society is ingrained with regional inequalities; and (b) the social positions that we hold are in part the result of our own responsible choices (as we are in part autonomous beings) and in part the result of context (we are in part determined by our context).

I propose, therefore, an initial test for quotas. It is only a test, because we are dealing with a very specific idea of rights: an idea of “contextualised rights” that should be implemented for all. This construction of rights encompasses the issue of implementation, and in order better to implement rights, we need to assess results. The initial test should then embrace quotas which: (a) respect the representation of blacks in each Brazilian region; (b) are sufficient to foster participation in the classroom; and (c) are inferior to the representation of blacks in each region (we are in part autonomous and therefore in part responsible for our positions in society).³⁶ As the average representation of blacks in Brazilian society was 45.3% in 1999, with 15.67% in the Southern region, 35.14% in the Southeast region, 52.95% in the Central region, 70.11% in the Northeast region and 70.87% in the Northern region,³⁷ breaking with stereotypes in each of those regions will require different quotas.

Regional quotas should therefore be calculated as an average between current national representation of blacks in Brazilian universities (19.3%)³⁸ and the representation of blacks in each region. By proposing this average, we seek to achieve a balance between merit and racial equality, as well as between autonomy and determination, which are elements of the concept of human being and, therefore, of the principle of human dignity, adopted in the Brazilian Constitution. Consequently, I propose quotas of approximately 27% (average between 19.3% and 35.14%)

for the Southeast region, of 36% (average between 19.3% and 52.95%) for the Central region, of 45% (average between 19.3% and 70.11%) for the Northeast region; and also of 45% (average between 19.3% and 70.87%) for the Northern region. In the Southern region, where the representation of blacks in society is only 15.67% (close to the representation of blacks in the United States and inferior to the national average representation of blacks in universities), quotas could be established at the minimum estimate sometimes envisioned for American universities in order to assure participation: 17%.

4. Conclusion

There are still a considerable number of issues that should be addressed in the configuration of the right to affirmative action for blacks at universities in Brazil: (a) the principal of meritocracy (which is recognised by the Brazilian Constitution with regard to higher education); (b) the balance between universalist and affirmative action policies; (c) the partial convergence between poverty and racial discrimination; (d) the difference between rights’ holders and beneficiaries in a right which is in great part based on the idea of distributive justice; (e) the implicit constitutional principles which further shape the principle of human dignity as applied to education, among others.

My intention in this article was to give a glimpse of a particular way of interpreting rights with a focus on the right to education. I have argued that rights are derived from a contextualised principle of human dignity, and are, therefore, contextualised. It means that a general right, such as the right to education, can be deconstructed into specific rights, such as the right to affirmative action for blacks in universities. This deconstruction will occur in accordance with context.

Among all the aspects that could be addressed here, I chose to analyse two peculiarities of the Brazilian context concerning the right to affirmative action for blacks in universities: the way race is construed in Brazil, and regional disparities. Those peculiarities were

taken into account in the configuration of the specific and contextualised right to affirmative action in order to assure a general right to education is effectively implemented for all. Much more, however, can and should be said on the issue.

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² Rosenfeld, M., "Affirmative Action, Justice, and Equalities: A Philosophical and Constitutional Appraisal", *Ohio State Law Journal*, No. 46, p. 861.

³ The right to affirmative action in universities is discussed in detail in Ikawa, D., *Ações Afirmativas em Universidades*. Rio de Janeiro: Lumen Juris, 2008.

⁴ By proposing a concept of human being, I don't intend to define human beings as they are. I intend instead to identify *normative* traits of human beings, which can inspire the principle of human dignity.

⁵ In this paper, I have adopted a concept of law that encompasses both conventional and non-conventional moral norms. By conventional moral norms, I refer to moral norms accepted by the majority and absorbed by individuals without reflection. By non-conventional moral norms, I refer to moral norms that are established by individuals after reflecting on conventional norms. In a just concept of law, both conventional and non-conventional moral norms should be analysed in light of the principle of human dignity.

⁶ As there are no perfect procedures, substantive reasons should also be considered in interpreting a legal document.

⁷ By formal principles, I refer to principles which are complete by their mere textual enunciation, or which focus more on the value in the abstract than on its implementation. By material principles, I refer to principles which are only complete by their actual implementation. Taking the principle of equality, for instance, a principle of formal equality in education will oppose the recognition of differences between groups, even if the recognition of those differences is intended to assure implementation of education for all. On the other hand, a principle of material equality in education will *require* the recognition of differences between groups, if this differentiation is needed to assure equality in education for all.

⁸ The 1988 Brazilian Constitution establishes in its Preamble that the representatives of the Brazilian people will "institute a Democratic State, for the purpose of ensuring the exercise of social and individual rights, liberty, security, well-being, development, equality and justice as supreme values of a fraternal, pluralist and unprejudiced society." In its articles 3 (I, III and IV), 7 and 37, the Constitution recognises formal and material principles of equality. Article 3 establishes the fundamental objectives of the Republic: "to build a free, just and solidary society," "to eradicate poverty and substandard living conditions and to reduce social and regional inequalities" and "to promote the well-being of all, without prejudice as to origin, race, sex, colour, age and any other forms of discrimination." Article 7 recognises the right of rural and urban workers to improve their social condition, including the right to affirmative action programmes in favour of women. Also, article 37, VIII recognises the right to affirmative action programmes in favour of persons with disabilities. In its article 5 (II, IV and VI), the Constitution recognises rights that aim at assuring individual autonomy, such as the right to physical integrity and to freedom of thought, religion and belief. Finally, in its articles 215 and 216, the Brazilian Constitution recognises the relevance of human diversity. Article 215 guarantees "the full exercise of cultural rights and access to the sources of national culture," and the protection of "popular, Indigenous and Afro-Brazilian cultures, as well as those of other groups participating in the national civilising process." Article 216 purports that "Brazilian cultural heritage consists of assets of material and immaterial nature, taken individually or as a whole, which bear reference to the identity, action and memory of the various groups that form the Brazilian society". (Translation available at: <http://www.v-brazil.com/government/laws/constitution.html>).

⁹ See above, note 3.

¹⁰ Although this concept is inspired by Charles Taylor, he himself is against formulas which intend to characterise the self. See Taylor, C., "The Politics of Recognition", in *Multiculturalism: Examining the Politics of Recognition*, ed. Gutmann, A., Princeton: Princeton University Press, 1994, pp. 60, 102.

¹¹ See Taylor, C., *Sources of the Self – The Making of the Modern Identity*, Massachusetts: Harvard University Press, 1989, p. 72; Ikawa, D., "Hart, Dworkin e discriminação", *Revista Lua Nova*, No. 61, Sao Paulo: Cedec – Centro de Estudos de Cultura Contemporânea, 2004, pp. 97-113.

¹² Diversity should be considered here for at least three reasons. First, there is only room for free choice when there is diversity. Second, recognition of diversity implies recognition of one's uniqueness. Third, only by recognising people's diverse positions in society, is it possible to address material equality.

¹³ Instrumental reason is the ability to identify adequate means to an end. It can be perceived as the only form of practical reason, which might lead to the idea that ends cannot be assessed by reason.

¹⁴ Non-instrumental reason is reason relating to the application of moral principles, as to ends. Non-instrumental reason can be conceived as a contextualised potential, where the other is taken into account in all his or her contextualised being, in order to further promote material equality.

¹⁵ Atomism is a concept used by Charles Taylor to characterise a modern way of defining the self without considering interpersonal relationships, without considering the being in time (with a past and a future), and without considering history.

¹⁶ This section is based on Ikawa, D., *Ações Afirmativas em Universidades*, see above, note 3. See also Ikawa, D. and Mattar, L., "Racial Discrimination in Access to Health: The Brazilian Experience", *Kansas Law Review*, Vol. 57, Issue 4, 2009, *forthcoming*.

¹⁷ By phenotype, I mean appearance.

¹⁸ Although overestimated, miscegenation exists in Brazil in a much higher degree than in the United States. In the United States 99.9% of marriages in 1960 took place between white couples, and 99.15% of marriages took place between black couples. In 1992, the rates were 99.75% among whites and 96.6% among blacks. By comparison the rates in Brazil were significantly less in both 1960 and in 1992. See Telles, E., *Racismo à brasileira – Uma nova perspectiva sociológica*, RJ: Relume Dumará, Fundação Ford, 2003, pp. 138-152 (citing U.S. Census Bureau, *Marriages between Whites and Blacks in the United States, 1960 and 1992*, tables 1 and 2).

¹⁹ See above, note 3, pp. 101-131.

²⁰ Zaid, A., "Continually Creating Races: The Census in the United States and Brazil", *National Black Law Journal*, Vol. 20, 2006-2007, p. 45.

²¹ *Ibid*, pp. 47, 55.

²² *Ibid*, p. 52.

²³ *Ibid*, p. 57.

²⁴ *Ibid*, p. 58.

²⁵ *Ibid*, p. 62.

²⁶ Martins, R.B., *Desigualdades raciais e políticas de inclusão racial: Um sumário da experiência brasileira recente - Relatório preparado para a Comissão Econômica para a América Latina e o Caribe (CEPAL)*, agosto de 2003, pp. 20-21 (citing IPEA/FJP/PNUD. *Atlas do Desenvolvimento Humano no Brasil*, 2000).

²⁷ *Ibid*.

²⁸ Takahashi, F., "Universidade desconfia de aprovado por cota e barra matrícula", *Folha Online*, 16 February 2005.

²⁹ I understand that external racial identification is contestable not only in Europe and in the United States, but also in Brazil. I discuss this issue in my book (see above, note 3).

³⁰ See above, note 18, pp. 113-116.

³¹ In a survey conducted by the Perceu Abramo Foundation, three different questions were posed with regard to race. See tables published in Santos, G. and Silva, M. P., *Racismo no Brasil – Percepções da discriminação e do preconceito racial no século XXI*, Sao Paulo: Fundação Perceu Abramo, 2005.

³² Besides self-identification, photos and interviews were used, for instance, by the Ford Foundation. See Ford Foundation Dossiê: O negro no Brasil, *Estudos Avançados*, Vol. 18, No. 50, Jan/Abr. 2004, passim.

³³ Henriques, R., *Desigualdades raciais no Brasil*, Working Paper, Table 15, Table 22 (citing IPEA, Illiteracy rates (25 years or older), 1999), available at: <http://www.ipea.gov.br>.

³⁴ Henriques, R., "Desigualdade racial no Brasil: Evolução das condições de vida na década de 90", *Texto para discussão* N° 807, ISSN 1415-4765. RJ: IPEA-Instituto de Pesquisa Econômica Aplicada, July 2001, p. 30.

³⁵ Cohen, C. and Sterpa, J. P., *Affirmative Action and Racial Preference – A Debate*, New York: Oxford University Press, 2003, pp. 309, 343.

³⁶ Affirmative action programmes should always be perceived as complementary measures for wider structural social reform. Affirmative action programmes should not be perceived as *the* structural reform, because they have only a modest reform potential, regarding compensation, diversity and role models.

³⁷ See above, note 34 , p. 6.

³⁸ See above, note 26, pp. 20-21 (citing IPEA/FJP/PNUD. *Atlas do Desenvolvimento Humano no Brasil*, 2000).