Policy discourses and multi-scalar interactions in curriculum development: Institutionalizing and translating ethnicity/race issues in Brazilian education
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The Agenda-Setting Process Concerning Law 10.639: from Framing to Regulation

Introduction

This chapter focuses on the question of what discourses and multi-scalar interactions explain the uneven policy change process with regard to ethnicity/race and education in contemporary Brazil (sub-question A). Hence, two empirical questions are addressed. The first empirical question is: What arenas, actors, and events influenced the agenda-setting process concerning ethnicity/race issues in education until the moment when Law 10.639 was passed and its regulation came about? (empirical question a1). The second empirical question is: How do different actors interpret, and maintain or contest (the constitution of) this agenda and its institutionalization? (empirical question a3).

When referring to agenda-setting, I refer to the pre-approval, post-approval, and implementation events with regard to Law 10.639. In the first instance the agenda had to be set in order for the law to be proposed, passed, and regulated. In the second instance, the agenda needed to be formulated for institutional network strengthening, knowledge construction, and dissemination of the contents of the law in order to promote its implementation. I distinguish in this process five phases: the phase of campaigning against racial inequality in education; the course of the proposal of Law 10.639 in official political spheres; regulation of Law 10.639; institutional/network strengthening; and the phase of revitalization of networks and remobilization.

The first three phases of this process will be the focus of the discussion in this chapter. These phases and the significant events that directly or indirectly marked the agenda-setting process with regard to Law 10.639 until after its approval and regulation, as well as the outcomes of this process are indicated in Figure 4.1 below.

87 Parts of the contents of this chapter are based on the book chapter “Ethnic/Racial Diversity and Education Policy: the Role of the Black Movement and Multi-Scalar Processes within the Public Agenda in Brazil” (Santos & Soeterik, 2012), written together with my Brazilian supervisor Renato Emerson dos Santos (Santos, R.E.) of the Rio de Janeiro State University (published in 2012 in Verger, Novelli & Altinyelken).
Figure 4.1  Timeline Phases 1 and 2 (out of five phases) in the agenda-setting process and implementation of Law 10.639

<table>
<thead>
<tr>
<th>DATE</th>
<th>EVENT</th>
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<tbody>
<tr>
<td><strong>Start phase 1</strong></td>
<td></td>
</tr>
<tr>
<td>Beginning 1980’s onwards</td>
<td>Campaign against racial inequality in education</td>
</tr>
<tr>
<td>(continuous)</td>
<td>Increase in academic studies on racism (in education)</td>
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<tr>
<td>beginning 1980’s</td>
<td>Emergence BBM as political organization (MN-U, 1978)</td>
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<tr>
<td>1980’s</td>
<td>Creation State/Municipal commissions for tackling racial inequality</td>
</tr>
<tr>
<td>August 1986</td>
<td>National Convention Blacks for the Constitution (Brasilia)</td>
</tr>
<tr>
<td>end 1970’s - end 1980’s</td>
<td>Process of re-democratization</td>
</tr>
<tr>
<td>1988</td>
<td>New Constitution</td>
</tr>
<tr>
<td>1988</td>
<td>Creation Fundação Cultural Palmares (Brasilia)</td>
</tr>
<tr>
<td>1988-1998</td>
<td>Enactment laws with similar content to law 10.639, state/</td>
</tr>
<tr>
<td></td>
<td>municipality level</td>
</tr>
<tr>
<td>1989-1999</td>
<td>Ban use textbooks reproducing prejudice/racial discrimination,</td>
</tr>
<tr>
<td></td>
<td>municipality level</td>
</tr>
<tr>
<td>November 1995</td>
<td>Zumbi dos Palmares march/handing over ‘Program for the overcoming</td>
</tr>
<tr>
<td></td>
<td>of racism and racial inequality’ by BBM</td>
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<tr>
<td>November 1995</td>
<td>Creation ‘Inter-ministerial Working Group to Value the Black</td>
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<tr>
<td></td>
<td>Population’</td>
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<tr>
<td>1996</td>
<td>National seminar ‘Multiculturalism and Racism: the role of Affirma-</td>
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<tr>
<td></td>
<td>tive Actions in democratic states’</td>
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<tr>
<td>1996</td>
<td>President Cardoso publicly recognizes existence racism in Brazil</td>
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<tr>
<td>1997</td>
<td>Editing National Curricular Parameters on Cultural plurality and</td>
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<tr>
<td></td>
<td>sexual orientation</td>
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<tr>
<td>1998</td>
<td>Creation national policy on revision didactic books on racist</td>
</tr>
<tr>
<td></td>
<td>contents (MEC)</td>
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<tr>
<td>1999</td>
<td>Proposal project quota system for access HE institutions</td>
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<tr>
<td>2000</td>
<td>Proposal statute Racial Equality presented by deputy PT Paulo Palm</td>
</tr>
<tr>
<td>end 1990’s — 2001</td>
<td>World Conference Against Racism / global, national, regional prepar-</td>
</tr>
<tr>
<td></td>
<td>ation and participation process</td>
</tr>
<tr>
<td>end 1990’s — 2002</td>
<td>PT includes racial inequality on agenda election campaign</td>
</tr>
<tr>
<td><strong>Start phase 2</strong></td>
<td></td>
</tr>
<tr>
<td>March 1999</td>
<td>Trajectory proposal Law 10.639 in official political spheres</td>
</tr>
<tr>
<td>1999</td>
<td>PT Deputy presents project Law 10.639 in chamber of deputies</td>
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<tr>
<td>1999</td>
<td>Project Law 10.639 is shelved</td>
</tr>
<tr>
<td>April 2002</td>
<td>Law 10.639 project de-shelved, approved in chamber of deputies</td>
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<tr>
<td></td>
<td>and passed on to Senate</td>
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<tr>
<td>January 2003</td>
<td>Vetoes on and approval of Law 10.639</td>
</tr>
<tr>
<td><strong>Start phase 3</strong></td>
<td></td>
</tr>
<tr>
<td>January 2003 - June 2004</td>
<td>Regulation Law 10.639</td>
</tr>
<tr>
<td>2002</td>
<td>Election Gonçalves e Silva for seat in CNE</td>
</tr>
<tr>
<td>January 2003</td>
<td>Start PT government (president Luiz Ignacio Lula da Silva)</td>
</tr>
<tr>
<td>March 2004</td>
<td>Approval CNE advise regarding ‘Education of ethnic-race relations</td>
</tr>
<tr>
<td></td>
<td>and the teaching of Afro Brazilian and African history and culture</td>
</tr>
<tr>
<td>January 2003 onwards</td>
<td>CNE commission elaborates advise to become ‘Curriculum Directives</td>
</tr>
<tr>
<td></td>
<td>for implementation of law 10.639’</td>
</tr>
<tr>
<td>May 2003</td>
<td>Approval Curriculum Directives</td>
</tr>
<tr>
<td>June 2004</td>
<td>Approval Resolution 01/ institution Curriculum Directives</td>
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</tbody>
</table>
The analysis presented in this chapter will show how in the process of framing “alternative” discourses with regard to ethnicity/race issues in education in Brazil, projects and policies are initiated, developed and disseminated, and redeveloped by diverse actors. Directing attention to the first three stages in the process up until approval and implementation of Law 10.639, focus is on actors in the civil society arena and their discourses, and the interaction with actors and their discourses in the official political arena. As can be seen in the timeline in Figure 4.1, the three phases at some points partly overlap each other in time, since events related to the different phases occur in the same period. In order to understand this simultaneity it is useful to remember the theoretical discussion on the role of different arenas in the policymaking process presented in Chapter 2.

As highlighted in Chapter 2, the official political arena is the arena where policies are constructed as texts, and institutionalized in political institutions at different scales. However, the civil society arena is also identified as the arena where the strategy of actors acting at different scales is mainly focused on influencing the official political agenda-setting (which mostly happens in the official political arena). Several studies have shown (e.g., Rodriguez-Garavito, Barret et al., 2008:32) that social movements, as key actors in processes of counterbalancing oppression and triggering progressive social change, often play a key role in the process of inclusion of new issues on the formal political agenda. The discussion in this chapter will show that this is also the case in Brazil, when considering education policymaking concerning ethnicity/race issues. In the civil society arena the Brazilian Black Movement is identified as the main actor. Other allied actors were also identified, for example within teachers unions, advocacy institutes, academia, and non-governmental organizations (NGOs). The discussion in this chapter will show that the role of the Brazilian Black Movement was essential for the emergence of the demands regarding Law 10.639 in the first place (Phase 1). Nevertheless, it will also become clear that actions within that same arena were fundamental for the Curriculum Directives (the legal document that explains in more detail the contents of the Law) being developed (Phase 3), as well as institutional/network strengthening, knowledge construction, material elaboration, dissemination, and teacher training (Phase 4, discussed in Chapter 5), and the revitalization of networks and mobilization (Phase 5, also discussed in Chapter 5). In all these phases, and at these different scales, the Brazilian Black Movement was the main motor behind actions. In that sense it should be understood that the civil society arena played a constant role in the process.

**Framing**

When trying to understand through which processes and structures the agenda on ethnicity/race issues is constructed in contemporary Brazil, special focus is given to the diverse frames used in this process. The movements that frame ethnicity/race issues are considered “strategic producers of meaning,” and ideas are considered “dynamic resources in the movements’ struggle” (Verger & Novelli, 2012: 13). Studying frames is considered one way to grasp the process of policymaking, as it helps to understand in what way certain concepts gain legitimacy and shape a discourse that forms the basis for policies (Hajer & Laws, 2006: 259).

Hajer and Laws (2006: 264), working on policymaking and analysis, discuss frames as a type of “ordering instrument,” a conceptual tool that policy analysts use “to capture how policy actors deal with ambiguity and allocate particular significance to specific social or physical events.” As

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88 Also the discussion in Chapter 5 will focus on happenings in the civil society arena and the official political arena while Chapter 6 will mainly address the pedagogical arena.
such, a frame is an example of an instrument that can mediate between actor and structure (Hajer & Laws, 2006: 254). In social movement research, when reflecting on how social movements can be understood as actors, framing processes have also come to be regarded as one of the central dynamics in understanding the character and course of this form of social organization. According to Baud and Rutten (2004), framing refers to “the conscious strategic efforts by groups of people to fashion shared understanding of the world and of themselves that legitimate and motivate collective action.” Benford and Snow (2000: 612) describe framing as a dynamic, ongoing process of generation, diffusion, and functioning of mobilizing (and counter-mobilizing) ideas and meanings. In that sense, the concept of framing denotes “an active, processual phenomenon that implies agency and contention at the level of reality construction” (Benford and Snow, 2000: 614). Stone (1989: 281) refers to this process as the “conversion of difficulties into problems,” and argues that this conversion is “the sine qua non of political rebellion, legal disputes, interest-group mobilisation, and of moving policy problems onto the public agenda.”

The concept of framing mirrors Hay’s (2002) concepts of strategic and discursive selectivity of contexts, and processes of interpretation, formulation, and specification which are discussed in Chapter 2; actors frame new issues and create (new) causal stories, though this happens within contexts that are strategically and discursively selective. Accordingly, to understand actions of actors, such as social movements, it is essential to understand the extent to which political conduct shapes and is shaped by political context, as the environment always favors certain strategies over others as means to realize a given set of intentions or preferences (Hay, 2002a: 129).

Political Opportunity Structures
To help understand the ways in which social movements could prove successful in introducing new issues on the political agenda, I also consider the concept of political opportunity structure to be useful. Tarrow (1998) defines political opportunities as “consistent – but not necessarily formal or permanent – dimensions of the political struggle that encourage people to engage in contentious politics” and contrasts them to political constraints, which the author defines as “factors, like repression, but also authorities’ capacity to present a solid front to insurgents – that discourage contention” (Tarrow, 1998: 19-20, see also Keck & Sikkink, 1998). I understand that political opportunity structures are shaped in dialectical relation to strategic and discursive selectivity (Hay, 2002a, 2002b). Contexts in which strategies that envision to counteract racial inequality are supported and contexts that build on discourses that point to racial inequality create space (or opportunities) for the development of certain policies and practices. In this sense, each of the three arenas indicated in the theoretical model presented in Chapter 2 and the spaces where they overlap are marked by political opportunity structures; they are mediated by both alliance structures and opposition structures (Della Porta & Diani, 1999).

Building on the concepts introduced by the theories on policymaking in education and social movements, I now turn to the analysis of the agenda-setting process regarding ethnicity/race in education in Brazil. In the discussion of the three phases (the campaign against racial inequality in education, the trajectory of the proposal of Law 10.639 in official political spheres, and the regulation of Law 10.639), the role of the three arenas and the different actors active within them will be discussed. The focus is on the political opportunity structures that have existed in the past 25 years in Brazil that influenced the agenda-setting process on race in education. Not only the present, but also the significant absent/non acting-arenas and actors will be discussed. I present data that illustrate the different strategies regarding the maintenance, contestation and challenging
of this agenda. Analyzing this process of agenda setting, I discuss the outcomes of the process and present what is the actual content of the agenda and what is left off it.

4.1 Phase 1: The Campaign Against Racial Inequality in Education

The existence of Law 10.639 should be understood in the first instance as fruit of the historical campaign of the Brazilian Black Movement. The process of the proposal of the law is interwoven with the development of the Black Movement. With regard to the demands that resulted in the formulation of Law 10.639, one Black Movement activist affirms:

*It is an old claim of the Black Movement, [a movement] which always understood that the history the way it was told does not help us with anything. As such this is old news. It is the fruit of several generations. It does not have a name [attached] to it [the Law does not have one specific author]. It is the outcome of generations of activists. For example, the claim was present in the congresses of the 1950’s [held by the Black Movement]. (A10:66)*

To understand the process of the development of the agenda with regard to race issues in education in Brazil and the role of the Brazilian Black Movement, considering the way the problem of racial inequality is framed by this movement is essential. Crucial to this framing process is that the understanding of and reporting on inequalities in Brazilian society is not only related to socioeconomic/class issues, but also related to race issues. The concepts race and racism are essential in the interpretation, formulation, and specification of the problem by the Black Movement. Some authors emphasize how the Black Movement in Brazil re-signified the concept race: taking it from a biological concept to being seen as a social construct, that is, as a structuring principle in Brazilian society (see Santos, 2009). In referring to the racial character of (part of) the inequalities existing in Brazilian society, the discourse of Brazil as a racial democracy – still dominant in Brazilian society – is deconstructed.89 This way of using the concept race has been essential in the process of influencing the making of public policies, since by framing the problem in this way, the Black Movement, together with its allies, has managed to denaturalize the existence of racial inequalities in society, and has demonstrated that human action is behind this reality. In this way, this denaturalization provided the underlying rationale for race-based policymaking.90

In the fight against racism and racial inequality, education has always been an area of active struggle for the Black Movement. Education is seen therein, first of all, as a social mechanism that helps to elevate the social status of the black population (Santos, 2005: 21). In addition, the focus on education is also part of a strategy: a way to fight racism more strongly, and broaden the support for the anti-racist struggle in society in a wider sense. Education is recognized to be an instrument that can socially reproduce or counteract racism, as it is the institution in which values and ways of viewing the world and the “other” are disseminated. In line with the latter perspective, besides stimulating consciousness on the issue, education on race issues also contributes to a rise in the number of academic studies (produced by black and non-black intellectuals involved in the struggle against racism) that show the extent of racial inequalities and point out the existence of racist processes in institutions, including those in education.

89 See the discussion in Chapter 1 on the idea of racial democracy, and the significance of the concept of race in Brazil.
90 The fact that government-linked institutes exist – such as, for example, IBGE – that collect data on racial inequality, including in education (see discussion in Chapter 1), should be considered one outcome of this campaign.
This perspective, of education being part of a strategy to strengthen the fight against racism, can also be perceived regarding Law 10.639. For example, one Black Movement activist and director of an NGO argued that, apart from combating discrimination and racism, an indirect intention of the law is also to amplify the ideological basis of support for other demands of the black community such as, for instance, quota policies:

_The law in my opinion [...] touches on ideology. It changes society [...] One example: a white person, when he is educated with these values [of anti-racism presented, e.g., by Law 10.639], when tomorrow he arrives at a company and becomes manager, he will not discriminate a black person, think that he is worth less, that he is inferior [...]. Also, a person that knows the Law, that knows the history of Africa, of the black community in Brazil, he will not be against quotas._ (A5:44)

Demands with respect to education already featured on the agenda of Black Movement initiatives such as in the statutes of the Brazilian Black Front (Frente Negra Brasileira), created in 1931. In these statutes, the essential role of education in the struggle against racial inequalities is discussed (Cardoso, in Alberti & Pereira, 2007: 431). Other examples in the history of the campaign of the Brazilian Black Movement in which education also took a prominent place are the first edition of the _Quilombo_ newspaper of 1948 and the work of the Experimental Black Theater (_Teatro Experimental do Negro_) in the 1940’s and 1950’s, in which reference was made to formal education as a necessary condition for overcoming the social and racial exclusion to which black Brazilians were subjected (Alberti & Pereira, 2007; Santos, 2005).

Despite the historic valuing of education by the black community, participation in processes of formal education was perceived as not being enough to achieve social mobility. It was not only about – unequal – access to education. Through the decades, academic studies helped in analyzing and understanding the ways in which education contexts, processes, and contents also contribute to the perpetuation and reproduction of racial inequalities in education (see, e.g., Leite, 1950; Munanga, 1987; Negrão, 1987, 1988; Silva, 1987). In response to this, the Brazilian black community also started to organize itself around initiatives that promoted the critical evaluation of contents offered in education. As stated by one Black Movement activist: “The perception that education was important for social mobility has always existed in the black community, but blacks wanted education that took into consideration their history, their identity” (A10:131). Santos (2005) explains it as follows:

_When they perceived the inferiorization of blacks, or even, the production and reproduction of racial discrimination against blacks and their descendants in the Brazilian education system, the Black social movements (as well as the black activist intellectuals) started to incorporate in its education claims towards the Brazilian State, the study of the history of the African continent and of Africans, the struggle of the black Brazilians, the Afro-Brazilian culture and the black population in the shaping of Brazilian society._ (Santos, 2005: 23)

From the 1980’s onwards, the Brazilian Black Movement gradually started to have some success regarding its demands in education. In this first phase, the transformation of the relation between the state and civil society played an important role in the emergence of race as a foundation for the construction of public (education) policies. Several developments seem to have played a role here, such as the redemocratization process that started in the late 1970’s, as well as global processes. These developments will be the focus of discussion in the next section.

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91 Both were initiatives coordinated by the Brazilian intellectual and Black Movement activist Abdias do Nascimento.
4.1.1 Transformations in the Relation between State and Civil Society: the Emergence of Political Opportunities for the Brazilian Black Movement

Beginning in the late 1970’s, Brazilian society experienced a process of redemocratization, which culminated in 1985 in the transition from the military regime to democracy. The return to democracy gave rise to a wave of social activism and to a concern to improve the living standards of the majority of the population (Burity, 2006: 67). This process strengthened the need to form social coalitions as an alternative to hegemonic forces. Intertwined with the process of redemocratization, a first stage of decentralization stimulated municipal governments to become more open to interests of the urban popular sector (Melo & Rezende, 2004: 42, see also Souza, 1997). Accordingly, the decentralization processes opened up room for participation in political decision-making. Melo and Rezende (2004: 45), for example, point to the creation of thousands of municipal sectoral tripartite councils involving civil society, the state, and service providers in decision-making in this period.

Hence, it was in this context that social struggles came to the fore, new social movements were organized, and new mechanisms were created to represent sectors of civil society within the structure of the executive power (Burity, 2006: 70). Consequently, while some of civil society’s social demands began to find an environment conducive to the creation of public policies, new agendas promoted by social movements were incorporated by actors linked to the state, working within the official political arena at various scales (e.g., national, but also state and municipal).

Concerning the voicing of demands regarding racial inequality in education, in the 1980’s there were a number of crucial moments for the Black Movement in Brazil. The process of democratization also saw the Black Movement entering a process of reorganization. During the dictatorial period (1964-1985), the myth of Brazil as a racial democracy was central to the political discourse. This meant that all kinds of manifestations concerning ethnicity/race were prohibited, and all cultural or political manifestations that touched on the issue of discrimination were labeled “anti-patriotic,” “racist,” and “cheap imitations” of activism in the United States (Hanchard, 2001: 8). In this period sectors of the Black Movement formed an official political organization, culminating in the foundation of the Unified Black Movement Against Racial Discrimination (Movimento Negro Unificado, MNU) (see also Santos, 2005: 23; Alberti & Pereira, 2007).

The strengthening of the movement received another impulse when the centenary of the abolition of slavery in 1988 turned racial inequality into a national issue. In that same year the new federal constitution was being drawn up – a process also characterized by participatory processes, partly stimulated by the on-going decentralization in the country. This created an environment in which it was possible for the Black Movement to expound grievances and demands against the state. The drafting of the new constitution passed in 1988 is remembered by many Black Movement activists as an important moment of mobilization (A9:12; A10:19). In the process of constructing the new constitution, the education agenda of the Black Movement was strengthened by initiatives such as the Convenção Nacional do Negro pela Constituinte (the Black National Convention for the

92 In Appendix I the functioning of the decentralized education system in Brazil is discussed in more detail.
93 This movement was initiated by black scholars, artists, athletes and Black Movement organizations such as the Centro de Cultura e Arte Negra (the Centre of Black Art and Culture, CECAN), Grupo Afro-Latino América (Afro-Latin-American Group), Associação Cultural Brasil Jovem (Cultural Association Young Brazil), Instituto Brasileiro de Estudos Africanistas (Brazilian Institute of African Studies, IBEA), the Câmara de Comércio Afro-Brasileira (the Afro-Brazilian Chamber of Commerce) (see: http://www.geledes.org.br/areas-de-atuacao/nossas-lutas/questao-racial/afrobrasilieros-e-suas-lutas/5602-movimento-negro-unificado-miltao, accessed July 20, 2011).
Constitution), held in Brasília in August 1986, and by the Encontro Norte-Nordeste (North-Northeast meeting) held in 1988, the latter focusing specifically on education (A10:128).

As a result of demands made by the movement, the 1988 Federal Constitution for the first time included the criminalization of racial discrimination. Furthermore, a small portion of the movement’s demands regarding education was also incorporated. One demand regarding contents of education expressed by the Black Movement during the above-mentioned convention was that “the education process shall respect all the aspects of the Brazilian culture. The inclusion in the school curricula of primary, secondary and higher education, of education in the history of Africa and the history of blacks in Brazil is obligatory” (Convenção in Santos, 2005: 24). This demand, albeit in heavily summarized form, was included in the constitution. The first clause of Article 242 states: “Teaching of the History of Brazil will take into account the contributions of the different cultures and ethnicities to the formation of the Brazilian people” (Brasil, 1988: 151). Besides this clause, a more general consideration of the demand of the Black Movement can be found in Article 206 of the constitution that refers to the centrality of the principles of “equality,” “liberty,” and “pluralism” in education.

In the late 1980’s, the activities of different organizations and actors linked to the Black Movement led some state and municipal governments to create councils, commissions, coordination boards and advisory posts in order to tackle issues of racism and racial inequality. Jaccoud and Beghin (2002: 16) mention how, after the creation of the Council for Participation and Development of the Black Community in the state government of São Paulo (1984), councils also cropped up in various other states and municipalities. The authors mention the states of Bahia, Rio Grande do Sul, Minas Gerais, and Mato Grosso do Sul e Distrito Federal, and the municipalities of Rio de Janeiro, Belém, Santos, and Uberaba. Moreover, numerous coordinating bodies and Afro-Brazilian advisory posts were created around the country in this period (Jaccoud & Beghin, 2002: 16). The authors argue that the creation of these institutional bodies had a major influence on ensuing events, as they served as agents to build and develop relations between the Black Movement and the state and created a base for pressure for the Black Movement’s campaign. Regarding the council created in the state government of São Paulo in 1984, Santos (2001) illustrates how the participation of the Black Movement in the official political arena resulted in an increase in the level of efficacy of actions focused on the creation of racial equality in the state:

New political actors succeeded in imposing a new agenda, in most of the cases independent of political parties. [...] the process of amplification of participation through a juridical formalization, amplified rights and the chance to guarantee the possibility to demand these also in other secretariats, such as those of Education, Security, Work, among others. (Santos, 2001: 174)

94 Although both events were organized by the MNU, several other Black Movement entities (some linked to the MNU) participated. Before the national convention, several meetings at state level were held (Amador in Alberti & Pereira, 2007: 248). During the meeting in 1988 issues were defined that influenced the drafting of Law 10.639.


96 See Article 206 in Appendix III.

97 In the view of some Black Movement actors I spoke with, these are the core values that should guide education in order to contribute to the struggle against inequality and exclusion in general, and racism and racial inequality in education in particular (A10:019, 031).
These developments culminated in 1988 at the federal level in the creation of the *Fundação Cultural Palmares*. This government-linked foundation was given the task of formulating and implementing public policies to promote the participation of the black population in development processes.

In the same period politicians of diverse ideological tendencies in different states and municipalities across Brazil began to recognize the need to reformulate state and municipal instruments regulating the education system (Santos, 2005: 25). Consequently, even before the federal government formulated national and regional policies in this area, various municipalities introduced measures banning the use of textbooks that spread prejudice and racial discrimination. This happened, for example, in the municipalities of Salvador (1990), Belo Horizonte (1990), Rio de Janeiro (1990), and Teresina (1999) (see Santos, 2005: 26).

In addition, in some states and municipalities, fresh initiatives called for including the history of black people in Brazil and the history of the African continent in primary and secondary school curricula at state and municipal schools (Santos, 2005: 26). Offering a synthesis of these initiatives, Santos (2005: 26-33) states that measures of this kind were taken in the state of Bahia (1989), and in the municipalities of Belo Horizonte (1990), Porto Alegre (1991), Belém (1994), Aracaju (1994 and 1995), São Paulo (1996), Brasília (1996), and Teresina (1998).

### Box 4.1 State and municipal laws similar to Law 10.639 (1989-1998)

The laws of these eight localities all stressed the need to teach about Afro-Brazilian reality, emphasizing in different ways and degrees aspects such as history, culture, social condition, struggles, and resistance. The laws differ in the level of detail. For example, five of these laws focus more explicitly on the need to value the social, cultural, and political contributions of the black population to the history of Brazilian society. For instance, the second article of Law 7.685 of the municipality of Belém, capital of the Northern state of Pará, reads:

> Besides the teaching about the big events in the history of enslavement and slave trade, it is now obligatory to teach about the social condition of blacks today, about the Afro-Brazilian cultural production and the organized resistance movements that developed during Brazilian history.

(Silva Junior, 1998 in Santos, 2005: 28)

Three of the eight laws specify the school subjects in which the theme should be integrated, or emphasize the fact that the contents should be addressed in an interdisciplinary way. Moreover, four of the more detailed laws also explicitly include legislation on the contents and responsible actors with regard to in-service teacher training. Here, the laws of the municipality of Aracaju (in the Northeastern state of Sergipe) is the most detailed of the eight local laws. It calls attention to the fact that this is also the only local law that, in addition to black culture and history, also explicitly refers to indigenous demands in this regard. The first article of Law 2.221 reads:

> Herewith the preparatory course for teachers and other specialists within the municipal education system is institutionalized, envisioning to prepare them for the working with the disciplines and program contents that value the culture and history of blacks and indigenous people in Brazil.

(Silva Junior in Santos, 2005: 28)

The third article of this law, detailing the contents of the preparatory course in eight points, refers to the need among other things – concerning Afro-Brazilian history and culture – to include contents on “the forced migration of Africans to Brazil,” on “the separation of ethnic groups and resistance of the enslaved people,” on “persistence, emergence and reconstruction of the ethnic black identities in Brazil; the uprising of enslaved as a political phenomenon,” and on “the present ethnic identities of blacks in Brazil and its manifestations” (Silva Junior in Santos, 2005: 29).

In Article 5 of Law 2.251 from 1995, the municipality of Aracaju extends teacher training from the preparatory courses to seminars and debates, and emphasizes the importance of participation of civil society: “In order to qualify the teacher for his/her practices in the classroom regarding the object of this law, courses, seminars and debates within the teaching team of municipal schools will be
organized with broad participation of civil society, especially popular movements linked to the defense of the culture and contributions of the Afro-Brazilian population” (Silva Junior in Santos, 2005: 30).

Also important to highlight is the fact that all the eight laws explicitly mention the responsibility of the local state or municipal official political arena regarding the implementation of the legal instrument in some way or another. Reference is made to the importance of local authorities valuing the issue, stimulating the debate on racism and the struggle against this in general, stimulating the interdisciplinary approach of the issue, reviewing of curricula, legal regulation of the law, and teacher training. For example, Law 1.187 of the federal district of Brasília (1996), after referring to the responsibility of the Municipal Secretary regarding the revision of curricula, details in the second clause “the training of teachers and the constant pedagogical improvement needed for the implementation of the contents of Article 1 [of the same law] are the responsibility of the executive powers.” (Silva Junior in Santos, 2005: 32) In the next clause, the law details:

“[…] the executive power will realize:
I courses, seminars and debates with participation of civil society, especially popular movements linked to the preservation of Afro-Brazilian culture and contributions
II exchange with national and international organizations with experience in the valuing of blacks
III analysis of didactic material, especially bibliographic material, in order to overcome the lack of appropriate contents (Silva Junior in Santos, 2005: 32)

As becomes clear later in this chapter, these “local” developments in the late 1980’s had a major influence, and resulted, among other things, in the enactment of Law 10.639 in 2003. On some points the contents of these state and municipal laws are similar to the texts that in 2003 became the national Law 10.639. The enactment of these laws should thus be considered a step forward in the process of the democratization of education and also in the anti-racist struggle (Santos, 2005: 233).

The development of the legal instruments referred to above is thus one example of the way in which multi-scaler political processes take place concerning the process of curriculum formation with regard to ethnicity/race issues in education in Brazil. The fact that these developments did take place in some states and municipalities, yet not in others, also shows the importance of being aware of the complexities of these multi-scaler processes in Brazil.

Though it is important to recognize that these “local” developments in the late 1980’s had a major influence on ensuing events, culminating in the profusion of actions in the 2000’s. These processes that transformed the relation between the state and civil society received another impulse in the 1990’s. Besides experiencing a strengthening of democracy, the 1990’s in Latin America were also marked by globalization and the spread of neoliberal ideas and policies. In this period, in Brazil too various education reforms were influenced by the project of adjusting society to the demands of the neoliberal agenda of multilateral agencies such as the International Monetary Fund, the World Bank, and the Inter-American Development Bank. Many reforms in the field of education, introduced during the government of the Brazilian Social Democrat Party (PSDB) of President Fernando Henrique Cardoso (1995-2002), were defined by an agenda that emphasized assessment, merit, private property, and the rules of the market (Frigotto, 2003; see also Frigotto & Ciavatta, 98 As this research focuses on the state of Rio de Janeiro and specifically the municipality of Niterói, it is important to note that neither Rio de Janeiro state, nor Niterói municipality are numbered amongst the few local governments in the country that reformulated instruments regulating the education systems (see Santos, 2005: 26-32). The municipality of Rio de Janeiro instead is mentioned as one of the four local governments introducing measures to eliminate gender, racial, and social stereotyping in education, banning the use of textbooks and other material that spread prejudice and racial discrimination in 1990.
2003; Sarubi, 2005). Among other things, the neoliberal agenda stimulated a second stage of decentralization in the Brazilian education system in 1995-2002 (UNESCO, 2005: 23), which focused on redefining the responsibilities of the Union, states and municipalities, decentralizing the curriculum and the model of teacher training, and strengthening the coordinating role of the federal state (UNESCO, 2005: 24).99

Burity (2006), discussing the reforms of the Brazilian state and the development of social policies in this period, refers to a new model for the relationship between society and the state that emerged after 1995. He explains how a discourse on “over-centralization,” shared by the political right and the political left, combined with the mechanisms created for representation of sectors of Civil Society within the structure of executive power during the redemocratization process, contributed to the elaboration of this new model. In the view of the author, the Cardoso government represented an attempt to reach a compromise between the policies of structural adjustment, strongly advocated by agencies of multilateral finance in this period, and the revival of the development of social policies (Burity, 2006: 71). This compromise led to a “new discourse in the field of social policy”100 (Burity, 2006: 72). In this discourse two “rival camps”101 came together that “excluded the more traditional left and placed a premium on the transfer of responsibility to civil society, competitiveness, and the private initiative and individual interests that typify the market.” (2006: 73). In this context the non-governmental public sphere emerged as a new field in Brazil. The non-governmental organizations (NGOs) became important new social and political actors, representing a broadening of the public sphere and a larger role for society in the conduct of public affairs (Burity, 2006: 74). The state’s role regarding social policy was thereby defined as simply one of coordination and regulation, “leaving implementation to the action of the market and of civil society” (Burity 2006: 74).

A significant number of social actors in Brazil (such as labor unions, the school community, and so on) resisted the reforms taking place in education and other sectors in this period (Frigotto & Ciavatta, 2003; Sarubi, 2005). Melo and Rezende (2004) do argue, however, that in Brazil the decentralization process itself was not criticized so strongly by leftist political forces and civil society organizations as was the case in other Latin American countries in the same period. The authors argue that the empowerment of the sub-national government was also seen as one of the key rallying points of the left-wing parties, as “municipalization and the enlargement of political participation at the sub national government were pointed to as pivotal ingredients for a successful return to democracy” (Melo & Rezende, 2004: 49). Burity (2006: 76) argues that this new model characterizing the relationship between society and the state was well received by the majority of segments of civil society. He explains the general sympathy for what was being proposed by government (for example concerning decentralization) by referring to the impact of what he calls “the crisis of practical socialism,” of the welfare state, and of the attack, both nationally and internationally, through neoliberal discourse on the excessive growth of the state (Burity, 2006: 76). He clarifies:

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99 This process was legally supported by the amendment made to the National Constitution through the 1996 Education Act (Brasil, 1996).

100 Therefore Burity (2006: 71) argues: “The Cardoso administration was born under the sign of the ‘third way,’ the compromise between the discourse of neo-liberalism and social democracy.”

101 One camp represented ideas of social democracy and basic or participatory democracy and the other defended ideas on the centrality of the market as a mechanism of social coordination and regulation.
While the idea of broadening the public sphere to embrace both the state and the nonstate sectors was presented as a theoretical alternative to neoliberalism and included demands set out in the redemocratization process of the 1980s [...] the proposal has provided an opportunity at the symbolic level for the two processes to flow together. (Burity, 2006: 76)

Burity (2006: 79), referring to “the redefinition of fields of social action” in Brazil in this period, points to new and old actors adopting their respective positions and pursuing various strategies of argument, negotiation, pressure, and co-optation. This had its effect on the Brazilian Black Movement and the strategies it developed as well. The changed relation between the state and civil society, and the changed political structure and channels for participation made actors in the movement develop and adopt new strategies. In terms of the organizational format of action, it is worth highlighting the “NGO-ization” trend also present within organizations and entities linked to the Black Movement. In this case NGO-ization should be understood as part of a process of steering collective action and diverse forms of activism, which uses relations with the state as a way of achieving demands, plans, and desires (see Silva, 2004 in Santos & Soeterik, 2012).

Disputes and Alliances: the Brazilian Black Movement and the Political Left

The redefinition of fields of social action within the Black Movement was not a linear and homogenous process. Within the movement, negotiation on meanings and frames took place, and different ideas on the best strategies existed as well. In these disputes, different understandings of the relationship between civil society and the state were an important issue. Santos (2001: 12) summarizes three hypotheses with regard to the relationship between the Brazilian state and the Black Movement.

The first hypothesis is that the relationship between the state and the movement is imposed by the state and is above all characterized by support of the state to movements who in turn depend on this support. In this interpretation, it is argued that through processes of co-optation of Black Movement leaders, the autonomous manifestations of the black population are neutralized. According to this hypothesis, it is the state that defines the processes of formalization or institutionalization of demands from the movement. The second hypothesis argues the reverse: agents of movements define the process of institutionalization. The state absorbs the demands in a static way and its actions become a mere reflection of the demands formulated by a movement. The third hypothesis points to a dynamic understanding of the relationship between government and movement. None of the actors or arenas is static. It is understood that the state is also a political actor that at certain moments, regarding certain issues, enters in dialogue with political actors of the movement. This latter interpretation best fits with the analysis of the relationship between the Black Movement and the Brazilian state presented here, as it better allows considering the political negotiations established between government and organized parts of the black population, as well as for understanding negotiations happening within both arenas.

Debates on the relationship between movement and state, and disputes on how best to conduct political processes have become more intense in the Black Movement since the 1980’s (see, e.g., Santos, 2001). This development resulted in divisions within the Black Movement related to different ideas on ways to dialogue and collaborate with the state. From this period onwards, the strategy of some Black Movement-linked organizations changed from a focus on reporting on racism to a focus that incorporated the state and envisioned the construction of anti-racist public policies.
The divisions within the Black Movement in this period partly related to different views on the relationship with and possible role of left-wing political parties in strengthening the demands of the Black Movement in the official political arena. These different views are related to distinct understandings of the interrelatedness of struggles related to economic inequality (or class-related struggles) and racial inequality (or race-related struggles). In line with the analysis presented by Burity (2006), one actor describes how in this period, besides groups that were still inspired by the “traditional left” and campaigned for reaching racial equality through class struggle, another group emerged with, in the view of this actor, “a more liberal agenda that admitted that social change would not necessarily have to come through class struggle” (A9:26). In his view, this last group started to perceive that within the traditional left, because of a strong focus on class, often there was no space for discussing racial inequality102 (A9:24). The distancing of parts of the Black Movement from organized “traditional left” groups and political parties is confirmed by several actors. For example, one Black Movement activist explained why he personally is not affiliated to any (leftist) political party:

The Left in Brazil is afraid of thinking about a democracy that does not make any kind of concession to racism. For example, [they are afraid] to show how it is incompatible to affirm equality of all [citizens] while you coexist with an ideology that puts human beings in a hierarchical order, like racism does. […] The Left is afraid to think about a society like that. That is why it is not consistent when it faces these issues. (A10:74)

The accounts of several Black Movement actors made me understand that in this period the political left in Brazil was more focused on the redistributive aspects of social justice and did not critically consider the relations (and possible tensions) with the recognition-related aspects of social justice linked to the category race (see Fraser, 1995, 2005, and the discussion in Chapter 2). Some actors explain the lack of theorization on (the relation between) race and class in Brazilian left-wing political parties and organizations by referring to the European (or “Eurocentric”) orientations many left-wing political parties build on. One actor, for example, referring to the “tragedy of the Left in Brazil,” argues: “The Left absorbed a European theory, and it did not understand that it thus also assumed Eurocentric values. […] So their universe is too closed to incorporate those ahistoric people [the black and indigenous populations in Brazil]. They studied the passing of the feudal model in Europe, but they never really understood the history of Brazil. That is the tragedy of the Left in Brazil, this leaning on theories without the necessary appropriation to the own history of Brazil” (A10:174). Soares (2009) also describes how, notwithstanding the fact that several social movements and political parties like the Partido dos Trabalhadores emerged as alternatives to the traditional left in the period of the 1980’s, many of these movements inherited the influence of “western Marxism and its socialist utopia” (2009: 35). The author affirms that consequently the 1980’s in Brazil were characterized by the hegemony of a political project that focused on the majority of the working class.

Pointing to the importance of the recognition of the category race as a variable that operates in social relations, Soares (2009: 39) explains that the perspective that shows that poverty is not a homogenous process, but varies according to the overlapping of multiple differences such as race, gender, age, etc., is quite recent in Brazil (2009: 86). Until the end of the 1970’s, within the Black Movement too the approach to (the relation between) race and class was still very intuitive and lacked an extensive theoretical framework, essential for understanding the struggle against racism and racial inequalities, and the dynamics between race and class (Soares, 2009: 40, 82-83). From this

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102 The idea of tension between redistribution and recognition elements of social justice, referred to, for example, by Fraser (1995) comes to mind (see the discussion in the theoretical Chapter 2).
period onwards, sectors of the Black Movement started to explicitly problematize the relations and dominant understanding of the two concepts. This development can be explained by the slow increase in educational level of the black population starting in this period, and by their soon-to-follow intensified participation in contexts in which knowledge is constructed, such as higher education institutes and research groups.

Even though strong disputes on ideal strategies for specific struggles existed within civil society as well, from the late 1980’s onward, the political culture that valued participation established a sphere of social coordination via networks directly related to social coordination via the state. In the case of the Black Movement this enabled the encounter of the neoliberal state with activist sectors: in both the former and the latter, “single” or “local” experiences were valued and understood as concrete actions to combat society’s problems. Although the tendency of accommodating the Black Movement’s activist sectors within this form of structuring action may be open to criticism of many kinds (see, e.g., also Silva, in Santos & Soeterik, 2012), it brought fundamental changes for the emergence of affirmative action in Brazil in the 2000’s. As Santos and I pointed out (Santos & Soeterik, 2012), firstly, NGO-ization strengthened the focus of anti-racist action in relation to the state, keeping the construction of public projects and policies as a central objective. Secondly, NGO-type action “professionalized” militant sectors at the same time. As a result, although they were now required to pursue resources to sustain their activism, they gained practical knowledge about the functioning of the state and the formulation, implementation, and evaluation of policies. Consequently, the state slowly started to recognize not only the social movements’ agendas, but also the movements’ (and their activists’) capacity and store of experience and knowledge. This multiple recognition of social movements by the state also allowed movement members to perform functions inside (or alongside) the state, and also to provide parliamentary assistance. Although the participation of movements inside the state apparatus was intermittent and subject to the political, institutional, and financial fragility in which many policies were created and implemented (see, e.g., Santos 2001: 101), the stay in the state apparatus of some militant leaders helped in building the knowledge and capacity of these movements, with activists gradually learning to deal with state bureaucracy, and to navigate the institutional and political intricacies in the formulation of public policies (see Santos, I.A.A., 2006; see Santos, 2001; see also Santos & Soeterik, 2012).

Concerning the Black Movement, one example of performance of functions inside the state apparatus at national scale is the Inter-ministerial Working Group to Value the Black Population in 1995 (A9:24). This working group, which was given the task of preparing policy proposals to combat racism and racial inequality, was formed in response to demands presented by the Black Movement during the Zumbi dos Palmares March Against Racism For Citizenship and Life, the biggest demonstration ever held by the Brazilian Black Movement, which took place in Brasília in 1995 (see Figure 4.2).

For example, Santos, I.A.A., (2006: 97) describing the creation of the Black Community Participation and Development Council in São Paulo in 1984, refers to the opportunities that members of the black community had for learning “what it is to make politics on a daily basis in the state of São Paulo.” He lists in detail what activities these actors were involved in that later proved useful for the Black Movement when navigating the official political arena.

In addition to eight representatives from the Brazilian Black Movement, the working group was made up of representatives from eight ministries, alongside the secretariat of social communication of the President of the Republic.

In this demonstration, the violent death in 1695 of Zumbi dos Palmares, the leader of Quilombo dos Palmares (the biggest fugitive slave settlement during the period of legal practice of slavery in Brazil), and the following 300 years of strife were commemorated. Besides remembering the death of this historic leader, the objective of the demonstration was also the attempt to open a dialogue with government on racial inequalities still existing in society.
The discussion in this section illustrated how, paradoxically, the neoliberal prescription in the 1990’s strengthened the creation of channels for dialogue between the state and private actors, including civil society, a development that enabled the acknowledgment of social movement agendas in the official political arena. Santos (2005) points to the fact that some of the historic demands made by the Black Movement in this period were granted by the Brazilian government in subsequent years. Significant was the public recognition of the existence of racial discrimination in Brazilian society by President Fernando Henrique Cardoso in 1996. Regarding education, a number of legal instruments were created at national level from the late 1980’s onward that relate to the proposal of Law 10.639. One example is an element of the Education Act approved in 1996 (Brasil, 1996). As the process of developing the Education Act (from 1988 to 1996) counted on the strong participation of social movements, the Black Movement also presented its agenda. Although there was a great deal of polemic regarding the process of the construction of the new Education Act, and in the end on most issues the voice of social movements was ignored (see Frigotto & Chiavatta, 2003; Zanetti, 1998 and discussion in Chapter 1), some demands of the Black Movement were (at least partially) included. The fourth clause of Article 26 more or less copies Article 242 of the National

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106 When the constitution was finished, the new Education Act (Lei 9.394/96 de Diretrizes e Bases da Educação Nacional [LDB]) was one of the first law proposals considered by the Federal Chamber. The Brazilian national education system, as it exists today, is rooted in the constitution and the 1996 Education Act (see Appendix I).

107 Many social movement actors united in the National Forum in Defense of the Public School (Fórum Nacional em Defesa da Escola Pública, FNDEP), referred to in Chapter 1.

constitution (Brasil, 1988) (see discussion in section 4.1.1); However, here it specifies what the “different ethnicities and cultures” it refers to are: “The teaching of History of Brazil should take into account the contribution of different cultures and ethnicities in the formation of the Brazilian people, especially the indigenous, African and European legacy.” (Brasil, 1996: 11 author’s italics).

Besides this element in the 1996 Education Act, in 1997 curricular parameters concerning the theme of cultural plurality were published. The intention of the parameters was to promote the valuing of the black population and the cultural contributions in Brazil (Brasil, 1997). It should be mentioned, however, that – since the parameters are non-mandatory – the decision whether or not, and how to implement the contents presented in the document was left to the schools. Moreover, in 1998 a national policy on reviewing textbooks was approved which envisioned the elimination of those materials containing, representing, or encouraging racial discrimination. It was also in this period that a law proposal on the introduction of a quota system for Afro-Brazilians and other marginalized sectors of Brazilian society for admission to higher education institutes started to circulate (1999), and a proposal of a statute for racial equality was drafted by PT deputy Paulo Paim (2000).

In the final years of the government of President Fernando Henrique Cardoso (1995-2002), an increased global mobilization with regard to racial inequality made the debate on racial inequality in general, and affirmative actions in particular, gain even more momentum in the national official political arena in Brazil. This process and the factors that contributed to it are discussed in the next section.

4.1.2 Global Events and Factors, and the Strengthening of the National Education Agenda on Race in Brazil

A longstanding explanation in Brazil for the presence of race issues on the political agenda is that in Brazil an agenda developed in the United States is artificially copied or imported (cf. Bourdieu & Wacquant, 2002; see also Santos & Soeterik, 2012). The discussion in this section will illustrate, however, how the strengthening of the national education agenda on race in Brazil should be understood as the outcome of a construction of alliances between several actors in different arenas, and at different scales. These include political parties, the academic world, social movements, and international organizations. In this process the Brazilian Black Movement should be recognized as the protagonist that through its members and allies slowly convinced sectors of Brazilian society of the importance of this type of policies. As one actor stated regarding the creation of a race-based education agenda:


The author highlights that although race was not critically dealt with, but mentioned in the context of a more general defense of the right of education to all, at the time the actors involved in drafting the Education Act were at least conscious of the fact that, besides class, race was also a factor in the differentiation of educational processes and contexts. Unfortunately, in 1971, due to the political climate created by the dictatorship that excluded and prohibited any kind of manifestation of social movements in general, and of racism in particular, race issues did not appear at all in the discussion concerning the Education Act.

109 The National Curricular Parameters (Parâmetros Curriculares Nacionais, PCN) consist of a collection of documents publicized by the Brazilian government in 1997. Each document deals with a specific school subject or “transversal issue.” Schools can build on these documents when developing their curriculum; they are, however, not obliged to do so. For the level of primary education, the PCN is divided into ten volumes. Cultural plurality is discussed in Volume 10, together with the issue of sexual orientation (Brasil, 1997, see also http://portal.mec.gov.br/index.php?option=com_content&view=article&id=12640%3Aparametros-curriculares-nacionais1o-a-4o-series&catid=195%3Aseb-educacao-basica&Itemid=859).
As mentioned earlier, in the mid 1990’s the redefinition of the relation between the Brazilian state and civil society in the field of social policy and the revival of developments of social policies was accompanied by a new social discourse. Burity (2006: 78-79) explains how this resulted in an increased introduction of cross-currents such as gender, and ethnicity/race, either as variables determining the effectiveness or fairness of policies, or as requirements imposed on the executors of government programs to include specific actions and provisions. Related to these developments, it was in the mid 1990’s that the discussion on affirmative action appeared on the national agenda in Brazil.

The introduction of cross-currents such as identity, gender, ethnicity, and race to the official political agenda was, however, not a process unique to Brazil. These developments were, also at global level, linked to the processes that influenced the changing relation between state and civil society, such as development of the welfare state, and the spread of neoliberal ideas and policies mentioned earlier. Consequently, the increased consideration of issues linked to ethnicity and race on the official political agenda in Brazil should be understood as a multi-scalar process, influenced by global processes and events as well. Burity (2006: 79) highlights, for example, how in the mid 1990’s the release of international resources for Brazilian government programs by multilateral financing organizations such as the World Bank and the IMF was often conditional on the inclusion of social policy measures. Black Movement actors and scholars also describe how in 1998 the World Bank approved a huge loan for the Brazilian education sector, setting the Cardoso government as condition that “diversity” issues in education would be addressed (A1:167).

The Impulse of the Durban Conference
In Brazil, consensus exists on the fact that the emergence of public policies incorporating race issues happened to a large extent after the third World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR). This conference was held in 2001 under the auspices of the United Nations (UN) in Durban, South Africa. In Brazil, the period after the conference was characterized by the public recognition by representatives of the Brazilian official political arena of the presence of racism in Brazilian society and the essential role of the education system in its manifestation (A9:34; Almeida, 2008: 40). Soares (2009: 143) highlights the fact that the Durban conference transformed the theme of quota policies for black students at higher education institutes into an object of dispute within Brazilian society. An overall popularization and politicization of the issue of racial inequality and affirmative action took place in this period, forcing sectors of society to take a position regarding the legitimacy of these kind of policies. Referring to the “impulse” the Durban conference gave, another scholar and Black

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110 Burity (2006: 78-79) describes how the desire of government to introduce these concerns was also created by international influences (while the national processes have been discussed extensively in this section, the latter will be focus of discussion in the next section).

111 The seminar “Multiculturalism and Racism, the Role of Affirmative Actions in Democratic States,” held in 1996, in the view of participating actors had major influence on the evolution on the debate on Affirmative Action in Brazil in the 1990’s (A9: 026).

112 One actor affirms that based on the new team of professionals brought together in the Ministry of Education to work on this issue, the Secretariat for Continuing Education, Alphabetization and Diversity (SECAD) was created. The constitution and role of SECAD will be further discussed in Chapter 5.
Movement activist explains how the official position against the implementation of affirmative action, defended in the mid 1990’s by Brazilian government, was destabilized during the Durban process. He states: “Durban makes its mark concerning a change of the position of the government. It was no longer possible to work with the idea that Brazil is a racial democracy. Some kind of measure had to be taken. I believe that was one thing that motivated a change in the position of government” (A9:122).

The third WCAR should be understood as part of a UN agenda in the 1990’s in which issues were debated that increasingly became more global in character due to the fact that they reached beyond national borders in a period in which the nation state lost its role as central political unity (Soares, 2009: 144). Accordingly, the third WCAR was part of a series of UN world conferences held in this period.\(^{113}\) The objective of the UN agenda was to debate and propose recommendations for “social issues” such as those related to environment, human rights, development, and women from a global perspective. The global context in which the third WCAR took place differed from the one that motivated the first two conferences realized in 1978 and 1983, as the first two conferences focused mainly on the condemnation of apartheid (thereby focusing mainly on the political regime in South Africa). This third conference, however, had a broader agenda, including issues such as the evaluation of advances in the campaign against racism, racial discrimination and corresponding forms of discrimination, evaluation of obstacles that impede the advance of the issue in diverse contexts, and the suggestion of measures to combat expressions of racism and intolerance (Soares, 2009: 144-145; Albuquerque, 2008, see also Santos & Soeterik, 2010). In this sense the Durban conference should be understood as a historic moment of global mobilization with regard to racial inequality. With the creation of an important arena for discussion on racial injustices and policies at a global scale, nation states and multilateral organizations were now obliged to take a position on the issue.

Nevertheless, in the case of Brazil, as I argue together with Santos (Santos & Soeterik, 2012), the main impacts of the conference were not due to the declaration signed by the Brazilian government in Durban, but much more to the actions (at local/municipal, regional/state, and national scales) regarding the creation of public policies carried out by the Brazilian Black Movement during the processes that surrounded the conference. In this sense, we argued that the importance of the Durban conference needs to be understood for Brazil not so much as an event, but much more as a process (Santos & Soeterik, 2012). The “Durban process” was initiated during several regional, state, and municipal conferences in Brazil (from March 2000 to July 2001), a national conference (July 2001), and a preparatory regional conference attended by countries in North and South America and the Caribbean (Chile, December 2000), which all took place before the global event in Durban in 2001. These conferences became opportunities for the Brazilian Black Movement to develop and strengthen itself at various scales. Within this process of strengthening the movement and the increasing pressure on the state on various scales, anti-racism agendas and policies were constructed and strengthened. Giving more legitimacy at national level to the political actions of the Black Movement, the Durban process stimulated the production of new ways of understanding and approaching race issues, both within Brazilian society, and within the Brazilian Black Movement itself (Soares, 2009).

This understanding of the protagonist role of the Brazilian Black Movement is also extolled by several Black Movement actors who at the time were directly or indirectly involved in the

process. For example, one activist and scholar stated: “It is obvious that Durban helped to give an impulse [to the agenda-setting process on race in Brazil], but Durban is not the cause of the existence of [race-based] public policies in Brazil. [...] Merit should go to black activism” (A10:140).

In sum, it was a complex multi-scalar and inter-scalar process of strengthening and tensioning of race issues that emerged around the Durban conference in which the Black Movement used the existence of a global event to present its local, regional, and national agenda. The Black Movement was a key actor in constructing the anti-racist education agenda, but the effective construction of policies only became possible within a global context that strengthened the movement in its struggle. Actors point to the importance of understanding this protagonist role and the strategies used by the Brazilian Black Movement in this process (A9:122). As one actor stated:

The [black] social movement started to perceive that one way to influence the [national] agenda was precisely through [creating] external pressure on the government. Because the government had a discourse with the outside world portraying that all was marvelous, while inside [the country] policies existed that were not being realized. As such, from the moment on that the movement started to play this game of reporting to the outside world, using the Brazilian representation [during global events such as the Durban conference] for incorporation and promotion of the agenda of the Black Movement, to my view this brought important results. (A9:122)

Actors highlight the importance of understanding the dynamics within the movement, as well as the need to avoid a “mechanical reading” (A9:122) of the way in which the international agenda is incorporated by the movement. As the same actor cited earlier stated: “It is the movement that sees space on the international agenda where it can insert its own agenda [...] However it is obvious that this can not be done without alliances and compromises” (A9:122).

In that sense, the process of the Durban conference – instead of being regarded as a “top-down” process in which the global actors at the conference or the Brazilian state played the most significant role in the creation of political opportunities – should be understood as an example of how the Brazilian Black Movement used a “politics of scales” (see also Santos, R.E., 2006: 125) to create political opportunities for putting race on the agenda and make it a topic of debate in society (see also Santos, R.E., 2006; Santos & Soeterik, 2012). The concept “politics of scales” helps to clarify how a new configuration of conducting politics worked with regard to the Durban conference (Santos, R.E., 2006: 87). In this new configuration it is important to understand that power should not be understood as something found at the global, national, or local scale. Power is instead understood as “the capacity to articulate scales” (Vainer in Santos, 2006: 86). Santos emphasizes that this concept of politics of scale is essential, not only for the analysis, but also for the construction of social reality: “More than ever, reasoning power, strategies and actions centered in space and in scales are fundamental gains in the definition and imposition of projects for society and territories” (Santos, R.E., 2006: 87).

Durban was the first larger-scale “global opportunity” in which the global was also incorporated in the politics of scales used by the Brazilian Black Movement. Later on, this was followed by processes related to other global events such as the development of the agenda related to the Millennium Development Goals, the cycle of UN conferences in the 1990’s, and UNICEF’s agenda regarding children’s rights (A9:122).

Consideration of these multi-scalar processes and dynamics is essential for understanding why racial inequality was increasingly being debated and incorporated in societal and political discourses from the late 1990’s onward. However, it is important to understand that they did not
play a protagonist political role in relation to initiatives aiming to foster the inclusion of race issues on the national agenda, although global processes and actors in some cases did seem to have fulfilled a bureaucratic role (for example by financing or coordinating programs and events, and facilitating dialogue with the state) from the mid-1990’s until the beginning of the new century. Analysis shows that the frames and rationales promoted by these agencies were often distinct from those of the movement that initially campaigned for these issues. For example, while the “conditions” imposed by bodies such as the World Bank in the mid 1990’s contributed to increased debate about racial inequalities in Brazil, analysis of the document *The Costs of Discrimination in Latin America* (Patrinos, 1994), published at the time, shows how “social issues,” such as those related to ethnic/racial inequality were initially discussed with reference to investment: “education for all” is necessary for generating human and social capital (see also Rocha, 2006; Almeida, 2008). In this discourse, ethnicity/race issues are incorporated into overall discussions of development and poverty (reduction), and considered in the first place “a loss of human capital” rather than a crime (see, for example, Patrinos, 1994: 20). Consequently, no reference is made to policies (e.g., on education) as a means through which structures in society should be transformed. Even when recognizing that investment in (universal) education policies would not be enough to eradicate racial exclusion in Brazil (see Patrinos, 1994: 5, 18) – an argument implying that affirmative action measures, such as, for example, quotas, could be necessary – no argument is formulated that defends the introduction of affirmative action policies.114

The moderating role played by multilateral agencies in the construction of anti-racist education policies is well illustrated when looking at the Brazilian government program *Diversidade na Universidade* (Diversity in the University)115 developed in the aftermath of the Durban conference. One Black Movement actor and scholar116 reflected on the role played by the Inter-American Development Bank (IADB) and UNESCO in the development of this program. She explained how at the time these bodies were significant for establishing dialogue within the Ministry of Education itself (i.e., internal dialogue), in particular with the minister of education. These dialogues facilitated, for example, the solidification of the team that had to execute the program (A8:098-100). However, she also argued that in this case these “global actors” cannot be considered “essential articulators.” Her argument was as follows:

> When you ask me who the essential actors were here, my question would be: essential with regard to what? UNESCO participated in the dialogue, yet they did not manage to strengthen the theme inside their own institution. So it was much more this external dialogue with the Ministry of Education instead of also a reciprocal dialogue in which they also reflected on their own actions and evaluations within UNESCO. (A8:100)

114 As I will discuss later, in 2002 the World Bank made its negative evaluation of specific affirmative action measures for certain groups in society explicit, advising against the formulation of affirmative action policies (see, e.g., World Bank, 2002: 90).

115 This program, executed in the period between 2002 and 2006, envisioned financially supporting education projects that stimulated completing secondary education and access to higher education for socially marginalized groups. The program focused especially on the Afro-Brazilian and indigenous population. Several initiatives were financed through this program, most of them university admission preparatory courses for black and socioeconomically disadvantaged youngsters (the so-called cursos pré-vestibulares). While the IADB provided a loan of BRL 27 million for developing the program, UNESCO played a mediating role in the design and implementation of the program (A9:070) (Cavalleiro, 2008: 32; see also Almeida, 2008).

116 This actor worked in the Ministry of Education at the Secretariat for Continuing Education, Alphabetization and Diversity (SECAD), in 2004-2006.
The discussion in this section makes clear that from the late 1980’s onward tension built in Brazilian society with regard to the issue of racial inequality. The processes around the Durban conference contributed to popularization of the issue by the media, which helped make racial inequality a more prominent subject of debate. Since the late 1990’s and even more since the beginning of the new century, in different arenas and contexts discussions were taking place that were not even thinkable a decade earlier (e.g., A9: 131-133). As one actor stated: “It was much less than we wished for, but much more than we thought was possible a decade earlier” (A2:30).

However, when the discourses promoted in official political arenas (at both global and local scales) and in Brazilian public opinion in this period are considered, it becomes clear that the treatment of social issues in general, and racial inequality in particular, was similar to the discourse propagated by multilateral agencies such as the World Bank. Several studies show how in this period influential parties in Brazilian government, such as the minister of education, was still against affirmative action policies (see, e.g., Almeida, 2008; Rocha, 2006; Moehlecke, 2002). Despite the international trend of referring to ethnic/racial inequalities and considering them to be problematic, in line with discourses of bodies such as the World Bank, the dominant argument at the time in Brazilian government and mass media was that the problem of racial inequalities in education should be combated through policies designed to improve public sector education in general, and not through policies focusing on specific (e.g., ethnic/racial) groups. Not surprisingly, the main political and societal debates on the issue of racial inequality and education were restricted to debates that centered on positions pro and con regarding quota policies for black students in higher education institutions.

Analysis of a World Bank document from this period shows how this debate at the time was also promoted by the bank. While the World Bank in the mid 1990’s clearly pointed to racial inequalities as a central problem in Brazilian education (see discussion above), in 2002 it formulated a clear position against the implementation of quotas in Brazil:

Brazil has established racial quotas for recruitment processes in some federal bodies, and there are proposals to use this type of system in university entry processes. However, these quotas have at least two disadvantages: the first is the reaction and polarization they may produce, caused by “reverse discrimination”; the second concerns the difficulty of applying a racial test in Brazil, given that society is not divided into social categories based on race as in other countries. (World Bank, 2002: 90)

This statement, made in the context of the building tension surrounding the issue of affirmative action in general, and quotas in education in particular, in the aftermath of the Durban Conference, should clearly be understood as an alignment with the actors that campaigned against this type of policies in Brazil. Black Movement actors explain that at the time most powerful conveyors of resistance came mainly from the (political and academic) elite and powerful media. Specifically concerning the quota policies on higher education institutes, sectors of the white middle class in Brazil were resistant. In an interview, a Black Movement actor and scholar gives his explanation for this resistance:

117 It comes as no surprise then, that the conditional cash transfer program Bolsa Escola, one of the most influential programs addressing “social issues” related to education (which was adopted nation-wide in 2001) did not include a ethnicity/race component (Glewwe and Kassouf, 2010).
I believe that in general the middle class accepted the agenda [...]. I believe that within the middle class there is one very specific sector that did not incorporate the agenda simply because when you change rules at the universities, it is precisely the sons and daughters of these groups that will have to change... So that is the problem. (A9:131-133)

When considering the national Brazilian agenda regarding race and education in the late 1990’s and beginning of the new century, several studies (e.g., Almeida, 2008; Moehlecke, 2002; Rocha, 2006) show how in this period influential parties in Brazilian government, such as the minister of education, continued expressing ambivalence with regard to affirmative action policies. In the discourse presented by the Ministry of Education, often arguments were expressed similar to those used by multilateral agencies such as the World Bank, and the political and academic elite, and widely spread by powerful national media vehicles, such as the Rede Globo television network. Two main arguments are presented in this discourse (see, e.g., Kamel 2003, 2004, 2006): first, the idea that no racism exists in Brazil and, second, that (socioeconomic) inequalities between black and non-black Brazilians are attributed to other variables such as social class and education (see Feres, 2007: 302). Together, these arguments are clearly in line with the ideology of Brazil being a racial democracy.

The few policies designed at the time, such as the Diversity in the University program, represented a “compromise” of government between demands for affirmative action policies on the one hand, and the strong resistance still present in powerful sectors of society against these type of policies on the other. Almeida’s study (2008) on the aforementioned Diversity in the University program shows that although the program did play an important role in the development of the discussion on racial and ethnic diversity in Brazil, it could not be considered successful. The compromise the government sought between demands for affirmative action policies, and the strong resistance present in society, government, and international bodies against these types of policies meant that the program – aside from financing existing initiatives (mostly Black Movement-linked NGO ones) – did not result in the design and implementation of new anti-racist education policies, such as nationwide quota policies in education institutions that envisioned to transform the education institutions, processes, and contents in a more structural way (see also Moehlecke, 2002).

The discussion in this section described the tensions surrounding the issue of racial inequality in Brazil, building since the 1980’s, and even more so towards the late 1990’s during the Durban conference-related processes. It described how the Brazilian Black Movement used a politics of scales to take advantage and create opportunities at various scales and in various arenas to put race on the national (education) agenda. It can be concluded, that, when considering racial inequalities and in education, the main focus in the official discourses until the late 1990’s was based on a formal concept of equal opportunities. This interpretation led to a concentration on more general redistributive aspects of social justice and education (such as equal access and provision) and ignored critical considerations of the recognition aspects of social justice and education (also involving processes, contents, and power relations). With regard to the latter, the only concrete actions taken in the official political arena until the beginning of the new century were the publication of curricular parameters concerning the theme of cultural plurality in 1997, and the enactment of a national policy on reviewing textbooks in 1998. In sum, developments at the time were still a far cry from a critical reflection on race as a structuring principle in Brazilian society.

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118 At the time Paulo Renato de Souza.
119 The most prominent being the financing of the already existing university admission preparatory courses for black and socioeconomically disadvantaged adolescents and young adults (the so-called cursos pré-vestibulares).
linked to the history of colonization, and to the economic expansion of the West (see also Carneiro, 2002; Santos & Soeterik, 2012). However, the increased attention and tension in society related to the issue in Brazil influenced the debates during the 2002 election campaigns, forcing the candidates to take a stand on the issue (A9:34, see also Soares, 2009: 147). Consequently, racial inequality was a fiercely debated issue in the campaign, and in PT candidate Luiz Ignacio “Lula” da Silva’s run for office too. However, as the discussion in the next section will show, putting race issues on the PT agenda was also a process accompanied by debate and negotiation within both the PT and the Black Movement.

4.1.3 Putting Race on the PT Agenda

The Workers Party (the Partido dos Trabalhadores, PT) was created in 1980, in the period the process of transition to democracy started. The fact that both the left-wing parties and many social movements in that period questioned the status quo of Brazilian society made alliances between the two parties and the social movements strong. Della Porta and Diani (1999), emphasizing the importance of the presence of institutional allies for social movements to gain access to the decision-making process, specifically refer to left-wing political parties as possible allies of social movements, stating:

[the configuration of power on the left is particularly important for social movements. [...] as mediators between civil society and the state, the parties of the left need to mobilize public opinion and voters. For this reason they are far from indifferent to social movement pressure. (Della Porta & Diani 1999: 215)]

The creation of the PT indeed went hand in hand with the formation of alliances, including with sectors of the Brazilian Black Movement.120 Such alliances, however, were never without conflict: inclusion of race issues on the PT agenda was also accompanied by debate and struggle both within the party and within the Black Movement. This point relates to the tensions between the project defended by the “traditional left” and the Brazilian Black Movement in recent decades discussed earlier.

The Tragedy of the Left in Brazil

The tension within the political left in Brazil, regarding the understanding and theorization of the concepts class and race discussed earlier, has always been present in the PT. Soares (2009) makes an interesting comparison between the incorporation of issues related to gender and race in the party agenda. The author builds on Fraser’s work (1995, 2005) on the redistributive and recognition dimensions of justice, which explains that both race and gender issues have an economic (redistributive) and a cultural (recognition) dimension. Because of the two issues’ similarity in this sense, contrasting the politicization of the two themes in Brazil makes it possible to show the particularities present in the debate on race, and the barriers present for the incorporation of the issue by institutions and political organizations. The author shows that the visibility of inequalities related to race developed in a very different historical and political framework. In order to politicize race, the first step should be the recognition of the category race as a variable that operates in social

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120 Soares (2009: 64-67), highlighting the fact that the PT was not the only party that attracted Black Movement militants, refers to space for institutionalization of race issues in the Brazilian Democratic Movement Party (Partido do Movimento Democrático Brasileiro, PMDB) and the Democratic Labor Party (Partido Democrático Trabalhista, PDT) as well.
relations, implying a reflection on and revision of representations of the society as a whole. The latter is something that is, in the view of Soares, still quite weak in the PT project:

The politicization of issues related to gender interrogates the dominant norms regarding masculinity and problematize the role of these in the exploration, marginalization and economic exclusion of women. However it does not threaten the representation the entire society has of itself, like the problematization of race relations does. This is a difference that distinguishes the ways in which race in Brazilian society is politicized and therefore can be one of the, but not the only, explanatory element, for the different treatment of the themes of race and gender in the PT since its formation. (Soares, 2009: 39)

Other actors also refer to the “absence of a project” in the PT regarding racial inequality. For example one actor I interviewed stated:

The PT claimed so often that it had a project for Brazil. But when it took over the presidency of the republic, where was the project? They did not have a project! [...] How can you have a project without taking these issues into consideration? [...] There are some reforms, but there is no project. (A10:174)

Other accounts confirm the fact that the inclusion of race issues on the PT agenda was not due to the benevolence of government (Rocha, 2006: 62). During the last three decades, within the PT too, Black Movement activists had to fight for their cause. The struggle against racial discrimination was often incorporated in the party program only as a “related” element, as complementary to the struggles related to class, instead of as an element of exclusion that needed specific actions and policies. It was the Black Movement leaders’ campaigning within the PT that was crucial to putting the issue of racial inequality on the party’s agenda. For example, internal pressure led to the creation of the National Secretariat for the Combat of Racism in the PT in 1995. Through this secretariat, these same Black Movement leaders were involved in the inclusion of the debate on racial inequality in the PT party program for the 2002 elections, when Lula ran for president. One of the documents, part of the “Program of the Government of the Coalition of President Lula” (PT, 2002), was entitled “Brazil Without Racism.” In this document, racial inequalities in Brazil were mapped, and future actions and programs – such as affirmative action policies – were proposed. Soares highlights, however, how sometimes in the campaign the way the issue was dealt with betrayed the unfamiliarity of candidate Lula with the issue (see Soares, 2009: 147-148), causing confusion about the ideas behind and possibilities to implement race-based policies. Recognizing this fact, the author affirms (Soares, 2009) that from its start the PT campaign absorbed the predominant language used in Durban, showing an engagement with the demands of the Black Movement. The implementation of public policies against racism and discrimination became part of the program of the PT government, accompanied by a commitment to human rights and an amplification of citizenship – the document “Brazil Without Racism” being the most concrete example.

The actual reason for the approval of Law 10.639 on one of the first days of the Lula government is, however, an issue still under debate. Rocha (2006), for example, argues that the fact that Law 10.639 was approved on January 9, 2003 was actually due to the dissatisfaction of members of the Black Movement with the new setup of ministries announced by Lula when he entered office. In the context of the tension surrounding race issues built up in the beginning of the new century, agreements were made during the election campaign between the party and Black

121 Brazil sem racismo (PT, 2002).
Movement on creating a ministry that would develop public policies to combat racial exclusion in Brazil. Nonetheless, when the new president announced his ministry structure when he came into office, no such department was mentioned. Dias (2005) argues that therefore the approval of Law 10.639 on the January 9, 2003 should be understood as a strategy created by the nine-day-old government to “sidetrack” the Black Movement with new worries, namely those of the implementation of Law 10.639. The underlying motive of the approval would have been to “distract the attention” from other more structural promises made like the one concerning the creation of a special ministry. Dias states: “Herewith government succeeded, as it was not put under pressure immediately by these segments of society, something that, to my view, would cause embarrassment in this beginning of the Lula government” (2005: 59). However, due to unrelenting pressure from the Black Movement, the promised institute, the Special Secretariat for the Promotion of Racial Equality Policies (Secretaria de Políticas de Promoção da Igualdade Racial, SEPPIR), was finally created in March that same year.

Related to the sequence of events presented in the account above, it is interesting to consider how one Black Movement activist and scholar explained how he understands the dynamics regarding demands made by social movements in the official political arena and especially the role of political parties therein. While visualizing his understanding in a drawing, he stated:

> A social movement brings its claims to the institutional sphere, but in general the parties here stay somewhere between the movement and the institutions, filtering what they can or cannot have institutionalized here. The claims of blacks and indigenous, if you look at the congress, they tend to remain here [in the space of the parties, between the movement and the institutional sphere]. So, even if the party absorbs the proposal made by the social movement and brings them into the institutional sphere, no effort is made to see it also made into legislation. He does this with interests in the elections, he says that he will bring it [in the institutions], but here in the party top, in the institutional dynamic, they forget these projects. (A10:066)

At the same time, however, he expressed understanding that “it is the role of the party [...] the party takes it up, but the moment that pressure is needed inside [the institution], they do not campaign, they play a game” (A10:066).

The same actor also explained how he views the role of social movements and the strategies they should use with regard to the institutionalization of claims or demands. Referring to the Zumbi dos Palmares March referred to earlier, and the march called Zumbi + 10 held in 2005, he stated: “When we have a march, that means that the social movement, knowing about this weakness [of the party], turns directly to these institutions. [...] At these moments we ignore party mediation” (A10:66). Regarding the meaning of the Zumbi + 10 march, organized when the Lula government had almost completed its third year in power, another author affirms:

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122 The objective of the Zumbi mais dez march was similar to the objective of the march held in 1995: disseminate the debate on racism and protesting against the bad conditions of life of the majority of the black population. Also during this march a document listing various claims formulated by the Black Movement was handed over to the President of the Republic.
It was a very convincing statement that there are things which cannot be compromised on nor negotiated: autonomy and independence from political parties and governments, for example. Using our own two legs, without the support of a party, or with “generous” official help, the black population occupied the Esplanada123 [...] We are no political party. We do not have a political party. Our cause is bigger than all of them. Actually, all of them owe us, and a lot. (Vieira, 2005)

This discussion illustrates how, in the process of inclusion of race issues on the agenda of political parties such as the PT, the Brazilian Black Movement and its campaign played a protagonist role. It also illustrates that political parties themselves should be understood to be operating in an arena full of tensions and interests in which certain issues are given legitimacy and others are not. Once in government, political parties have to operate in institutions managed and operated by political elites, and have to deal with the latter’s interests. These powerful actors are often unreceptive to civil society claims and demands, especially those proposing that the “rules of the game” be revised, as race-based policies often envisage. In this regard, Santos (2008) accurately states:

There are groups in Brazil that are very strong politically, [with] very strong political discursive networks, […] especially within the middle class where they have access to economic benefits, to political benefits, educational benefits, those who have access to the university, access to discourses that are socially valued. So there are a lot of people in Brazil that fight for an equality that in reality is an equality possible within the colonial context. […] because when we start to talk about the other equality, an equality that contemplates diversity, these people feel attacked in their positions of political, economic and epistemic enunciation. So these people will be the first ones to oppose. (Santos, 2008)

As Soares (2009) already argued, referring to the barriers present for the incorporation of the issue by institutions and political organizations: the politicization of race implies a reflection on and revision of representations of the society as a whole, something not of interest to many members of these elites.

The discussion of this first phase intended to focus on the campaign against racial inequality in education. Arenas, actors, factors, and processes playing a role in this phase were highlighted; this makes it possible to understand what the political opportunity structures were that have strengthened claims regarding (putting) anti-racist education on the political (education) agenda in the official political arena since the mid 1990’s. This section discussed how several events and actors since the 1980’s have contributed to the creation of political opportunities for putting demands regarding combating racism in and through education on the official political agenda. Strengthened by the creation of the councils, commissions, coordination boards, and advisory posts referred to earlier, the Brazilian Black Movement campaign meant that at different scales of Brazilian politics, laws and regulations with content similar to Law 10.639 had already been proposed and approved before 2003, the year in which the law was enacted. Several legal instruments at state, municipal, and national level existed with goals (at least partially) similar to the ones addressed by Law 10.639. The approval of Law 10.639 at national scale in 2003 is thus example of the relative strength initiatives at local, state, and municipal scale can have in Brazil. As will be shown, on some points the contents of these state and municipal laws are similar to the text that in 2003 became national Law 10.639. Moreover, it was shown how from 2003 on, historical alliances and compromises

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123 The Esplanada is the area in Brasília where all the ministries can be found.
between the Brazilian Black Movement and the PT of Luiz Ignacio “Lula” da Silva created more institutional space for some demands to be translated into policy texts, which – as the next section will show – was what happened with Law 10.639. The discussion of Phase 2, where I concentrate on the process in the official political arena, will show that the process of drafting the text of the law and its revision and approval was also a process full of disputes, tension, and contradictions.

4.2 Phase 2: Trajectory of the Text of Law 10.639 in the Official Political Arena

The process of proposal of the contents that in 2003 became Law 10.639, and the final approval in the national political sphere was a multi-scalar process that took four years and involved many actors and arenas. The previous section highlighted that measures similar to Law 10.639 had already been taken prior to 2003 in several states and municipalities around the country. Consequently, based on these experiences, several Black Movement activists and academics, from the 1980’s on, would already present similar education projects at national level to the Senate and in the Chamber of Deputies. Although the contents of Law 10.639 already existed in claims and victories of the Black Movement at various scales of politics prior to 2003, the text of the law that was approved that year had already circulated in the political arena for four years.

4.2.1 From Approval via Vetoes to Final Draft

The final content of Law 10.639 is the result of actions of and negotiations between different actors in the official political arena in the Brazilian capital Brasília. A project written by members of the Black Movement in the state Pernambuco functioned as the first draft of the law (A10:60-61, see also Alberti & Pereira 2007: 430). This was a project presented by a federal PT deputy for the state of Pernambuco to the Chamber of Deputies on March 1999 as Law Proposal no. 259. In 2001, working as a Chief of Chamber for the next PT deputy, one Black Movement activist discovered that the project had been shelved. He explained:

I already worked with Paím [Paulo Paím] in the race relations commission in the third secretariat of the Chamber. As such, as I had experience, I knew that the ideal thing for a new deputy to do was to see what projects had been shelved. Because sometimes there are good projects and then he can quickly make use of these projects. Then I saw that Humberto Costa’s [the PT deputy for the state of Pernambuco] project had been shelved. Even though it had been approved by the Education Council, it was shelved. So then I phoned Humberto Costa and explained to him that it was in the interest of Ben-Hur [the PT deputy that succeeded Humberto Costa] to present the project again. Then he said, “That is perfect, very good.” (A10:60-61)

Subsequently, the 10.639 law proposal (Law Proposal no. 259) was approved and passed on to the Senate in April 2002. However, before the law was approved by the president of the republic, important modifications to its contents were made. The (official) author of the changes was

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124 Edson Cardoso (in Alberti & Pereira, 2007: 429), for example, refers to the initiatives of Paulo Paím in the Chamber of Deputies in 1988, of Benedita da Silva in the Senate in 1995, and of Abdias do Nascimento in the Senate in 1997 (see Alberti & Pereira 2007: 429). He explains however, how all these earlier initiatives were shelved.

125 This was Humberto Sergio Costa Lima from the PT, who was Federal Deputy for the state of Pernambuco in 1995-1999.

126 This was PT deputy Ben-Hur Ferreira.

127 Paulo Paím was Vice President of the House [casa civil] in 2003-2005.
President Lula himself, who, using his power to interdict, removed an article from the 10.639 law proposal, as well as a clause that would amend the 1996 Education Act, adding to it. It is worth having a closer look at the contents of the vetoed parts of the law proposal (see Box 4.2 below) and the justification given for these vetoes (Boxes 4.3 and 4.4 below), as – in the view of many participants in the research – the exclusion of certain items in the project reduced the potential impact of the law in education practices to a considerable extent. Hence, many actors consider the final version of the law a lightweight version of the original project.

Box 4.2  Vetoed elements of the 10.639 law proposal

Art. 26-A [...] § 3o The disciplines History of Brazil and Art Education, in secondary education, should dedicate, at least, ten percent of their year or semester program contents to the theme referred to in this Law.

Art. 79-A. The (in service) teacher training programs should build on the participation of organizations of the Afro-Brazilian movement, of universities and other research institutes that work with the issue.


The first vetoed element, the third clause of Article 26-A of the 10.639 law proposal, refers to the organization of curriculum contents. The arguments formulated against this third clause (see Box 4.3 below), were that obliging all primary and secondary schools in the country to dedicate at least ten percent of the curricular program to these contents would contradict the “regional and local peculiarities” and “social and cultural values of diverse regions and localities” around the country. Therefore, it was argued, as the clause does not “see to the public interest,” the contents should not be part of the “national base” of the curriculum. The argument was also made that this clause would undermine the role of state and municipal spheres in developing the “minimum national curriculum” as laid down in the 1996 Education Act (Law no. 9.394, December 20, 1996).

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128 Set out in Article 66 of § 1º of the Federal Constitution.
129 The author thereby scaffolds this argument by making a general reference to the federal constitution and a specific reference to Article 26 of the 1996 Education Act.
The 1988 Constitution, when legislating education, imposes clearly on the infraconstitutional legislation [legislation that is below the constitution] that it respect regional and local peculiarities. This intention of the legislation was very well set out in the first section of Article 26 of Law no. 9.394, of the 20th of December 1996, where it states: “The curricula of primary and secondary education should have a common national basis, that should be contemplated in all education systems and all education institutions, partly diversified based on the regional and local characteristics of the society, culture, economy, and citizen on question.

It seems evident that the third clause of the new Article 26-A of the 1996 Law no. 9.394 is in conflict with what is proposed in the Constitution and followed up in the first section of Article 26, as, where describes in detail the obligation for secondary education to dedicate ten percent of the program content to the mentioned theme, the referred-to clause is not in the public interest, as it [the Constitution and 1996 Law no. 9.394] observes, when determining the minimum curricula of national basis, the social and cultural values of the various regions and localities in our country.

The Constitution, in the first section of Article 211, above all affirms the participation of States and Municipalities in developing minimum national curricula, with the exception of the one outlined in Article 9, clause IV of Law no. 9.394 from 1996, that states that it is the task of the Union “to establish, in collaboration with States, the Federal District and the Municipalities, the competences and directives for preschool education, primary education and secondary education, that will guide the curricula and its minimum contents, as such that a basic common schooling is guaranteed.” This public interest was also run counter to by the cited third clause, as it simply ignores the necessary collaboration between the States and the Municipalities concerning the theme of Afro-Brazilian History and Culture.


The second vetoed element in the 10.639 law proposal, Article 79-A, refers to teacher training courses with respect to the contents of Law 10.639, and the participation of the Black Movement, universities, and other research institutes in it. The veto is justified by the argument (see Box 4.4 below) that in the 1996 Education Act no reference is made to qualification courses for teachers. Therefore, as the author of the veto argues, Article 79-A would be in conflict with the complementary Law 95 from 1998 that states that the Education Act cannot be complemented with other elements that are not already mentioned in it.
Box 4.4 Arguments formulated with regard to the veto of Article 79-A of the 10.639 law proposal

It was observed that Law no. 9.394, from 1996, does not refer to, nor mentions, in any of its articles, teacher training courses. Art. 79-A, as such, breaks the unity of the contents of the referred law and, consequently, is at odds with the norm of public interest outlined in Complementary Law no. 95 of the 26th of February, 1998, on the basis of which the law cannot be amended with new contents not already mentioned in the original (Article 7, clause II).


Analyzing the justifications given for the vetoes, it can be seen that the objections formulated in relation to the third clause of Article 26-A reflect one possible reading and use of legal tools. It represents a point of view in which ethnicity/race issues are not considered a national (priority) issue (as mentioned above: it is explicitly stated that the clause does not “acknowledge the public interest”). The argumentation of the veto implicitly indicates that the topic the law covers is considered of (more) interest in certain regions of the country with a specific population composition. The argument seems to adhere to the dominant understanding that Law 10.639 and other similar policies and legal instruments that consider ethnicity/race issues are (at least mainly) “for the blacks.” Important to note is that in this dominant discourse, while not reflecting an understanding and recognition of the social, relational, contextual, and historical meaning of ethnicity/race and color, whiteness is left out of the discussion. This analysis links up with the “political challenges” regarding the construction and implementation of Law 10.639 identified by Black Movement actors and scholars. For example one actor explains that, although at present race issues are increasingly a topic of discussion in both the official political arena and society in general, they are still not considered something “hegemonic,” as an issue that relates to the Brazilian society as a whole: “Even when race issues are being debated today in all kinds of bodies in Brazil, in their implementation within daily practice this is not considered to be something related to combating inequalities. It is not. It is still not seen as something hegemonic” (A6:24-28).130

In addition, the last argument cited regarding the veto of clause 3 shows how the contents of Law 10.639 are interpreted/represented as covering mainly (social and cultural) “values.” However, the 10.639 law proposal in the first clause of its first article clearly refers to “the study of the history of Africa and of the Africans, the struggle of the black population in Brazil, Afro-Brazilian culture, and the black citizen in the formation of the society, rescuing the contribution of the black population in the social, economic, and political areas pertinent to the history of Brazil.” (Brasil, 2003). Grouping these contents as “values,” like in relation to the third clause of Article 26-A, again shows that the contents of the law proposal is understood as only of interest to certain groups in society. Moreover, by referring to “values” the author of the veto expresses the idea that the recognition and rescue of the history, culture, contributions, and struggles of such a major portion of the Brazilian population as the Afro-Brazilian population are linked to “a particular point of view” of specific actors; the concept value is understood here as a subjective estimate of quality (Oxford Illustrated Dictionary, 1976), or as a point of view based on evaluation of and negative or positive quality and a certain degree of importance (Wikidictionary, accessed 21 December, 2010).

130 As will be seen in Chapter 6 this interpretation was also found at the school level.
Consequently, the contents of the law are not understood to be linked to “lived realities” and historical and contemporary facts that prove the cultural, social, political, and economic exclusion of Afro-Brazilians in Brazilian society. Moreover, it does not recognize the fact that curricula have always been linked to certain points of view; in the case of Brazil: a view that does not recognize or value the African and Afro-Brazilian struggles and contributions. With regard to this last issue, Black Movement actors refer to whiteness as: “[t]he hidden space. The non-visible standard, norm and esthetics.” They refer to it as dominant in many institutions, and in society in general (A1:22). In the view of these actors, one of the profound objectives of Law 10.639 would indeed be the creation of new references for understanding Brazilian society, which implies both working on the self-perception and self-esteem of the black population, as well as on the white population’s ignorance of the issue of racial inequality (A5:11).

With respect to the veto of Article 79-A, it could be stated that the identified “problem” on which the argument is based (that in Law 9394 – the 1996 Education Act – no reference is made to qualification courses for teachers) would be a question of rephrasing the article, especially as analysis of the Education Act shows that it does indeed mention professional qualification (capacitação profissional) in its “Title VI” (TÍTULO VI) that refers to the “professionals in education” (Dos Profissionais da Educação).131,132

In the view of actors familiar with the contents of the vetoes, the two vetoed elements in the 10.639 law proposal were precisely the two more tangible additions to the project, essential for its implementation. The leftover elements make the legal instrument quite general concerning implementation. This is in contrast to a number of the legal instruments that emerged at local and state levels since the late 1980’s. In the final draft of Law 10.639, goals regarding its implementation are not specified, and no reference is made to in-service training of teachers, nor to the need to reformulate the programs of higher education institutions and teacher training courses. Also, again in contrast to some of the state and municipal laws enacted in the late 1980’s and in the 1990’s, state institutions and their responsibilities regarding the implementation of the law go unmentioned. Moreover, Law 10.639 is limited in the sense it proposes it apply in the subjects arts, literature, and history.

Concerning the vetoes, the third clause was the only element in the law that regulated time spent on the contents, while Article 79-A was the only component that pointed in the first place to the importance of teacher training according to the law, and, secondly, to the role of civil society (particularly the Brazilian Black Movement) in the development of the teacher training programs. Actors specifically referred to the veto of the third clause and explain that in their view this veto made the law “unworkable” (A14:150). It is argued that since regular teacher training at universities in

131 It states: “§ 1º A União, o Distrito Federal, os Estados e os Municípios, em regime de colaboração, deverão promover a formação inicial, a continuada e a capacitação dos profissionais de magistério. (Incluído pela Lei nº 12.056, de 2009).”

In addition, in several articles and clauses terms such as in-service qualification (qualificação em serviço) training for professionals/teachers (formação de profissionais/de docentes), initial training, and continued training (formação inicial e continuada), courses (cursos), and formation programs (programas de formação) are used (Brasil 1996: 24 http://www.planalto.gov.br/ccivil_03/Leis/L9394.htm, accessed, December 12, 2010.

132 Also interesting is the fact that, in justifying this veto, no explicit reference is made to opposition to the participation of civil society (academic research centers or the Black Movement) in agenda-setting in education in itself. However, considering the historical context of policymaking in education and the related role of civil society in general, as well as the conflicts that surged in the process of drafting the new Education Act in the 1980’s and 1990’s in particular (see discussion earlier in this chapter), another rationale behind the veto of Article 79-A could be a problematization of the role of social movements in defining the curriculum in general.
many cases did not address the issue, teachers could not be expected to work with it independently (e.g., A14:150). Others referred to the fact that if the Black Movement is not given a central role in the implementation of the law (and thus in teacher training), nothing will happen. Some actors, like the author of the following quote, referred to this as a conscious strategy of those in power:

*The second article of the old project [the 10.639 law project] [...] [the one that states] that all actions and programs concerning implementation should count on help, consultancy, and participation of the Black Movement. And then Lula vetoes this article when he sanctions the legislation. Check this: by vetoing this article… check how curious this is… Why veto the participation of the Black Movement when in practice if there is no Black Movement, nothing is done anyway? Do you understand? This is the way it happens to be…* (A10:60-61)

The veto of these two more tangible additions to the project needs to be understood in relation to the fact that not only political parties but also political actors like President Lula and his team operate in an arena full of tensions and different interests. Besides the fact that some groups and actors in the official political arena might themselves not have fully incorporated or understood the frame underlying the 10.639 law proposal, it is true that tensions and interests within the political arena also mean certain issues are given legitimacy and visibility, while others are not. As will be highlighted in the next chapter (Chapter 5), at times this happens because the actors themselves do not understand the essence of the claim made by the Brazilian Black Movement and its allies; they do not see the need to address race issues in education, or an issue could simply appear too controversial. As the politicization of race implies a reflection on and revision of representations of the society as a whole (Soares, 2009) – which is something not of interest to many members of the elites in power – not all elements of policy projects are negotiable within the political arena. This seems to happen specifically with those proposals that are explicit about the allocation of institutional space and/or resources and power to minorities (in this case the black population in general, and the Brazilian Black Movement as a “minority in power” in particular). A good example in point is a quota system for the black population in higher education institutions, and the direct involvement of Black Movement organizations in related teacher-training courses.

Not all elements of policy projects are negotiable within the political arena. Therefore, some issues are stripped of their transformative jacket. Some elements pass, but this is done unobtrusively, not widely disseminating the outcomes of the policy process. Interestingly, actors affirm that, in the case of Law 10.639, after approval in its revised version, the societal debate has been much more moderate compared to the debate on quota policies. In fact, actors affirm that in this case the societal debate only started after its approval, when members of the Black Movement started to claim its implementation.

Some actors point to the vetoes to Law 10.639 as an example of an “indirect form of resistance.” While one Black Movement activist and academic explained this by referring to general characteristics of the Brazilian mentality where, to his view, direct confrontation is often avoided (A2:75), another actor referred to this as a conscious strategy of opponents “to complicate without direct attack” (A1:14). Comparing resistance to quota policies and Law 10.639, he affirmed:

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133 In this case this actor referred to the transformation of Law 10.639 into Law 11.645 in 2008 as one example of a “complication without direct attack” (A1:014). As will be discussed in Chapter 5, the enactment of Law 11.645 in 2007 was an answer to a claim of the indigenous movement that the teaching on indigenous history and culture should also be included in the national curricula.
It is much more difficult to attack the proposal of Law 10.639 as it does not have to do with merit [like quota policies do], and there is no legal aspect. It could be worked with purely on an intellectual level, in theorizations. And that is very difficult to oppose politically. It should be a confrontation with ideas, and there is not enough accumulation of knowledge on the epistemologies as well as on the different interpretations of Brazil [...] That is why people who are against Law 10.639 do not look for direct confrontation like those who are against quotas. (A1:14)

Reading the approved version of the law shows that of the four remaining elements the first two refer (in a general way) to the contents the law promotes (the what), the third describes briefly and superficially in what form the law should be implemented in the school (the how), and the fourth states that the 20th of November should be included on the school calendar as National Black Consciousness Day (a specification of the how). It should be emphasized that where the law briefly and superficially describes in what form it should be implemented (Article 26-A, clause 2), the text of the law contradicts itself by stating on the one hand that the contents should be offered “throughout the whole curriculum,” while also stating that this should be done “specifically in the subject areas of arts education, literature, and Brazilian history” (Brasil, 2003). The veto of the two elements contributed to creating a law that is not very specific, and easy to interpret and implement in different ways. While not all actors refer to (and seem to have knowledge of the existence of) the vetoes or their justification, there is a great deal of criticism regarding the final text of the law. Critique mainly focuses on the contradiction in the text of clause 2 of Article 26-A. It is argued that this contradiction will lead to more vagueness and confusion in the attempts at implementing the law (e.g., A14).

The discussion of this second phase illustrates that the process of the proposal of the law project and development of the text of the law, as well as the process of approval in the official political arena, were processes in which several actors, from distinct sub-arenas, with different points of view, and various (conflicting) interests played a role. In the political arena disputes also had to be fought out. The result of this process is a text that is not internally coherent and clear on all issues. Consequently, the approval of the law is considered by many activists to be just one moment in the long and difficult process of constructing a curriculum around race issues. This is apparent since soon after this happened another process of mobilization for an effective implementation of the law started. As one actor put it, the enactment of the law represents the end of a process of historical struggle of the Brazilian Black Movement, while at the same time it is the beginning of another struggle, that is “the process of mobilization for an effective implementation of Law 10.639” (A9:34). The beginning of this new process is part of what I identify as the third phase in which an advice written by the National Education Council, the Curriculum Directives and Resolution, was formulated and approved.

4.3 Phase 3: National Regulation of Law 10.639

When a new education law is approved in Brazil, it is the task of the National Education Council (CNE) to draft a resolution that explains how the law should be implemented. Resolutions are often preceded by an advice written by the National Education Council, which details the contents of the law. The advice in some cases becomes part of the National Curriculum Directives. Accordingly, it is important to consider these three legal processes when investigating agenda-setting on and processes of implementation of education policies in Brazil.
4.3.1 From Advice to National Curriculum Directives

As laid down in the Brazilian 1988 Federal Constitution,\textsuperscript{134} it is the task of the National Education Council to develop the National Curriculum Directives (Diretrizes Curriculares Nacionais, DCNs). National Curriculum Directives envision to be normative dimensions that guide basic education throughout the country by orienting curricular planning of schools and the education systems.\textsuperscript{135} The importance of the National Curriculum Directives is also affirmed in the 1996 Education Act that states that it is the task of the Union to “define, in collaboration with the States, the Federal District and the Municipalities, competences and directives for preschool education, primary education and secondary education, that will guide the curricula and the minimum contents, in order to assure a common basic education”\textsuperscript{137} (Brasil, 1996: 4).

To gain insight in the process of regulation of Law 10.639 by the National Education Council, it is important to know that fifty percent of the twenty-four council members that make up the National Education Council are elected by members of organized civil society linked to the education arena, while the other fifty percent are appointed by the President of the Republic. In addition, it is determined by law\textsuperscript{138} that council members should come from different regions of the country, and should be linked to diverse levels and types of education. Furthermore, the chosen council members need to be Brazilians of “notable intelligence” that provided “good service” to education, to science, and to culture.

In the 1990’s a movement started that campaigned for representation of the Brazilian black community in the National Education Council (A18:10). Lobby pressure on the minister of education,\textsuperscript{139} internal negotiations, and debate within the Black Movement took place (A14:44). In 2002 professor Petronilha Beatriz Gonçalves e Silva, a well-known Brazilian scholar and Black Movement activist working in the field of education and race relations, was appointed to the National Education Council by the Brazilian Black Movement (A9:43).\textsuperscript{140}

As reported by Pestana (undated), in the same year that Silva became a council member, she received reports from parents and other involved actors on racism in education institutions; the demands of the Black Movement then intensified. Subsequently she requested the National Education Council to take a stand on education and ethnic/racial relations. In addition, she invited Black Movement activists to participate in the public meetings held by the council (A9:034). Due to this pressure, a commission was formed within the National Education Council. This commission consulted several actors (among others actors from the Brazilian Black Movement, individual

\textsuperscript{134} Article 22, clause XXIV (Brasil, 1988).

\textsuperscript{135} The National Curriculum Directives differ from the National Curricular Parameters (PCNs) referred to above, in the sense that the National Curriculum Directives are laws, while the PCNs are only curricular references and not laws.

\textsuperscript{136} In addition to the directives discussed in this section, at the time of this project there were another four curriculum directives: 1) the National Curriculum Directives for preschool education, 2) the National Curriculum Directives for primary education, 3) the National Curriculum Directives for secondary education, and 4) the National Curriculum Directives for teacher education.

\textsuperscript{137} However, together with other statements, the formulation of this statement was also intensely discussed at the time the new Education Act was being drafted in 1996. Some authors still argue that, although the establishment of directives and parameters for education is justified with reference to the “minimum contents” guaranteed in the National Constitution, the directives and parameters and especially the processes in which these are developed show an “excessive centralization of decisions [in general and with respect to curriculum in particular] in the federal government” (Bonamino & Martínez, 2002: 373, see also Azanha, 1996).

\textsuperscript{138} Law 9.131 of 1995.

\textsuperscript{139} At the time Paulo Renato Souza.

\textsuperscript{140} She was succeeded by Wilson Matos, a scholar and Black Movement Activist linked to the Federal University of Bahia, and subsequently by Nilma Lino Gomes, a Black Movement activist linked to the Universidade Federal de Minas Gerais, who took over in 2010.
activists, state and municipal education councils, teaching professionals with experience in working with the theme, and parents of pupils) using a survey. The outcomes of this survey provided a basis for writing the advice concerning “National Curriculum Directives for the Education of Ethnic-Race Relations and for the Teaching of Afro-Brazilian and African History and Culture”. This advice was approved by the council in March 2004. Subsequently, the Council requested the commission to further develop this advice, after which it was named Parecer CNE/CP 003/2004 (Advice 003/2004, Brasil, 2004a) in May that same year. In June, with the enactment of Resolution CNE/CP 01/2004 (further referred to as “Resolution 01”, Brasil 2004b) by the National Education Council,141 Advice 003/2004 became the “Curriculum Directives for the Teaching on Ethnic-Racial Relations and Afro-Brazilian History and Culture” (further referred to as “Curriculum Directives”, Brasil 2004c).142

The first paragraphs of the 36-page Curriculum Directives – after reference to Law 10.639 and articles of the federal constitution, the 1996 Education Act, state and municipal laws, “organic laws” (leis orgânicas)143, the statute for children and adolescents, and the National Education Plan (PNE) – state:

All these legal tools, like all the claims and proposals made by the Black Movement during the 20th century, point to the need of directives that guide the elaboration of projects that envision to value the history and culture of Afro-Brazilians and Africans, and are compromised with education about positive ethnic-racial relations. (Brasil, 2004c: 9)

The document explains that it has been developed for managers in the education system, for administrators of education institutions (schools), education institutions, teachers, and “all those actors involved in the preparation, execution and evaluation of teaching processes and institutional and pedagogic and education plans” (Brasil, 2004c: 10). In general the document seeks to:

[o]ffer an answer in the context of education, to the demands of the Afro-Brazilian population [...] [and] proposes the spreading and production of knowledge, the development of attitudes, postures and values, that educate citizens proud about their ethnic-racial origins – descendants of Africans, indigenous people, European descendants, and Asian descendants – for them to interact in the construction of a democratic nation, wherein all, equally, have their rights guaranteed and their identity valorized. (Brasil, 2004c: 10)

Experiences and expected difficulties in the development of work concerning race issues in education are discussed – arguing that these cannot and should not be avoided. This is made explicit in statements such as:

For re-education in ethnic racial relations in Brazil, it is necessary to let emerge the pain and fears that were created. It is necessary to understand that the successes of some have the price

141 See Appendix IV for the text of Resolution 01 in Portuguese.
142 While it is widely known that the main author of the document is Petronilia Beatriz Gonçalves e Silva and other Black Movement-linked scholars and activists, in the final document the National Curriculum Directives are presented as the “result of a partnership between the Ministry of Education and the Special Secretariat for the Promotion of Racial Equality Policies” (SEPPIR) (Brasil 2004: 6). However, many actors, mainly those familiar with the work of the Brazilian Black Movement in general, and Law 10.639 in particular, call it “Petronilia’s directives.”
143 Leis orgânicas are the laws that define the functioning municipalities and de Federal District. Leis orgânicas are subordinated by both the National Constitution and by the State constitutions (see: http://pt.wikipedia.org/wiki/Lei_org%C3%A2nica).
of the marginalization and inequality imposed on others. It is about the decision what kind of society we want to construct from here on. As Frantz Fanon emphasized clearly, the descendants of the slave traders, from the sirs from yesterday, they do not have, today, to assume the guilt for the inhumanities provoked by their ancestors. However, they have the moral and political responsibility to combat racism and discrimination and to construct, together with those who are being kept on the margin, the blacks, healthy racial and social relations, in which all grow and can realize themselves as human beings and citizens. If it was not for these reasons, they would have to assume it based on the fact that they enjoyed all those things that slave labor brought to the country. (Brasil, 2004c: 14)

The Curriculum Directives document is divided into four subsections, focusing on: “Policies of reparation, recognition, valuing and affirmative action” (políticas de reparação, reconhecimento, valorização e ações afirmativas); “Education of ethnic-racial relations”; “Determinations of Afro-Brazilian and African history and culture,”; and “The obligation to teach Afro-Brazilian history and culture and ethnic-racial relations and the education councils.” In the discussion of these themes, reference is also made to the responsibilities of the education councils at state and municipal level and in the federal district regarding the “translation” of the directives to local realities, stating: “It is the responsibility of these normative entities to adapt the proposals from this advice to the reality of each [state, municipal or federal district] education system.” (Brasil, 2004c: 26). Thereby the document affirms that the responsibility to implement the law does not solely lie with the teachers in the classroom:

To obey the Law is responsibility of all and not only of teachers in the classroom. Supportive compromise is demanded from all those linked to the Brazilian education system. Thereby the starting point is the present advice, [a document] that, together with other directives, advice and resolutions, plays a disseminating and coordinating role with regard to the organization of the national education. (Brasil, 2004c: 26-27)

Many issues addressed in the document seem to be a direct reaction or response to the outcomes of the surveys conducted with the wide variety of actors. Dialogue with the Brazilian Black Movement becomes visible especially where, through arguments and (historic) contextualization, it deconstructs myths related to the idea of Brazil as a racial democracy, and addresses difficulties in working with race issues in education.

Resolution 01 summarizes the essence of the Curriculum Directives and again lists the responsibilities of various actors in relation to the different aspects of implementation. These responsibilities will be discussed in the following section.

4.3.2 Responsibilities of Actors and Arenas

With regard to the regulation and implementation of Law 10.639 and the fleshing out of the contents of the Curriculum Directives at state and municipal levels, in Resolution 01 several institutions and bodies are mentioned, and different responsibilities are attributed to these. As responsible parties are mentioned: education institutes at different levels (primary, secondary, and higher education); institutes that provide pre-service and in-service teacher training (in the Brazilian system these are the universities); education councils (at the national, state, and municipal level, and in the federal district); teachers; administrative bodies; pedagogical coordinators/coordination teams (in Brazil normally composed of one or several professionals within each school); institutions linked to the education establishment; and education systems. The latter refers to the public bodies linked
to the official political arena at the state and municipal level, and in the federal district related to education; these are mainly the state and municipal secretariats of education and the secretariat of education in the Federal District, as well as institutions such as the metropolitan coordination office and school inspection coordination office, but also the education councils in the different states, municipalities, and in the federal district. Considering the distribution of responsibilities within the Brazilian education system it is essential to highlight that, as Brazil is politically divided into three types of subnational units – states, municipalities, and the Federal District – in legal documents reference is often made to a “system of collaboration between the education systems” (regime de colaboração). In this system it is important to consider the different degrees of autonomy, and allocation of different responsibilities to each of these units (see Appendix I for further explanation on the Brazilian education system).

When considering how in Resolution 01 the different types of responsibilities are distributed among institutions or departments at the different levels of governance, seven kinds of responsibilities mentioned in Resolution 01 can be distinguished (see also Table 4.1 below): 1) content definition; 2) supervision/evaluation; 3) knowledge production/sharing; 4) regulation; 5) support/stimulation; 6) provision of (material, financial, and/or social) conditions; and 7) dissemination/networking.
<table>
<thead>
<tr>
<th>Actor</th>
<th>Responsibility as defined in Resolution</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Education institutes(^{144})</td>
<td>- Define education contents (translate curriculum directives in curriculum)</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>- Expose and evaluate teaching on contents in periodical activities</td>
<td>2</td>
</tr>
<tr>
<td>Teachers</td>
<td>- Define education contents (translate curriculum directives in curriculum)</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>- Develop groups and projects in the schools for studying curriculum</td>
<td>3</td>
</tr>
<tr>
<td>State/municipal education councils</td>
<td>- Regulate curriculum directives at local level</td>
<td>4</td>
</tr>
<tr>
<td>Administrative bodies</td>
<td>- Support/supervise education institutions and teachers in their tasks</td>
<td>5/2</td>
</tr>
<tr>
<td></td>
<td>- Provide material &amp; financial conditions for schools, teachers, and pupils</td>
<td>6</td>
</tr>
<tr>
<td>Pedagogical coordinators</td>
<td>- Support/supervise education institutions and teachers in their tasks</td>
<td>5/2</td>
</tr>
<tr>
<td>Institutions linked to the education establishment</td>
<td>- Examine/take providence with regard to discrimination</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>- Create education context that recognize, value, and respect diversity</td>
<td>6</td>
</tr>
<tr>
<td>Education systems</td>
<td>- Support/supervise education institutions and teachers in their tasks</td>
<td>5/2</td>
</tr>
<tr>
<td></td>
<td>- Provide material &amp; financial conditions for schools, teachers, and pupils</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>- Stimulate research</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>- Exchange experiences between schools</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>- Establish communication channels with other groups that provide teacher training and study on the issue</td>
<td>3/7</td>
</tr>
<tr>
<td></td>
<td>- Define measures that guarantee the right to quality education of Afro-Brazilian pupils</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>- Orient/supervise the development and editing of books and other didactic material</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>- Promote dissemination of curriculum directives in periodical activities on schools</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>- Communicate results obtained during periodical activities on schools to MEC/SECAD and CNE</td>
<td>3/(2)</td>
</tr>
<tr>
<td>Federal bodies and their respective systems</td>
<td>- Regulate curriculum directives on level of state, municipality and Federal District</td>
<td>4</td>
</tr>
</tbody>
</table>

Source: Brasil (2004b) adapted by author

When considering the distribution of these various responsibilities, it can be observed that with regard to content definition and knowledge production (two types of action that, besides regulation, are primarily essential for “anything to happen”\(^ {145}\)), education institutes and teachers are indicated as the main responsible parties. Content definition is left completely to these two actors, while

\(^{144}\) Reference is made to primary and secondary schools and higher education institutes with a special emphasis on teacher-training institutes.

\(^{145}\) The remaining three types of actions (supervision/evaluation, support/stimulation, and dissemination/networking) I would classify as (more “secondary”) actions that support and/or improve existing practices.
Responsibilities with regard to knowledge production are also allocated to the education systems. However, a closer look at the issue how responsibilities of the education systems are formulated shows that, with regard to content definition and knowledge production, they are given the more secondary role of stimulating, orienting, supervising, establishing communication, and exchanging experiences. Concerning regulation, the state and municipal education councils, and the federal government are responsible for their own education entities. Regarding provision of conditions, the responsibility of the administrative bodies – institutions linked to the education establishment and the education systems – is indicated. The administrative bodies and the education systems are mentioned as responsible for the school material and financial conditions, while it is the responsibility of the institutions linked to the education establishments and also the education systems to take care of the more social and contextual conditions (“guarantee the right to quality education,” “take providence with regard to discrimination,” “create education context that recognize, value and respect diversity”).

Although many issues are covered, Resolution 01 remains unclear on the distribution of responsibilities concerning evaluation. The second clause of Article 1 of Resolution 01 states that the accomplishment of the contents of the Curriculum Directives “will be considered in the evaluation of the functioning conditions.” Article 1 explains that while here the focus is on all education institutions acting at different levels of education, special focus is on institutes that develop pre-service and in-service training programs for (future) teachers. The Resolution does not specify, however, what this evaluation entails, nor how it will be executed, nor who is responsible for this (see Brasil, 2004b: 31).

We turn now to the arenas in which the directives should be realized. The discussion in this chapter made clear that actions regarding the drafting of the final text and regulation of the law (in the second and in this third phase) mainly happened in the official political arena in Brasília. It might be stated that here the federal union took on the responsibilities concerning its normative function in education. It is important to note, however, that no direct reference is made to the role of federal institutions concerning implementation and evaluation. Institutions and entities in the official political arena at the national scale of governance are only once explicitly mentioned. In the first clause of Article 8, a single reference is made to the Ministry of Education, the Special Secretariat for the Promotion of Racial Equality Policies (SEPPIR), and the National Education Council; however, this is not referring to them as actively responsible with regard to the implementation. Here these institutions are referred to as receivers of communications of “results obtained during periodical activities on schools.”

The absence of a clear reference to the roles of actors such as the Ministry of Education, the National Institute for the Study and Investigation of Education (Instituto Nacional de Estudos e Pesquisas Educacionais Anísio Teixeira, INEP), and National Education Council at the federal level is noteworthy. It is the federal union, specifically through these three institutions, that – in addition to regarding the development of National Curriculum Directives on basis of the 1996 Education Act (Articles 9, 10, and 11) (Brasil, 1996: 4-6) – also has the task of evaluating and supervising higher education courses and institutions belonging to the federal system. These institutions are responsible for the definition of general norms for graduation and post-graduation, the

146 See Tables Ia and Ib in Appendix I for a discussion on the different responsibilities of the Federal Union as defined in the constitution and the 1996 Education Act.
development of information and evaluation systems, and the development of the National Education Plan in collaboration with states, the Federal District, and municipalities.

Hence, the question arises whether such a vague definition and distribution of responsibilities does not stimulate the misuse of the “system of collaboration,” with the difficult task of education reform being passed back and forth between parties. It should be mentioned that this scenario becomes even more complicated where education reform concerns such a complex and contested issue as racial/ethnic inequality. The need for institutions at the federal level to take a lead in the process of implementing Law 10.639 is indeed identified by many actors within the civil society arena and the pedagogical arena (the former will be discussed in the next chapter and the latter in Chapter 6).

It can be concluded that taken together – notwithstanding some unclear references in the law – the Curriculum Directives and Resolution 01 are quite specific on the contents of the education reform, in particular with regard to the distribution of responsibilities. It is a fact that Resolution and the Curriculum Directives address several issues that were vetoed in the law. As one actor working for SECAD/MEC put it:

In fact, the majority of things that were vetoed [...] are incorporated in the advice and the resolution. Because these [vetoes] were very much related to issues that needed to be managed by the Black Movement, the legislative bodies did not accept it. [...] Not in that period. As such, the law is the result of the negotiations that were possible at that moment. Today it is important to understand that the law on its own [...] says very little. [...] It is these three documents together that are at present the fundamental basis for implementation of the law. (A15:138)

This seems to be one of the reasons why many actors, when considering the importance of working with race issues in education, prefer not to refer (only) to Law 10.639 as such, but (also) to Resolution 01 and the Curriculum Directives (e.g., A14:66). However, others prefer to refer to the 1996 Education Act (e.g., A8:112), since Law 10.639, as has been mentioned, actually modified this Act and as such is integrated in it.

4.4 Concluding

This chapter addressed the question what discourses and multi-scalar interactions explain the uneven policy change process with regard to ethnicity/race and education (sub-question A). In addressing this matter, special focus went to the questions that focused on what arenas, actors, and events influenced the agenda-setting process on ethnicity/race issues in education in Brazil up until the approval and regulation of Law 10.639, and how different actors interpreted and maintained or contested (the constitution of) this agenda and its institutionalization (empirical questions a1 and a3).

In Chapter 2 reference was made to the civil society arena, the official political arena, and the pedagogical arena as the three main arenas that were expected to play a role in the agenda-setting process on ethnicity/race issues in education in Brazil. The discussion in this chapter has shown that in the first three phases (1. campaigning, 2. political negotiation and text making, and 3. national regulation), most of the activities took place in the first two arenas. This is illustrated by the square indicated in Figure 4.3 below. The Figure illustrates as well the actors playing a most significant role in these phases, and the events that influenced this process.
Regarding the actors who were the most active in these phases, the Brazilian Black Movement – operating within the different arenas on different scales – was found to be the motor behind the agenda-setting process. This finding illustrates that the inclusion of the civil society arena in the model introduced in Chapter 2 makes sense. However, it should be noted that in this phase the activity in the civil society arena came almost exclusively from the Brazilian Black Movement. Other civil society arena actors, such as teachers unions were not found to play a role in these phases, while others like NGOs, and INGOs were found to play a minor role.

It also became clear that actors linked to the official political arena at national level only started to play a role when the frame of the project for the new policy instrument was designed and Brazilian Black Movement members operating within the official political arena brought pressure to have the approval process set in motion. Hence the expectation regarding the dynamic interaction, simultaneity, and the strengthening of the agenda in the “overlapping spheres” of the model, as presented in Chapter 2, should in fact be substituted by a much more unidirectional action (from the right to the left hand side of figure 4.3) taking place in the official political arena coming from inside the civil society arena, more specifically the Brazilian Black Movement.

For the dissemination of its agenda in the official political arena, the Brazilian Black Movement used a “politics of scale” (Santos, R.E., 2006; Santos & Soeterik, 2012) taking advantage of the opportunities emerging at both local (municipal and state), national, and global scales to put its demands on the political agenda. The transformation of the relationship between state and civil society, more specifically the opening of the political environment for dialogue with civil society in general, increased political opportunities for the Black Movement at national scale. These nationwide transformations stimulated actors linked to the Black Movement to find spaces for including their demands on municipal and state agendas. Hence, the experiences and victories – beginning in 1989 and having become more common and intensive since the 1990’s – initiated by actors linked to, or solidary with, the movement at municipal and state scale, served as examples for the proposal of the national education Law 10.639. In addition, the strengthening of the debate on racial inequality and race-based policies at the national level stimulated by global actors and processes of globalization and neoliberalization was mentioned. However, building on different frames than those proposed by the Brazilian Black Movement, the neoliberal prescription strengthened the debate on social issues such as racial inequality on the global agenda.

Events and developments at the global and regional scale were also highlighted as moments when the Brazilian Black Movement seized the opportunity to present its agenda. The complex multi-scalar and inter-scalar process of strengthening and tensioning of race issues resulting from the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban in 2001 was discussed. This global event was seen as an example of how the Black Movement can use global events to present its local, regional, and national agenda.

It is thus concluded that, instead of these events in themselves “influencing the process” (as was suggested in Chapter 2 when the conceptual model was first presented), it was much more the Brazilian Black Movement grasping these opportunities to strengthen its case. Hence, the Brazilian Black Movement “took advantage of” the various scales and created political opportunities for putting race on the agenda. This was one of the strategied used by the Movement that made that, since the end of the 1990’s, racial inequality became a topic of debate in society.
Figure 4.3 Arenas, actors, and events influencing the agenda-setting process on ethnicity/race issues in education in Brazil until approval and regulation of Law 10.639.
Accordingly, in order to capture the multi-scalar character of the process, the concept of power was also understood as “the capacity to articulate scales” (Vainer in Santos, 2006: 86). Building on the idea that power is the “ability of actors (whether individual or collective) to ‘have an effect’ upon the context which defines the range of possibilities of others” (Hay, 2002: 185), I conclude that the Brazilian Black Movement, being the main actor in this process, with the enactment of Law 10.693, the approval of Resolution 01 and the Curriculum Directives, succeeded, at least partially, in redefining the parameters of social, political, and economic processes. With the elaboration of legal instruments such as Law 10.639 and the Curriculum Directives, the discourse of the Brazilian Black Movement was officially included in the official political arena, as on paper a reflection on and revision of representations of the society as a whole was proposed. However, besides power as context shaping, it was argued that at the end of the first three phases discussed in this chapter, the Brazilian Black Movement still did not have much direct power in the sense of power as conduct shaping (Hay, 2002: 186).

The discussion in this chapter made clear that, with regard to the bureaucratic process of approval and regulation of the law, the process of agenda-setting was characterized by constant tensioning and pressuring by (actors linked to or supportive of) the Black Movement. While an increase in political opportunities was perceived, this study shows that the interaction between the official political arena and the civil society arena with regard to Law 10.639 was also characterized by conflict and the presence of hybrid discourses. This is the point where the different interpretations and contestations regarding the agenda and its institutionalization come into play.

This chapter highlighted that, in order to understand the Brazilian Black Movement as an actor, it is essential to understand how this movement frames race, racism, and racial inequality as structuring principles in Brazilian society. The movement also re-signified the concept of race from a biological concept to a social construct. This idea is central to the interpretation, formulation, and specification of the problem by the Black Movement. Moreover, another central aspect in the framing of race issues by the Brazilian Black Movement is understanding inequalities not just to be related to socioeconomic/class issues, but also to race issues, and reporting on this. By referring to the racial character of (part of) the inequalities existing in Brazilian society, and to the role of racism in the reproduction of these, the discourse of Brazil as a racial democracy – still dominant in Brazilian society – is deconstructed. By framing the problem in this way, the Black Movement, together with its allies, managed to denaturalize the existence of racial inequalities in society and demonstrated that human action is behind this reality. This denaturalization provided the underlying rationale for race-based policymaking. This was also the case with Law 10.639. Based on the idea that it is only through this frame that the law makes sense, the Brazilian Black Movement assigned itself an active role in its institutionalization and implementation.

However, its opponents also fashioned a shared understanding of the world. This chapter highlighted how a resistant discourse was mainly disseminated by political elites in and around parliament, academic elites, and powerful media (often joining in their expressions of resistance), and supported by discourses disseminated by global actors. In this discourse Brazil was seen as a reality where “race factors” play no role. Two main arguments can be recognized in the opponent discourse: first, the idea that no racism exists in Brazil, and second, that socioeconomic inequalities between black and non-black Brazilians are attributed to other variables such as social class and education (see Feres, 2007). These arguments are clearly in line with the ideology of Brazil as a racial democracy.

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147 See discussion in Chapter 1 on the idea of racial democracy and Chapter 2 on the significance of the concept race in Brazil.
democracy. Hence, the basis of this resistant discourse combines ignoring the realities lived by huge portions of the Brazilian population – their dire conditions revealed in an increasing number of qualitative and quantitative studies since the 1990’s – with a theoretical non-understanding of the dynamics and interrelatedness of (among other things) the concepts race and class in social dynamics. 

On the basis of this understanding, the discourse that framed the demand of the Black Movement was contested word by word in the vetoing of the original law proposal. Elements that according to those in favor of the law made it more tangible (such as prescribing the minimum amount of time to be spent on the theme in the school curriculum, teacher training, and affirmation of the role of actors linked to the civil society arena in the design of training programs) were struck from the final version of the law. Recontextualization of the policy instrument took place: the discourse of the Brazilian Black Movement moved “from its original site to its new positioning as pedagogic discourse.” Hence a transformation took place (Bernstein, 1996: 47). In line with Bernstein’s explanation of discourse, it was indeed in this move “from one position to another” (from the civil society arena/Brazilian Black Movement to within the official political arena) that possibilities emerged for ideology to come into play. Although the “loss” of some of the essence of the original Brazilian Black Movement project was later partly compensated by the formulation of complementary legal instruments such as the Curriculum Directives and Resolution 01, the law still reflects the strength and power of the resistant discourse.

In this regard, the tensions and different interests regarding the construction of race-based (education) policies were highlighted as implying a reflection on and revision of representations of the society as a whole (Soares, 2009). The process of proposal, vetoing, approval, and regulation of Law 10.639 shows that powerful actors were often unreceptive to civil society demands, especially to demands proposing to revise the “rules of the game,” like race-based policies such as Law 10.639 do. Besides the existence of different understandings of the essence, urgency, and need to realize race-based education policies, the presence of opposed interests and the pressure of political elites within the political arena, academia, and media saw to it that certain issues were given legitimacy and visibility, while others were not. Hay’s (2002) notions of structural and discursive selectivity are remembered here. As the politicization of race implies a reflection on and revision of representations of the society as a whole – which is not of interest to many members of the elites in power (Soares, 2009) – up until a certain point the issue of racial inequality simply seems to be too controversial and negotiable within the political arena. This is illustrated by the fact that, even though it had the approval of the national Education Council, Law 10.639 was shelved by parliament for three years. This chapter highlighted that finally in 2002, the project passed the Chamber of Deputies and Senate, but subsequently, through the process of vetoing, was stripped of its transformative potential. 

While the regulation of the law led to responsibilities regarding implementation of the legal instrument being defined towards the end of Phase three, after approval not much visibility was given to the new legal instrument. The creation of the instrument can nevertheless be considered to be a first step towards (some) direct power for the Brazilian Black Movement. In that sense the law is often referred to by actors linked to or supportive of the Black Movement as a “tool” that at least can help to transform demands into practices within institutions. This relates to the words of Hay where he states that legislation, while it does not directly and instantaneously affect conduct, can serve to redefine the parameters within which people “will continue to act while providing a power
resource for the potential exercise of direct power by the law-enforcement agencies of the state” (Hay, 2002: 186).

The completion of the first three phases in the agenda-setting process means that at the end of this period the discussion turns to responsibilities within institutions as laid down in this legislation being acknowledged and addressed. While in theory the executive powers should implement legislation, the discussion in the next chapter will show that in this phase actors linked to and supportive of the Brazilian Black Movement also have a central role to play. Here the discussion showed how, in the case of Law 10.639, the societal debate has been moderate. This debate started only after its publication, when members of the Black Movement mobilized for its implementation. Concerning the lack of a broader societal debate on Law 10.639, the question is how the law is understood, and whether it is understood and accepted in its transformative potential. It will be shown that – because institutional dynamics and environments remained unchanged – huge political challenges still exist regarding the institutionalization of Law 10.639 and the achievement of direct power for the Brazilian Black Movement in the process of implementing this legal instrument.