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**Equality » What will change in Brazil with recognition of the constitutionality of quotas**

Lawyers from Conectas Human Rights who participated in the case in the Supreme Court analyze the impact of this historic decision and reflect on the future of the diversity agenda in Brazil

April 27, 2012

Brazil’s Supreme Court (STF) unanimously ruled yesterday (April 26) that racial quotas at Brazilian universities are constitutional. Conectas, which appeared as amicus curiae in the case (ADPF 186), participated in the public hearing and made an oral argument to the court (April 25).

To better understand the impact of the decision, the organization asked six lawyers who worked on the case to analyze the ruling and some of its consequences, not just from a legal standpoint but also on a social level.

 “First of all, the STF ruling adopts a concept of rights, merit and equality that takes results into consideration, thereby breaking with the strictly traditional liberal paradigm. In other words, the STF determined that for discriminated groups to effectively have equal access to rights, it is necessary to give them the tools to confront the additional barriers imposed by discrimination. The adoption of these tools, therefore, is required by the Brazilian Constitution, and one such tool is affirmative action. Secondly, since it adopted a concept of rights based on results, this opens the possibility of testing public policies that pursue these results. The STF has, therefore, broken another strictly liberal paradigm: the separation of rights and public distribution policies. Rights and public policies are firmly linked and different models of affirmative action can and should be tested, analyzed and compared so those that promote the most access, inclusion and diversity prevail.” | **Daniela Ikawa, lawyer at Conectas from 2003 to 2009**.

“Yesterday’s decision is of fundamental importance for Brazilian society for two major reasons. First, it means the time has come to adopt positive measures to promote the equality of groups that have been historically discriminated against, i.e. the country has a duty to act to overcome the profound inequalities that mark Brazilian society. Therefore, albeit belatedly, since the issue of affirmative action and racial quotas has been pending in the STF for more than 10 years, the recognition of the constitutionality of affirmative action and racial quotas for university entrance will permit measures tackling inequality to be implemented and their beneficial results to be felt. Second, it reasserts that the STF is an institution that protects minority groups, in the political sense. It is undeniable that the STF has been invaluable in promoting the human rights of groups that cannot overcome the barriers of our legal system, such as the recent cases of homosexual union and anencephalic pregnancy termination, or that face significant resistance in the courts, such as the case of affirmative action and racial quotas. Given this growing importance of the STF, the presence of civil society organizations, such as Conectas Human Rights and the many others that participated in this case, is essential for pluralizing the debate and for giving a voice to the organizations that work on a daily basis to promote human rights. A more open court is a court that can better provide the responses that Brazilian society wants.” | **Eloísa Machado, lawyer, coordinator of Conectas’ Justice Program from 2003 to 2009**.

“Yesterday represented a victory for the black movement and for society as a whole. The decision of the STF will finally help dispel a number of myths, the most prevalent being that Brazil is a racial democracy. The justices made it clear that the problem of inequality in Brazil is not just economic. On the contrary, racial segregation has been so prominent in our history that the mere passage of time has not been and never will be capable of altering this reality. Furthermore, the court asserted that meritocracy is not possible on such an uneven playing field. And it emphasized that the experiences at Brazilian universities have demonstrated that integrating whites, blacks and native Brazilians serves to enrich the learning environment. Meanwhile, the participation of society averted the risk that the Judicial Branch would remain indifferent to the harsh reality that people are sometimes invisible in the eyes of the State. Conectas played an extremely important role by bringing the discussion into the field of human rights, contributing to the construction of a country that treats people equally and, at the same time, respects plurality.” | **Flavia Annenberg, lawyer at Conectas since 2011**.

“This was, in my judgment, the most important decision in the history of the Supreme Court. It was a ruling that gave the constitutional principle of equality an innovative, transformational and revolutionary meaning. It was a ruling that reasserted people’s confidence, faith and hope in the justice system and opened a new chapter for public policy advocates. As a result, the black movement is ending one cycle and embarking on another. The STF did not approve quotas. It approved the principle of affirmative action for blacks and other marginalized groups in Brazil. This means that the movement’s agenda is now open. There are claims to be made in the areas of culture, health, education, etc. From the point of view of the movement’s agenda, this ruling not only represents a breakthrough, it also broadens the horizons of the struggles to come.” | **Hédio Silva, lawyer. Responsible for the oral argument of Conectas in the judgment of case ADPF 186 (April 26)**.

 The long-awaited and historic decision of the STF, which finally recognized the constitutionality of racial quotas for universities, will contribute enormously to the construction of a less unequal and more just Brazil. By reasserting the right to equality and to education as fundamental for Brazilian society, recognizing historical and institutional racial discrimination as a factor that prevents millions of Brazilians from attending university, the STF has once again fulfilled its role promoting and protecting human rights and human dignity. It is also important to note that the court opened its doors to listen to society. The public hearing and the participation as friend of the court (amicus curiae), besides broadening the public debate on the issue of quotas, permitted various Brazilian civil society organizations like Conectas to participate in the constitutional debate and to help shape the court’s opinion. It is a ruling that will make our universities more diverse, just and equal, contributing to the construction of a nation that recognizes its errors and also its historical legacy.” | **Julia Mello Neiva, lawyer, coordinator of Conectas’ Justice Program from 2009 to 2010**.

“The decision serenely taken by the STF on Thursday (April 26) on the constitutionality of affirmative action in Brazil represents an extremely important step in the construction of our nation, towards a society where all members are viewed as people deserving equal respect and consideration. This decision will certainly help overcome the vast gulf of inequality that has marked Brazilian history. It is important to emphasize, at this juncture, that the triumph of affirmative action as a legitimate means of realizing the fundamental objectives of our Republic is the crowning moment in the tireless struggle of the black movement, which began long before abolition with figures such as Luis Gama. It is also a consequence of the constitutional democracy that triumphed in 1988, which established not only new values to underpin our relations, but also mechanisms of participation and social inclusion. For all of us who had the opportunity to participate in this final stage of the struggle for affirmative action in the STF, we feel that consistent and persistent action by civil society is an indispensable means of transforming our societies.” | **Oscar Vilhena, lawyer, founder and member of the Board of Conectas. Responsible for the oral argument of Conectas in the judgment of case ADI 3330 and in the public hearing of case ADPF 186**.