



Chapter 71

Human rights: university education in the perspective of law, citizenship and social inclusion

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ABSTRACT

The university reforms that occurred in Brazil, before the promulgation of the Federal Constitution of 1988, did not mitigate the historical debt that the country accumulated, over the decades, with the population of

students from disadvantaged classes, about access and permanence in higher education. The inclusion policies at this level of education, adopted in the last decade of the 20th century and the first two decades of the 21st century, have given rise to a policy of mitigating this debt. In this sense, it would be appropriate to evaluate the inclusion of these groups of students who were once excluded from higher education, from the perspective of law, citizenship, and social inclusion. The main objective of the research was to conduct studies on educational policies aimed at reserves of higher education, in the context of Human Rights (HD), citizenship, and no social inclusion. The methodology used in this research has a dual approach that covers both qualitative and quantitative analysis. In addition to these factors, a collection of government documentation, articles, books, theses, and dissertations, among others, was also elaborated. Results and diverse evidence point to an advance in the inclusion and university education of benefits students from job reservations in Brazil. This fact marks progress in the struggle for Human Rights (HD), in the exercise of Citizenship, and the social inclusion of higher education in the country.

Keywords: Human Rights and Education, Higher Education and Citizenship, Social Inclusion in Higher Education, Educational Affirmative Policies.

1 INTRODUCTION

Human Rights (HD), historically, are constructed in a perspective in which "the human subject positions on human dignity and, above all, on the legal, political and just order, thus constituting an analogous concept, from which it is possible to dialogue with other cultures, in search of common patterns beyond differences." (DIEHL, 2015, p. 134). The construction of DH takes place dynamically, continuously, and under a climate of tensions between the groups of stakeholders.

HD has been the basis of social achievements, including access, permanence, and completion of undergraduate and graduate courses in the country, by students historically belonging to disadvantaged classes. Olive tree; Brackem and Nakano (2021) argue that the paradigm "[...] Inclusive Education has gained relevance in recent decades in international movements driven by the fundamental right that everyone has to education, at all its levels and stages of almost ness." (OLIVEIRA; BRACKEM; NAKANO, p. 372).

As we know, in Brazil, blacks and browns correspond to 56.2% of the population, according to data from the Brazilian Institute of Geography and Statistics (IBGE, 2021). The quota policy system has its origins in the state of Rio de Janeiro, more precisely at the State University of Rio de Janeiro (UERJ) and the State University of Norte Fluminense (UENF) in the 2000s. With the proliferation of this program, the adoption of similar programs in other Instituições de Educação Superior (IES), and the approval of Law No. 12,711/2012 (BRASIL, 2012) was a fundamental milestone, as it instituted quota policies nationwide.

This law imposed "a growing quota program in all universities and federal institutes until reaching, in 2016, the level of 50% of vacancies of all courses dedicated to quotas, standardizing the criteria for their distribution." (WAINER; MELGUIZO, 2018, p.3). It is important to emphasize that if the principles established by the legislation are effective, there is they benefit the entire Brazilian society because it does not include only the black and brown population, but also the students who graduated from public school. However, affirmative action does not include black students from private schools, because it is inferable that this public has a better education when compared to students from public schools.

The United Nations Educational, Science and Culture Organization (UNESCO) has recognized cultural diversity as a common heritage of humanity and must be valued and preserved for the benefit of all. "Interculturality refers to the existence and equitable interaction of different cultures and the possibility of generating shared cultural expressions through dialogue and mutual respect. " (UNESCO, 2005). However, privatization processes, depublication, the commodification of education, and the policies of estímulo to competition disturb the strategies of education and superior, affecting the correct dispute, fair relations, cooperation, and respect for the rules (AZEVEDO, 2015).

Concerning the right to education, in the Brazilian case, according to Sguissardi (2019, p 54) "what determines the Federal Constitution of 1988, education is a social right and duty of the State [...] However, in practice, this right is reverted to merchandise or commercial service in more than 80% of institutions and more than 75% of enrollments." because of the relocation of social struggles, it is appropriate to point out the contributions that "the reconstruction of the logic of these experiences of disrespect and the triggering of the struggle in its diversity is articulated through the analysis of the formation of the practical identity of the individual in a previous context of recognition relationships." (HONNETH, 2003, p. 18).

In these terms and view of the above, this study seeks to answer the following question: what implications of the observance of university quota policies within the heI, have been found in the

implementation of these policies in education in the context of HD and citizenship? It is nest the conjuncture relates to the routines of the HEI that this work was developed.

The main objective of this research was to conduct studies on educational policies aimed at reserves of vacancies for higher education, related to Human Rights (HD), citizenship, and social inclusion. Nevertheless, it would be extended to this objective to observe the qualification of the HEI as protagonists of the construction and sharing of knowledge through Research, Teaching, and Extension.

Therefore, this work was organized as well: in addition to this introduction, 4 more sections were elaborated, and in the second section methodological procedures are presented; in the third section the theoretical framework is recorded; in the fourth section, the analyses and discussions of the results; in the fifth section the final considerations are presented making a synthesis of this work and; finally, the bibliographic references.

2 METHODOLOGICAL PROCEDURES

The methodology used in this study has a dual approach that covers both qualitative and quantitative analysis. In addition to these factors, a collection of government documentation, articles, books, theses, and dissertations, among others, was also elaborated. For exploratory purposes, reports from official institutions were consulted and interpreted, such as the United Nations Children's Fund (UNICEF) and the National Institute of Educational Studies and Research – Anísio Teixeira (Inep) representing the Ministry of Education (MEC).

Database exploration and search

To improve the quality of the systematic review of documents and minimize possible biases, the bibliographic research was guided by a flow that took into account chronological order and its degree of importance. From this moment on, we tried to give a logical sequester in the description and narratives of the methods performed in this study.

To identify the results of relevant readings related to policies and education, higher education, and quality of higher and higher education, a combination of research strategies was used. These include exploration and research through relevant works bases; reference list verification; citation search and; other sources.

Four databases were selected: Scielo; the portal of journals of the Coordination for the Improvement of Higher Education Personnel (Capes); Elsevier and *Science Direct*, *Education Resources Information Center* (Eric). Table 1 presents the criteria of the articles.

Table 1 - Critérios of inclusion and exclusion of selected articles.

CRITERION - FOCUS		
Educational Public Policies	Population of Interest	Language/Language
Affirmative Educational Policies.	Students participating in affirmative policies.	Portuguese language.

University Quota Policies.	Access and presence in Higher Education.	Spanish language.
Higher Education and Citizenship.	Human Rights and Higher Education.	English language.
Social Inclusion in Higher Education.	Groups of students inserted in affirmative policies participating in research, teaching, and extension.	

Source: elaborated by the authors (2021).

Eligibility and logic criteria

The following inclusion and exclusion criteria were established to ensure a certain degree of quality and relevance of the selected articles. The articles were included in the analyses if their focus was on: Education Superior; Human Rights; Policies Andductionals; Social Inclusion; the population of interest were subjects related to Inclusion in Higher Education, Citizenship, and Job Reservations in Higher Education, such as student enrollment in Higher Education, groups of students inserted in affirmative policies and special education. Articles published in English, Portuguese, and Spanish were analyzed.

Sorting and selection

Table 1 provides an overview of the screening and selection process.

Table 1 - References selected for the search.

SCREENING AND SELECTION OF REFERENCES				
Database.	Educational Policies.	Higher Education.	HD and Citizenship	Total works/titles.
<i>Scielo</i>	6	5	8	19
Journals	12	17	14	43
<i>Science Direct</i>	10	8	6	24
ERIC	5	6	6	17
Total	33	36	34	103

Source: Elaborated by the authors (2021).

The bibliographic research was carried out between March 2021 and August 2021, comprising articles written between 2012 and 2022, and some publications related to the theme were admitted, which were outside this period. A total of 103 articles were identified for title screening. A database of all 103 studies was created, including abstracts and bibliographic information. The titles and abstracts of each article were verified considering the inclusion/exclusion criteria mentioned above. After completing this stage, form classified 38.

After the revision of the full text of each of the articles, 22 were excluded because they did not meet the criteria established for this research. Given the above, 16 articles were selected for thematic analysis, in addition, the abstracts and titles of 2 books were included in the final review. Furthermore, depending on the documentary research, which consists so normative processes (Laws, Decrees, Resolutions, Norms and Guidelines, Institutional Programs, and other normative acts), the official government documents

available in portals, such as *planalto.gov*, *mec.gov*, and international bodies, *such as United Nations Education, Scientific and Cultural Organization* (Unesco).

To further enrich the systematic analysis, and present *insights* from the exploratory process, articles from relevant journals such as academics were *included*. The verification of the reference list included studies through the bibliography of several texts researched in *Science Direct*. When completing the reference list check, 2 articles were included in the review.

3 THEORETICAL REFERENCE

In Brazil, processes of expansion of higher education occurred mainly in the 1960s and 1990s. However, the growth in the number of higher education students in the country, both in the 1960s and the 1990s, was predominant in the private sector. From the 1980s to 1990s, several types of Public and Private Higher Education Institutions (HEIs) were created, and within the private group, for example, non-profit and for-profit institutions fall into place. The latter grow in greater numbers, mainly in an attempt to meet market demand, while public ones grow in smaller numbers.

Affirmative action policies have contributed significantly to the democratization of access and permanence in higher education. It is important to contextualize and enhance affirmative action policies due to their emphasis on the history of Brazilian higher education. The Federal Constitution of 1988 (CF/88) (BRASIL, 1988) in article 206, the item I and in the Law of Guidelines and Bases of Education of December 20, 1996 (LDB/96) (BRASIL, 1996), in article 3, the item I establish that teaching is taught respecting the principle of equal conditions for access and permanence in school. In these terms, affirmative action policies were inserted and are understood as initiatives to promote equality and reduce social and school injustices (BAYMA, 2012).

It was from the theme related to the affirmative action contained in the CF/88 that a national repercussion was observed in the matter. In this sense, inclusive policies, in the form of social and racial quotas in public HEIs, began to be intensified in anti-racist and anti-social exclusion struggles. Quotas are understood as the type of affirmative action that reserves a percentage of places for certain social groups (black, indigenous, public schools, low income, disability...) (CAREGNATO; OLIVEN, 2017).

In Brazil, affirmative action policies in the field of education are based on the following *le gislações*: Law No. 10,639 of January 9, 2003 (BRASIL, 2003); Law 11. 645, of March 10, 2008 (BRASIL, 2008); Law No. 12,288 of July 20, 2010 (BRASIL, 2010), of the statute of racial equality; and Law No. 12,711, of August 29, 2012 (BRASIL, 2012), which deals with vacancies in public HEIs and the Federal Institutes of Education, Science, and Technology. The establishment of affirmative action policies in Brazilian public higher education in the early 2000s, through Law No. 12,711/2012, also called the Quota Law, was an important political milestone for the history of expanding access to higher education by blacks and indigenous peoples in Brazil (ARAÚJO, 2019). In these terms, it is important to note that:

[...] there are three families of inclusion actions in higher education. The first is the quota policy, or affirmative action policy, which reserves places of HEIs for students from underprivileged groups

(either by race or social criteria). The second is a scholarship policy for students from underprivileged groups, and the third is a loan policy for the payment of tuition in HEIs paid. (WAINER; MELGUIZO, 2018, p.3).

As noted in the introduction of this work, the quota policy system has its origins in the state of Rio de Janeiro, more precisely in the Universities of the State of Rio de Janeiro (UERJ) and the State University of Norte Fluminense (UENF) in the 2000s. These initiatives "drew attention when they booked 40% of the vacancies for the black and brown population, under State Law No. 3,708, of November 9, 2001, despite State Law No. 3,524, having already instituted 50% of the vacancies in state universities." (FERREIRA, 2019, p.489).

However, only in 2012, a fundamental milestone was established for quota policies through the approval of Law No. 12,711/2012. This law was regulated by Decree No. 7,824 of October 11, 2012 (BRASIL, 2012b), which defined the conditions for vacancies and established the transition of vacancies reserves in public HEIs. From Normative Ordinance No. 18, of October 11, 2012, the basic concept of law enforcement was established (CAVALCANTI, 2019).

It was finally judged constitutionally, and unanimously by the ministers of the Supreme Court (STF), on April 26, 2012. Bayama (2012, p. 331) argues that CF/88, "while consigning meritocracy for access to the highest levels of teaching, research, and artistic creation, carried out according to the capacity of each; it also welcomes equality of access and pluralism of ideas."

The reality of students in the context of higher education is inserted in a heterogeneous, complex, expanding system, socially segmented and with high social demand. Thus, access becomes the initial agenda of a discussion that extends to aspects of permanence at this level of education. This leads to the search for information that contributes to understanding the reality of students in the emerging context of higher education (FELICETTI; SANTOS, 2019).

For the authors "in the context of Brazilian higher education, once aimed only at the elite of society [...] since it is only a degree of the entire educational process, so it is also in continuous transformation." (FELICETTI; SANTOS, 2019, p. 211). With the implementation of inclusion policies in higher education, there was a significant increase in incentives for students not belonging to an elitist social class. Therefore, this change resulted in a transformation of the profile of students attending Brazilian higher education.

According to these authors:

At the same time, the students themselves when they arrive at higher education come from heterogeneous universes, with great psychosocial and socioeconomic diversity that needs to be covered in their specificities, but without departing too much from the collective point of view of the higher level. [...] Due to the new student profile, whether it is inserted in the first generation group, with special needs, or devoid of economic or cultural capital, the teaching and learning process in higher education demands new practices capable of meeting the new emerging already established in the HEI. Thus, it is up to the institutions to develop permanence policies that allow this diversity of students to continue and complete their professional training (FELICETTI; SANTOS, 2019, p. 219-221).

Considering this process of democratization of access and permanence, undertaken especially in recent decades, the profile of the student entering the Brazilian HEI can no longer be associated only with the most favored social or economic classes (PATARO, 2019). Another factor is the existence of first-generation students whose parents and family members do not have schooling, "[...] it also indicates the result of some of the policies of universalization of higher education that are on the move in Brazil in recent decades." (PATARO, 2019, p. 85).

First-generation students, in general, report the fact that they did not learn the contents addressed in the selection exams, which evidences the existence of gaps in learning. These failures in teaching and learning processes, according to Pataro (2019, p. 87), "are a predominant characteristic in first-generation students, an element that should be taken into account when thinking about permanence policies." For this author, the democratization of higher education cannot do without public policies to expand access and permanence.

According to Moura and Gonçalves (2020):

First-generation students end up being contemplated by these government policies, because often [...] their families have not attended higher education due to difficulties in accessing public institutions – concentrated in medium and large cities – or by restricting access to private institutions due to economic difficulties (MOURA; GONÇALVES, 2020, p. 5).

In general, the profile of first-generation students is composed of low socioeconomic power, who have studied in public schools, with an age above the average of higher education graduates, who work and study, and who are beneficiaries of government affirmative actions. They are students who have a disposition and a sense of personal achievement and their family is an aggregating agent for the completion of higher education.

In his work Alfinito (2009, p. 11) points out that "where compared to students of other generations, the first generation considered not having an adequate study environment during the period of high school." The author adds that these first-generation students "[...] they yearn for stability, intending to pass a public tender after graduation; declared that they were not enrolled in higher education that they would like to do." (ALFINITO, 2009, p.11). As already pointed out, in general, these students did not have their parents or family members with any type of academic experience throughout their lives. In addition, while attending high school, they were already thinking about attending higher education.

Given these notes, it would be possible to understand that affirmative action policy are essential, although they are not sufficient to correct the ills of inequality production and to fully address the deficiencies of public education, avoiding the evasion of students from higher education, especially those utilities of these affirmative policies. It is important to highlight that in Brazil, the educational system was structured and expanded by the ruling class, white and elite, which relied on the issue of meritocracy to control access to education as if meritocracy consisted of the measurement of the performance of neutral and blind students to their color, their social and economic class. It is stressed that the expansion and

democratization of access to higher education impact not only the productive structure of the country but also on the very development of the educational sector as a whole (FERREIRA, 2019).

4 ANALYSIS AND DISCUSSIONS OF RESULTS

The discussions about HD around the world, nowadays, need a more complete view that corroborates Flores (2009), "[...] in the teaching of human rights, we should not be content with knowing what the normative results of social processes were, but rather in knowing how to delimit and know these same processes in all their dimension and complexity [...]." (FLORES, 2009, p. 134).

Given the evidence pointed out, the results show that in Brazil, it has been discussed and advanced in adopting public educational policies within the scope of policies affirmed as access and remained in education superior. However, experts in the field have drawn attention to some gaps created in the procedures of government policy.

According to Furlan et al. (2020) "Brazil has been following the global trend of creating inclusive and allegedly less restrictive educational systems for the participation of people with disabilities and/or Special Educational Needs (SEN)." The recent expansion of education superior, "has provided a range of inclusive policies that have shifted the debate around the right to education to another level, now attentive to the representativeness of specific segments of society." (SENKEVIC, 2015, p. 206).

Senkevic (2015) also suggests that "according to the expansion of the democratization of supply bringing to the foreground the diversification of the student body and its conditions of permanence in the system." (SENKEVIC, 2015, p. 206). On the other hand, concerning inclusion processes, students who use Brazilian Sign Language (Libras) have faced linguistic challenges in the schooling process and all of them involve a major cultural problem: Libras is not respected throughout this process. Therefore, they generate difficulties with their acquisition and linguistic development.

In addition, there are "[...] difficulties to the initial schooling process, such as literacy issues. These are serious obstacles, responsible for damage throughout the development of these themes." (OLIVEIRA; BRACKEM and NAKANO, 2021, p. 383). Another challenge is the difficulty in minimizing the evasion of those who have their demands unmet. Meanwhile, Coimbra; Silva; Costa (2021) warn that "there is no way to define evasion without being clear which reference we depart from. Thus, we establish this as the second regulatory framework in which we will appropriate certain principles [...]". (COIMBRA; SILVA and COSTA, 2021, p. 5).

The above-mentioned authors refer to social responsibility, democratic values, and respect for difference and diversity so that a fairer society can be aimed at. The evidence pointed to an initial expectation that these data and information would portray the preambles of the inclusion processes in and education superior. With this, by performing the analysis of the data and information, it was possible to identify the relevance of the policies in which the HD demand for education is superior.

Only to exemplify and investigate the application of the reservation policy of vacancies, through the census of higher education provided by Inep, a Federal Institute of Education, Science and Technology was chosen, for analysis of its system of registration of vacancies reservations in higher education. From this Institute, a campus was chosen, *also randomly*, that had the three modalities of undergraduate courses: bachelor's degree, bachelor's, and technologists.

The selected institute is the Federal Institute of Brasilia and the Campus is located in the administrative region of Taguatinga, located 20 kilometers from the federal capital. Concerning *the* Taguatinga Campus, the resolution of authorization of undergraduate courses occurred in 2013, already in 2016, there were 79 bachelor's licenses, 139 bachelor's license plates, and 142 enrollments in the technologist. By 2020 these numbers were already 165 for the bachelor's degree, 321 for the bachelor's degree, and 306 for the bachelor's degree. Noting a significant increase in the number of enrolments, both in each modality and in total, i.e. an average increase of 30% per year in the number of enrolments (IFB, 2021).

Table 2 shows the data on vacancy reservations at *the* Taguatinga Campus of the IFB, according to the 2020 higher education census.

Table 2 - Registration in 2020 - *Campus* Taguatinga - reservation of vacancies

RESERVE OF VACANCIES - CAMPUS TAGUATINGA (IFB) 2020									
Public Network		Ethnic		A person with special needs		Social/Family Income		Other	
Fem.	Men.	Fem.	Men.	Fem.	Men.	Fem.	Men.	Fem.	Men.
87	174	45	96	2	13	31	85	2	0
261		141		15		116		2	

Source: Inep (2020).

It is noticed, therefore, that 67.6% of the students of *the Taguatinga Campus* are entering by reservation of vacancies. Of this percentage, 21.1% are female and 46.5% are male.

5 FINAL CONSIDERATIONS

Considering the entire context presented and questions: what implications of the observance of university quota policies within the heI, have been found in the implementation of these policies in education in the context of HD and citizenship? The answer is based on the bibliographic and documentary research carried out in the four databases, in which challenges and difficulties have been found in the implementation of these policies in education in the context of HD and citizenship.

Within this problem, it was possible to achieve the main objective of this study: to present aspects of university education from the perspective of HD, citizenship, and social inclusion, that is, to carry out studies on educational policies aimed at reserves of vacancies for higher education, related to HD,

citizenship and social inclusion. In addition, to observe the qualification of THE HeI as protagonists of the construction and sharing of knowledge through Research, Teaching, and Extension.

Finally, it is considered that this study presented its contour line in the data limits presented and in the variables used here. In this sense, difficulties in comparing with other data sources in the relevant periods may occur.

The variables analyzed here do not have the same connotations, being arbitrary to this study. Thus, future studies could deepen or even give new dimensions of relevant análisis HD linked to education superior; evolution of the social capital of these students according to the processes of academic inclusion and, thus, extend the understanding of the problem of the processes of affirmative policies assigned to education superior.

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