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**ARTICLE:** The End of Brazil: An Analysis of the Debate on Racial Equity on the Edges of Global Market Capitalism

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**SUMMARY:**

... He articulates all the arguments of the contra-racial equity camp: miscegenation is at the core of our national identity--hence, there has never been institutional racism in Brazil because our institutions are ruled by universalist principles such as merit; blacks are socially subordinated because they are poor--hence what we need are measures that address the main cause of (economic) social exclusion, low-quality public education. ... The first interesting aspect of the affirmative action (AA) debate is the fact that both camps agree on the story of origin of the policies and their impact on the ideological status of racial democracy and miscegenation. ... After equating racial equity policies to U.S. segregation policies, she argues that racism creates races and asks Brazilian social scientists to "renounce the use of race as an analytical instrument." ... Highlighting the political/symbolic impact of racial equity policies, the sociologist Joaze Bernardino more explicitly defends them as a means to address the socioeconomic and political effects of racial subjection against the contras' insistence that they counter the universalist core of *democracia racial*. ... That is, the demand for the correction of historical and actual racial inequalities, via racial equity policies, fulfills the double need of including black Brazilians in the privileged levels of the country's social structure--hence the centrality of social education and recognizing a separate black identity.

**TEXT:**

[\*1] **Introduction**

During the past five years or so, Brazil's racial situation has achieved unprecedented visibility due to a notable shift in the Brazilian state's racial discourse, which is now embodied in positive measures to address racial inequities. From this apparently unexpected shift, a debate has ensued--especially in media outlets and scholarly publications which, except during celebrations of historical marks, such as anniversaries of the abolition of slavery, had consistently been oblivious to racial matters. This debate reveals fissured old alliances and the creation of a rather curious one. For black Brazilian movement activists and scholars, this shift marks a belated recognition of their claims and demands; finally, they celebrate, the [\*2] view of Brazil as a racial democracy that has lost its hold and the country is at last moving towards minimizing the socioeconomic disparities sociological studies have been registering in the last thirty years or so. Besides the support of politicians and government agencies, the black Brazilian movement now also counts on financial aid from transnational funding agencies, such as the Ford Foundation and the Inter-American Development Bank. For many scholars, primarily white Brazilian social scientists and public intellectuals, racial equity policies--and especially affirmative measures in higher education--constitute an authoritarian imposition of the U.S. American racial framework

and, as such, they constitute a rejection of the prevailing Brazilian national ideology, racial democracy, and its inherent universalist bent.

From the beginning I have decided not to enter this debate on racial equity policies directly. The more I converse with black and white Brazilian friends, positioned on either side of the debate, the more I am convinced that it is a dead-end. As an active participant in the project of understanding and dismantling mechanisms of racial subjection in Brazil, it would have been all too easy to dismiss negative reactions to racial equity policies as attempts to hold on to--for the first time directly articulated--white privilege. Instead, in this paper I articulate what I think is a more intellectually and politically productive position. What I do here is to read this debate as a local response to what I call the global mandate, namely the political/symbolic restructurings demanded by today's global market capitalist economic-judicial programme. I argue that this conversation--better the lack of one--is held hostage in an ethico-political text constituted by the explanation for social subjection embraced to the framers of globalization, namely the logic of exclusion. n1

What my reading of the Brazilian response reveals is an example of the kind of reconfigurings of local political scenes demanded by the present global economic-judicial order. It shows how this struggle for the meaning of democracy, racial difference, and the preferred solutions to address racial inequities reflects the hegemony of the liberal political grammar. Because it points to how the current global mandate determined the speech about racial subjection in Brazil and elsewhere, I hope this paper opens up other possible lines of engagement for those involved in the struggle for racial justice in Brazil and elsewhere. n2 For this reason, I read the statements by [\*3] those who oppose (who I call "contras") and those who support (the "pros") racial equity policies, seeking to indicate whether and how they depart or reproduce the hegemonic liberal text, which in the past one hundred years or so has sustained strategies of racial subjection. For I am more interested in that which neither the grammar nor the vocabulary of the socio-logic of exclusion can comprehend, in what is not said because of how it might unsettle the current neo-liberal mandate and, in doing so, reveal how it produces new racial/global subaltern subjects.

## The End of Brazil

Traveling in and out of the country--during these fifteen years living in the United States--has never been a comfortable experience. Before getting my permanent residency, as a student, I had to deal with immigration officers who consistently doubted my status. Later, with my green card in hand, customs officials were the ones who always had extra questions and comments for me. When returning from a conference in Rio de Janeiro in May 2007, I was surprised with a different reception at New York's JFK Airport. As I handed my customs card to the officer, he smiled at me and said, "From Brazil, huh? Welcome home!" If that wasn't enough, he put on a serious, concerned face, and added: "You know the solution to the Brazilian gang problem is education; they should find ways to keep *favelas'* kids in school!" I confess, I didn't know how to respond to that. So I just agreed with him and got on my way to the domestic terminal to catch my flight to San Diego. As I thought about it later, I recalled that a couple of days earlier there had been a few reports in U.S. papers concerning the safety of U.S. athletes' in Rio during the Pan American games to be held in July 2007. n3 Actually, comments by one of the U.S. officials almost created [\*4] a serious diplomatic clash between the two countries. n4 While that helped me to make sense of the well-informed customs officer's comments, I remained puzzled by how such a straightforward matter has been causing so much polemic in Brazil.

There is nothing revolutionary in the argument that education constitutes a privileged means of addressing "social problems." To be sure, educating the population has been a central dimension of governmentality, the mode of production of modern subjects, which Michel Foucault has identified in his analyses of disciplinary power in post-Enlightenment Western societies. n5 Further, it is also a sociological platitude to state that unequal access to formal education constitutes a crucial marker of racial subjection. Why is it, then, that in Brazil, while all those involved in the debate on affirmative action agree upon the need to improve the access of black and brown (and economically-dispossessed) Brazilians to formal education at all levels, they are so deeply divided on the strategy to be followed? Why is it so difficult for those who oppose or defend affirmative action in higher education to realize that "particularist" (racial) and "universalist" (class) solutions are not contradictory? Why is it so difficult for both camps to acknowledge that while they spend so much time, intellect, and resources researching and writing on this particular--and crucial--issue, the vast majority of the young people who would benefit from either universalist solutions or race-based educational policies, which are economically dispossessed black and brown youths, are being systematically decimated by drug trafficking warfare and policing actions that kill and wound *favelas'* residents indiscriminately?

My goal here is not to offer definite answers to these questions for I am convinced that any response that would not be lost in the highly emotionally-charged political divide that marks this debate will have to come out of a decision to sit down and listen to each other. Though part of the problem derives from the setting up of the policy as a "quota system"

without much working been done in terms of explaining the policies' reparative goals, I think most of it results from the rhetoric chosen by those [\*5] who oppose affirmative action policies. That is, they have inflected the debate with the neo-conservative bent that prevails in the United States but have been doing so in a very Brazilian, particularistic--if I may say--way. I will explain.

In the United States, the universalist argument against affirmative action is, on many occasions, justified by a defense of color-blindness coupled with the argument view that after decades of implementation of civil rights and affirmative action policies African-Americans, Latinos, and women in general are now able to compete on an even racial ground. For the most part, it relies on the liberal trust that any use of difference in legal or government decision-making necessarily results in an unequal treatment. An ironic deployment of the 14th Amendment to the U.S. Constitution which, as recent cases brought to the Supreme Court of the United States indicate, threatens to reverse the gains ensured by its early deployment in the *Brown v. Board of Education* decision against school segregation. n6 In Brazil, on the other hand, the universalist argument does not appeal to the law, even though there have been a number of attempts to stop such policies through court mandates, the chosen strategy has been to appeal to the effects of miscegenation in the constitution of Brazil's national identity. n7

For instance, in his book *Nao Somos Racistas* (We are Not Racists)--a bestseller in a country where books are expensive because they don't sell much--Ali Kamel n8 shows how Brazilian (cultural) particularity sits at the core of the anti-racial equity argument. A social scientist-turned-journalist, Kamel positions himself as a defender of the nation against what he sees as the consolidation of a perverted vision of the country--that Brazil is a racist nation--initially deployed by sociologists in the 1950s. Naming names, Kamel does not unleash a general attack on social scientists--among them he has allies, whose statements on racial equity will be discussed throughout this paper. Describing himself against the bad [\*6] sociologists as "someone closer to the common citizen," n9 he advances a defense of miscegenation and Gilberto Freyre against what he sees as a governmental move that threatens to cause the end of Brazil. "All of a sudden," he writes, "we who were proud of our miscegenation, of our gradient of varied colors, were reduced to a nation of whites and blacks. Worst: a nation of whites and blacks where whites oppress blacks." n10 Placing Freyre as a critic of the whitening thesis, or even racial democracy, he argues that Freyre neither describes Brazil as a country where the races live without conflict nor did he ignore the atrocities of slavery. n11 What Freyre did, Kamel argues, was to recuperate the importance of blacks in the construction of our national identity, to the construction of our culture, our way of thinking, act, and speak. He celebrated the figure of the black, given to it a real dimension, its real importance. Our miscegenation, we conclude after reading Freyre, is not our stain but our main virtue." n12 In short, Kamel claims that Freyre articulates the universalist (modernist) ideal of nation: "We like to see ourselves this way, miscegenated. We like not to see ourselves as racists." n13 This last statement is crucial because it is repeated over and over again by those in Kamel's camp.

Much like Grasmci's n14 traditional intellectuals, the social scientists writing against racial equity appeal to what they call the "common" citizen view to support their argument that affirmative action policies depart from Brazil's traditions, constituting a government-imposed attempt to transform Brazil into the United States; that is, to bring institutional racism by legally creating black and white citizens where it has never existed. Consistently, Kamel articulates the Brazilian version of the neo-conservative positioning in the argument that what the defenders of affirmative action call institutional racism is merely the rule of merit. He articulates all the arguments of the contra-racial equity camp: miscegenation is at the core of our national identity--hence, there has never been institutional racism in Brazil because our institutions are ruled by universalist principles such as [\*7] merit; blacks are socially subordinated because they are poor--hence what we need are measures that address the main cause of (economic) social exclusion, low-quality public education.

Now, it would be very easy to immediately disqualify such statements as merely ideological, as the last resort of a white elite who merely engages in precisely what they accuse the pro-racial equity group of doing, that is, of adapting the U.S. American (neo-conservative) argument against affirmative action. I think, however, that doing so would be to miss the opportunity to use the Brazilian case as an example of the effects of the reconfiguring of the globality promoted by global market capitalism. What I find in this debate is the demarcation of two positions in a political/symbolic context informed by the socio-logic of exclusion, the account of social subjection that has prevailed since the early decades of the twentieth century. Nevertheless, the contra and pro positions differ precisely because each chooses distinct historical and scientific signifiers from the post-Enlightenment symbolic pool. Among them, each selects the ones it sees as truly representative of a liberal social configuration, the one ruled by the principle of universality. That is, each deploys a distinct version of the liberal text.

## On the Edges of Empire

Although the debate has emerged in the last five years or so, the promotion of racial equity policies in Brazil date from the mid-1990s--a crucial period in the consolidation of global market capitalism--during Fernando Henrique Cardoso's administration. n15 Nevertheless, it was only in 2001, at the Durban Conference, that the Brazilian government more explicitly articulated the new official racial rhetoric. n16 Since 2002, a number [\*8] of policies have been proposed or implemented, or both, which are now consolidated in the Racial Equality Statute. n17 Among those, affirmative action policies in higher education have received the greatest attention from the media and academic circles.

The first interesting aspect of the affirmative action (AA) debate is the fact that both camps agree on the story of origin of the policies and their impact on the ideological status of racial democracy and miscegenation. However, they disagree on whether racial democracy and miscegenation are adequate ontological descriptors of a democratic society. This, I think, results from how each camp articulates a particular moment of the analytics of raciality, two different sociological formulations of racial difference as the basis for social subjection.

### Contras

What I find in the contras' argumentation is the articulation of the early sociology of race relations' foundational statement that declares that racial difference, as an exterior indicator of moral difference, introduces conflict into social spaces otherwise organized according to universalist principles because it awakes among the members of the dominant racial group negative ideas about the subordinated ones, and these ideas will then become the basis for discriminatory practices. n18 Monica Grin, n19 for instance, [\*9] argues that:

Selective and focal intervention, quota systems in public institutions . . . have in race its most perverse component. In this case, anti-racism doesn't defeat, but promotes race as a necessary status ... The resulting racialization . . . mainly for the potential racial tension it carries, is treated as a residue, in a worldview that conceives the recognition of racial and ethnic difference as a measure of a society's democratic achievements. n20

The solution for racism, Grin argues--which she recognizes exists in Brazil--is an anti-racism campaign, in the media and education institutions aimed to chance the racist *habitus*, individual conscience, relationships, every day practices, labor market, and the classroom. n21 That is, for Grin--as for the Chicago School sociologists and, later, mid-twentieth century liberal sociologists, like Gunnar Myrdal--the kind of racism operating in Brazil is basically race prejudice; a set of erroneous beliefs which should be corrected through cultural (moral) re-education. In short, Grin, like other scholars in the contra camp, believes that there is racism in Brazil but not races.

For Grin and other contras this is the greatest threat to Brazilian democracy, affirmative action policies, and the Racial Equality Statute--an over-arching bill akin to the U.S. Civil Rights Act of 1964. Both assume something that does not exist in Brazil, namely, a society divided into two races, "one white, historically dominant and another black, historically excluded and oppressed." n22 When commenting on the educational and health-related measures Brazil would implement, Grin highlights not how they would address the cumulative effects of the individualized form of racism she finds operating in Brazilian society, but the negative effects it [\*10] would have on the white or Asian-Brazilian population. n23 She argues:

It is not a matter of closing one's eyes to the obvious social and regional inequalities, in which *preto* and *pardo* Brazilians, for reasons that also include prejudice, are statistically the major victims. Social indicators have revealed that *pretos* and *pardos*, they call *negros* (black), constitute the majority of impoverished segments of the Brazilian society. It is an undeniable fact, thus, that racial discrimination operates in personal relations, institutions, and in a general fashion in the labor market. n24

The problem, in her view, is that the Racial Equality Statute, and other related racial equity measures, "are positive laws, which give the state the power to intervene in civil liberties, and to racially discriminate, that is, racially classify a population and to define the benefits on the basis of skin color." n25

Generally, the contra camp privileges the argument that what is at stake is a matter of deciding on the values that should orient Brazilian society. For instance, the political scientist Fabio Wanderley Reis n26 argues that AA and other racial equity policies introduce a conflict of values. For him, while there is "inequality and discrimination in inter-racial relations," what the Brazilian wants is a society "in which a person's racial characteristics are irrelevant, one constituted as a racial democracy in the sense that all types of opportunities offered to an individual do not depend on his or her racial characteristics," one in which there is freedom in the definition of personal identity, solidarities, etc." Consistently, he minimizes the socioeconomic and political effects of racial discrimination upon the black population to highlight its social psychological impact affecting their self-esteem, which should be addressed with the social promotion of blacks. However, this should be done through moral education. "In a social context [\*11] with a long tradition of racism and racial inequality, the role of the state and other public organizations is to promote the pedagogical effort necessary for the eradication of racism," n27 Reis concludes.

What are perhaps the telling arguments deployed by the contra camp appear to be, for instance, Celia Marinho de Azevedo's n28 arguments, which seem to have been copied from a U.S. neo-conservative textbook for Brazilians. After equating racial equity policies to U.S. segregation policies, she argues that racism creates races and asks Brazilian social scientists to "renounce the use of race as an analytical instrument." n29 Further, she challenges the "objectivity" of the Brazilian census's use of three racial categories--white, *preto*, and *pardo*--to disqualify the quantitative sociological analysis based on them, because they resolve the ambiguous multiple system of classification into these categories. According to Azevedo, in daily relationships the system of classification depends on context. Yet, she recognizes that in situations of conflict, bipolarity emerges but, she adds, "we still interact with a multiple mode of classification, which in its infinite situational variation allows what Peter Fry calls 'the deracialization of individual identity.'" n30 Much like early sociologists of race relations, Azevedo only recognizes as racist statements and acts that explicitly articulate racial difference--that is, this is what I call race invocation elsewhere. n31 For instance, the early 20th century immigration policies which financed European immigrations with the explicit aim at whitening the population is not racist because it does not refer explicitly to the black population, even if they were defended because they would accelerate their disappearance. Now racial equity policies are racist because they explicitly name blacks as beneficiaries. In any event, Azevedo defines racial equity as an example of undue state intervention in the lives of individual Brazilians. Much like U.S. neo-conservatives, Azevedo sees AA policies as official measures that institute "racial preference," and advocates their replacement with universalist measures, which would benefit the Brazilian poor in general.

[\*12] For the most part, the anti-racial equity legal reform discourse avoids such explicit neo-conservative arguments to embrace the more conventional liberal argument that such policies introduce U.S. -Based legal differentiation in a social configuration (that is, Brazil's) distinguished by legal universalism. The contra camp neither dismisses the existence of "racial or color discrimination" or of racial (socio-structural) differentiation when measured by sociological indicators, nor does it deny social (cultural) differentiation, in terms of the existence of a distinct black culture--even though it argues that it distinguishes Brazilian culture. What it advances is a defense of the Brazilian (cultural) particularity, which sees these government (legal) reforms as inconsistent with the country's particular (national) culture which--an argument that does not need further elaboration here because it pervades the literature on racial subjection in Brazil--is guided by the idea that miscegenation has produced a (racially) homogenous social (symbolic, juridic, economic) configuration. The contra's link between (cultural) particularity and (juridic and symbolic) universality rehearses earlier versions of the Brazilian national discourse which, as I argue elsewhere, n32 attempted to write the country's national (cultural) particularity by constructing it as a multi-racial social space which did not present the attributes the early sociologists of race relations--the members of the Chicago School of Sociology--found troubling in the otherwise universalist U.S. social configuration.

## Pros

For the most part, the statements deployed by the members of the pro-racial equity camp were responses to the criticisms advanced by the contra camp. Accordingly, they tend to highlight the moral and psychological benefits, and the political gains these measures reflect. The political gains and psychological benefits of racial equity measures are better articulated in the sociologist Antonio Sergio Guimaraes's n33 defense of AA in higher education as a solution for a crisis in the Brazilian educational system. The turn to AA policies, he argues, constitutes a belated positive response from the Brazilian government to a shift in the black movement's discourse that, since the 1970s, has centered on institutional racism. More particularly, he argues, it recognizes how a crisis in the educational system [\*13] had negatively impacted the few black Brazilians that had access to higher education in the last forty years or so. Federal and state governments' cuts in funding for public schools at all levels has had two effects: on the one hand it has stimulated the growth of private institutions at the tertiary level (which are not known for their educational excellence); on the other

hand, it has also lowered the quality of the primary and secondary public institutions. "In the mid-1970s," Guimaraes argues, "some sectors of the Brazilian society, primarily the black middle class, felt the effects of this policy. If they wanted a college degree, black youth had to seek private institutions, obtaining degrees devalued in the labor market." n34 They were the first to denounce the discriminatory character of their lack of access to public universities. The turn to the demands for affirmative action policies was an expected outcome of this struggle. Further, he notes, poverty and low quality of primary and secondary public education have negative psychological effects upon black Brazilian college students. "Besides socioeconomic problems," Guimaraes states, "they also face others related to precarious preparation, lack of persistence and motivation, as well as low self-confidence, which limit their competitive abilities." n35 In any event, these ethico-political goals of racial equity policies are the main theme in pro-racial equity arguments. For the anthropologist Luis Cardoso de Oliveira, n36 for instance, racial equity policies and especially AA would help to correct the moral dimension of racism in Brazil, in which the lack of respect to one's dignity signified in interpersonal interactions play a crucial role. n37 The transformative potential of the "quota system," he argues, resides in that it would "provoke a change in the attitudes of social acts, which will become more critical of discrimination and moral insult. With this, it would stimulate a greater concern with respecting black citizenship rights and expand, indirectly, their opportunity to participate in the income [\*14] and public life." n38

Similarly, the economist Roberto Martins n39 also defends racial equity policies on an ethical basis, highlighting its positive effects on the Brazilian society as a whole. For Martins, these measures constitute the payment of an ethical debt, as a form of reparation, and these "active and conscious policies, will eliminate an inequality which was historically and socially constructed." n40 Such "specific policies," he argues, "promote socio-economic education racial equality using tools of positive discrimination beyond the liberal tenet of strict equality before the law." n41 Following the spirit of transformative justice, the members of the pro-camp attribute a broad corrective role to racial equity measures to have a broad corrective potential. They constitute mechanisms that address the negative effects of racism at the individual and societal level.

Highlighting the political/symbolic impact of racial equity policies, the sociologist Joaze Bernardino n42 more explicitly defends them as a means to address the socioeconomic and political effects of racial subjection against the contras' insistence that they counter the universalist core of *democracia racial*. Besides the fact that they "are public policies that seek to correct socioeconomic inequalities caused by historical and actual discrimination," n43 he argues that, embedded in AA policies, is a project of social transformation that affects black Brazilians as a whole. It consists in the construction of a racially defined social group, "of a black identity shared by the *preto* and *pardo* population and not only the black activists, and the demise of the myth of racial democracy." n44 For Bernardino, "AA policies are an instrument of positive racialization of the social relations in Brazil. As such they are a means to correct the distorted recognition, prejudice and stigmatization, and problems related not only to distributive justice, but symbolic justice, in which the correct recognition of difference has an important role." n45 That is, it is not the case of bringing about a [\*15] polarized system, but one of transforming the meaning attributed to blackness and with it to correct the negative attitudes towards black and brown Brazilians.

### The Neo-Liberal Grounds

What is absent from the above statements, however, is the larger political-economic context of this shift in government rhetoric and policies. The economist Jonas Zoninsein n46 provides the best articulation of how affirmative action policies in Brazil reflect the conception of inclusive (pluralist) democracy underlying the neo-liberal version of multiculturalism that governs the global juridical-economic programme. According to Zoninsein, AA policies, devised to promote "the socio-economic inclusion of afro-descendants in Brazil," n47 have been a response to the pressures from the black movement and Cardoso's own sociological sensibilities, and have "lead to a growing public consciousness of racism in Brazil, of the decline of the ideology of racial democracy." n48 This shift, he postulates, reflects a moment of national reconstruction in a globalized age. Now "the ideology of racial democracy" and the celebration of the *mestizo*, which sustained the failed development model, have also been recognized as failures "that limited the Brazilian government ability to execute distributive policies." n49 Strategically, Zoninsein attributes this ideological shift to Brazil's economic crisis resulting from incorrect state economic strategies and to the pressure of social movements. Yet, his views of the benefits of AA convey a market-oriented preference. "The extent of the impact of AA and of the multiethnic approach to consolidate the national reconstruction in Brazil," Zoninsein argues, "would contribute to promote and consolidate the democratic process and the growing social harmony due to AA's ability to generate distributive gains in educational opportunities, work and wealth accumulation for afro-descendants and for the positive impact of these actions in the productivity of the labor force, income levels, and investment opportunities." n50 Further, because AA are "an instrument to fight historical and actual social injustices, they can help mobilizing ethnic minorities toward an eco-

conomic policy that privileges growth, leading to low levels of unemployment and higher productivity in the private sector," and he adds [\*16] that "[t]his political effect of multiculturalism (and, in particular, of the AA policies) [is] especially important to democratic regimes that seek to confront the [harmful] effects of the macroeconomic policies resulting from the international financial integration." n51

What I find in the pro camp is an articulation of another version of the liberal text--the neo-liberal text--namely, the project of inclusive democracy, the one in which multiculturalism and the socio-logic of exclusion join the framework of the politics of representation (recognition or identity politics, if you prefer). That is, the demand for the correction of historical and actual racial inequalities, via racial equity policies, fulfills the double need of including black Brazilians in the privileged levels of the country's social structure--hence the centrality of social education and recognizing a separate black identity. A major shortcoming of this position, I think, is as it only recognizes racial subjection as an effect of the socio-logic of exclusion, the pro-camp fails to engage Brazil's particular strategy of racial subjection, namely the logic of obliteration.

### **Conclusion: What Lies Beneath?**

In *Empire*, Hardt and Negri n52 argue that the global present marks the ascension of a supranational force, Empire, which is fundamentally a juridical figure, n53 possessing two main traits, namely the centrality of the notion of rights and of an ethical order encapsulated in the idea of "just [\*17] war," under which the sovereign power acts as a policing force. Despite its problematic conceptualization of the subjugated subject--the multitude--and the possibilities and means of resistance and even the very idea that there is a sovereign global political figure, Hardt and Negri's basic description of the global present helps the analysis of the ascension of the socio-logic of exclusion to become the privileged descriptor of social injustice in this present global (ethico-juridical, economic) configuration. More particularly, it sheds light on how it impacts nation-states in the Global South that face the interlinked tasks imposed by the new global mandate, implementing legal reforms and policies that: (a) facilitate the expansion and consolidation of global market capitalism, which include trade deregulation, and labor laws and cuts in social rights, that have negatively affected; (b) institute an inclusive democracy, which a multiculturalist agenda designed to correct the effects of social exclusion, of past discrimination based on race, gender, ethnicity, etc. and a human rights agenda, which includes only those recognized in the neo-liberal agenda (cultural and civil and political rights); and, finally, (c) facilitate the deployment of internal security, the police or the armed forces, to deal with rampant growth of non-state armed groups (usually involved in the drug trafficking) in the urban and rural spaces where the economically dispossessed populations live and die in cross-fires between the police and local drug dealers. In the debate surrounding AA and other racial equity policies in Brazil, I find a possible local--at the level of the nation-state--response to this global mandate, but one that focuses upon what I think is its least problematic determination, namely inclusive democracy.

What I find in this debate is an example of how the socio-logic of exclusion precludes an attention to that other dimension of the juridic that should also become a site of political engagement. For while both agree that juridical and economic inclusion constitute the sole goal of racial justice, the contending parts fail to notice that, while they dispute the real meanings of race in Brazil, racial subjection persists in Brazil, operating as always according to the logic of obliteration. Not because this is an exclusive feature of the Brazilian social configuration, but because this has been the effect of the tools of the analytics of raciality, the political/symbolic arsenal governing globality for the last one hundred years or so. n54 Both camps in the racial equity debate share the view that the inclusion of subjugated populations is necessary to reconfigure Brazil as a democratic social configuration that is one ruled by a universalist principle. What distinguishes them are, as Kamel's arguments suggest: on the one hand, the [\*18] question of whether race or class constitute the prevailing institutional mechanism of social exclusion; and, on the other hand, the question of whether these race-based state actions are democratic. Put another way, the contra-racial equity camp sees these policies as authoritarian interventions in civil society while the pro-racial equity group conceives of them as mechanisms to ensure the democratization of Brazilian society. Here, I find that each camp articulates racial difference to delimit a distinct version of the two main modern social ontological signifiers--namely universality and particularity--necessary to specify the conceptions of democracy and equality each defends. Neither of the other two--which I find politically more challenging directives of the global mandate--figures in the political text that has (at last) introduced racial equity into the Brazilian political vocabulary and practice.

What lies beneath this struggle for the true meaning of democracy? For one thing, an effect of the global mandate itself, both camps miss the fact that miscegenation, as an eschatological (racial) signifier, already renders the realization of Brazil's racial democracy contingent upon the disappearance of blackness and africanity from Brazilians' bodies and minds. Because the debate is informed by the socio-logic of exclusion, neither position engages Brazil's particular strat-

egy of racial subjection, namely the logic of obliteration. What distinguishes the Brazilian mode of racial subjection is the centrality of miscegenation in the national discourse which has precluded racial difference from becoming a prevailing basis for the constitution of culturally distinct groups, but it has sustained a discourse and practices that constitute racial difference as a social category. That is, in the Brazilian social configuration--its juridical, economic, and symbolic levels--individuals' positions are determined by the degree of blackness in their bodies, and this is expressed by the observable socio-economic disparities that mark black Brazilians subaltern social trajectories. Beneath racial equality policies and beyond their limited portrait of the markers of subjection at work in Brazil, the logic of obliteration continues to operate, demarcating for black and brown Brazilians, as has been the case in Brazilian history, a subaltern social position not addressed by the liberal tenets organizing these camps' conceptions of equality. What I have in mind here is the pervasiveness of drug-related violence in economically dispossessed regions of the Brazilian social space where every year thousands of male and female teenagers die in gang disputes or police incursions, and who will never have access to either the benefits promised by the racial equality programs or universalist solutions.

### Legal Topics:

For related research and practice materials, see the following legal topics:

Civil Procedure  
Equity  
General Overview  
Constitutional Law  
Equal Protection  
Scope of Protection  
International Trade  
Law  
Imports & Exports  
General Overview

### FOOTNOTES:

n1 *See generally* DENISE FERREIRA DA SILVA, TOWARD A GLOBAL IDEA OF RACE (University of Minnesota Press 2007) [hereinafter SILVA, *Global Idea*] (for a discussion of how this logic account of racial subjection has been produced and articulated in early twentieth-century sociological studies of race relations.)

n2 This argument is based on the analysis developed in *Toward a Global Idea of Race*, where I argue that a particular country's articulation of racial difference in its hegemonic national narrative, and its self-construction as a political (historical) subject reflects how this signifier of human difference configures the global space. *See generally* SILVA, *Global Idea*, *supra* note 1.

n3 Rio de Janeiro was already under the spotlight due to a series of clashes between the police, the army, and drug traffickers. On the eve of the Pan-American Games, about a month before its opening, there were more clashes between Rio de Janeiro's police and drug traffickers--for the most part the result of a crackdown to reassure foreign visitors that the city would be safe. *Rio Cops Kill 13 in Sweep Before Pan Am Games*, <http://www.npr.org/templates/story/story.php?storyId=11501370> (NPR radio broadcast Jun. 28, 2007) (last visited Mar. 14, 2009); *Pan American Games open in Brazil*, <http://news.bbc.co.uk/2/hi/americas/6898137.stm> (last visited Mar. 14, 2009); *Brazil Tries to Polish Sports Resume*, N.Y. TIMES, Jul. 8, 2007, available at <http://www.nytimes.com/2007/07/08/sports/othersports/08panam.html?pagewanted=print>.

n4 What stirred more reactions, however, were comments by members of the US delegation published in The New York Times. Larry Rohter, *In Brazil, Pan Am Games Gaffe Stirs Anti-American Sentiment*, N.Y. Times, July 10, 2007, available at <http://www.nytimes.com/2007/07/10/sports/othersports/10panam.html?scp=1&sq=http://www.nytimes.com/2007/07/10/sports/othersports/&st=cse>. Rio's media outlets also covered this issue. *Americano e afastado dos Jogos Apos gafe: Comitê olimpico dos EUA encaminhou pedido formal de desculpas ao Co-Rio*, O Globo, July 7, 2007, available at <http://pan2007.globo.com/PAN/Noticias/0,,MUL65581-3853,00.html>



n5 *See generally* MICHEL FOUCAULT, *SOCIETY MUST BE DEFENDED: LECTURES AT THE COLLEGE DE FRANCE, 1975-1976* (Picador Books 2003).

n6 In the syllabus of the decision, one reads: "Segregation of white and Negro children in the public schools of a State solely on the basis of race, pursuant to state laws permitting or requiring such segregation, denies to Negro children the equal protection of the laws guaranteed by the Fourteenth Amendment-- even though the physical facilities and other 'tangible' factors of white and Negro schools may be equal." *Brown v. Board of Education*, 447 U.S. 483 (1954). In the *Grutter v. Bollinger* decision, for instance, the court did allow for the University of California's Medical School and the University of Michigan's Law School's uses of race and ethnicity as criterion for students selection but only as a measure to assure diverse student body. 539 U.S. 306, 343-44 (2003).

n7 *See* SILVA, *Global Idea*, *supra* note 1 (where I extensively discuss how the centrality of law and culture in conceptions of the national subject responds to the difference between the U.S. and Brazil's strategies of racial subjection, respectively).

n8 *See generally* ALI KAMEL, *NAO SOMOS RACISTAS* (Nova Fronteira 2006).

n9 *See* KAMEL, *supra* note 8, at 5.

n10 *Id.* at 6.

n11 *See generally* THOMAS SKIDMORE, *BLACK INTO WHITE: RACE AND NATIONALITY IN BRAZILIAN THOUGHT* (Oxford University Press 1974), CARLOS A. HASENBALG, *DISCRIMINACAO E DESIGULDADES RACIAIS NO BRASIL* (Graal 1979), and SILVA, *supra* note 1 (for a discussion of the ideological role of the whitening and racial democracy theses).

n12 *See* KAMEL, *supra* note 8, at 20.

n13 *See* KAMEL, *supra* note 8, at 90.

n14 ANTONIO GRAMSCI, *SELECTIONS FROM THE PRISON NOTEBOOKS OF ANTONIO GRAMSCI* (Quintin Hoare & Geoffrey Nowell Smith, eds. & trans., International Publishers 1971).

n15 The first initiatives of the Cardoso administration were: In November 1995, the creation of the GTI (Interministerial Working Group), responsible for the development of policies that value and promote the black population, that was followed, in May 1996, with the launching of the PNDH (National Human Rights Program), which, among other things, set forth the development of affirmative action policies seeking to give the black population access to educational opportunities at all levels of education, including universities and fields of cutting-edge technology; that same year, the think tank, IPEA (Institute for Applied Economic Research) held the seminar, "Affirmative Action: Anti-discrimination Strategies?" See Sabrina Moehlecke, *Acao afirmativa: Historia e debates no Brasil*, CAD. PESQUI. [online]. 2002, n. 117 [cited 2009-03-15], pp. 197-217, available at [http://www.scielo.br/scielo.php?script=sci\\_arttext&pid=S0100-15742002000300011&lng=en&nrm=iso](http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0100-15742002000300011&lng=en&nrm=iso).

n16 The Brazilian government document in the III Conference against racism, racial discrimination, and xenophobia, among other things, recommended affirmative action policies to expand the admission of black Brazilians in public universities. See Jonas Zoninsein, *Minorias etnicas e a economia politica do Desenvolvimento: Um novo papel para Universidades publicas como gerenciadores da acao afirmativa no Brasil?*, v. 6 *Economica* n.1, 105, 106, available at [http://www.ifcs.ufrj.br/\[Tilde\]observa/bibliografia/artigos\\_periodicos/jonas.pdf](http://www.ifcs.ufrj.br/[Tilde]observa/bibliografia/artigos_periodicos/jonas.pdf). Luiz Inacio Lula da Silva's administration nominated the first black Brazilian to the country's supreme court and created the Special Secretariat of Policies for the Promotion of Racial Equality (SEPPIR), on March 21, 2003. See Elio Gaspari, *O Supremo Tribunal Federal deu um "salto social"*, *Consultor Juridico*, Aug. 29, 2007, available at [http://www.conjur.com.br/2007-ago-29/supremo\\_tribunal\\_federal\\_deu\\_salto\\_social](http://www.conjur.com.br/2007-ago-29/supremo_tribunal_federal_deu_salto_social); Secretaria Especial de Politicas de Promocao da Igualdade Racial--SEPPIR, Presidencia da Republica--Presidencia da Republica Federativo do Brasil, [http://www.presidencia.gov.br/estrutura\\_presidencia/seppir/sobre/](http://www.presidencia.gov.br/estrutura_presidencia/seppir/sobre/) (last visited Apr. 11, 2009).

n17 See Monica Grin, *A quem serve o Estatuto da Igualdade Racial? Opiniao*, <http://txt.estado.com.br/editorias/2006/04/30/pol106674.xml> (last visited Mar. 14, 2009) (providing information and Grin's critique on Estatuto da Igualdade Racial--Senate Bill no. 3.198, of 2000--authored by the Senator Paulo Paim). In 2006, Senator Paim presented another version of the Bill to the senate--this is the one being discussed by those involved in this debate. See *Senador admite alterar Estatuto da Igualdade Racial e incluir cota social*, *FOLHAONLINE*, Sept. 7, 2006, available at <http://www1.folha.uol.com.br/folha/cotidiano/ult95u123685.shtml>.

n18 See SILVA, *Global Idea*, *supra* note 1 (for further elaboration of this argument).

n19 Monica Grin, *Experimentos em acao afirmativa: versao critica em dois tempos*, v. 6 *ECONOMICA* n.1, 145 (2004), available at [http://www.ifcs.ufrj.br/\[Tilde\]observa/bibliografia/artigos\\_periodicos/monica.pdf](http://www.ifcs.ufrj.br/[Tilde]observa/bibliografia/artigos_periodicos/monica.pdf) [hereinafter Grin, *Acao Afirmativa*].

n20 See Grin, *Acao Afirmativa*, *supra* note 19, at 151.

n21 *Id.* at 151.

n22 Monica Grin, *A Invencao (Racial) da Republica Brasileira*, INTELIGENCIA year IX n.34, 22 (2006), available at [http://www.ifcs.ufrj.br/\[Tilde\]observa/bibliografia/artigos\\_periodicos/grinM\\_invencao.pdf](http://www.ifcs.ufrj.br/[Tilde]observa/bibliografia/artigos_periodicos/grinM_invencao.pdf) [hereinafter Grin, *Invencao (Racial)*].

n23 See Grin, *Invencao (Racial)*, *supra* note 22, at 24.

n24 *Id.* at 27.

n25 *Id.* at 50.

n26 Fabio Wanderley Reis, *Democracia racial e acao afirmativa--Comentario ao artigo de Jonas Zoninsein*, v. 6 ECONOMICA n.1, 131(2004), available at [http://www.ifcs.ufrj.br/\[Tilde\]observa/bibliografia/artigos\\_periodicos/fabio.pdf](http://www.ifcs.ufrj.br/[Tilde]observa/bibliografia/artigos_periodicos/fabio.pdf).

n27 See Reis, *supra* note 26, at 132.

n28 See generally Celia Maria Marinho de Azevedo, *Cota racial e jargao policial na universidade: para onde vamos?*. *Horiz. antropol.* [online]. 2005, v. 11, n. 23 [cited 2009-03-15], pp. 222-224, available at [http://www.scielo.br/scielo.php?script=sci\\_arttext&pid=S0104-71832005000100014&lng=en&nrm=iso](http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0104-71832005000100014&lng=en&nrm=iso).

n29 Azevedo, *supra* note 28, at 221.

n30 *Id.* at 224.

n31 See generally Denise Ferreira da Silva, *Toward a Critique of the Socio-Logic of Exclusion: The Analytics of Raciality and the Production of Universality*, 7 SOCIAL IDENTITIES 421-454 (2001).

n32 See SILVA, *Global Idea*, *supra* note 1.

n33 See generally Antonio Sergio Guimaraes, *Acesso de negros as universidades publicas*, CAD. PESQUI. [online]. 2003, n. 118 [cited 2009-03-15], pp. 247-268, available at [http://www.scielo.br/scielo.php?script=sci\\_arttext&pid=S0100-15742003000100010&lng=en&nrm=iso](http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0100-15742003000100010&lng=en&nrm=iso).

n34 Guimaraes, *supra* note 33, at 251.

n35 *Id.* at 258. While he comments on, Guimaraes does not respond to the contra arguments—that affirmative action would lower educational standards, that it is racist because it benefits blacks, that it institutes the troubling dichotomy in racial classification, and that the numbers of the black population would swell as many would now identify themselves as black to have access to these programs. Instead, he offers a solution that would acquiesce them, their fears of losing ground, which is the increase in the number of seats in the public institutions of higher education.

n36 Luis Cardoso de Oliveira, *Racismo, direitos e cidadania*, ESTUD. AV. [online]. 2004, v. 18, n. 50 [cited 2009-03-15], pp. 81-93, available at [http://www.scielo.br/scielo.php?script=sci\\_arttext&pid=S0103-40142004000100009&lng=en&nrm=iso](http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0103-40142004000100009&lng=en&nrm=iso).

n37 See Oliveira, *supra* note 36, at 85.

n38 *Id.* at 87-88.

n39 Roberto Martins, *Democracia Racial e Acoes Afirmativas*, 6 ECONOMICA 163 (2004), available at [http://www.ifcs.ufjf.br/\[Tilde\]observa/bibliografia/artigos\\_periodicos/roberto.pdf](http://www.ifcs.ufjf.br/[Tilde]observa/bibliografia/artigos_periodicos/roberto.pdf).

n40 Martins, *supra* note 39, at 88.

n41 *Id.*

n42 Joaze Bernardino, *Acao afirmativa e a redissussao do mito da democracia racial no Brasil*, ESTUD. AFRO-ASIAT. [online]. 2002, v. 24, n. 2 [cited 2009-03-15], pp. 247-273, available at [http://www.scielo.br/scielo.php?script=sci\\_arttext&pid=S0101-546X2002000200002&lng=en&nrm=iso](http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0101-546X2002000200002&lng=en&nrm=iso).

n43 Bernardino, *supra* note 42, at 256.

n44 Bernardino, *supra* note 42, at 262-63.

n45 *Id.* at 263.

n46 Jonas Zoninsein, *Minorias Etnicas e a Economia Politica do Desenvolvimento*, 6 *ECONOMICA* 105-21 (2004).

n47 *Id.* at 105.

n48 *Id.* at 106.

n49 Zoninsein, *supra* note 46, at 112.

n50 *Id.* at 112.

n51 *Id.* at 113.

n52 MICHAEL HARDT & ANTONIO NEGRI, *EMPIRE* (Harvard University Press 2000).

n53 Hardt and Negri "accord special attention to the juridical figures of the constitution of Empire [because] they provide a good index of the processes of imperial constitution. New Juridical figures reveal a first view of the tendency toward the centralized and unitary regulation of both the world market and global power relations, with all the difficulties presented by such a project. Juridical transformations effectively point toward changes in the material constitution of world power and order. The transition we are witnessing today from traditional international law, which was defined by contracts and treaties, to the definition and constitution of a new sovereign, supranational world power (and thus to an imperial notion of right), however incomplete, gives us a framework in which to read the totalizing social processes of Empire. In effect, the juridical transformation functions as a symptom of the modification of the material biopolitical constitution of our societies. These changes regard not only international law and international relations but also the internal power relations of each country. While studying and critiquing the new forms of international and supranational law, then, we will at the same time be pushed to the heart of the political theory of Empire, where the problem of supranational sovereignty, its source of legitimacy, and its exercise bring into focus political, cultural, and finally ontological problems." HARDT & NEGRI, *supra* note 52, at 9.

n54 *See generally* SILVA, *Global Idea*, *supra* note 1.